

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
93 DHC 12

THE NORTH CAROLINA STATE BAR, )  
Plaintiff )  
vs. )  
ALLEN L. PATTERSON, ATTORNEY )  
Defendant )

ORDER OF DISBARMENT

THIS MATTER coming before the undersigned Chair of the Disciplinary Hearing Commission pursuant to Section 17(D) of Art. IX of the Rules and Regulations of the N.C. State Bar upon the Defendant's Affidavit of Consent to Disbarment executed on the 14th day of August, 1993 and filed with the undersigned on the 23rd day of August, 1993 and the undersigned finds from the Consent to Disbarment the following:

1. Defendant's Consent to Disbarment was freely and voluntarily rendered. It was not the result of coercion or duress. The Defendant was fully aware of the implications of submitting the Consent to Disbarment.
2. Defendant was aware that there is a hearing presently scheduled on the allegations contained in the Complaint in this matter and that by submitting the Consent to Disbarment that he gave up his right to defend against those allegations at that hearing.
3. Defendant has acknowledged that he is guilty of the misconduct as alleged in the Complaint, which is incorporated herein by reference.
4. Defendant has acknowledged that the material facts contained in the Complaint in this matter are true.
5. Defendant's Consent to Disbarment was submitted because he knew that he cannot successfully defend against the allegations contained in the Complaint in this matter.

BASED UPON the foregoing findings, the undersigned concludes as follows:

(a) The affidavit of Defendant contained in his consent to disbarment meets the requirements of Section 17 of Article IX of the Rules and Regulations of the North Carolina State Bar.

(b) The Consent to Disbarment filed by the Defendant herein should be accepted.

THEREFORE, it is hereby ORDERED:

1. Defendant, Allen L. Patterson, is hereby DISBARRED from the practice of law in North Carolina.

2. Defendant shall forthwith surrender his license certificate and membership card to the Secretary of the N.C. State Bar.

3. Defendant shall comply with the requirements of Section 24 of Article IX of the Rules and Regulations of the N.C. State Bar.

4. Defendant is taxed with the costs of this proceeding as assessed by the Secretary of the N.C. State Bar.

This the 26th day of August, 1993.

Maureen Demarest Murray  
Maureen Demarest Murray, Chair  
Disciplinary Hearing Commission

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COMPLAINT

The Plaintiff, complaining of the Defendant, alleges and says:

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, Allen L. Patterson, was admitted to the North Carolina State Bar in 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, 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 Charlotte, Wake County, North Carolina.

Upon information and belief, Plaintiff alleges:

FIRST CLAIM FOR RELIEF

4. Paragraphs 1 - 3 are realleged and reincorporated herein.

5. Prior to March 27, 1992, Patterson undertook to represent Sandra Samuels and her minor children, Ebony and DeAngelo, regarding injuries they received in an automobile accident which occurred on or about Dec. 4, 1991.

6. On April 22, 1992, Patterson advanced \$50 on behalf of

Sandra Samuels to Charlotte Spine Center.

7. On or about July 7, 1992, Patterson settled Sandra Samuels' claim for \$5,000 and settled the claims of Ebony and DeAngelo for \$200 and \$1,250 respectively.

8. On or about July 7, 1992, Patterson deposited a total of \$6,450 in settlement funds on behalf of the Samuels into his attorney trust account number 310150085501 at Mechanics & Farmers Bank (hereafter, trust account).

9. On July 9, 1992, Patterson disbursed a total of \$2,273.75 of the \$6,450 settlement funds to Samuels for her benefit and the benefit of her minor children.

10. Patterson was to receive a total fee of \$1,732.85 for handling the Samuels' cases.

11. After deducting Patterson's fee and the \$2,273.75 which was paid to the Samuels, and the \$50 previously advanced on behalf of Sandra Samuels, a total of \$2,393.40 should have remained in Patterson's trust account.

12. Patterson was to use the remaining \$2,393.40 to pay medical care providers on behalf of the Samuels.

13. Patterson has not disbursed any part of the \$2,393.40 to Ms. Samuels, her children, or to medical care providers on the Samuels' behalf.

14. At all times after July 9, 1992, a total of \$2,393.40 should have remained in Patterson's trust account on behalf of the Samuels.

15. The balance in Patterson's trust account fell below \$2,393.40 on numerous occasions after July 20, 1992.

16. Sums which should have remained in Patterson's trust account for the Samuels to Patterson and/or third parties without the Samuels' knowledge and consent by Patterson or his agents acting at his direction.

