

NORTH CAROLINA

WAKE COUNTY

FILED -8 APR 31
CLERK, SEC.
NORTH CAROLINA STATE BAR

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
86 DHC 14

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
vs.)
MARION GOODSON, JR.,)
Defendant)

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

This cause was heard by a duly appointed Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar consisting of George Ward Hendon, Chairman, Garrett Dixon Bailey and John Beach on Thursday, March 19, 1987, having been duly continued from Friday, February 27, 1987. The North Carolina State Bar was represented by L. Thomas Lunsford, II and the Defendant appeared pro se. Based upon the evidence at hearing and the pleadings, the Committee finds the following facts in regard to the Plaintiff's First Claim for Relief by clear, cogent and convincing evidence.

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, Marion Goodson, Jr., was admitted to the North Carolina State Bar on December 14, 1977, 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 July 3, 1980, Pearlle M. Hodge (Hodge) employed the Defendant to represent her relative to her claim against the Nello L. Teer Company (Teer) for the accidental work-related death of her husband, Gaston Hodge. During the

summer and fall of 1980, the Defendant prosecuted his client's claim and ultimately negotiated a lump sum settlement of the claim with Teer's insurer, United States Fidelity and Guaranty Company (U.S.F.&G.), which was satisfactory to his client. The settlement was approved by the Industrial Commission on or about November 14, 1980. The lump sum settlement was arranged to permit the Defendant's client to have a new home constructed, which construction the Defendant agreed to facilitate in his capacity as attorney for Hodge by employing a contractor and by applying the settlement proceeds as a fiduciary to defray the costs of construction. The Committee specifically rejects as incredible the Defendant's contention that he entered into a verbal contract with Hodge for his own employment as general contractor.

5. The total amount of the settlement was \$78,100.00, of which \$3,604.00 had been previously paid directly to Hodge or to a funeral home on her behalf. \$5,000.00 of the settlement proceeds, representing the Defendant's entire legal fee in the accidental death case, was paid directly to the Defendant by check from U.S.F.&G. on or about November 14, 1980. Later that same day, U.S.F.&G.'s check was deposited by the Defendant into his trust account at Planters National Bank. The remainder of the settlement proceeds, \$69,496.00, was paid by check from U.S.F.&G. to the Defendant and Hodge on or about November 14, 1980. That check was subsequently entrusted by Hodge to the Defendant and was deposited by the Defendant into his trust account on or about November 19, 1980.

6. Construction of the Hodge home was completed in October, 1981. During the period of construction, the Defendant made large disbursements from his personal and trust accounts to laborers and materialmen with whom he had contracted on behalf of his client, Hodge.

7. During the month of November, 1980, the Defendant deposited at least one other check representing personal funds in the trust account. On or about November 4, 1980, the Defendant deposited a check from Wainwright's in the amount of \$837.46 representing payment for tobacco in the trust account.

8. During the month of November, 1980, the Defendant used some of his client's money for unauthorized purposes. On or about November 20, 1980, Planters National Bank paid trust account checks 860, which was made payable to Tar Heel Production Credit Association in the amount of \$15,000.00 to pay a personal loan and 857, which was made payable to Bridges Coal and Farm Supply in the amount of \$2,000.00 for farm supplies, with money being held in trust for Hodge. On or about November 24, 1980, Planters National Bank paid trust account check 862, which was made payable to Planters National Bank in the amount of \$7,623.29 to pay off a personal loan, with money being held in trust for Hodge.

9. The Defendant did not account to his client for his handling of the money entrusted to him until after Hodge complained to the North Carolina State Bar about his conduct in 1985.

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

- (a) By failing to segregate client funds from personal funds, the Defendant commingled trust funds and personal funds in violation of Disciplinary Rule 9-102(A) of the North Carolina Code of Professional Responsibility;
- (b) By using client funds entrusted to him for unauthorized purposes, including the payment of his own obligations, the Defendant engaged in illegal conduct involving moral turpitude, engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, engaged in other professional conduct that adversely reflects on his fitness to practice law, and failed to maintain client funds in trust in violation of Disciplinary Rules 1-102(A)(3), (4) and (6) and 9-102(A), respectively, of the North Carolina Code of Professional Responsibility;
- (c) By failing to provide his client with a timely accounting of his handling of her funds, the Defendant failed to render appropriate accounts to his client regarding his handling of those funds in violation of Disciplinary Rule 9-102(B)(3) of the North Carolina Code of Professional Responsibility.

