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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
89 DHC 7

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

ROBERT E. GRIFFIN, ATTORNEY
Defendant

ORDER OF DISCIPLINE

Based upon the Findings of Fact and Conclusions of Law of even date herewith and the evidence presented in the second phase of the hearing, the hearing committee makes the following additional findings:

FACTORS OF AGGRAVATION

1. Defendant has previously been disciplined. Defendant received a Private Reprimand from the Grievance Committee in July, 1981.
2. Defendant's submission of false evidence through his testimony in the disciplinary process.
3. Defendant's refusal to acknowledge the wrongful nature of his conduct.
4. Defendant's substantial experience in the practice of law.

Upon consideration of the above aggravating factors, and further considering the absence of any mitigating factors, the hearing committee enters the following ORDER OF DISCIPLINE:

1. Defendant, Robert E. Griffin, is suspended from the practice of law in North Carolina for a period of six months.
2. Defendant shall surrender his license certificate and membership card to the Secretary of the North Carolina State Bar within 10 days of the effective date of his suspension.
3. Defendant shall comply with all of the provisions of Section 24 of Article IX of the Rules and Regulations of the North Carolina State Bar concerning the winding down of his law practice.
4. Defendant is taxed with the costs of this proceeding as assessed by the Secretary and shall pay such costs prior to petitioning for reinstatement pursuant to Section 25(B) of Article IX of the Rules and Regulations of the North Carolina State Bar.

Signed by the undersigned chairman with the full knowledge and consent
of the other members of the hearing committee this the 7th day of
August, 1989.

Maureen D. Murray
Maureen D. Murray, Chairman
Hearing Committee

#107

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vs.

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Defendant

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

This matter came on for hearing on July 21, 1989 before a hearing committee composed of Maureen D. Murray, Chairman, Robert G. Bryan, and Sam L. Beam; with A. Root Edmonson representing the North Carolina State Bar and Robert E. Griffin appearing pro se; and based upon the pleadings and stipulations, and the evidence presented at the hearing, the hearing committee finds the following to be supported 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, Robert E. Griffin, was admitted to the North Carolina State Bar on September 16, 1977, 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 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 Fuquay-Varina, Wake County, North Carolina.
4. Defendant represented Charlie B. Prince (hereinafter Prince) in an attempt to recover for personal injuries suffered by Prince on November 2, 1983.
5. Defendant filed suit on Prince's behalf in Wake County Superior Court, file number 85 CVS 7544, on October 30, 1985. Southern Equipment Company, Inc. (hereinafter

Southern) was the defendant in the action.

6. Walter E. Brock, Jr. (hereinafter Brock) was the attorney employed by Southern's insurance carrier to defend the action.
7. Prince died on October 29, 1986.
8. On October 30, 1986, Defendant contacted Brock in an effort to settle the matter.
9. On or about November 20, 1986 Defendant and Brock agreed to settle the matter for \$3,250.
10. Crum and Forster prepared a check in the sum of \$3,250 on November 25, 1986 made payable to "Robert E. Griffin, as Attorney and in trust for Charlie Prince" in full and final settlement of any and all claims Prince may have had against Southern. Defendant had asked Brock to make the check payable in that manner rather than having it made payable to Prince and his attorney.
11. On November 26, 1986, a release was sent to Defendant by Brock for Prince's signature. The release was to be signed before the check would be delivered.
12. By letter dated December 3, 1986, Defendant returned the release to Brock dated December 3, 1986 and purportedly containing Prince's mark. The date and Prince's name were placed on the release by Defendant and the release was notarized in Defendant's office.
13. At the time he sent the release to Brock, Defendant knew that Prince was dead and that he did not sign the release.
14. Sandra Prince Amerson, daughter of Prince, had filed an Application for Letters of Administration of Prince's estate on November 13, 1986.
15. Sandra Prince Amerson, as Administratrix of Prince's estate, retained Defendant's services and Ms. Amerson and Prince's estate were Defendant's client.
16. Sandra Prince Amerson, as Administratrix of Prince's estate, did not authorize Defendant to settle the action with Southern. Defendant had not sought her authorization.

BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. Section 84-28(b) (2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By having the release executed in such a way as to appear that it had been signed by his deceased client,

Prince, and sending it to Brock, Defendant engaged in conduct involving dishonesty, fraud, deceit and misrepresentation in violation of Rule 1.2(C) and knowingly used false evidence in violation of Rule 7.2(A) (5).

- (b) By failing to get the consent of his client, the Administratrix of Prince's estate, to settlement of the action against Southern, Defendant violated Rule 7.1(C) (1).

Signed by the undersigned chairman with the full knowledge and consent of the other members of the hearing committee this the 7th day of August, 1989.

Maureen D. Murray
Maureen D. Murray, Chairman
Hearing Committee

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