

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
05 THE 29 PM 12:01
NORTH CAROLINA STATE BAR
84 DHCA 15 ES, SEC.
THE N. C. STATE BAR

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
vs.)
OTIS WALL, JR.,)
Defendant)

JUDGMENT BY DEFAULT
FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

This cause was heard by the undersigned, duly appointed Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar on Friday, March 22, 1985, upon the Plaintiff's motion for default judgment which was filed on January 30, 1985. The Plaintiff was represented by David R. Johnson, and the Defendant did not appear and was unrepresented. The record in the cause shows and it is found as a fact that the Summons and the Complaint in this cause were personally served on the Defendant on December 27, 1984. The Hearing Committee finds further that, having made no appearance in the cause, by answer or otherwise, the Defendant's default was duly entered by the Secretary of the North Carolina State Bar, B. E. James, on January 30, 1985, upon motion of the Plaintiff. Based upon the record and the allegations of the complaint which are deemed admitted, the Hearing Committee concludes that it has personal and subject matter jurisdiction in this cause, enters judgment by default, and makes the following FINDINGS OF FACT:

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, Otis Wall, was admitted to the North Carolina State Bar on September 4, 1981 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, the Defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Raleigh, Wake County, North Carolina.

4. On or about November 8, 1982, the Defendant was employed by one Olivette M. McGill to represent her in pursuit of an accident claim against the Yellow Cab Company. The Defendant agreed to represent Ms. McGill on a contingency fee basis. The Defendant received from Ms. McGill on November 8, 1982, the sum of \$20 for Court filing fees and issued a receipt to Ms. McGill.

5. Ms. McGill received no communication from the Defendant concerning her case from November 8, 1982, to August 10, 1983, at which time she received a letter from the Defendant, a copy of which was attached to the Complaint in the instant case as Exhibit 2.

6. Ms. McGill received no further communication with the Defendant even though she did call the Defendant's office after receipt of Exhibit 2, spoke with the Defendant's secretary, and requested that the Defendant continue to pursue the case.

7. The Defendant has not filed any action on behalf of Ms. McGill.

8. The Defendant has not returned the money given to him as an advanced payment of Court filing fees to Ms. McGill.

9. On October 3, 1983, Ms. McGill filed a grievance with the North Carolina State Bar concerning the conduct of the Defendant set forth in the First Claim for Relief.

10. On December 5, 1983, the Chairman of the Grievance Committee issued a Letter of Notice to the Defendant setting forth the Substance of Grievance filed by Ms. McGill.

11. On December 13, 1983, the Defendant, or someone acting on his behalf, signed the postal service return receipt acknowledging receipt of the Chairman's Letter of Notice.

12. The Defendant was required by Rule 12(3) of the Discipline and Disbarment Rules of the North Carolina State Bar to respond to the Chairman's Letter of Notice within 15 days with a "full and fair disclosure of all the facts and circumstances" concerning the grievance.

13. The Defendant did not respond to the Chairman's Letter of Notice.

14. A subpoena requiring the Defendant's appearance before the Grievance Committee on June 29, 1984, was issued on June 8, 1984. The Defendant did appear and discussed the case with Counsel for the North Carolina State Bar. The Defendant was

given time to respond to the grievance, which was confirmed by two letters to the Defendant, one dated July 2, 1984, and the other dated September 17, 1984. The latter letter was sent by certified mail and was received by the Defendant. The Defendant has not responded in writing to any of the requests of Bar officials.

Based upon the foregoing FINDINGS OF FACT, the Hearing Committee makes the following CONCLUSIONS OF LAW:

CONCLUSIONS OF LAW

1. The Hearing Committee has subject matter jurisdiction in the instant cause and has acquired jurisdiction over the Defendant.


