

STATE OF NORTH CAROLINA.

COUNTY OF WAKE.

BEFORE THE NORTH CAROLINA STATE BAR DISCIPLINARY HEARING COMMISSION.

FILE NO. 78-DHC-2.

THE NORTH CAROLINA STATE BAR;)
)
 -v-)
)
 JACOB TODD, ATTORNEY,)
 Defendant;)
 -----)

FINDINGS OF FACT

AND

CONCLUSIONS

This cause came on to be heard before the undersigned Disciplinary Hearing Committee on this the 24th day of March, 1978, as scheduled, and the Committee having heard the evidence offered by the parties and the arguments of the attorneys for the parties and on the evidence makes the following findings of fact:

1. That the facts are as alleged in the Complaint and admitted in the Defendant's answer in paragraphs 1 through 3, and the Committee finds the allegations of the Complaint in those three paragraphs to be the facts the same as if they were copied herein in this order in verbatim.

2. That at sometime prior to April, 1977, the Defendant Jacob W. Todd, Attorney, was employed by Robert Lee Dawson and Barbara Dawson to represent them in making a claim for property damages and personal injuries arising out of an automobile collision, and the Defendant represented these said clients and secured a settlement for their claim from the State Farm Insurance Company in an amount of thirty-five hundred dollars (\$3,500.00).

3. That upon the receipt of the settlement, the Defendant notified his clients that he had the settlement funds and deposited the settlement funds in his attorney's trust account in the Branch Banking and Trust Company in Raleigh, North Carolina.

4. That promptly after the deposit of the settlement funds in his trust account, he made a partial distribution of the

clients' share of the recovery to the clients in an amount of twelve hundred odd dollars or more (\$1,200.00+), and promptly paid himself from the settlement funds his attorney's fee on the basis that he had agreed to represent the clients in the claim.

5. That some portion of the settlement funds in which the clients had an interest with the consent of the clients was held by the Defendant for the purpose of paying medical expenses.

6. That at sometime prior to July 12, 1977, the clients requested the Defendant to pay over the balance of the settlement funds that were due; and on July 17, 1977, the Defendant wrote a check on his trust account in the amount of six hundred fifty-seven dollars (\$657.00) that purported to represent the balance that was due the clients for the settlement; that this settlement check for the balance was presented by the clients to the bank on which it was drawn and payment was refused for the reason that the Defendant's trust account on which the check was drawn did not have sufficient funds in it to pay the same.

7. Thereafter the clients attempted to contact the Defendant but he was out of place and that for that or other reasons the clients were unable to contact him; that the clients then carried the check to a magistrate.

8. On July 26, 1977, the clients notified the Defendant that the check had not been paid or had been refused because of the insufficiency of funds in the trust account to pay it, and the Defendant upon being so notified made a deposit on that date to his trust account and the check was paid by the bank on which it was drawn from the Defendant's trust account on July 26, 1977.

9. After the final settlement check was paid in the manner aforesaid, the Defendant determined that he had made an error in his computations and calculations of the amount of the settlement proceeds that were due the clients and paid the clients an additional fifty dollars (\$50.00) in cash.

10. The Defendant failed, after he made the settlement with the State Farm Insurance Company, to retain in his trust

account sufficient funds to fully account at all times to his clients for all of the settlement funds.

11. The Defendant did at no time render to his clients, Robert Lee Dawson and Barbara Dawson, an accounting or statement of his receipts and the disbursements of the settlement proceeds, and he at no time furnished them with an itemized statement of the medical expenses that he had paid on their behalf.

12. The Defendant continues to represent Robert Lee Dawson and some of the other members of his family notwithstanding Robert Lee Dawson is not satisfied with the manner in which the Defendant has accounted to him for the settlement funds in which he had an interest and that resulted from the settlement of the claims with the State Farm Insurance Company.

CONCLUSIONS

We conclude as follows:

1. That the Defendant failed to maintain funds in which his clients had an interest for the benefit of his clients and in violation of his duty to his clients.

2. The Defendant failed to maintain complete records of funds in which his clients had an interest and which came into his possession and failed to render an appropriate accounting to his clients regarding such funds, all in violation of Disciplinary Rule 9-102(B)(3) of the North Carolina State Bar Code of Professional Responsibility.

3. That the Defendant failed to promptly pay and deliver to his clients as requested by the clients funds that were in his possession which the clients were entitled to receive in violation of Disciplinary Rule 9-102(B)(4) of the North Carolina State Bar Code of Professional Responsibility.

4. That the Defendant should be disciplined for his

FINDINGS OF FACT AND CONCLUSIONS

violation of the North Carolina State Bar Code of Professional Responsibility and his duties to his clients.

