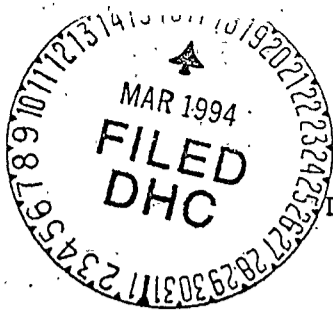


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NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
93 DHC 28

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

JOHNNY R. MORGAN, ATTORNEY
Defendant

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

THIS CAUSE was heard by a Hearing Committee of the Disciplinary Hearing Commission consisting of Frank E. Emory, Jr., Chair, Richard L. Doughton and James Lee Burney, on Friday, Feb. 18, 1994. The Defendant, Johnny R. Morgan was neither present nor represented by counsel. The Plaintiff was represented by Carolin Bakewell. Based upon the pleadings, the admissions established by Defendant's failure to respond to the Plaintiff's Complaint filed herein and the evidence presented at the hearing, the Committee makes the following:

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, Johnny R. Morgan, (hereafter, Morgan), was admitted to the North Carolina State Bar in 1987, 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. The N.C. State Bar filed its formal disciplinary Complaint herein on Nov. 10, 1993.
4. On Dec. 3, 1993, Morgan was served with the Summons and Complaint when his wife accepted service for him as his attorney-in-fact.

remaining \$1,400 to the Smiths in February 1993.

29. Prior to January 1993, Morgan undertook to represent James Hardison (hereafter, Hardison), respecting personal injuries which Hardison received in an automobile accident in July 1990.

30. Prior to Jan. 27, 1993, Morgan settled Hardison's personal injury case without Hardison's knowledge or consent.

31. On or about Jan. 27, 1993, Seibels Bruce Insurance Company issued a check in the amount of \$58,500 payable jointly to Morgan and Hardison in settlement of Hardison's claim.

32. On or about Feb. 10, 1993, Morgan, or an agent or employee acting at Morgan's direction, endorsed Hardison's name to the \$58,500 settlement check without Hardison's knowledge or consent.

33. On or about Feb. 10, 1993, Morgan deposited the \$58,500 settlement check into his attorney trust account.

34. Morgan has not disbursed any portion of the \$58,500 in settlement funds to Hardison or to third parties for his benefit.

35. On or about Feb. 10, 1993, Morgan issued check number 1337 in the amount of \$20,600 drawn on his attorney trust account, which represented his fee in the Hardison case.

36. At all times on and after Feb. 10, 1993, at least \$37,900 should have remained in Morgan's attorney trust account on Hardison's behalf.

37. The balance in Morgan's attorney trust account dropped below \$37,900 on numerous occasions on and after March 18, 1993.

38. Morgan misappropriated sums belonging to Hardison without Hardison's knowledge and consent.

39. On or about Feb. 10, 1993, Morgan falsely represented to a notary that Hardison had signed a Release of Claims form and directed the notary to notarize the release.

40. On or about Feb. 10, 1993, Morgan sent the Release of Claims form bearing the false signature of James Hardison to Seibels Bruce Insurance Company.

Based upon the foregoing FINDINGS OF FACT, the Hearing Committee hereby enters the following:

CONCLUSIONS OF LAW

1. The N.C. State Bar and the Disciplinary Hearing Commission have jurisdiction over the person of the Defendant, Johnny R. Morgan, and over the subject matter set out in Plaintiff's Complaint.

2. Morgan was properly served with the Summons and Complaint herein.

3. Default was properly entered herein by the Secretary of the N.C. State Bar on Jan. 5, 1994.

4. Morgan was properly served with the Motion for Entry of Default, Entry of Default, Motion for Order of Discipline and Notice of Hearing herein.

5. Because Morgan failed to respond to the Plaintiff's Complaint herein and because default was entered against him, the allegations in the N.C. State Bar's Complaint are deemed admitted.

6. By settling the Smiths' claim without their knowledge or consent, Morgan failed to abide by his clients' decision regarding whether to accept a settlement offer, in violation of Rule 7.1(C) of the Rules of Professional Conduct.

7. By endorsing or directing an agent or employee to endorse the Smiths' signature on the three settlement checks from Universal Insurance Company, without the Smiths' knowledge or consent, Morgan committed criminal acts which reflect 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.

8. By misappropriating settlement funds belonging to the Smiths, Morgan committed a criminal act which 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.

9. By disbursing the funds he should have held in a fiduciary capacity for the Smiths without their knowledge and consent, Morgan violated Rule 10.2(E) of the Rules of Professional Conduct.

10. By falsely telling the N.C. State Bar's investigator

that he had disbursed \$36,780 to the Smiths, Morgan engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Rule 1.2(C) of the Rules of Professional Conduct and knowingly made a false statement of material fact to the N.C. State Bar in connection with a disciplinary matter, in violation of Rule 1.1(A) of the Rules of Professional Conduct.

