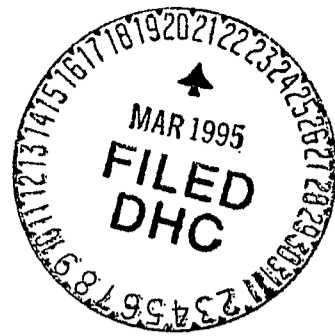


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BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR



94 DHC 12

THE NORTH CAROLINA STATE BAR,)	
Plaintiff)	FINDINGS OF FACT
vs.)	AND
N. JEROME WILLINGHAM, ATTORNEY,)	CONCLUSIONS OF LAW
Defendant)	

This matter came on for trial before a hearing committee of the Disciplinary Hearing Commission consisting of Frank E. Emory, Jr., Mary Elizabeth Lee, and Frank L. Boushee on February 3, 1995. The North Carolina State Bar was represented by R. David Henderson and N. Jerome Willingham appeared pro se. Based upon the stipulations of the parties and the evidence presented at trial, the committee finds the following facts by clear, cogent, and convincing evidence:

1. The North Carolina State Bar (hereafter "plaintiff") 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. N. Jerome Willingham (hereafter "defendant") was admitted to the North Carolina State Bar on March 23, 1990, 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, defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in

the City of Jacksonville, Onslow County, North Carolina.

4. During the relevant times herein, defendant had a trust account with Wachovia National Bank, account number 4189-003396 ("the trust account").
5. In the following instances, defendant wrote checks from his trust account to pay personal obligations:
 - a. Check number 106 dated July 8, 1991, payable to Vivian Hardison, defendant's employee, in the amount of \$200.00.
 - b. Check number 181 dated June 22, 1992, payable to Veronica Howard, defendant's employee, in the amount of \$47.50.
 - c. Check number 211 dated September 1, 1992, payable to Veronica Howard, in the amount of \$150.00.
 - d. Check number 316 dated February 23, 1993, payable to Vivian Hardison, in the amount of \$188.34.
6. In the following instances, defendant failed to promptly withdraw his attorney's fees from funds deposited in his trust account:
 - a. \$400.00 fee for work in connection with the Newman closing.
 - b. \$350.00 fee for work in connection with the McLean closing.
 - c. \$400.00 fee for work in connection with the Matthews closing.
 - d. \$309.00 fee for work in connection with the Kirkland closing.
7. In the following instances, defendant deposited personal funds into the trust account.
 - a. Fee from Jacob Evans on November 4, 1992, in the amount of \$68.78.
 - b. Fee from Carolyn Young on March 9, 1993, in the amount of \$500.00.

- c. Fee from Leon Thornton on May 19, 1993, in the amount of \$33.37.
8. Between May 1, 1991 and August 31, 1993, defendant wrote 39 checks on the trust account to "Cash".
 9. From May 1, 1991 through August 31, 1993, defendant made 16 deposits of currency to the trust account. The deposit slips failed to indicate the source of these funds.
 10. Defendant did not keep any ledgers for the individual clients whose money should have been in the trust account. Defendant failed to reconcile the trust account.
 11. On March 12, 1992, Mr. David D. Knowles was convicted of attempted robbery with a firearm, assault with a deadly weapon, conspiracy to commit assault with a deadly weapon, and two counts of assault by pointing a gun.
 12. On March 12, 1992, defendant was appointed to represent Mr. Knowles with his appeal.
 13. Defendant failed to perfect Mr. Knowles' appeal in a timely fashion. Consequently, on January 27, 1993, the prosecuting attorney filed a Motion to Dismiss Appeal.
 14. On February 8, 1993, defendant filed a motion to withdraw as Mr. Knowles' appellate counsel which was allowed on February 9, 1993. Substitute counsel was appointed and a petition for writ of certiorari was filed which was granted on August 4, 1993.