This 24th day of March, 1978

Cyrus F. Lee
Cyrus F. Lee, Chairman
Disciplinary Hearing Committee

Emory B. Denny
Emory B. Denny, Member
Disciplinary Hearing Committee

Colon Byrd
Colon Byrd, Member
Disciplinary Hearing Committee

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
78 DHC 2

THE NORTH CAROLINA STATE BAR,)
) Plaintiff,)
) vs.)
JACOB W. TODD, Attorney,)
) Defendant.)

ORDER OF PUBLIC CENSURE

This cause coming on to be heard and being heard before the undersigned trial committee of the Disciplinary Hearing Commission of The North Carolina State Bar on March 24, 1978, in the office of The North Carolina State Bar, 107 Fayetteville Street Mall, Raleigh, North Carolina, at ten o'clock a.m., and

The Plaintiff represented by its counsel, C. Christopher Bean and the Defendant representing himself, and the trial committee having heard the evidence and argument of counsel, and having made certain findings of fact and conclusions of law, all appearing of record herein;

NOW, THEREFORE, based upon such findings of fact and conclusions of law, the trial committee of the Disciplinary Hearing Commission hereby issues the following Order of Public Censure to Jacob W. Todd, Attorney:

Pursuant to Section 23 of the Discipline and Disbarment Procedures of The North Carolina State Bar this Public Censure is delivered to you. You have been found to have violated the Code of Professional Responsibility of The North Carolina State Bar by a hearing committee of the Disciplinary Hearing Commission sitting on March 24, 1978.

The fact that this Public Censure is not the most serious of possible discipline provided for in General Statutes 84-28, should not be taken by you to indicate that The North Carolina State Bar in any way feels that your conduct in this matter was excusable or was considered by the members of the trial committee of the Disciplinary Hearing Commission to be any less than a very serious and substantial violation of the Code of Professional Responsibility.

In your representation of your clients, Lee and Barbara Dawson, you failed to maintain complete records of the funds coming into your possession to be held in trust for them. You failed to render an accounting to them of the disbursements of the funds for medical expenses and your fee. You failed to promptly pay to your clients the funds that they were rightfully entitled to receive because you failed to maintain those funds in your trust account. Your conduct was unprofessional.

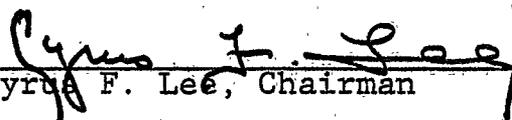
Your conduct was prejudicial to the administration of justice. This conduct is a direct violation of the Code of Professional Responsibility and in addition is a reflection upon you and the entire Bar of this State. It violated not only the letter but also the spirit of the Code of Professional Responsibility of The North Carolina State Bar. It was not such conduct as is expected of a member of the legal profession. It brings discredit upon you and tends to place the courts of this State and your fellow members of the Bar in disrepute and further damages both in the eyes of the public.

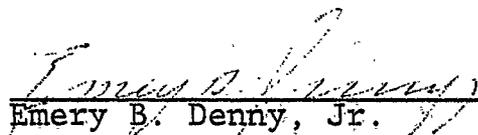
Failure of attorneys to represent clients within the law and within the bounds of the Code of Professional Responsibility is the most serious complaint against our profession, and your failure to account and maintain the funds of Lee and Barbara Dawson was your error here. You placed a privilege that you hold as a lawyer to serve the public in serious jeopardy.

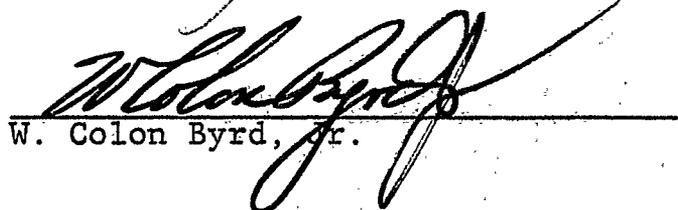
The North Carolina State Bar is confident that this Public Censure will be heeded by you, that it will be remembered by you, and that it will be beneficial to you. We are confident that you will never again allow yourself to depart from strict adherence to the highest standards of the legal profession. Accordingly, we sincerely trust that this Public Censure, instead of being a burden, will actually serve as a profitable reminder to weigh carefully your responsibility to the public, your clients, your fellow attorneys, and the court, with the result that you will be known as a respected member of our profession whose word and conduct may be relied upon without question.

Pursuant to Section 23 of the Rules of Disciplinary Procedure, it is ordered that a certified copy of this Public Censure to be entered upon the judgment docket of the Superior Court of Wake County and also upon the minutes of the Supreme Court of North Carolina.

Issued this 24th day of March, 1978.


Cyrus F. Lee, Chairman


Emery B. Denny, Jr.


W. Colon Byrd, Jr.