THEREFORE, the Plaintiff alleges that the Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. Sec. 84-28(b)(2) in that the Defendant violated the Rules of Professional Conduct as follows:

a. By misappropriating the funds received by Patterson in a fiduciary capacity on behalf of Sandra Samuels and her minor children for his use or the use of third parties other than Samuels without her knowledge and consent, 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) of the Rules of Professional Conduct and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 1.2(C) of the Rules of Professional Conduct.

b. By failing to disburse the funds he received in a fiduciary capacity to or for the benefit of his client, the Defendant violated Rule 10.2(E) of the Rules of Professional Conduct.

#### SECOND CLAIM FOR RELIEF

17. Paragraphs 1 - 16 are realleged and reincorporated herein.

18. Prior to April 16, 1992, Patterson undertook to handle a real estate closing for Albert Woodberry, who was purchasing property at 208 Skyland Drive, Charlotte, from Ricardo Fuller.

19. On or about April 14, 1992, Woodberry delivered a total of \$12,000 to Patterson, which represented the purchase price for the Skyland Drive property.

20. Patterson deposited the \$12,000 into his attorney trust account on or about April 16, 1992.

21. A total of \$7,748.78 of the \$12,000 purchase price should have been disbursed by Patterson to pay off a prior mortgage on the Skyland Drive property held by United Companies Lending Corporation.

22. The closing on the sale of the Skyland Drive property to Woodberry occurred on April 22, 1992.

23. Patterson did not issue a check to United Companies Lending Corporation until October 6, 1992, five months after the closing. This check failed to clear the bank and was returned for insufficient funds.

24. On or about April 30, 1993, after a grievance relating to the Woodberry closing had been filed with the N.C. State Bar, Patterson delivered a cashier's check to United Companies Lending Corporation and paid off the prior mortgage against the Skyland Drive property.

25. A total of at least \$7,748.78 should have remained in Patterson's attorney trust account on behalf of Woodberry at all times between April 16, 1992 and April 30, 1993, when Patterson paid off the prior mortgage.

26. The balance in Patterson's attorney trust account fell below \$7,748.78 on numerous occasions after May 5, 1992.

27. Sums which should have remained in Patterson's trust account for Woodberry have been disbursed to Patterson and/or third parties without the knowledge or consent of Woodberry by Patterson or his agents acting at his direction.

THEREFORE, the Plaintiff alleges that the Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. Sec. 84-28(b)(2) in that the Defendant violated the Rules of Professional Conduct as follows:

a. By misappropriating the funds received by Patterson in a fiduciary capacity on behalf of Woodberry for his use or the use of third parties other than Woodberry without the knowledge and consent of Woodberry, 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) of the Rules of Professional Conduct and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 1.2(C) of the Rules of Professional Conduct.

b. By failing to disburse the funds he received in a fiduciary capacity to or for the benefit of his client, the Defendant violated Rule 10.2(E) of the Rules of Professional Conduct.

#### THIRD CLAIM FOR RELIEF

28. Paragraphs 1 - 27 are realleged and reincorporated herein.

29. Prior to December 1991, Patterson undertook to represent Alberta and Levi Davis regarding injuries which they received in an accident on July 17, 1991.

30. On or about Dec. 19, 1991, Patterson settled Alberta Davis' personal injury claim for \$3,500.

31. On or about Dec. 19, 1991, Patterson settled Levi Davis' personal injury claim for \$3,200.

32. On Dec. 20, 1991, Patterson deposited \$6,700, which represented the total settlement funds he had collected on behalf of the Davises, into his attorney trust account.

33. On Dec. 23, 1991 Patterson disbursed \$1,040.50 to Alberta Davis and disbursed \$989.40 to Levi Davis.

34. Patterson was to receive 1/3 of the Davises' settlement, or \$2,231.10, as a legal fee.

35. After deducting Patterson's legal fees and the sums disbursed to the Davises, a total of \$2,439 should have remained in his attorney trust account on behalf of Levi and Alberta

Davis.

36. Patterson was to disburse the remaining \$2,439 in his trust account to medical care providers on the Davises' behalf.

37. Patterson has not disbursed any portion of the \$2,439 to the Davises or to medical care providers on the Davises behalf.

38. At all times after Dec. 24, 1991, a total of \$2,439 should have remained in Patterson's trust account.

39. The balance in Patterson's trust account dropped below \$2,439 on numerous occasions after Dec. 24, 1991.

40. Sums which should have remained in Patterson's trust account for the Davises have been disbursed to Patterson and/or third parties without the knowledge or consent of the Davises by Patterson or his agents at his direction.

THEREFORE, the Plaintiff alleges that the Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. Sec. 84-28(b)(2) in that the Defendant violated the Rules of Professional Conduct as follows:

a. By misappropriating the funds received by Patterson in a fiduciary capacity on behalf of the Davises for his use or the use of third parties other than the Davises without the knowledge and consent of the Davises, 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) of the Rules of Professional Conduct and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 1.2(C) of the Rules of Professional Conduct.

b. By failing to disburse the funds he received in a fiduciary capacity to or for the benefit of his clients, the Defendant violated Rule 10.2(E) of the Rules of Professional Conduct.

