

NORTH CAROLINA
WAKE COUNTY

FILED
SEP 17 1987
CLERK OF SUPERIOR COURT
WAKE COUNTY, N.C.

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
87 DHC 8

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
vs.)
TODD A. ROBINSON,)
Defendant)

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

This matter scheduled to be heard on September 25, 1987 before a hearing committee of the Disciplinary Hearing Commission composed of Robert W. Wolf, Chairman, L. P. Hornthal, Jr., and Donald L. Osborne; with A. Root Edmonson representing the North Carolina State Bar and James R. Carpenter representing the defendant; and based upon the stipulations entered into by the parties and defendant's waiver of a hearing in this matter, the hearing committee finds the following to be supported by clear, cogent, and convincing evidence:

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, Todd A. Robinson, was admitted to the North Carolina State Bar on September 7, 1976 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 Gastonia, Gaston County, North Carolina.

4. Defendant represented Ryan K. Lacoursiere and wife, Jodie H. Lacoursiere in closing a real estate transaction on January 29, 1986 in which they purchased the property located at

91669 Sardis Forest Drive in Matthews, North Carolina from Gregory W. Johns and wife, Linda D. Johns. Defendant undertook to do all the necessary tasks of an attorney in a real estate closing, including disbursing all of the funds at closing.

5. Defendant received \$90,520.36 on the Lacoursieres' behalf which he deposited into his escrow account at First Citizens Bank, account number 181 19 26 083, in two deposits. One deposit had \$78,850 of the Lacoursiere funds deposited with \$13,300 of another client's funds. The other deposit was in the sum of \$11,670.36 which had been received from the Lacoursieres.

6. Defendant was to disburse the Lacoursieres' funds as reflected in the closing statement.

7. According to the closing statement, defendant was to pay off the Johns' mortgage with Meritor Mortgage Corporation in the sum of \$35,886.56. This payoff figure was based upon timely payment being made to Meritor after the January 29, 1986 closing. If timely payment was not made, interest would continue to accrue.

8. Defendant failed to pay off the Johns' mortgage with Meritor Mortgage Corporation in a timely fashion as directed by his clients, the Lacoursieres. Defendant did not make the payoff until on or about March 10, 1986.

9. During the period between the closing on January 29, 1986 and the date that defendant's check to Meritor Mortgage Corporation cleared on March 13, 1986, the balance in defendant's escrow account at First Citizens Bank, account number 181 19 26 083, was not always sufficient to cover the Johns' mortgage payoff to Meritor Mortgage Corporation.

10. On January 6, 1986, the balance in defendant's trust account at First Citizens Bank, account no. 181 19 26 083, (hereinafter referred to as trust account) was \$61.08. No unpaid checks were outstanding.

11. Defendant made a deposit to the trust account in the sum of \$20,103.50 on January 14, 1987 on behalf of Richard and Ann Finke.

12. Also on January 14, 1986, accused wrote trust account checks 179 through 182 disbursing all of the funds received on behalf of the Finkes'.

13. On January 21, 1986, defendant wrote trust account check no. 183 payable to his twin brother, Thomas A. Robinson in the sum of \$14,400.00 indicating that the check was for "sales proceeds/Green Cir. Dr."

14. The check defendant wrote to his brother was written in exchange for a check that Thomas A. Robinson had delivered to

defendant in the sum of \$14,500.00 which defendant deposited into his trust account. This deposit was credited to defendant's account on January 23, 1986.

15. On January 28, 1986, defendant deposited \$53,200 on behalf of his clients, Phillip and Delores Watts. On January 29 defendant deposited \$13,300 for the Watts' making a total of \$66,500.00 deposited into the trust account on the Watts' behalf.

16. Also on January 28, 1986, defendant wrote trust account checks 184 through 194 to make disbursements on the Watts' behalf.

17. The total of the disbursements made on the Watts' behalf was \$457.49 more than had been deposited in the trust account for the Watts'.

18. On January 29, 1986, defendant made the two deposits for the Lacoursieres mentioned in paragraph 5. Defendant also voided trust account check 195.

19. Also on January 29, 1986, defendant wrote trust account checks 196 through 205 which disbursed all of the funds collected for the Lacoursiere closing other than the \$580 due Merrill Lynch Realty as their commission (in addition to the \$2,000 earnest money which they already held), \$172.00 collected for Chicago Title Insurance Company, and the \$35,886.56 which defendant held to pay off the Johns' first mortgage at Meritor Mortgage Corporation.

