

9497

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
88 DHC 3

THE NORTH CAROLINA STATE BAR,)
Plaintiff)

vs.)

JAMES A. TIDDY, Attorney,)
Defendant)

ORDER OF DISCIPLINE

This matter came on to be heard and was heard on June 17, 1988 before the Hearing Committee composed of George Ward Hendon, Chairman, L. P. Hornthal Jr., and Donald L. Osborne. Based upon the Findings of Fact and Conclusions of Law entered by this Hearing Committee, the Hearing Committee enters the following ORDER OF DISCIPLINE:

1. The Defendant, James A. Tiddy, is hereby DISBARRED from the practice of law in North Carolina.

2. The Defendant, James A. Tiddy, shall surrender his license and permanent membership card to the Secretary of the North Carolina State Bar.

3. The Defendant, James A. Tiddy, is to comply with the provisions of Section 24 of Article IX of the Rules and Regulations of the North Carolina State Bar.

4. The Defendant, James A. Tiddy, is taxed with the costs of this proceeding as certified by the Secretary of the North Carolina State Bar.

Signed by the undersigned Chairman with the full consent of the other members of the Hearing Committee this the 27th day of June, 1988.


George Ward Hendon, Chairman

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
88 DHC 3

THE NORTH CAROLINA STATE BAR,)	
Plaintiff)	
vs.)	FINDINGS OF FACT
)	AND
JAMES A. TIDDY, Attorney,)	CONCLUSIONS OF LAW
Defendant)	

This matter was heard on June 17, 1988 by a hearing committee composed of George Ward Hendon, Chairman, L. P. Hornthal Jr., and Donald L. Osborne. Fern E. Gunn represented the North Carolina State Bar and the defendant, James A. Tiddy, did not appear at the hearing. Based upon the admissions of the defendant deemed by his default for failure to file an answer or other pleading in this matter and the evidence offered at the hearing, the hearing committee finds the following by clear, cogent, and convincing evidence:

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 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 A. Tiddy, was admitted to the North Carolina State Bar on September 8, 1980 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, Code of Professional Responsibility and the Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During all of the periods referred to herein, the Defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the city of Gastonia, Gaston County, North Carolina.

4. The Defendant prepared a letter on the stationery of Hunter and Hunter, P. A. (hereinafter designated as the Hunter accounting firm), a certified public accounting firm. This letter indicated that the Hunter firm had audited the books and records of Lion's Club International-District 31-C (hereinafter designated as the Lion's Club) and had found the books to be in good order. The letter dated August 13, 1983 was addressed to the Defendant and purportedly signed by a "Mel Fox, CPA" for the Hunter accounting firm. In addition, the letter was delivered to representatives of the Lion's Club where the Defendant served as secretary and treasurer.

5. The Hunter accounting firm was never hired by anyone in the Lion's Club to audit its books and financial records. Furthermore, no one by the name of Mel Fox is or has ever been employed as a certified public accountant in the Hunter accounting firm.

6. The Hunter accounting firm learned in the summer of 1985 that the above referenced letter was written. The Hunter accounting firm requested its lawyers, the law firm of Kennedy, Covington, Lobdell and Hickman (hereinafter designated as the Kennedy law firm) to investigate the letter allegedly coming from the Hunter accounting firm. Joseph B. C. Kluttz, an attorney in the Kennedy law firm, investigated the letter.

7. Mr. Kluttz met with the Defendant and the Defendant admitted that he (the Defendant) had prepared and signed the letter in question. The Defendant also admitted that he delivered this letter to the officers of the Lion's Club in carrying out his obligation to have the organization's books audited.

8. On November 17, 1985, Dorothy Arliece Long retained the Defendant to represent her in a claim for damages against R. P. Corporation. On that date, a contingent fee contract for these services was signed by the Defendant and Ms. Long. Ms. Long paid the Defendant \$200. This amount was nonrefundable, but would be deducted from the contingent fee when paid.

9. On November 27, 1985, Ms. Long met with the Defendant and he obtained her approval for an offer of \$5,000 to the R. P. Corporation as an out of court settlement. The Defendant informed Ms. Long that if the offer of settlement was not accepted by December 17, 1985, the Defendant would file a lawsuit.

10. Ms. Long did not hear from the Defendant after their November 27, 1985 meeting. Ms. Long made numerous telephone calls to the Defendant in an attempt to learn the status of her case and to retrieve documents which belonged to Ms. Long and were a part of her file. The Defendant did not respond to Ms. Long's inquiries.

11. As a result of the Defendant's failure to represent Ms. Long as he contracted to do, Ms. Long was compelled to seek and retain other counsel, Louis L. Lesesne Jr., to represent her in the case.

12. Mr. Lesesne and other members of the Gaston County Bar wrote the Defendant and requested that he return Ms. Long's documents. The Defendant did not respond to any of these requests in a prompt manner and Mr. Lesesne was forced to file Ms. Long's lawsuit without the benefit of her case documents in order to meet the statute of limitations.

13. After many attempts by Ms. Long and her attorney to retrieve her documents, the Defendant finally sent Ms. Long's file to her attorney, Mr. Lesesne.

Based upon the foregoing Findings of Fact, the Hearing Committee makes the following:

CONCLUSIONS OF LAW

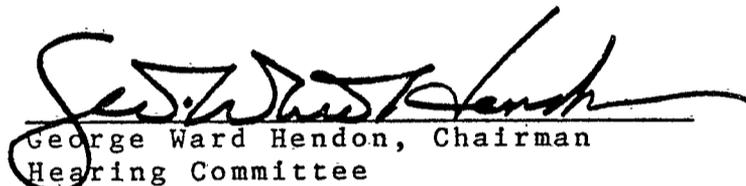
1. The conduct of the Defendant as set forth above constitutes grounds for discipline pursuant to N.C. Gen. Stat. §84-28(b)(2) in that Defendant violated the North Carolina Code of Professional Responsibility and the North Carolina Rules of Professional Conduct as follows:

- (a) By preparing and signing a letter on stationery of an accounting firm which falsely stated that the accounting firm had audited the books and financial records of the Lion's Club, the Defendant engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of Disciplinary Rule 1-102(A)(4).
- (b) By failing to handle Ms. Long's legal matter, the Defendant did not act with reasonable diligence and promptness in representing his client in violation of Rule 6(B)(3); has failed to seek the lawful objectives of his client in violation of Rule 7.1(A)(1); has failed to carry out a contract of employment in violation of Rule 7.1 (A)(2); and has prejudiced or damaged his client during the course of their professional relationship in violation of Rule 7.1 (A)(3).
- (c) By failing to communicate with Ms. Long about the status of her case and by failing to respond to her telephone calls for information, the Defendant did not keep the client reasonably informed about the status of the matter and he did not promptly comply

with reasonable requests for information in violation of Rule 6(B)(1); the Defendant failed to explain a matter to the extent reasonably necessary to permit his client to make informed decisions regarding the representation in violation of Rule 6(B)(2).

- (d) By failing to deliver promptly the documents and papers of Ms. Long as she requested and of which she was entitled, the Defendant has violated Rule 2.8(A)(2).

Signed by the undersigned Chairman with the full consent of the other members of the Hearing Committee, this the 27th day of June, 1988.


George Ward Hendon, Chairman
Hearing Committee