Based upon the pleadings and the evidence at hearing, the Committee finds the following FACTS in regard to the Plaintiff's Second Claim for Relief by clear, cogent and convincing evidence:

1. During the course of the North Carolina State Bar's Grievance Committee's investigation of the Defendant's misconduct, the Chairman of the Grievance Committee issued a formal Letter of Notice to the Defendant demanding an explanation for his alleged misconduct.

2. On or about July 31, 1985, the Defendant submitted a response to the Letter of Notice supplemented by various exhibits. In an undated letter addressed to Mrs. Pearl Mae Hodge which was submitted by the Defendant as an exhibit, the Defendant purported to account for his handling of his client's money. In that letter the Defendant noted that he had disbursed \$5,000.00 to himself as his attorney's fee relative to the settlement of the accidental death claim from the sum of

\$69,496.00 which he had received in trust on his client's behalf, but did not disclose that he had also been paid in full for his services by U.S.F. & G.

3. In October, 1985, in response to a subpoena of financial records issued by the Chairman of the Grievance Committee, the Defendant submitted an undated letter with attachments addressed to Mr. Joseph B. Cheshire, Jr., Vice-Chairman of the Grievance Committee, in which he purported to account for his handling of his client's money. In that letter and an attachment the Defendant again noted that he had disbursed \$5,000.00 to himself as his attorney's fee relative to settlement of the accidental death claim from the sum of \$69,496.00 which he had received in trust on his client's behalf, but did not disclose that he had also been paid in full for his services by U.S.F. & G.

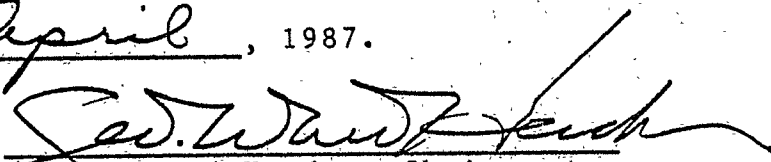
4. In light of the seriousness of the alleged misconduct and the fact that the Defendant twice failed in submissions to the Grievance Committee to note that he had been paid in full by U.S.F. & G., the Committee finds that the Defendant's omission of that material fact was intentional.

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

The Defendant, by submitting an incomplete and fraudulent accounting to his client and the Grievance Committee, engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation and engaged in professional conduct that adversely reflects on his fitness to practice law in violation of Disciplinary Rules 1-102(A)(4) and (6) of the North Carolina Code of Professional Responsibility and knowingly misrepresented facts regarding an allegation of misconduct in violation of N.C. Gen. Stat. §84-28(b)(3).

Pursuant to Section 14(20) of the Rules of Discipline and Disbarment, the Hearing Committee has authorized the Chairman to sign these FINDINGS OF FACT and CONCLUSIONS OF LAW on behalf of all members.

This the 1st day of April, 1987.


George Ward Hendon, Chairman
(Hearing Committee)

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WAKE COUNTY

BEFORE THE
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86 DHC 14

APR 31
REC.
STATE BAR

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
vs.)
MARION GOODSON, JR.,)
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ORDER OF DISCIPLINE

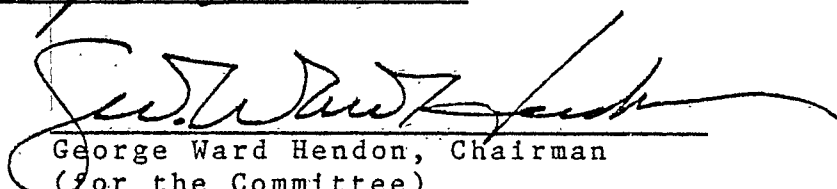
This cause was heard by a duly appointed Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar consisting of George Ward Hendon, Chairman, Garrett Dixon Bailey and John Beach on Thursday, March 19, 1987, having been duly continued from February 27, 1987. Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW entered in this cause and the evidence presented relative to the appropriate disciplinary sanction, the Hearing Committee enters this ORDER OF DISCIPLINE.

1. The Defendant is disbarred from the practice of law effective thirty (30) days after service of this ORDER or, if an appeal is prosecuted, thirty (30) days after affirmation of the ORDER on appeal.

2. The Defendant shall pay the costs of this proceeding.

Pursuant to Section 14(20) of the Rules of Discipline and Disbarment, the Hearing Committee has authorized the Chairman to sign this ORDER on behalf of all members.

This the 15th day of April, 1987.


George Ward Hendon, Chairman
(for the Committee)