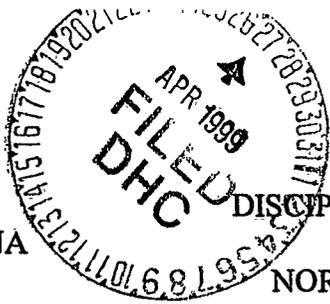


WAKE COUNTY  
NORTH CAROLINA



4715

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
99 DHC 2

THE NORTH CAROLINA STATE BAR  
PLAINTIFF

v.

EARL WHITTED, JR. ATTORNEY  
DEFENDANT

)  
)  
) FINDINGS OF FACT AND  
) CONCLUSIONS OF LAW  
) AND ORDER OF DISCIPLINE  
)  
)  
)

THIS MATTER came on to be heard and was heard by a hearing committee composed of Franklin E. Martin, Chair; Kenneth M. Smith and Anthony E. Foriest on Friday, April 9, 1999. The Defendant, Earl Whitted, Jr., appeared on his own behalf. Carolin Bakewell represented the North Carolina State Bar. Based upon the pleadings herein and the evidence presented at the hearing, 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, Earl Whitted (hereafter, Whitted), was admitted to the North Carolina State Bar in 1955 and is, and was at all relevant times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the rules, regulations and Rules of Professional Conduct, Revised Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During all periods relevant hereto, Whitted maintained an office for the practice of law in the City of Goldsboro, Wayne County, N.C.

4. Whitted was properly served with process and the disciplinary hearing herein was held with due notice to all parties.

5. On Nov. 25, 1998, following a 12-day jury trial, Whitted was convicted in the U.S. District Court for the Western District of Washington of eight felony counts of engaging in wire fraud in violation of 18 U.S.C. §1343.

6. On the same day, Whitted was convicted of one felony count of conspiracy to engage in money laundering in violation of 18 U.S.C. § 1956(h).

7. On March 19, 1999, Whitted was sentenced to a 30-month active prison sentence based upon his convictions for wire fraud and conspiracy to engage in money laundering. The federal court also sentenced Whitted to three years of probation and ordered him to pay \$170,000 in restitution, jointly and severally with the other co-defendants.

Based upon the foregoing Findings of Fact, the hearing committee enters the following:

#### CONCLUSIONS OF LAW

1. All parties are properly before the hearing committee and the committee has jurisdiction over the person of Earl Whitted, Jr., and over the subject matter of this hearing.

2. The crimes of which Whitted was convicted are serious criminal offenses.

3. Whitted's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(1).

4. By engaging in wire fraud in violation of 18 U.S.C. § 1343 and by engaging in a conspiracy to engage in money laundering in violation of 18 U.S.C. § 1956(h), Whitted committed criminal acts which reflect adversely on his honesty, trustworthiness or fitness as a lawyer in violation of Rule 1.2(b) of the Rules of Professional Conduct and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 1.2(c) of the Rules of Professional Conduct.

Based upon the foregoing Findings of Fact and Conclusions of Law and upon the evidence and arguments of the parties concerning the appropriate discipline, the hearing committee hereby makes the following additional

#### FINDINGS OF FACT REGARDING DISCIPLINE

1. Whitted's misconduct is aggravated by the following factors:

- a) Whitted engaged in multiple violations of the Rules of Professional Conduct.
- b) Whitted engaged in a pattern of misconduct.

- c) Whitted had substantial experience in the practice of law at the time of the offenses.
  - d) Whitted has refused to acknowledge the wrongful nature of his actions.
  - e) Whitted's misconduct was motivated by selfishness.
  - f) Whitted has a history of prior discipline. Specifically, he received a private reprimand in 1982 for neglecting a client matter, he was disbarred by the Disciplinary Hearing Commission in 1985 for embezzling client funds and engaging in a serious conflict of interest and he was disbarred by the Wayne County Superior Court in 1989 following his conviction for embezzlement of client funds.
2. The Committee finds that there are no mitigating factors.
  3. The aggravating factors outweigh the mitigating factors.

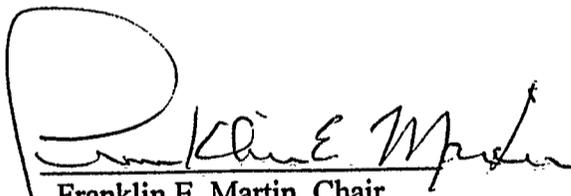
Based upon the foregoing aggravating factors and the arguments of the parties, the hearing committee hereby enters the following

#### ORDER OF DISCIPLINE

1. The Defendant, Earl Whitted, Jr., is hereby disbarred from the practice of law effective 30 days from service of this order upon Whitted.
2. Whitted shall surrender his license and bar membership card to the Secretary of the North Carolina State Bar no later than 30 days of the date of service of this order upon him.
3. During the term of his disbarment, Whitted shall violate no laws of the United States or any state.
4. Whitted shall pay the costs of this matter within 30 days of the date of service the statement of the costs upon him.
5. Whitted shall comply with all provisions of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124 concerning winding down his law practice.

Signed by the Chair with the consent of all hearing committee members.

This the 22<sup>nd</sup> day of April, 1999.

  
Franklin E. Martin, Chair  
Hearing Committee