

2093

STATE OF NORTH CAROLINA

BEFORE THE COUNCIL
OF THE
NORTH CAROLINA STATE BAR
81 B.C.R. 1

COUNTY OF WAKE

IN THE MATTER OF)

LARRY C. HINSON, PETITIONER)

RESOLUTION DENYING REINSTATEMENT

OF LICENSE TO PRACTICE LAW

This cause coming on to be heard and being heard by the Council of the North Carolina State Bar pursuant to Rule 25(A) (4) of Article IX of the Rules and Regulations of the North Carolina State Bar on April 16, 1982 upon the Petition of Larry C. Hinson that he be permitted to resume the practice of law and upon the Findings of Fact, Conclusions of Law and Recommendations of a Hearing Committee of the Disciplinary Hearing Commission to which the matter had been referred for hearing pursuant to the aforesaid Rule, and the petitioner being present and represented by Robert L. Huffman of the Union County Bar; and

It appearing that the aforesaid Hearing Committee did hold a hearing on December 11, 1981 in Raleigh, North Carolina concerning this matter at which the petitioner was represented by Robert L. Huffman and the North Carolina State Bar was represented by L. Thomas Lunsford, II, did take evidence and hear arguments; and it further appearing that said Hearing Committee made Findings of Fact which, after due consideration and amendment, the Council hereby adopts:

FINDINGS OF FACT

1. All parties are properly before the Hearing Committee and the Hearing Committee has jurisdiction over the petitioner and the subject matter.
2. Larry Capehart Hinson has been duly licensed to practice law in the State of North Carolina and did practice in Mecklenberg County, North Carolina, from June, 1969 until January 26, 1978.
3. On or about January 16, 1978, there was a hearing as provided by law regarding various complaints alleging misappropriation and mis-handling of certain client funds; and petitioner was suspended for a period of two years by judgment dated January 26, 1978 for violating various provisions of the North Carolina Code of Professional Responsibility.

4. Petitioner filed a prior application for restoration of license on or about September 15, 1980, and said application was heard by the Council of the North Carolina State Bar on October 16, 1980 and referred to the Disciplinary Hearing Commission for the appointment of Hearing Committee.

5. The Disciplinary Commission established a committee and set a hearing to take place on January 23, 1981, in the Council Chambers of the North Carolina State Bar. Prior to the hearing date, petitioner requested a continuance which was denied, and petitioner subsequently entered a voluntary dismissal in the matter.

6. Petitioner filed a second application for restoration of license on or about October 9, 1981 and said application was heard by the Council of the North Carolina State Bar on October 14, 1981 and referred to the Disciplinary Hearing Commission for the appointment of a Hearing Committee.

7. Following his suspension, the petitioner failed to promptly notify by registered or certified mail, return receipt requested, all clients being represented in pending matters of his suspension and consequent inability to act as an attorney after the effective date of suspension as required by Section 24(1) and (2) of Article IX of the Rules and Regulations of the North Carolina State Bar.

8. The Petitioner failed to file with the Secretary an affidavit showing that he had fully complied with the provisions of the order of suspension and with the provisions of Section 24 of Article IX of the Rules and Regulations of the North Carolina State Bar and other State, Federal and administrative jurisdictions to which he was admitted to practice. Such affidavit was not only not filed within ten days after the effective date of the suspension order as required by Section 24(4) of Article IX of the Rules and Regulations of the North Carolina State Bar, but said affidavit has not been filed to this date.

9. The petitioner failed to keep and maintain records of various steps taken under Section 24 of Article IX of the Rules and Regulations of the North Carolina State Bar as required by Section 24(5) of said Rules and Regulations.

10. In the order entered January 26, 1978 suspending the petitioner from the practice of law the petitioner was taxed with the costs of the hearing, which costs were in the amount of Eight Hundred and Twenty-two Dollars and 99/100 (\$822.99). The petitioner paid said costs in full subsequent to the hearing on January 18, 1982.

11. The petitioner was represented by counsel at the hearing on January 16, 1978 and was informed on that date that his license to practice law was being suspended.

12. On February 13, 1978, Elizabeth M. Lydic wrote a retainer check to petitioner and petitioner, without advising her of his suspension, accepted said check in the amount of Two Hundred and Fifteen Dollars (\$215.00) two hundred dollars of which was a retainer for legal services to be rendered in the future in connection with the administration of Mrs. Lydic's husband's estate and fifteen dollars was a payment towards a legal notice which was to be placed in the Mecklenburg Times giving notice of the administration of Mrs. Lydic's husband's estate. The petitioner had met Mr. and Mrs. Lydic in the fall of 1979, and had prepared, witnessed and supervised the execution of Mr. Lydic's will in January of 1978 but prior to January 16, 1978. Petitioner corresponded with Laura Lydic in March, June & July of 1978 on matters relating to the estate and used letterhead listing petitioner as an attorney at law.

13. The suspension order suspending petitioner from practicing law in North Carolina was entered on January 26, 1978 and the petitioner accepted a retainer from Mrs. Lydic on February 13, 1978 and thereafter performed legal services in connection with the estate of Fred B. Lydic, continuing after the effective date of the suspension order all in violation of Section 24(3) of Article IX of the Rules and Regulations of the North Carolina State Bar.