#### FOURTH CLAIM FOR RELIEF

41. Paragraphs 1 - 40 are realleged and reincorporated herein:

42. On or about Jan. 4, 1993, Patterson and the Plaintiff entered into a consent order of preliminary injunction, which was signed by Hon. Donald H. Stephens and filed in Wake County Superior Court.

43. Pursuant to the consent order of preliminary injunction, Patterson was enjoined from "accepting any further funds from clients or third parties in a fiduciary capacity, from withdrawing any funds from and/or writing any checks against any account in which client funds or fiduciary funds have been

deposited and from directing any employee or agent to withdraw funds from and/or draw a check on any account in which client or fiduciary funds have been deposited until permitted by subsequent orders of the Court."

44. As of the date of this complaint, no orders have been entered by the Court modifying or dissolving the consent order of Jan. 4, 1993.

45. On or about March 3, 1993, Patterson settled a personal injury claim for Mrs. Willie Agnes Nash for \$6,250.

46. On information and belief, Patterson received the settlement funds on behalf of Ms. Nash and deposited the settlement check into his office account number 3201118066 at Mechanics & Farmers Bank (hereafter, office account).

47. On or about March 11, 1993, Patterson issued check number 194 drawn on his office account in the amount of \$1,995 to Mrs. Nash.

48. Patterson deducted \$2,046 from the settlement proceeds as a legal fee.

49. On or about April 19, 1993, Patterson settled Mrs. Nash' medical pay claim arising out of the Sept. 4, 1992 accident for \$2,000.

50. On information and belief, Patterson received the settlement funds on behalf of Mrs. Nash and deposited the \$2,000 settlement check into his office account.

51. On or about May 5, 1993, Patterson issued check number 289 in the amount of \$1,925 payable to Mrs. Nash and drawn on his office account, which represented her share of the medical care payment settlement.

52. The \$1,925 check did not clear the bank, and was returned for insufficient funds.

THEREFORE, the Plaintiff alleges that the Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. Sec. 84-28(b)(2) in that the Defendant violated the Rules of Professional Conduct as follows:

a. By receiving checks in settlement of Mrs. Willie Agnes Nash's personal injury and medical care pay claims, by depositing those checks into his office account and by writing checks against the settlement funds, Defendant has accepted funds from a client in a fiduciary capacity and has drawn a check on an account in which client funds were held, in violation of the Jan. 4, 1993 consent order. Such conduct constitutes a criminal act in violation of Rule 1.2(B) of the Rules of Professional Conduct,

conduct prejudicial to the administration of justice in violation of Rule 1.2(D) and conduct involving fraud, deceit, misrepresentation or dishonesty in violation of Rule 1.2(C) of the Rules of Professional Conduct.

FIFTH CLAIM FOR RELIEF

53. Paragraphs 1 - 52 are hereby realleged and reincorporated herein.

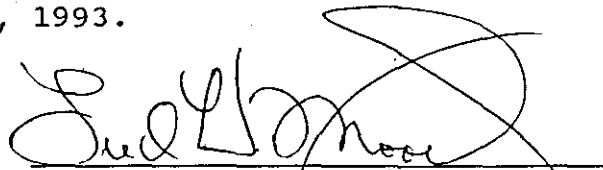
54. Between June 1991 through November 1992, Patterson failed to maintain client ledger cards, failed to retain all cancelled checks drawn on his attorney trust account, and failed to maintain sufficient records to determine the source and identity of all funds deposited into the trust account.


THEREFORE, the Plaintiff alleges that the Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. Sec. 84-28(b)(2) in that the Defendant violated the Rules of Professional Conduct as follows:

(a) By failing to maintain copies of all cancelled checks, client ledger cards and sufficient documentation to identify the source and identity of all funds deposited into his attorney trust account, the Defendant failed to maintain the minimum trust account record information required by Rule 10.2(C) of the Rules of Professional Conduct.

WHEREFORE, the Plaintiff prays that disciplinary action be taken against the Defendant in accordance with N. C. Gen. Stat. Section 84-28(a) and Section 14 of Article IX of the Rules and Regulations of the North Carolina State Bar as the evidence on hearing may warrant, that the Defendant be taxed with all costs permitted by law in connection with this proceeding and for such other and further relief as is appropriate.

This the 12 day of July, 1993.

  
Fred H. Moody, Jr., Chairman  
Grievance Committee

  
Carolin Bakewell  
Attorney for Plaintiff  
The North Carolina State Bar  
P. O. Box 25908  
Raleigh, N.C. 27611