

1980 SEP - 2 11 3 25

NORTH CAROLINA
WAKE COUNTY

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

THE NORTH CAROLINA STATE BAR,)	
Plaintiff)	
vs.)	FINDINGS OF FACT, CONCLUSIONS
MILTON MOORE, ATTORNEY)	OF LAW AND ORDER
Defendant)	
)	

The parties having entered into a Consent Settlement Agreement presented to the Hearing Committee on August 8, 1980, and the Committee after hearing evidence and argument in support of the settlement being of the opinion that the Consent Settlement Agreement should be approved, the following Findings of Fact and Conclusions of Law are hereby made:

FINDINGS OF FACT

- (1) The facts referred to as undisputed and stipulated in the Consent Settlement Agreement appearing of record herein shall be and the same are hereby found and hereby incorporated by reference. Said facts appear as Paragraphs (1) through (13) in the Consent Settlement Agreement.
- (2) No evidence of misappropriation of funds or willful misconduct was disclosed at the hearing.
- (3) The Defendant agreed at the hearing that should the Committee impose the discipline in accordance with the Consent Settlement Agreement, the Defendant would submit to an examination by the counsellor of the North Carolina State Bar in the district which the Defendant resides, said counsellor selecting two other licensed attorneys resident within such district for the purposes of assisting in the conduct of the examination; that the purpose of such examination would be to determine compliance with the provisions of the Rules and Regulations of the North Carolina State Bar, Article IX, Discipline and

Disbarment of Attorneys, Section 28; that the Defendant would implement the recommendations of the Committee thus appointed; and that one year from the date of the hearing, August 8, 1981, and again on August 8, 1982, the Defendant at his expense would cause an examination of his records to be made by a certified public accountant for the purpose of determining compliance with the recommendations of the examining committee and that a written report of the results of such examination will be filed with the Secretary of the North Carolina State Bar no later than August 31, 1981, and again on August 31, 1982.

CONCLUSION OF LAW

Upon the foregoing Findings of Fact, the Committee concludes as a matter of law that such conduct constitutes a violation of Disciplinary Rule 9-102(A), Disciplinary Rule 9-102(B)(3) and Rules and Regulations of the North Carolina State Bar, Article IX, Discipline and Disbarment of Attorneys, Section 28.

ORDER

Upon the foregoing Findings of Fact and Conclusions of Law and upon the consent of the Defendant as recited in Finding (3), it is ordered that the Defendant shall be publicly censured for his conduct and that the public censure shall recite that the conduct of the Defendant as disclosed by the evidence did not involve misappropriation of a client's funds or any willful misconduct.

It is further ordered that the Defendant shall submit to the examination of his records and make the reports to the Secretary of the North Carolina State Bar as recited in Finding of Fact (3).

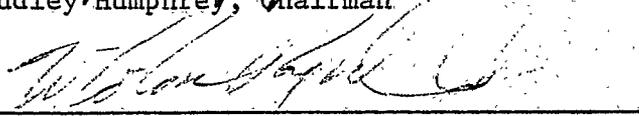
It is further ordered that Mr. Samuel G. Grimes, Counsellor of the North Carolina State Bar, is hereby appointed for the purpose of making an examination of the records and procedures of the Defendant to determine compliance with, and to implement compliance with, Section 28, Article IX of the Rules and Regulations of the North Carolina State Bar. Mr. Grimes may further appoint two other members of the Bar residing in the district in which the Defendant practices to assist him in the conduct of the examination and a report of their examination shall be filed with the Secretary of the North

Carolina State Bar not later than October 31, 1980.

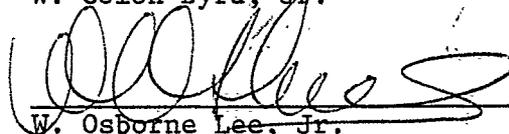
This 8th day of August, 1980.



Dudley Humphrey, Chairman



W. Colon Byrd, Jr.



W. Osborne Lee, Jr.

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NORTH CAROLINA
WAKE COUNTY

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

THE NORTH CAROLINA STATE BAR,)	
Plaintiff)	
vs.)	PUBLIC CENSURE
MILTON MOORE, ATTORNEY)	
Defendant)	

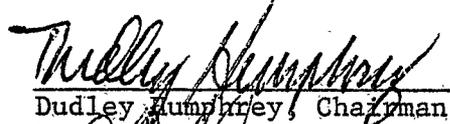
TO: MILTON MOORE

You have been found guilty of violating Disciplinary Rule 9-102(A) and Disciplinary Rule 9-102(B)(3) as well as Rule 28, Article IX of the Rules and Regulations of the North Carolina State Bar in that you failed to keep proper records of transactions involving clients' funds and failed to maintain a trust account and supporting documentation for the handling of clients' funds in a manner contemplated by the Rules. Although there was no evidence before the Hearing Committee of any misappropriation of clients' funds or willful misconduct on your part and the evidence tended to substantiate the conclusion that the matter was handled to accelerate payment to your clients of the funds involved, the failure to maintain records contemplated by the Rules creates the basis for suspicion of wrongdoing and the opportunity for abuse of the public trust granted to you as a member of the Bar.

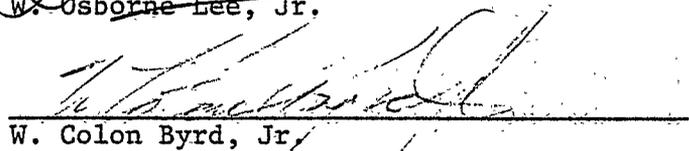
Evidence before the Hearing Committee indicated that your records in other matters involving clients' funds were not being maintained as required by law. As a member of the Bar, you occupy a special position of trust and confidence with respect to your clients. In a transaction between yourself and your client involving the client's funds, you are confronted with difficult burdens of proof and adverse legal presumptions when called upon to account for your conduct. The need to maintain and preserve proper books, records and documents substantiating your transactions with clients is essential to your

continued participation as a member of the Bar. Your failure to maintain such records has caused you considerable embarrassment and financial loss with respect to the matter before the Hearing Committee. Your conduct, though neither willful or malicious, as disclosed by the evidence, is nevertheless far below the norm required of members of the Bar and properly deserving of censure. The fact that the sanctions imposed by the Hearing Committee do not result in suspension or disbarment should not be taken as condonation of your conduct. Repetition of the conduct for which you are censured may subject you to additional disciplinary proceedings in which you will no longer be able to contend that you were unaware of the requirements as they specifically relate to your practice.

You should use this censure in a constructive manner and so order your future conduct as to remove any spectre of doubt as to the handling of your clients' funds. It is only by such action that you will be deserving of the private trust of your clients and entitled to partake of the public trust granted to you as a member of the Bar of this state.


Dudley Humphrey, Chairman


W. Osborne Lee, Jr.


W. Colon Byrd, Jr.