11. By refusing to withdraw as Mrs. Smith's attorney in April 1993 when she discharged him and by threatening to sue Mrs. Smith if she discharged him as her attorney, Morgan engaged in conduct prejudicial to the administration of justice in violation of Rule 1.2(D) of the Rules of Professional Conduct and failed to withdraw when requested to do so by a client, in violation of Rule 2.8 of the Rules of Professional Conduct.

12. By deducting \$600 from Mrs. Smith's medical payment settlement as a fee, Morgan collected an excessive fee in violation of Rule 2.6 of the Rules of Professional Conduct.

13. By endorsing or directing an agent or employee to endorse Hardison's signature on the \$58,500 settlement check issued by Seibels Bruce Insurance Company without Hardison's knowledge or consent, Morgan committed a criminal act which 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.

14. By settling Hardison's claim without Hardison's knowledge or consent, Morgan failed to keep his client reasonably informed about the status of a matter in violation of Rule 6(B)(1) of the Rules of Professional Conduct and failed to abide by his client's decision regarding whether to accept a settlement offer, in violation of Rule 7.1(C) of the Rules of Professional Conduct.

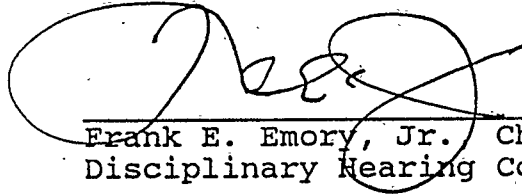
15. By misappropriating settlement funds belonging to Hardison, Morgan committed a criminal act which reflects adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects in violation of Rule 1.2(B) of the Rules of Professional Conduct and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Rule 1.2(C) of the Rules of Professional Conduct.

16. By disbursing the funds he should have held in a fiduciary capacity for Hardison without Hardison's knowledge and consent, Morgan violated Rule 10.2(E) of the Rules of Professional Conduct.

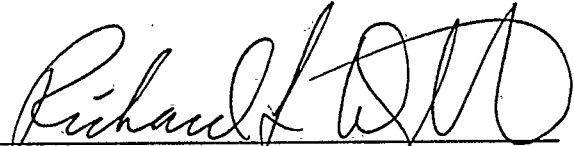
17. By signing Hardison's name to the Release of Claims form without Hardison's knowledge and consent, by falsely representing

to a notary that Hardison had signed the release and by submitting a release which he knew bore a forged signature to Seibels Bruce Insurance Co., Morgan engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Rule 1.2(C) of the Rules of Professional Conduct.

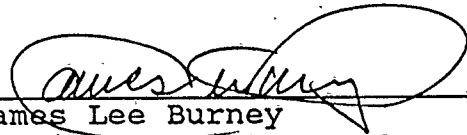
This the 22nd day of February 1994.



Frank E. Emory, Jr. Chair
Disciplinary Hearing Committee

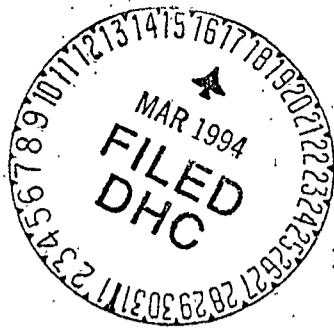


Richard L. Doughton
Hearing Committee Member



James Lee Burney
Hearing Committee Member

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WAKE COUNTY



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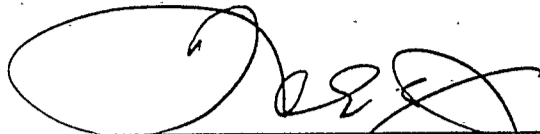
ORDER OF DISCIPLINE

THIS CAUSE was heard by a Hearing Committee of the Disciplinary Hearing Commission consisting of Frank E. Emory, Jr., Chair, Richard L. Doughton and James Lee Burney, on Friday, Feb. 18, 1994. Based upon the Findings of Fact and Conclusions of Law, the Hearing Committee enters the following:

ORDER OF DISCIPLINE

1. The Defendant, Johnny R. Morgan, is hereby disbarred.
2. The Defendant shall pay the costs of this proceeding.
3. Prior to seeking reinstatement of his license to practice law, the Defendant shall present written proof that he has made restitution in the following amounts to the following persons:
 - a. \$53,215 to Conrad and Brenda Smith.
 - b. \$58,500 to James Hardison.
4. The Defendant shall reimburse the Client Security Fund of the North Carolina State Bar for all amounts paid to former clients of Defendant's prior to seeking reinstatement of his license to practice law.

Signed by the Chair with the consent of all Committee members.



Frank E. Emory, Jr. Chair

This the 20th day of February, 1994.