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STATE OF NORTH CAROLINA
COUNTY OF WAKE

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I.E. JAMES, SEC.
THE N.C. STATE BAR

BEFORE THE COUNCIL
OF THE
NORTH CAROLINA STATE BAR
83 BCS 4

IN THE MATTER OF THE TENDER OF)
SURRENDER OF THE LICENSE OF)

ORDER OF COUNCIL

CHRISTOPHER S. CROSBY, ATTORNEY

This matter was heard by the Council of The North Carolina State Bar pursuant to Rule 17 of Article IX of the Rules and Regulations of The North Carolina State Bar on Friday, July 15, 1983, upon the surrender of the license to practice law of Christopher S. Crosby. Pursuant to Rule 17(1) of Article IX of the Rules and Regulations of The North Carolina State Bar, Christopher S. Crosby delivered to the Council an affidavit dated June 16, 1983, and filed on June 21, 1983, stating his desire to resign his license to practice law. The North Carolina State Bar was represented by David R. Johnson. Christopher S. Crosby was represented by J. J. Wade, Jr. of Charlotte who was present at the Council meeting. Based upon the affidavit of Christopher S. Crosby and the record, the Council makes the following FINDINGS OF FACT:

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1. Christopher S. Crosby was admitted to The North Carolina State Bar on August 24, 1975.

2. Christopher S. Crosby freely and voluntarily tendered the surrender of his license on June 16, 1983, and the tender was not the result of any coercion or duress. Christopher S. Crosby was and is fully aware of the implications of submitting his resignation.

3. Christopher S. Crosby is aware of an investigation pending against him regarding allegations of misconduct including:

- a. Two criminal indictments charging the statutory crimes of embezzlement and forgery involving one Earl Ben Horton.
- b. A misdemeanor "not sufficient funds" check charge in Cleveland County. The charges in this case were dismissed upon payment of restitution by Christopher Crosby.
- c. An indebtedness of some \$15,000.00 owing to First Title Insurance Company, a land title insurance company, resulting from the failure of the undersigned to remit collected funds at a real estate closing involving one S. R. Suber, to pay off an existing mortgage indebtedness in the original sum of \$42,500.00.

As a result of this failure, First Title was called upon, under the terms of this policy, to pay to Bankers' Mortgage, the mortgage lienholder, the portions of the outstanding amount, some amounts having theretofore been paid, as a result of which, demand was made upon the undersigned, who has paid the indebtedness down to

approximately some \$15,000, exclusive of interests and costs. The original closing of this occurred some twelve months ago.

- d. The event giving rise to the aforesaid June 23, 1983, District Court misdemeanor charge involved one Lloyd Short, for whom the undersigned negotiated a personal injury settlement in the early part of 1983 of some \$14,000.00

The undersigned collected the funds by negotiating an insurance check and placing it into his trustee account and the proceeds were not remitted to Mr. Short, giving rise to the June 23, 1983, misdemeanor trial date on the charge of "not sufficient funds."

- e. An indebtedness of some \$1,800 to Mr. and Mrs. Robert Ervin resulting from what actually amounts to a loan by them to the undersigned from his representation of them in a social security disability claim. The claim was successfully prosecuted or handled and prior to the award by the undersigned of a legal fee, which ultimately was \$3,000.00, the undersigned negotiated a loan from the Ervins of some \$4,000.00, and upon the award of his attorney's fee and accord was reached with the Ervins of a net amount owing from the loan of some \$1,800.00.

A check was issued to the Ervins by the undersigned for this amount within the last several months, was deposited, and was returned for "not sufficient funds," although there is no pending charge as of this date.

- f. In the representation of Mr. Jack Owens, a North Carolina resident, on a charge pending in the State of South Carolina resulting in a fugitive warrant from that State directed to Mr. Owens through the Sheriff's Department of Gaston County, involving a worthless check in South Carolina, the undersigned received from Mr. Owens the sum of some \$500.00 with which to discharge the debt and, in turn, the necessity for the processing of the fugitive warrant. The undersigned failed to remit that sum to the authorities, and upon information and belief, the warrant is still outstanding and has not been served on Mr. Owens. Attempts are presently being made to pay the amount to the authorities to avoid the necessity of further proceedings against Mr. Owens.
- g. In the representation of one Fay Early, the undersigned collected over a period of some six months, the last date being May of 1983, the monthly sum of \$100.00, due and owing by her on a land sales contract. These funds were not remitted to Mr. Bill Elam, to whom it is owed and that sum of \$600 is presently due.
- h. In the representation of Margrace Federal Credit Union (now doing business as Kings Mountain Federal Credit Union) located in Kings Mountain, from time to time, a retainer client over the years, there is presently owed from collected, but unremitted funds, the sum of some \$500.00.
- i. In the representation of Patterson Oil Company of Kings Mountain, North Carolina, consistent with a practice which had developed over

