

WAKE COUNTY  
NORTH CAROLINA

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
96 DHC 4

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THE NORTH CAROLINA STATE BAR	)	
PLAINTIFF	)	FINDINGS OF FACT
	)	AND
v.	)	CONCLUSIONS OF LAW
	)	
KURT A. EHRSAM, ATTORNEY	)	
DEFENDANT	)	

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THIS CAUSE came on to be heard and was heard on Sept. 13, 1996 before a hearing committee composed of James R. Fox, Chair; Joseph Maddrey and A. James Early III. The North Carolina State Bar was represented by Carolin Bakewell. The Defendant, Kurt A. Ehram, was represented by Wilder Wadford. Based upon the admissions of the defendant in his Answer to the complaint, the stipulations on prehearing conference and the evidence presented at the hearing, the hearing committee finds the following to be supported by clear, cogent, and convincing evidence:

FINDINGS OF FACT

1. The Plaintiff, the North Carolina State Bar, is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. The Defendant, Kurt A. Ehram, was admitted to the North Carolina State Bar in December 1994, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During all of the periods referred to herein, the Defendant, Kurt A. Ehram (hereafter, Ehram), was actively engaged in the practice of law in the State of North

Carolina and maintained a law office in the Town of Brevard, Transylvania County, North Carolina.

4. Prior to Aug. 7, 1995, Ehrsam undertook to serve as the closing attorney for the sale of real property by Cline Anders (hereafter Anders) to Robert Stewart (hereafter Stewart).

5. On or about Aug. 7, 1995, Ehrsam received \$121,813.41 on Stewart's behalf relative to the real estate closing. On the same date these funds were deposited into Ehrsam's attorney trust account, assigned account number 1952608220 at First Citizens Bank (hereafter attorney trust account).

6. Between Aug. 8 and Nov. 28, 1995, Ehrsam disbursed all but \$1,315.42 of the closing proceeds as directed.

7. The \$1,315.42 which Ehrsam was holding relative to the Stewart-Anders closing should have been disbursed to pay title insurance, real estate taxes and other items. Contrary to his instructions, however, Ehrsam failed to disburse these funds properly.

8. Ehrsam misappropriated a portion of the \$1,315.42 in remaining proceeds from the Stewart-Anders closing for his own use and benefit, without the permission of Anders or Stewart.

9. Prior to Aug. 11, 1995, Ehrsam undertook to serve as the closing attorney for the sale of real estate by Harold Paxton (hereafter, Paxton) to Cline Anders.

10. On Aug. 11, 1995, Ehrsam received a total of \$100,862.46 relative to the Paxton-Anders real estate closing. On the same date, Ehrsam deposited the \$100,862.46 into his attorney trust account.

11. Ehrsam disbursed all but \$1,299.60 from the Paxton-Anders closing funds between Aug. 11 and Aug. 29, 1995. Ehrsam was entitled to a \$400 fee relative to the Paxton-Anders closing, but did not withdraw the fee from his attorney trust account.

12. The remaining \$899.60 in Paxton-Anders proceeds should have been disbursed to pay the real estate taxes, title insurance policy and other items.

13. Ehrsam failed to promptly disburse the remaining funds as directed.

14. The balance in Ehrsam's attorney trust account dropped to \$1,304.71 on Feb. 7, 1996. On and after Feb. 29, 1996, when the N.C. State Bar obtained an order freezing the trust account, the balance in the account has remained at \$1,154.50. That sum is insufficient to pay all of the claims relative to the Anders-Stewart and the Paxton-Anders closings.

15. Prior to Aug. 31, 1995, Ehram undertook to serve as the closing attorney for the sale of real estate by Robinson and Marge Jacques (hereafter, the Jacques) to Wanda Shockley (hereafter, Shockley).

16. At the time of the Aug. 31, 1995 closing, the Jacques' property was subject to a prior mortgage held by Centura Bank, in the amount of \$28,558.93.

17. On approximately Aug. 31, 1995, Ehram received \$44,855.08 on the Jacques' behalf. He was directed to deliver \$28,558.93 of the closing proceeds to Centura Bank to pay off the prior mortgage on the Jacques property.

19. Ehram failed to deliver the \$28,558.93 to Centura Bank until Feb. 1, 1996, despite demands by the Jacques that he do so.

20. Ehram did not have permission to use the Jacques funds for his benefit or the benefit of third parties other than the Jacques.

21. At all times between Aug. 31, 1995 and Feb. 1, 1996, Ehram should have maintained at least \$28,558.93 in his attorney trust account for the benefit of the Jacques.

22. The balance in Ehram's attorney trust account dropped below \$28,558.93 on a number of occasions between Aug. 31, 1995 and Feb. 1, 1996.

23. Ehram misappropriated all or a portion of the funds which he should have held for the Jacques for his own benefit or that of third parties, without the Jacques' knowledge or consent.

24. Mr. and Mrs. Jacques received notices from Centura Bank in November 1995, indicating that their prior loan had not been paid off. When they asked Ehram about the matter, he falsely told them that the payoff check had been mailed to the bank and that the matter was taken care of..

25. As part of his duties regarding the Jacques-Shockley closing, Ehram was to draft a note and purchase money deed of trust for the Jacques.

26. Ehram did not record and deliver the note and purchase money deed of trust to the Jacques until Jan. 28, 1996.

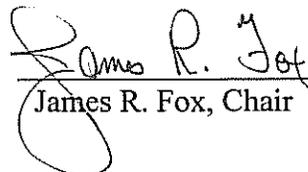
27. The N.C. State Bar failed to prove by clear, cogent and convincing evidence that Ehram failed to respond to the letter of notice concerning the Jacques' grievance within the time permitted by the Discipline & Disbarment Rules of the N.C. State Bar.