2. The conduct of the Defendant constitutes grounds for discipline under N. C. Gen. Stat. §84-28(a) and (b) in that:

- a. by failing to file the civil suit on behalf of Ms. McGill, the Defendant has neglected a legal matter entrusted to him, failed to seek the lawful objectives of his client, failed to carry out a contract of employment, prejudiced or damaged his client during the course of employment, and withdrawn from employment without giving notice to his client or taking reasonable steps to protect the client's interest in violation of Disciplinary Rules 6-101(A)(3), 7-101(A)(1), 7-101(A)(2), 7-101(A)(3), and 2-110(A)(2), respectively, of the Code of Professional Responsibility of The North Carolina State Bar;
- b. by failing to maintain communication with his client and by failing to respond to his client's requests for action, the Defendant has neglected a legal matter entrusted to him, failed to seek the lawful objectives of his client, failed to carry out a contract of employment, prejudiced or damaged his client during the course of employment, and withdrawn from employment without giving notice to his client or taking reasonable steps to protect the client's interest in violation of Disciplinary Rules 6-101(A)(3), 7-101(A)(1), 7-101(A)(2), 7-101(A)(3), and 2-110(A)(2), respectively, of the Code of Professional Responsibility of The North Carolina State Bar;
- c. by failing to refund the \$20 paid to him for filing fees after not having filed an action, the Defendant has prejudiced or damaged his client during the course of employment and has failed to return the property of a client after withdrawing

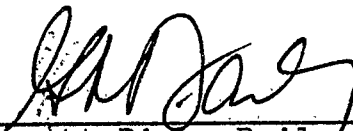
from employment in violation of Disciplinary Rules 7-101(A)(3) and 2-110(A)(2) of the Code of Professional Responsibility of The North Carolina State Bar; and

- d. by failing to respond to the Chairman's Letter of Notice, the Defendant has failed to respond to a formal inquiry of the North Carolina State Bar and has engaged in professional conduct adversely reflecting on his fitness to practice law in violation of, respectively, N. C. Gen. Stat. §84-28(b)(2) and Disciplinary Rule 1-102(A)(6) of the Code of Professional Responsibility of the North Carolina State Bar.

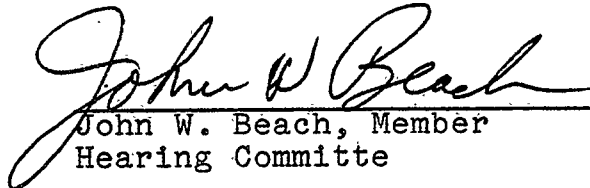
This the 22nd day of March, 1985.



W. Osborne Lee, Chairman
Hearing Committee



Garrett Dixon Baily, Member
Hearing Committee



John W. Beach, Member
Hearing Committee

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
1985 MAR 29 THE 12:01
NORTH CAROLINA STATE BAR
S.E. J/84 DHC 315 C.
THE N.C. STATE BAR

THE NORTH CAROLINA STATE BAR,)	
Plaintiff)	
)	ORDER OF DISCIPLINE
vs.)	UPON
)	JUDGMENT BY DEFAULT
OTIS WALL, JR.,)	
Defendant)	

This cause was heard by the undersigned, duly appointed members of a Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar on Friday, March 22, 1985. The Plaintiff, the North Carolina State Bar, was represented by David R. Johnson. The Defendant was not present and was not represented. In addition to the FINDINGS OF FACT AND CONCLUSIONS OF LAW entered in this cause, the Committee considered as evidence in the disciplinary phase of the proceedings the fact that the instant cause was heard upon the default of the Defendant which indicates a lack of concern by the Defendant of his responsibilities to the Bar, the judicial system, and the public.


Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW and the additional considerations presented for purposes of discipline, the Hearing Committee enters the following ORDER OF DISCIPLINE:

1. The Defendant is hereby suspended from the practice of law for a period of two years and six months (30 months) effective thirty days after service of this ORDER or thirty days after affirmance of this ORDER on appeal.
2. The Defendant shall surrender his license and membership card to the Secretary of the North Carolina State Bar by the effective date of this ORDER.
3. The Defendant shall comply with the provisions of section 24 of the Discipline and Disbarment Rules of the North Carolina State Bar regarding the winding down of his practice.

4. As a condition precedent to the filing of any petition for reinstatement, the Defendant shall have returned the \$20.00 received from Ms. McGill for advance payment of court costs and shall have compensated Ms. McGill for the damages to her automobile, unless she has been previously compensated by the Yellow Cab Company or its insurance carrier.
5. As a condition precedent to reinstatement, the Defendant shall submit evidence of his good moral character and employment.
6. If the Defendant does not apply for reinstatement within 5 years of the effective date of this ORDER, then the Defendant must take and pass a bar examination administered by the Board of Law Examiners prior to reinstatement.
7. The Defendant is taxed with the costs of this proceeding which shall be paid as a condition precedent to the filing of any petition for reinstatement.

By designation of the members of the Hearing Committee pursuant to Rule 14(20) of the Discipline and Disbarment Rules, the Chairman signs this ORDER on behalf of all members.

This the 23rd day of MARCH, 1985.



W. Osborne Lee, Chairman
Hearing Committee