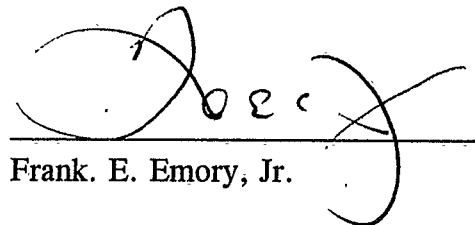
Based upon the foregoing Findings of Fact, the hearing committee makes the following conclusions of law:

1. By paying employees' wages from attorney fees left in his trust account, defendant failed to keep his property separate from his clients in violation of Rule 10.1(A) and 10.1(C)(2).
2. By failing to promptly withdraw his attorney's fees from funds deposited in his trust account in connection with the Newman, McLean, Matthews, and Kirkland

closings, defendant failed to keep his property separate from his clients in violation of Rule 10.1(A) and 10.1(C)(2).

3. By depositing checks for legal fees into his trust account, defendant failed to keep his property separate from his clients in violation of Rule 10.1(A).
4. By writing 37 trust account checks to "Cash", defendant caused instruments to be drawn on his trust account payable to "Cash" in violation of Rule 10.2(C)(2).
5. By making 16 deposits of currency to his trust account without any information on the deposit slips, defendant failed to indicate on the deposit slips the source of the funds, the identity of the client, or the date the funds were received in violation of Rule 10.2(C)(1).
6. By failing to keep client ledgers for those clients with money in his trust account and by failing to reconcile his trust account on at least a quarterly basis, defendant violated Rules 10.2(C)(3) and (D).
7. By failing to perfect Mr. Knowles' appeal, defendant failed to act with reasonable diligence and promptness in representing Mr. Knowles in violation of Rule 6(B)(3).

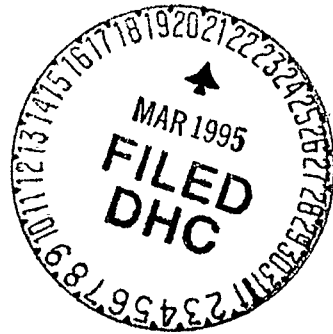
Signed by the Chair with the consent of the other committee members, this the 16th day of March, 1995.


Frank. E. Emory, Jr.

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00614

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR



94 DHC 12

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
vs.)
N. JEROME WILLINGHAM, ATTORNEY,)
Defendant)

ORDER OF DISCIPLINE

Based upon the foregoing Findings of Fact and Conclusions of Law, and further based upon the evidence and arguments presented by the parties concerning the appropriate discipline, the hearing committee finds the following additional facts:

1. There are two aggravating factors in this case: pattern of misconduct and multiple offenses.
2. There are two mitigating factors in this case: absence of prior disciplinary record and absence of a dishonest or selfish motive.

Based upon the evidence and arguments presented and the above aggravating and mitigating factors, the hearing committee enters the following Order of Discipline:

1. The defendant, N. Jerome Willingham, is suspended from the practice of law in North Carolina for three years.
2. The above suspension shall be stayed for two years upon the following conditions:
 - a. In addition to the conditions for reinstatement set forth in Article IX, Section 25(B)(3) of the Rules and Regulations of the North Carolina State Bar, defendant shall submit

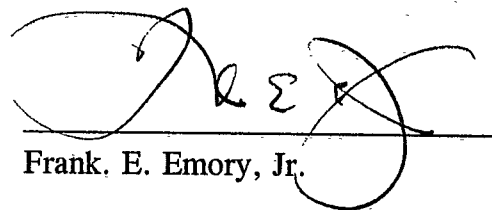
with his petition for reinstatement verification from a representative of the State Bar that defendant's proposed bookkeeping system complies with the Rules of Professional Conduct.

b. In addition to the conditions for reinstatement set forth in Article IX, Section 25(B)(3) of the Rules and Regulations of the North Carolina State Bar, defendant verify in his petition for reinstatement that while on suspension, he attended the three-day practical skills course offered by the North Carolina Bar Association.

c. In addition to the conditions for reinstatement set forth in Article IX, Section 25(B)(3) of the Rules and Regulations of the North Carolina State Bar, defendant verify in his petition for reinstatement that while on suspension, he satisfied the continuing legal education requirements of the State Bar.

3. Defendant shall pay the costs of this proceeding.

Signed by the Chair with the consent of the other committee members, this the 16th day of March, 1995.



Frank. E. Emory, Jr.

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