the years, the undersigned used, or was permitted to use, a line of credit with that company with a Bank in Kings Mountain, and the procedure was to, in effect, exchange checks for current funds requested by the undersigned. Within the last 60 days the sum of \$6,000.00 was advanced to the undersigned by check of Patterson Oil, in return for which the undersigned returned his check for a like amount. These funds were used by the undersigned, but the undersigned's check to Patterson was returned for "not sufficient funds," so that there is presently owed by the undersigned to Patterson Oil or the principals thereof the sum of \$6,000.00.

- j. From a closing involving a timber sale involving a family by the name of Plonk of Kings Mountain and Canal Wood Corporation, there was collected by the undersigned at closing, among other items, the sum of \$1,980.00, to be paid to a surveyor by the name of Smith & McConnhey. This amount is presently owed.

- k. In the representation of Mrs. W. T. Weir in the establishment of two trusts, one a proprietary trust for the benefit of Mrs. Weir, and one a charitable trust for the benefit of First Presbyterian Church of Kings Mountain, NC, there is presently owing by the undersigned, as a result of the use of some of those trust funds, the sum of some \$60,000.00 in the proprietary trust, and approximately the sum of some \$45,000.00 in the charitable trust, exclusive of interest.

The funds were used by the undersigned without the consent or permission of Mrs. Weir for a period of time extending some twelve months.

1. There is a balance owed one Miles H. Mauney of Oberlin, Ohio, of some \$2,500.00 which is the balance owed him of an original amount in excess of \$45,000.00. This results from an investment by the undersigned for and in behalf of Mr. Mauney. The investment on principal has amounted to in excess of 16% and the balance owed, principal and interest, on this investment is some \$2,500.00 and efforts are being made to pay that.

- m. A local trucking company by the name of Quality Exchange Incorporated advanced funds to the undersigned, as a personal loan, of some \$18,000.00 over a period of some 45 days, with the agreement to repay for the benefit of Quality which was not complied with by the undersigned, and these funds are currently due and outstanding. A civil action seeking to recover this amount has been initiated and is pending in Cleveland County. Negotiations in regard to payment are proceeding.

4. Christopher Crosby has made restitution in the matters enumerated in 3 (a), (b), and (d). Christopher Crosby has indicated an intent to make restitution in the other cases but had not consummated such an intent at the time of the hearing.

5. Christopher Crosby has acknowledged that the material facts upon which the investigation are predicated are true.

6. Christopher Crosby submitted his resignation because he knows he could not successfully defend against the charges of misconduct.

7. Christopher Crosby was given notice of the hearing before the Council with regard to his tender of surrender and was and is aware that the hearing would be held on July 15, 1983.

8. Christopher Crosby has delivered his license and membership card to the Secretary of The North Carolina State Bar.

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

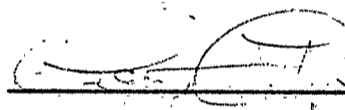
1. The affidavit of Christopher Crosby to tender the surrender of his license complies with Section 17 of Article IX of the Rules and Regulations of The North Carolina State Bar.

2. The matters under investigation constitute violations of N.C. Gen. Stat. §84-28 (a) and (b) and the Code of Professional Responsibility, particular Disciplinary Rules 9-102(A) and (B) for a failure to preserve the identity of funds belonging to his clients which came into his possession, and Christopher Crosby could not successfully defend any charges of misconduct predicated upon the matters under investigation.

THEREFORE, upon Motion duly made and seconded, the Council ORDERS that:

1. The tender of surrender of the license of Christopher Crosby is hereby accepted.
2. Christopher Crosby is hereby DISBARRED ON CONSENT.
3. Christopher Crosby shall surrender his license and membership card to the Secretary of The North Carolina State Bar.
4. The costs of this proceeding are taxed to Christopher Crosby.

This the 15th day of July, 1983.



Louis J. Fisher, Jr., President

The North Carolina State Bar