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Filed 4-22-85 9:15am
B.E. James, Secretary
The N.C. State Bar

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
85 DHC 1

THE NORTH CAROLINA STATE BAR,
Plaintiff,

-vs-

JAMES T. JORDAN,
Defendant.

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

This matter coming on to be heard and being heard on April 12, 1985 by a committee of the Disciplinary Hearing Commission composed of George Ward Hendon, Chairman, Phillip A. Baddour, Jr., and Alice W. Penny; with M. Bays Shoaf appearing as counsel for the Defendant and A. Root Edmonson appearing for the North Carolina State Bar; and based upon the Stipulation of Pre-Hearing Conference, the evidence presented at the hearing, and the arguments of counsel, the hearing committee finds the following by clear, cogent and convincing evidence:

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, James T. Jordan, was admitted to the North Carolina State Bar on September 3, 1976 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 Code of Professional Responsibility of the North Carolina State Bar and of the laws of the State of North Carolina.
3. During all of the periods referred to herein, the Defendant was a resident of the City of Greensboro, Guilford County, North Carolina.
4. On May 11, 1982, Defendant qualified as Administrator of the estate of Francis I. Albert in estate file no. 82-E-745 in Guilford County and served in that fiduciary capacity during all of the period of time hereinafter mentioned.

As pertains to the First Claim for Relief set out in the Complaint, the hearing committee makes the following Findings of Fact:

5. On or about May 17, 1982, Defendant established an estate account at North Carolina National Bank (NCNB), in the name of

the Estate of Frances I. Albert, James T. Jordan, Administrator, account number 021236526, with an initial deposit of \$12,625.46.

6. On May 17, 1982, Defendant wrote himself a check from the estate account in the amount of \$2,500.00 which he deposited into a personal account he maintained at NCNB, account number 025990300.
7. On May 17, 1982, Defendant wrote himself a check from the estate account in the amount of \$1,500.00.
8. On May 24, 1982, Defendant wrote himself a check from the estate account in the amount of \$2,000.00 which he deposited into his personal account at NCNB.
9. On May 26, 1982, Defendant wrote himself a check from the estate account in the amount of \$2,500.00 which he deposited into a personal account which he maintained at Northwestern Bank, account number 410-303-3.
10. On June 1, 1982, Defendant wrote himself a check from the estate account in the amount of \$2,000.00 which he deposited into his personal account at Northwestern.
11. On June 14, 1982, Defendant wrote himself a check from the estate account in the amount of \$750.00 which he deposited into his personal account at NCNB.
12. On June 14, 1982, Defendant wrote himself an additional check from the estate account in the amount of \$750.00 which he deposited into his personal account at Northwestern.
13. On June 16, 1982, Defendant wrote himself a check on the estate account in the amount of \$300.00 which he deposited into his personal account at Northwestern.
14. On August 3, 1982, Defendant wrote himself a check on the estate account in the amount of \$1,000.00 which he deposited into his personal account at Northwestern.
15. On August 6, 1982, Defendant wrote a counter check to cash on the estate account in the amount of \$750.00, cashed the check at NCNB, and deposited the proceeds into his personal account at Northwestern.
16. Defendant converted the funds as set out above from the estate account of Frances I. Albert to his own use.

Based upon the foregoing FINDINGS OF FACT pertaining to the First Claim for Relief set out in the Complaint, the hearing committee makes the following CONCLUSIONS OF LAW:

Defendant's conduct as set out in paragraphs 5-16 constitutes grounds for discipline under N. C. Gen. Statutes §84-28(a) and (b)(2) in that Defendant violated the Disciplinary Rules of the Code of Professional Responsibility as follows:

By converting the funds from the estate account at NCNB that belonged to the estate of Frances I. Albert to his own use while serving as a fiduciary in that estate, Defendant engaged in illegal conduct involving moral turpitude in violation of DR1-102(A)(3); engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of DR1-102(A)(4); failed to preserve the identity of funds paid to the lawyer in one or more identifiable bank accounts maintained in the state in which the law office is situated in violation of DR9-102(A).