20. On January 30, 1986, defendant was notified by his bank that the check that his brother, Thomas A. Robinson, had written to him which he deposited in his trust account on January 21, 1986 had been charged back against defendant's account because his brother's check was returned for insufficient funds.

21. Also on January 30, 1986, defendant wrote trust account check number 206 to Madelyn Cookson in the sum of \$687.37. No deposit had been made into defendant's trust account to cover the sum disbursed to Madelyn Cookson. That disbursement was not authorized by the Lacoursieres'.

22. Also on January 30, 1986 defendant wrote trust account check number 207 to the City of Gastonia in the amount of \$100.00. This disbursement was not part of the Lacoursiere closing and no other deposit had been made in the trust account to cover that disbursement. Defendant later prepared a client ledger card indicating that check number 207 was written on behalf of Terrell E. and Embrey Robinson.

23. Also on January 30, 1986 defendant wrote trust account check number 208 in the sum of \$580.00 to Merrill Lynch Realty as part of the Lacoursiere disbursement.

24. Between January 30, 1986 and February 21, 1986 defendant wrote a series of checks on his trust account for which no sums had been deposited in the trust account to cover. As a result, these checks were paid out of the Lacoursiere funds that remained in the trust account. All but one of these checks are listed on the ledger card that was later prepared for Terrell and Embrey Robinson. No deposit was made on behalf of Terrell and Embrey Robinson prior to March 10, 1986. The checks that Defendant purportedly wrote on behalf of Terrell and Embrey Robinson between January 30, 1986 and February 21, 1986 are as follows:

- (a) Trust account check number 209 dated January 30, 1986 in the amount of \$6,100.00 made payable to First American Mortgage Corporation. This check was certified by Defendant's bank.
- (b) Trust account check number 210 dated January 31, 1986 in the amount of \$10,000.00 made payable to Joan Keziah.
- (c) Check number 211 dated January 31, 1986 in the sum of \$4,601.33 made payable to Southern National Bank.
- (d) Check number 212 dated January 31, 1986 in the sum of \$1,000.00 made payable to Todd A. Robinson.
- (e) Check number 213 dated February 6, 1986 in the sum of \$2,500.00 made payable to Patricia Keziah.
- (f) Trust account check 215 dated February 14, 1986 in the sum of \$1,000.00 made payable to Todd A. Robinson.
- (g) Trust account check 216 dated February 18, 1986 in the sum of \$1,000.00 made payable to Todd A. Robinson.
- (h) Trust account check 217 dated February 21, 1986 in the sum of \$750.00 made payable to Todd A. Robinson.

25. On February 7, 1986 a deposit was made in defendant's trust account on behalf of his brother Thomas A. Robinson in the

amount of \$17,500.00.

26. Also on February 7, 1986 defendant wrote trust account check 214 to his brother, Thomas A. Robinson, in the sum of \$10,000.00. As a result, \$6,900.00 more disbursements had been made on behalf of Thomas A. Robinson than had been deposited into the trust account on Thomas A. Robinson's behalf.

27. On February 25, 1986, \$115,500.00 was deposited into defendant's trust account on behalf of Glenn and Patricia Dukes.

28. On February 26, 1986, defendant wrote trust account check number 218 in the sum of \$150.00 to Todd A. Robinson as a fee for the Dukes' loan closing.

29. On February 27, 1986, defendant deposited \$1,631.85 on behalf of the Dukes' with \$69,407.04 which he deposited for Robert W. and Linda A. Church. The total deposit was \$71,038.89 which was credited to defendant's trust account on February 28, 1986.

30. On February 27, 1986, defendant wrote trust account check number 219 in the sum of \$64,897.70 to H and H McBroy Incorporated on behalf of the Churchs'. This check was presented against defendant's trust account in late March 1986 and returned for insufficient funds.

31. Defendant wrote trust account check number 220 on February 27, 1987 to the Gaston County Registry in the sum of \$87.00 on behalf of the Churchs'.

32. Defendant wrote trust account check number 221 on February 27, 1986 in the sum of \$490.00 to Todd A. Robinson on behalf of the Churchs'.

33. On or about February 28, 1986, defendant wrote trust account check number 222 to Regal Investment in the sum of \$2,800.00 on behalf of his brother, Thomas A. Robinson. Defendant's bank certified this check on March 3, 1986.

34. Also on or about February 28, 1986, defendant wrote trust account check number 223 in the sum of \$6,000.00 to Thomas A. Robinson. Defendant's bank certified this check on March 3, 1986.

