

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

THE NORTH CAROLINA STATE BAR,
Plaintiff,

-vs-

ORDER

WILLIAM V. OVERMAN,
Defendant.

This cause coming on to be heard and being heard before a Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar, composed of Robert W. Wolf, Chairman, John W. Beach, and James E. Ferguson, II, on Friday, August 10, 1984, in the counsel chambers of the North Carolina State Bar Building, 208 Fayetteville Mall, Raleigh, North Carolina.

The plaintiff was represented by L. Thomas Lunsford, II, a staff attorney for the North Carolina State Bar. The defendant was/was not present and appeared

Based upon the evidence, the Hearing Committee makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The North Carolina State Bar is a body duly organized under the laws of the state 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, William V. Overman, was admitted to the North Carolina State Bar on September 26, 1975, and is and was at all times referred to herein, an Attorney-at-Law, licensed to practice law in the state of North Carolina, subject to the Rules, Regulations, Canons of Ethics, and Code of Professional Responsibility of the North Carolina State Bar and the laws of the state of North Carolina.

3. The complaint in this action was filed on May 8, 1984; that the summons and notice were issued at 11:00 a.m. on May 8, 1984, by B.E. James, Secretary of the Disciplinary Hearing Commission.

4. The summons shows a return of service indicating Bernard B. Brown served the summons and complaint upon the defendant personally on May 17, 1984; that the summons further shows that the defendant accepted service of the summons and complaint on May 17, 1984.

5. That under Section 14(5) of the Discipline and Disbarment Rules, the defendant was required to file an answer or otherwise enter an appearance by filing with the Secretary 20 days after the service of the summons and complaint.

6. That the defendant has not filed an answer or any other responsive pleadings, nor sought an extension of time, or otherwise appeared in this action.

7. That on the 26 day of June, 1984, counsel for the plaintiff moved the court for an entry of default, for failure of the defendant to answer or otherwise appear in the above captioned action.

8. That on June 26, 1984, an entry of default was entered by the Secretary of the Disciplinary Hearing Commission against the defendant for failure to file an answer or otherwise appear in this action, pursuant to Rule 55 of the Rules of Civil Procedure and Sections 14(6) and 10 of the Discipline and Disbarment Rules of the North Carolina State Bar.

9. That based upon the defendant's failure to answer or otherwise appear in the above captioned cause of action, it is deemed and therefore found as a fact that the allegations contained in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 of the Plaintiff's First Claim for Relief and paragraphs 1, 2, 3, 4, 5, and 6 of the Plaintiff's Second Claim for Relief are deemed to be true and admitted and that the defendant's conduct was a violation of Disciplinary Rules 1-102(A) (3), (4), and (6), 7-101(A) (3), 9-102(A) and 9-102(B) (1) (3) and (4), and furthermore, that the defendant's conduct constitutes grounds for discipline pursuant to North Carolina General Statute 84-28(a)(b)(3).

CONCLUSIONS OF LAW

1. That the defendant, William V. Overman, by signing or procuring the signing of his client's name by way of endorsement of the "med pay" draft without her authorization, knowledge or consent, engaged in illegal conduct involving moral turpitude, engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation, engaged in professional conduct that adversely reflects on his fitness to practice law, and prejudiced and damaged his client during the course of the professional relationship in violation of Disciplinary Rules 1-102(A)(3), (4), and (6) and 7-101(A)(3), respectively of the North Carolina Code of Professional Responsibility.

2. That the defendant, William V. Overman, by depositing the "med pay" draft in his personal account, the Defendant engaged in illegal conduct involving moral turpitude, engaged in conduct involving dishonesty, fraud, deceit and misrepresentation, engaged in professional conduct that adversely reflects upon his fitness to practice law, prejudiced and damaged his client during the course of the professional relationship, and failed to deposit the funds represented thereby in a trust account, but rather, commingled said funds with personal funds in violation of Disciplinary Rules 1-102(A)(3), (4), and (6), 7-101(A)(3), and 9-102(A), respectively, of the North Carolina Code of Professional Responsibility.