14. After being employed as an attorney to represent Elizabeth M. Lydic, executrix of the estate of Fred B. Lydic, petitioner borrowed the sum of Six Thousand Dollars (\$6,000.00) from Elizabeth M. Lydic which debt he promised to fully secure and to repay within six months. Petitioner told Mrs. Lydic that the loan was for business purposes and that he wished to expand his business without making disclosure to her of his desperate financial condition and suspension from the practice of

law. Petitioner prepared and signed a promissory note dated March 4, 1978 in which he agreed to repay Elizabeth M. Lydic the sum of Six Thousand Dollars (\$6,000.00) plus interest at the rate of nine percent per annum within six months from the date of the note. No security has ever been provided for this debt nor has any portion of the loan ever been repayed.

15. On January 10, 1979, Elizabeth M. Lydic filed suit against petitioner in Mecklenburg County Superior Court (79 CVS 282) alleging fraud and violation of fiduciary duty and seeking recovery of the sum of Two Hundred Dollars (\$200.00) previously paid petitioner as attorneys fees and Six Thousand Dollars (\$6,000.00) plus interest representing petitioner's past due indebtedness.

16. The petitioner did not file answer to the complaint brought by Elizabeth M. Lydic and on August 9, 1979, Superior Court Judge Frank W. Snapp, with the consent of the petitioner, entered judgment on behalf of the plaintiff, Elizabeth M. Lydic. In that judgment, which included findings of fact and conclusions of law, petitioner was held liable for repayment of the Six Thousand Dollars (\$6,000.00) loan with interest at the current rate, for reimbursement of attorneys fees he had previously been paid and for other fees and costs. Petitioner was ordered by the Court to prepare and submit to plaintiff's counsel quarterly financial reports fully disclosing his assets, liabilities and income. To date petitioner has failed to make any payment to Elizabeth M. Lydic pursuant to said judgment and has made one of the financial reports ordered by the Court.

17. Beginning in July of 1976 and continuing until March of 1978, the petitioner was a part-time instructor in the paralegal program at Central Piedmont Community College. Beginning in March of 1978 and continuing until August of 1980, the petitioner taught a full load in paralegal and business areas at Central Piedmont Community College. Among the courses taught were: business law, tax, labor law, wills and trusts, North Carolina legal systems, corporations, law office management, and introduction to paralegalism.

18. The petitioner developed and taught a small business management course for the business administration department at Central Piedmont Community College during the spring and summer quarters of 1980. Petitioner developed and taught certain other courses at Central Piedmont Community College, was popular with the students and faculty and enjoyed a good reputation generally at Central Piedmont Community College.

19. Since August of 1980, petitioner has been employed as a paralegal in the law office of B. Kemp Haskell an attorney in Jacksonville, Florida where petitioner has performed work in many areas including litigation, tax and corporations.

20. Petitioner and his wife were have domestic difficulties in 1977 and 1978 and they separated on or about July 10, 1978. Petitioner attributes his difficulties in 1977 and 1978 to his domestic situation and petitioner and his former wife were divorced in November of 1981.

21. Petitioner has failed to demonstrate by clear and convincing evidence that he has the moral qualifications, competency and learning in law required for admission to practice law in this state.

22. Petitioner failed to demonstrate by clear and convincing evidence that the resumption of the practice of law within the state by the petitioner would be neither detrimental to the integrity and standing of the Bar or the administration of justice nor subversive of the public interest.

23. The petitioner engaged in the unauthorized practice of law during his suspension.

24. The petitioner wrongfully held himself out to the public as an attorney during his suspension.

25. The petitioner violated a fiduciary responsibility in borrowing money from his client, Elizabeth M. Lydic, during his suspension and without disclosure to her of his personal and professional circumstances.

26. The petitioner has failed to comply with any of the five subsections of Section 24 of Article 9 of the Rules and Regulations of the North Carolina State Bar.

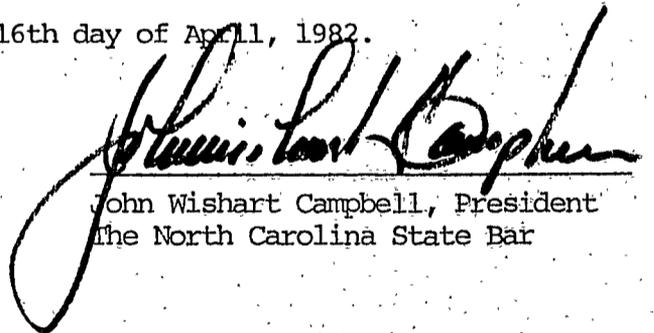
Based upon the foregoing Findings of Fact, the Hearing Committee made the following Conclusions of Law which the Council hereby adopts:

- A. that petitioner has failed to demonstrate by clear and convincing evidence that he has the moral qualifications, competency and learning in law required to admission to practice law in this state.
- B. that petitioner failed to demonstrate by clear and convincing evidence that the resumption of the practice of law within the state by the petitioner would be neither detrimental to the integrity and standing of the Bar or the administration of justice nor subversive of the public interest.
- C. that the petitioner engaged in the unauthorized practice of law during his suspension.
- D. that the petitioner wrongfully held himself out to the public as an attorney during his suspension.
- E. that the petitioner violated a fiduciary responsibility in borrowing money from his client, Elizabeth M. Lydic, during his suspension and without disclosure to her of his personal and professional circumstances.
- F. that the petitioner has failed to comply with any of the five subsections of Section 24 of Article IX of the Rules and Regulations of the North Carolina State Bar.

NOW, THEREFORE, UPON MOTION MADE AND SECONDED, BE IT RESOLVED THAT Larry C. Hinson not be reinstated as an attorney at law with the rights and privileges to practice law in North Carolina at this time; and

BE IT FURTHER RESOLVED that the petitioner be and is taxed with the cost of this proceeding as certified by the Secretary.

By order of the Council this 16th day of April, 1982.


John Wishart Campbell, President
The North Carolina State Bar