35. No further deposits had been made in the defendant's trust account on behalf of Thomas A. Robinson from which checks 222 and 223 could be paid. Therefore, these checks were paid out of funds deposited on behalf of the Lacoursieres', the Dukes' or the Churches'.

36. Trust account checks 224 through 236 were written on behalf of clients to make authorized disbursements for those clients (except check number 228 which was voided).

37. On March 10, 1986 \$40,828.30 was deposited into defendant's trust account on behalf of Terrell E. and Embrey Robinson. This was the first deposit made into defendant's trust account on behalf of Terrell and Embrey Robinson.

38. Also on March 10, 1986 defendant wrote trust account check number 237 in the sum of \$3,600.00 to Thomas A. Robinson, guardian. No further deposit had been made into the trust account by Thomas A. Robinson.

39. On March 10, 1986, defendant wrote trust account check number 238 in the sum of \$2,000.00 to Todd A. Robinson. This check was listed on the client ledger subsequently prepared for Terrell and Embrey Robinson.

40. On March 10, 1986, defendant also wrote trust account check number 239 in the sum of \$36,186.14 to Meritor Mortgage Corporation as disbursement in the Lacoursiere closing.

41. Defendant failed to make any payment to Chicago Title Insurance Company as reflected in the Lacoursieres' closing statement prior to the initiation of this action. Chicago Title has now been paid the premium for the Lacoursieres'.

Based upon the foregoing FINDINGS OF FACT, the hearing committee makes the following:

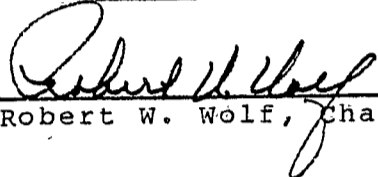
CONCLUSIONS OF LAW:

The conduct of the defendant, as set forth in paragraphs 1 through 41 above, constitutes grounds for discipline pursuant to N. C. Gen. Stat. §84-28(b)(2) in that the defendant violated the Rules of Professional Conduct as follows:

- (a) By appropriating funds entrusted to him for the purpose of making disbursements in the Lacoursiere/Johns' closing to his own use, defendant committed a criminal act that reflects adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects in violation of Rule 1.2(B) and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 1.2(C).
- (b) By failing to maintain the \$35,886.56 necessary to pay off the Johns' mortgage with Meritor Mortgage Corporation in his escrow account, defendant failed to preserve the funds of a client separately from the lawyer's property in a trust account in violation of Rules 10.1(A) and (C).
- (c) By failing to promptly pay off the Johns' mortgage or pay the title insurance premium after closing,

the defendant failed to promptly pay or deliver to third persons as directed by the client the funds in the possession of the lawyer in violation of Rule 10.2(E), and failed to act with reasonable diligence and promptness in representing the client in violation of Rule 6(B)(3).

Signed with the full accord and consent of the other members of the hearing committee this the 25 day of SEPTEMBER, 1987.


Robert W. Wolf, Chairman

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NORTH CAROLINA STATE BAR

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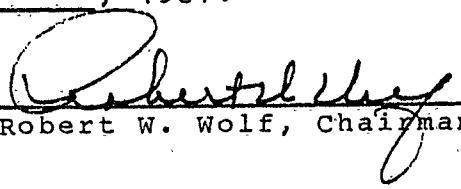
THE NORTH CAROLINA STATE BAR,)
Plaintiff)
vs.)
TODD A. ROBINSON,)
Defendant)

ORDER OF DISCIPLINE

This matter scheduled to be heard on September 25, 1987 before a hearing committee composed of Robert W. Wolf, Chairman, L. P. Hornthal, Jr., and Donald L. Osborne; and based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW entered by the hearing committee of even date herewith, the hearing committee enters the following ORDER OF DISCIPLINE:

- 1) The defendant, Todd A. Robinson, is hereby DISBARRED from the practice of law in North Carolina.
- 2) The defendant, Todd A. Robinson, shall forthwith surrender his license and permanent membership card to the Secretary of the North Carolina State Bar.
- 3) The defendant, Todd A. Robinson, shall comply with the provisions of §24 of Article IX of the Rules and Regulations of the North Carolina State Bar.
- 4) The defendant, Todd A. Robinson, is hereby taxed with the costs of this action.

Signed by the undersigned Chairman with the full accord and consent of the other members of the hearing committee this the 25th day of September, 1987.


Robert W. Wolf, Chairman