

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR

THE NORTH CAROLINA STATE BAR,)
)
 Plaintiff,)
)
 vs.)
)
 LELAND M. HEATH, JR., Attorney)
)
 Defendant.)

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

THIS CAUSE coming on to be heard and being heard before the undersigned Hearing Committee of the Disciplinary Hearing Commission of The North Carolina State Bar at 10:00 a.m. on Friday, November 18, 1977 in the Hearing Room of The North Carolina State Bar, 107 Fayetteville Street Mall, Raleigh, North Carolina and said Hearing Committee having heard the evidence, considered the Stipulations and argument of counsel make the following 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 under Chapter 84 of the General Statutes of North Carolina.

2. The Defendant, Leland M. Heath, Jr., is a citizen and resident of Lenoir County, North Carolina and was admitted to The North Carolina State Bar in September, 1973, and is, and was licensed to practice law in the State of North Carolina and is subject to the Rules, Regulations, Canons of Ethics and Code of Professional Responsibility of The North Carolina State Bar and of the laws of the State of North Carolina.

3. In May and July, 1976, the Defendant was retained by and was representing one Burton M. Ackerman, and William Orr, III, on two unrelated matters involving the purchase of real property. The Defendant certified to East Federal Savings and Loan Association the titles to the real property in question on behalf of the aforementioned individuals; that East Federal

Savings and Loan Association paid to the Defendant \$45.60 by check number 018122, dated June 10, 1976 for the purchase of title insurance in the case of Mr. Burton R. Ackerman; that East Federal Savings and Loan Association paid to the Defendant \$79.20 by check number 106112, dated August 9, 1976 for the purchase of title insurance in the matter of Mr. William M. Orr, III.

4. Subsequent to the delivery of the aforementioned checks for title insurance premiums, East Federal Savings and Loan Association repeatedly requested the Defendant purchase the title insurance policies; the Defendant failed to complete the transaction and purchase said title insurance premiums until sometime in August, 1977.

5. As a result of a grievance being filed against the Defendant, a Letter of Notice was issued by the Chairman of the Grievance Committee of The North Carolina State Bar to the Defendant on May 4, 1977. In a response to said Letter of Notice the Defendant asserted that the policies "have now been ordered as they should have been originally." In fact, said policies had not been ordered but Defendant had drafted a letter to Mr. Robert E. Whitley, Attorney, wherein he requested that Mr. Whitley obtain said title insurance policies on behalf of the Defendant. The Defendant also drew a check payable to Investors Title Insurance Company, said check dated March 25, 1977 but said check was never delivered to Mr. Whitley. The policies of title insurance requested by East Federal Savings and Loan Association in June and August of 1976 were ordered in August, 1977.

6. Based upon the foregoing FINDINGS OF FACT, the Hearing Committee makes the following CONCLUSIONS OF LAW:

a. The conduct of the Defendant as set forth above constitutes a violation of North Carolina General Statutes 84-28(B)(2) in that he neglected to take the necessary steps to purchase title insurance premiums and to close the real

estate transactions on behalf of his clients in violation of Disciplinary Rule 6-101(A)(3) and the Code of Professional Responsibility of The North Carolina State Bar.

b. The conduct of the Defendant as set forth above constitutes a violation of North Carolina General Statutes 84-28(B)(2) in that during the period from June, 1976 until August, 1977 his conduct was so grossly negligent that it constituted an intentional prejudice to the interest of his clients in violation of Disciplinary Rule 7-101(A)(3) of the Code of Professional Responsibility of The North Carolina State Bar.

c. The conduct of the Defendant as set forth above does not constitute a violation of General Statute 84-28(A)(B)(3) for that he did not knowingly misrepresent facts or circumstances surrounding a complaint, allegation or charge of misconduct in response to a Letter of Notice issued to him by the Chairman of the Grievance Committee of The North Carolina State Bar as alleged in the Complaint.

This the 18th day of November, 1977.

Warren C. Stack
Warren Stack, Chairman

Mary Alice Warren
Mary Alice Warren

William Owen Cooke
William Owen Cooke

FILED

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STATE OF NORTH CAROLINA
COUNTY OF WAKE

B.E. JAMES, S.
THE N.C. STATE BAR

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
77 DHC 14

THE NORTH CAROLINA STATE BAR,)
)
Plaintiff,)
)
vs.)
)
LELAND M. HEATH, JR.,)
)
Defendant.)

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law and pursuant to Section 9 of Article IX, Discipline and Disbarment of Attorneys, the undersigned Hearing Committee of the Disciplinary Hearing Commission hereby issues the following Order.

IT IS HEREBY ORDERED that the Defendant, Leland M. Heath, Jr., be issued a private reprimand by the Chairman of the Disciplinary Hearing Commission.

IT IS FURTHER ORDERED that Leland M. Heath, Jr. be taxed with the costs of this hearing.

This the 21st day of March, 1978.

Warren Stack
Warren Stack, Chairman

Mary Alice Warren
Mary Alice Warren

William Owen Cooke
William Owen Cooke