

2368

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
87GR 0615

IN THE MATTER OF)

EDMOND R. JOHNSON)
ATTORNEY AT LAW)

PUBLIC CENSURE

On October 27, 1988, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Constance S. Manning.

Pursuant to Section 13(7) of Article IX of the Rules and Regulations of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing. After considering the evidence, including your response to the Letter of Notice, the Grievance Committee found probable cause which is defined in the rules as "reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action."

The rules provide that after a finding of probable cause, the Grievance Committee may determine that the filing of a complaint and a hearing before the Disciplinary Hearing Commission are not required and the Grievance Committee may issue various levels of discipline depending upon the misconduct, the actual or potential injury caused, and any aggravating or mitigating factors. The Grievance Committee may issue a Private Reprimand, a Public Reprimand, or a Public Censure to the accused attorney.

The Grievance Committee was of the opinion that a complaint and hearing are not required in this case and issues this Public Censure to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this Public Censure. I am certain that you will understand fully the spirit in which this duty is performed.

A Public Censure is the most serious discipline that the Grievance Committee can impose. The Grievance Committee felt that your professional misconduct was a serious and substantial violation of the Rules of Professional Conduct and deserved the most severe form of public discipline short of actual suspension or loss of your license.

On December 22, 1986, Constance S. Manning's sister was involved in a traffic accident while driving Ms. Manning's automobile. Ms. Manning's grandmother was a passenger in the automobile. All three women came to you for representation in their claims arising out of the accident. Ms. Manning understood that you were representing her on her property damage claim and also her claim for reimbursement for rental car expenses she had incurred. You advised Ms. Manning to make a claim with her collision insurance carrier. She indicated that she did not feel that her insurance carrier should pay for her damages when it was the other driver's fault. The other driver was insured by Government Employees Insurance Co. (GEICO), GEICO sent a check made out to you and Ms. Manning in the sum of \$600 on July 31, 1986 the same amount

as Ms. Manning's rental bill. You attempted to get Ms. Manning's sister to deliver this check to Ms. Manning, but she refused to do so. Your office scheduled an appointment with Ms. Manning, but she failed to show up. You made no further effort to deliver Ms. Manning's funds to her. On December 5, 1987, GEICO sent a check to you and Ms. Manning in the sum of \$1,748 to settle her property damage claim. With a cover letter dated December 22, 1987, you sent both checks, which you had endorsed, to Ms. Manning.

By failing to promptly deliver to Ms. Manning the \$600 you had received on her behalf in early August 1987 until late December, 1987, you failed to promptly deliver to the client the funds to which the client was entitled in violation of Rule 10.2(E) of the Rules of Professional Conduct.

Your failure to deliver the funds to Ms. Manning was aggravated by the position you took with the 26th Judicial District Bar Grievance Committee that you did not represent Ms. Manning in her property damage claim. This position is refuted by the fact that both checks from GEICO were made out to you and your client and were delivered to you. Also, you had prepared a complaint for filing in Gaston County Superior Court that named Ms. Manning as a plaintiff and sought recovery for her property damage and alternate transportation costs. Even though this complaint was never filed, it clearly demonstrates an attorney/client relationship.

You are hereby publicly censured by the North Carolina State Bar due to your professional misconduct and violation of the Rules of Professional Conduct. The Grievance Committee trusts that this Public Censure will be heeded by you, that it will be remembered by you, that it will be beneficial to you, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. In order to remain a respected member of the legal profession whose conduct may be relied upon without question, you must in the future carefully weigh your responsibility to the public, your clients, your fellow attorneys and the courts. The Grievance Committee expects that no professional misconduct will occur in the future.

Pursuant to Section 23 of Article IX of the Rules and Regulations of the North Carolina State Bar, it is ordered that a certified copy of this Public Censure be forwarded to the Clerk of the Superior Court of Mecklenburg County for entry upon the judgment docket and to the Supreme Court of North Carolina for entry in its minutes. This Public Censure will be maintained as a permanent record in the judgment book of the North Carolina State Bar and a copy shall be sent to the local newspapers in the county in which you practice. A copy also will be sent to the complainant.

If you have not accepted this Public Censure within 15 days after it is served upon you, counsel shall thereafter be instructed to prepare and file a complaint against you with the Disciplinary Hearing Commission of the North Carolina State Bar. Your acceptance must be addressed to the Grievance Committee and filed with the Secretary. The hearing before the Disciplinary Hearing Commission is public and all of its proceedings and its decision are public.

In accordance with the policy adopted October 15, 1981 by the Council of the North Carolina State Bar regarding the taxing of the administrative and investigative costs to any attorney issued a Public Censure by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this 1 day of March, 1989.



Robert A. Wicker, Chairman
The Grievance Committee
North Carolina State Bar

#299