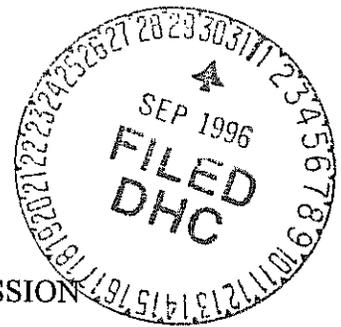
Based upon the foregoing FINDINGS OF FACT, the hearing committee hereby enters the following:

## CONCLUSIONS OF LAW

1. By misappropriating a portion of the funds which he should have held for the Jacques and Stewart without their consent, Ehram committed criminal acts that reflect adversely on his honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule 1.2(b) and engaged in conduct involving fraud, deceit or misrepresentation in violation of Rule 1.2(c).
2. By failing to preserve funds of the Jacques, Stewart and Paxton, which he had received in a fiduciary capacity separate and apart from his or his law firm funds in a trust account, Ehram violated Rule 10.1(a) and (c).
3. By failing to disburse funds which he had received in a fiduciary capacity for the benefit of the Jacques, Paxton, Stewart and Anders as directed by his clients, Ehram violated Rule 10.2(e).
4. By falsely telling the Jacques that their loan to Centura Bank had been paid off, Ehram engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 1.2(c).
5. By failing to promptly deliver and record the note, deed of trust and warranty deed relating to the Jacques' closing, Ehram neglected a client matter in violation of Rule 6(b)(3).
6. By failing to promptly disburse the funds which he held in trust account on Anders' behalf, Ehram neglected a client matter in violation of Rule 6(b)(3).
7. The State Bar's allegation that Ehram failed to respond in a timely fashion to the State Bar's letter of notice, in violation of Rule 1.1(b) should be dismissed.

Signed by the undersigned Chair of the Hearing Committee with the knowledge and consent of the other members of the Hearing Committee, this the 27 day of September, 1996.

  
James R. Fox, Chair



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THE NORTH CAROLINA STATE BAR	)	
PLAINTIFF	)	
	)	ORDER OF DISCIPLINE
v.	)	
	)	
KURT A. EHRSAM, ATTORNEY	)	
DEFENDANT	)	

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THIS CAUSE was heard on Sept. 13, 1996 by a Hearing Committee of the Disciplinary Hearing Commission composed of James R. Fox, Chair; Joseph Maddrey and A. James Early III. After entering the Findings of Fact and Conclusions of Law in this matter, the Hearing Committee considered arguments of counsel concerning the appropriate discipline to be imposed. Based upon the evidence presented in the first phase of the hearing and the arguments of counsel, the committee makes the following:

FINDINGS OF FACT RELATING TO DISCIPLINE

1. The Defendant, Kurt A. Ehram, has suffered from depression for most of his adult life. He has also been diagnosed with Adult Attention Deficit Disorder (ADD) and diabetes.
2. Ehram was voluntarily hospitalized from Feb. 6 - 14, 1996 for depression. He is currently receiving treatment for his various ailments.
3. Ehram's misconduct is aggravated by the following factors:
  - a. Ehram engaged in a pattern of misconduct, which included misrepresentations to his clients.
  - b. Ehram engaged in multiple violations of the Rules of Professional Conduct.

- c. Ehrsam's actions in violating the Rules of Professional Conduct were prompted by a dishonest or selfish motive.
4. Ehrsam's misconduct is mitigated by the following factors:
  - a. Ehrsam made a significant effort at restitution.
  - b. Ehrsam made a full and free disclosure to the Hearing Committee and displayed a cooperative attitude toward the proceedings.

Based upon the foregoing Findings of Fact Relating to Discipline, the Hearing Committee enters the following:

#### CONCLUSIONS RELATING TO DISCIPLINE

1. The aggravating factors outweigh the mitigating factors.
2. The appropriate discipline in this case is disbarment.

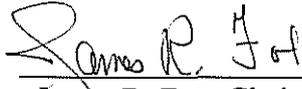
Based upon the foregoing Findings of Fact and Conclusions of Law, the hearing committee enters the following:

#### ORDER OF DISCIPLINE

1. The Defendant, Kurt A. Ehrsam, is hereby disbarred, effective 30 days from the date of service upon him of this Order of Discipline.
2. Ehrsam shall submit his license and N.C. State Bar membership card to the Secretary of the N.C. State Bar within 30 days of service upon him of this order.
3. Ehrsam shall comply with all of the provisions of 27 N.C. Admin. Code Chapter 1, § .0124 of the N.C. State Bar Discipline & Disbarment Rules.
4. The costs of this matter are taxed against Ehrsam.
5. Prior to seeking reinstatement of his license to practice law, Ehrsam shall:
  - a. Present written proof to the Secretary of the N.C. State Bar, demonstrating that he has made complete restitution to all clients or to the Client Security Fund of the N.C. State Bar.
  - b. Present to the Secretary of the N.C. State Bar a report from a medical doctor experienced in the treatment of diabetes and a report of a board certified psychiatrist that Ehrsam is not suffering from any physical or

mental conditions which would impair his ability to practice law competently and serve the public faithfully.

This the 27<sup>th</sup> day of September, 1996.

  
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James R. Fox, Chair