As pertains to the Second Claim for Relief as set out in the Complaint, the hearing committee makes the following Findings of Fact:

17. At the time of her death, Frances I. Albert maintained a checking account at First Union National Bank (FUNB), account number 6014015268.
18. On July 12, 1982, Defendant withdrew \$2,069.72 from the FUNB account by check payable to cash which he presented to Teller 112 at Northwestern Bank. Defendant received \$1,069.72 in cash and deposited \$1,000.00 into his personal account at Northwestern.
19. On November 1, 1982, Defendant withdrew \$3,000.00 from the FUNB account by direct debit to purchase two official checks.
20. One of the official checks mentioned above was in the amount of \$1,500.00 and was presented by Defendant to Northwestern where he received \$300.00 cash and deposited \$1,200.00 into a personal account at Northwestern, account number 0501940488.
21. The other official check was in the amount of \$1,500.00 and was deposited into Defendant's personal account at NCNB.
22. Defendant appropriated the funds mentioned in paragraphs 18-21 above to his own use.

Based upon the foregoing FINDINGS OF FACT pertaining to the Second Claim for Relief set out in the Complaint, the hearing committee makes the following CONCLUSIONS OF LAW:

Defendant's conduct as set out in paragraphs 17-22 constitutes grounds for discipline under N. C. Gen. Statutes §84-28(a) and (b)(2) in that Defendant violated the Disciplinary Rules of the Code of Professional Responsibility as follows:

By converting the funds from the FUNB account that belonged to the estate of Frances I. Albert to his own use while serving as

a fiduciary in the estate, Defendant engaged in illegal conduct involving moral turpitude in violation of DR1-102(A)(3); engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of DR1-102(A)(4); failed to preserve the identity of funds paid to the lawyer in one or more identifiable bank accounts maintained in the State in which the law office is situated in violation of DR9-102(A).

As pertains to the Third Claim for Relief set out in the Complaint, the hearing committee makes the following FINDINGS OF FACT:

23. At the time of her death, Frances I. Albert maintained a passbook savings account at Home Federal Savings and Loan (HFS&L), account number 03-559801-0.
24. At the end of the day on May 17, 1982, the HFS&L account had a balance of \$100.00. From May 17, 1982, until June 25, 1982, the account received deposits representing interest pouring over from two HFS&L certificates of deposit Ms. Albert owned at the time of her death.
25. On June 28, 1982, Defendant cancelled one of the HFS&L certificates of deposit, number 035598028, as follows:
 - (a) by having one check drawn in the amount of \$8,000.00;
 - (b) by having another check drawn in the amount of \$12,000.00; and
 - (c) by letting the remaining \$181.67 in accumulated interest pour over to the HFS&L passbook account.
26. The check in the amount of \$8,000.00 mentioned in paragraph 32(a) above was deposited into the estate account.
27. The check in the amount of \$12,000.00 mentioned in paragraph 32(b) above was presented to teller 110 at Northwestern on June 28, 1982. Defendant received \$100.00 in cash and deposited \$11,900.00 to his personal account at Northwestern.
28. On July 13, 1982, Defendant cancelled the other HFS&L certificate of deposit by transferring the entire \$20,082.43 to the HFS&L passbook.
29. On July 13, 1982, Defendant transferred \$15,000.00 from the passbook account to HFS&L Repurchase Agreement, number 035915966, which had a repurchase date of October 8, 1982.
30. On July 13, 1982, Defendant withdrew the remaining \$6,043.28 from the HFS&L passbook account by check. This check was deposited into Defendant's personal account at Northwestern on July 14, 1982.

31. On August 24, 1982, Defendant closed the Repurchase Agreement account at HFS&L, receiving a check in the amount of \$15,125.14.
32. On August 25, 1982, Defendant deposited the \$15,125.14 into his personal account at Northwestern along with \$340.00 from other sources. The total deposit at Northwestern on August 25, 1982 was \$15,465.14.
33. Except for the \$8,000.00 deposit into the estate account mentioned in paragraph 26 above, Defendant converted all of the funds from the HFS&L accounts to his own use while acting as a fiduciary for the estate of Frances I. Albert.

