

WAKE COUNTY
NORTH CAROLINA

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
89 DHC 24

THE NORTH CAROLINA STATE BAR)
Plaintiff)
v.)
CABELL REGAN, ATTORNEY)
Defendant)

CONSENT ORDER

This matter coming before the undersigned Hearing Committee of the Discipline Hearing Commission pursuant to Section 14(8) of Article IX of the Rules and Regulations of the North Carolina State Bar; and it appearing that both parties have agreed to waive a formal hearing in this matter; and it further appearing that both parties stipulate and agree to the following Findings of Fact and the Defendant does not contest the Conclusions of Law hereinafter found or the discipline imposed herein, therefore the Hearing Committee enters the following:

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, Cabell J. Regan, was admitted to the North Carolina State Bar in 1979, 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 the laws of the State of North Carolina.

3. During all of the periods referred to herein, Regan was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Lumberton, Robeson County.

4. On March 2, 1988, Regan was appointed to represent Jaye Leo Gavin (hereafter, Gavin), who was charged with first degree burglary and two counts of larceny and breaking and entering.

5. On or about May 23, 1988, Regan also agree to represent Gavin respecting a house at 1808 Booker Avenue, Lumberton which Gavin had inherited from his father, Henry Leo Gavin.

6. On June 2, 1988, on Regan's advice, Gavin entered a guilty plea to the criminal offenses with which he was charged. Thereafter, Gavin was sentenced

to a 20 year jail term.

7. As of June, 1988, the tax value of the Booker Avenue house was approximately \$10,000.

8. Between May 23 and June 2, 1988, Regan made several attempts to find buyers for the Booker Avenue house, but was unable to do so.

9. On May 24, 1988, Regan advised Gavin that he would have to pay \$2,500 to \$3,000 to prevent the Booker Avenue house from being sold to pay the debts of the elder Gavin's estate.

10. Regan further advised Gavin in the May 24, 1988 letter that if the house was sold at auction, that Gavin would probably receive no proceeds whatsoever.

11. On June 2, 1988, while Gavin was in jail, Regan advised him that he had been unable to locate any purchasers for the Booker Avenue house. Regan then agreed to purchase the Booker Avenue house for \$5,000.

12. On June 21, 1988, while Gavin was in prison, Regan brought to Gavin a deed which Regan had drafted, transferring ownership of the Booker Avenue house to Regan. Regan also provided Gavin with a written release which revealed that the tax value of the house was \$10,000, that Regan was paying \$5,000 for the house and that Regan intended to make a profit from the transaction with Gavin. Gavin read and signed the release before signing the deed transferring the house to Regan.

13. Regan did not advise Gavin to obtain independent counsel prior to deciding whether to sell the house to Regan.

14. Regan has no prior record of professional misconduct.

15. Regan did not engage in dishonest conduct with Gavin or with the N.C. State Bar respecting Gavin's grievance against Regan.

16. The Grievance Committee of the North Carolina State Bar found that there was no probable cause to believe that Regan fraudulently altered documents to incorrectly reflect a purchase price of \$5,000 rather than \$50,000 for the Booker Ave. house, as initially alleged by Gavin in his grievance against Regan.

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

CONCLUSIONS OF LAW

1. The Defendant's conduct constitutes grounds for discipline pursuant to N.C. Gen. Stat. Section 84-28(a) in that Regan violated Rule 5.4(A) by engaging in a business transaction which was not entirely fair to the client.

2. The Defendant did not violate any other provisions of the Rules of Professional Conduct in relation to his representation of Gavin.

Based upon the foregoing FINDINGS OF FACT AND CONCLUSIONS OF LAW and upon the consent of the parties, the Hearing Committee enters the following:

ORDER OF DISCIPLINE

1. The Defendant, Cabell J. Regan, is hereby privately reprimanded, as set out in the attached order of private reprimand.
2. The Defendant shall pay the costs of this proceeding.

This the 21st day of November, 1989.

Maureen D. Murray
Maureen D. Murray, Chairman
For the Committee