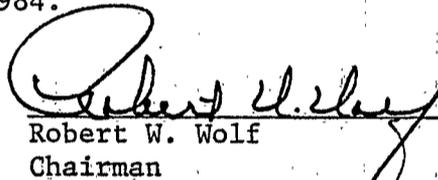
3. That the defendant, William V. Overman, by secretly converting the funds represented by the "med pay" draft to his own use and benefit, the Defendant engaged in illegal conduct involving moral turpitude, engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, engaged in professional conduct that adversely reflects upon his fitness to practice law, prejudiced and damaged his client during the course of the professional relationship, failed to promptly notify his client of receipt of her funds, failed to account to his client for the funds, and failed to promptly pay funds in his possession upon

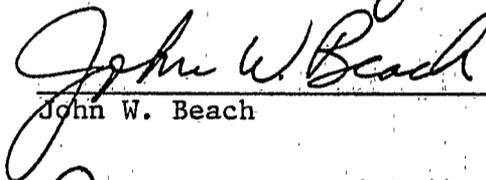
instruction of his client in violation of Disciplinary Rules 1-102(A)(3), (4), and (6), 7-101(A)(3), 9-102(B)(1), (3), and (4), respectively, of the North Carolina Code of Professional Responsibility.

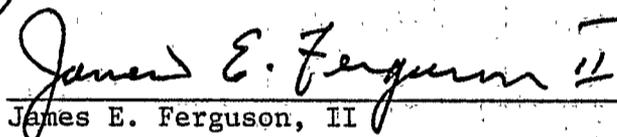
4. That the defendant, by failing to answer the Letter of Notice as required by Rules of the North Carolina State Bar, failed to answer a formal inquiry of the North Carolina State Bar in a disciplinary matter in violation of North Carolina General Statute 84-28(b)(3), and engaged in professional conduct that adversely reflects on his fitness to practice law in violation of Disciplinary Rule 1-102(A)(6) of the North Carolina Code of Professional Responsibility.

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, the Hearing Committee determines that the Defendant is subject to discipline.

This the 10 day of August, 1984.


Robert W. Wolf
Chairman


John W. Beach


James E. Ferguson, II

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

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

THE NORTH CAROLINA STATE BAR,
Plaintiff,

-vs-

ORDER OF DISCIPLINE

WILLIAM V. OVERMAN,
Defendant.

This cause came on to be heard before the undersigned duly appointed members of the Hearing Committee of the Disciplinary Hearing Commission on Friday, August 10, 1984, in the counsel chambers of the North Carolina State Bar, 208 Fayetteville Mall, Raleigh, North Carolina.

Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW entered by this Hearing Committee, the Hearing Committee enters this Order of Discipline:

1. That the defendant, William V. Overman, is hereby disbarred from the practice of law from the state of North Carolina.

2. That the defendant, William V. Overman, shall surrender his license and permanent membership card to the Secretary of the North Carolina State Bar who shall maintain both items in his possession during the period of disbarment.

3. That at such time as the defendant, William V. Overman, applies to the North Carolina State Bar or the Secretary thereof for reinstatement of his license, that upon said application for reinstatement, the following conditions shall be met before said reinstatement is approved:

a) That the defendant, William V. Overman, shall make full and complete restitution to the complaining witness, Mrs. Bertha M. Porter, said reimbursement to be the total amount of \$974.54 plus interest at the legal rate of interest from December 8, 1982, until such time as said restitution is made.

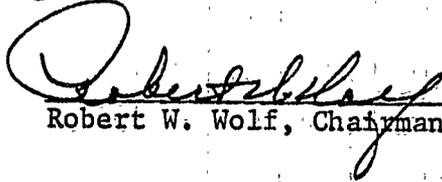
b) That the defendant, William V. Overman, shall be required to pass the then existing examination required by the North Carolina Bar examiners for admission to the practice of law and such other criteria as said bar examiners at said time require as applicants for the admission to the practice of law in the state of North Carolina shall at that time be met and satisfactorily completed by the defendant.

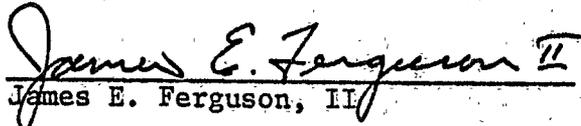
c) That the defendant, William V. Overman, shall present satisfactory proof of a clear and convincing nature to the North Carolina State Bar that he has satisfactorily resolved any and all problems caused by his compulsive gambling.

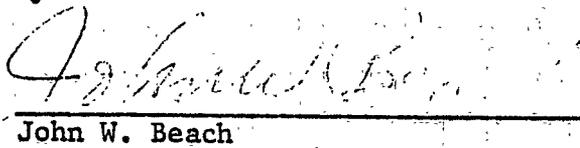
d) That the defendant, William V. Overman, shall present satisfactory proof to the North Carolina State Bar of a clear and convincing nature that he has not been involved in any illegal conduct or any conduct involving moral turpitude.

e) That the defendant, William V. Overman, be taxed for all costs in this matter.

This the 24 day of August, 1984.


Robert W. Wolf, Chairman


James E. Ferguson, II


John W. Beach