Based upon the forgoing Findings of Fact pertaining to the Third Claim for Relief set out in the Complaint, the hearing committee makes the following CONCLUSIONS OF LAW:

Defendant's conduct as set out in paragraphs 23-33 constitutes grounds for discipline under N. C. Gen. Statutes §84-28(a) and (b)(2) in that Defendant violated the Disciplinary Rules of the Code of Professional Responsibility as follows:

By converting the funds from the HFS&L accounts that belonged to the estate of Frances I. Albert to his own use while serving as a fiduciary in that estate, Defendant engaged in illegal conduct involving moral turpitude in violation of DR1-102(A)(3); engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Disciplinary Rule 1-102(A)(4); failed to preserve the identity of funds paid to the lawyer in one or more identifiable bank accounts maintained in the state in which the law office is situated in violation of DR9-102(A).

As pertains to the Fourth Claim for Relief set out in the Complaint, the hearing committee makes the following Findings of Fact:

34. On September 30, 1983, a hearing was held before the Clerk or Superior Court of Guilford County, James L. Knight, for the purpose of inquiring into Defendant's handling of the Frances I. Albert estate.
35. At that hearing, while under oath, Defendant testified that all of the funds from Ms. Albert's certificates of deposit except those needed to meet expenses had been placed in the Repurchase Agreement.
36. Defendant further testified that he had purchased a cashier's check in the amount of \$6,400.00 for payment of inheritance taxes.
37. Defendant further testified that the remainder of Ms. Albert's funds had been deposited into a regular savings account at Northwestern Bank after the Repurchase Agreement had "matured."

38. Defendant produced a savings transaction record in the name of James Jordan, Administrator of the Frances I. Albert Estate, account number 0506277590, showing an August 22, 1983 deposit of \$32,956.26.
39. All of the statements under oath mentioned in paragraphs 35-37 above were false statements made to cover up Defendant's having appropriated the estate's funds to his own use.
40. The passbook savings record produced by Defendant as mentioned in paragraph 38 above was a document fabricated by Defendant.

Based upon the foregoing Findings of Fact pertaining to the Fourth Claim for Relief set out in the Complaint, the hearing committee makes the following CONCLUSIONS OF LAW:

Defendant's conduct as set out in paragraphs 34-40 constitutes grounds for discipline under N. C. Gen. Statutes §84-28(a) and (b)(2) in that Defendant violated the Disciplinary Rules of the Code of Professional Responsibility as follows:

- (a) By testifying falsely while being questioned by the Clerk of Superior Court about his handling of the Frances I. Albert estate, Defendant engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of DR1-102(A)(4); knowingly used perjured testimony or false evidence in violation of DR7-102(A)(4); and knowingly made false statements of law or fact in violation of DR7-102(A)(5).
- (b) By presenting the fabricated passbook savings record to the Clerk of Superior Court during the Clerk's inquiry into Defendant's handling of the Frances I. Albert estate, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of DR1-102(A)(4); knowingly used perjured testimony or false evidence in violation of DR7-102(A)(4); and participated in the creation of evidence that he knew was false in violation of DR7-102(A)(6).

Signed by the undersigned Chairman with the full accord and consent of the other members of the hearing committee this the 17th day of April, 1985.


George Ward Hendon, Chairman

Filed Ap 22, 1985 9:15 am
B.E. James, Secty
The N.C. State Bar
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STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
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85 DHC 1

THE NORTH CAROLINA STATE BAR,
Plaintiff,

-vs-

JAMES T. JORDAN, Attorney,
Defendant.

ORDER OF DISCIPLINE

This matter coming on to be heard and being heard on April 12, 1985 before the hearing committee composed of George Ward Hendon, Chairman, Phillip A. Baddour, Jr., and Alice Penny; and based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW entered by this hearing committee of even date herewith; and further based upon the evidence and arguments presented in the second phase of the hearing, the undersigned members of the hearing committee enter the following ORDER OF DISCIPLINE:

- 1). The Defendant, James T. Jordan is hereby DISBARRED from the practice of law in North Carolina.
- 2). The Defendant, James T. Jordan, shall surrender his license and permanent membership card to the Secretary of the North Carolina State Bar.
- 3). The Defendant, James T. Jordan is hereby taxed with the costs of this action.

Signed by the undersigned Chairman with the full accord and consent of the other members of the hearing committee this the 17th day of April, 1985.


George Ward Hendon, Chairman