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NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
88 DHC 6

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
v.)
PERRY R. SAFRAN, ATTORNEY)
Defendant)

FINDINGS OF FACT AND CONCLUSIONS
OF LAW

This cause was heard by a Hearing Committee of the Disciplinary Hearing Commission composed of G. Ward Hendon, Esq., Chairman, Emily Turner and L. P. Hornthal, Jr. on Monday, December 19, 1988. The Plaintiff was represented by Carolin Bakewell and the Defendant was represented by T. Scott White and Allen Bailey. Based upon the pleadings, pre-trial stipulations and the evidence, the Committee makes the following Findings of Fact:

1. The Defendant, Perry R. Safran, was admitted to the N.C. State Bar in 1981 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 the Rules of Professional Conduct of the North Carolina State Bar and the laws of North Carolina.
2. During all of the periods referred to herein, Safran 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.
3. From 1985 until 1987, Safran served on the Raleigh City Council.
4. In March or April 1986, Safran recommended to Assistant Raleigh City Attorney Francis Rasberry that the City of Raleigh retain Grayson Kelley to assist the City in an arbitration matter involving NewKor Construction Company.
5. Grayson Kelley joined the law firm of Marshall, Safran & Kelley in July or August, 1985 as a partner and remained a partner in the firm continuously thereafter until he left the firm in 1988.
6. In March or April 1986, Safran falsely told Raleigh City Attorney Thomas McCormick that he and Kelley were not law partners.
7. In May, 1986, at a meeting of the City Council, Safran falsely told Raleigh City Council members that he and Kelley were not law partners.
8. After Safran stated that he and Kelley were not law partners, the Raleigh City Council voted to retain Kelley to advise the City in the

NewKor arbitration matter.

9. On four occasions in 1986, Safran voted to award City of Raleigh construction contracts to companies which were clients of Safran's, as follows:

- a) December 17, 1986 -- J. M. Thompson Co.
- b) March 18, 1986 -- Hamlin Roofing Co.
- c) July 15, 1986 -- Watson Electrical Construction Co.
- d) November 4, 1986 -- J. D. Beam, Inc.

10. Safran did not reveal to the City Council members at the time of the votes that he had an attorney-client relationship with the companies listed in paragraph 9.

11. The N.C. State Bar failed to present clear, cogent and convincing evidence that Safran represented Mike Beach, a City of Raleigh Fireman, in connection with a city disciplinary matter against Beach, at the time Safran served as a Raleigh City Councilman.

12. The N.C. State Bar failed to present clear, cogent and convincing evidence that Safran appeared as attorney for Johnnie Turner before the Raleigh Board of Adjustment on February 9, 1987, while Safran was a member of the Raleigh City Council.

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

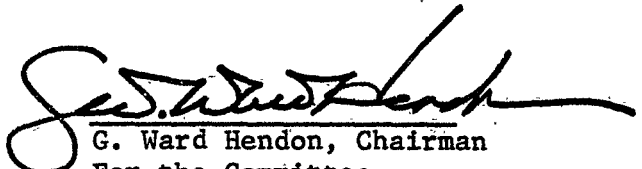
(a) By falsely stating that Kelley was not his law partner and failing to reveal that Kelley was his law partner, Safran engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 1.2(C).

(b) By recommending that the City of Raleigh hire Kelley to assist the City in the NewKor arbitration matter, Safran violated Rule 8.1(B).

(c) By voting to award city contracts to clients of his, Safran violated Rule 8.1(B).

(d) By failing to reveal to the City Council his attorney-client relationship with the bidding companies prior to voting to award city contracts to the companies, Safran engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Rule 1.2(C).

This the 10th day of January, 1989.


G. Ward Hendon, Chairman
For the Committee

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THE NORTH CAROLINA STATE BAR,)
Plaintiff)

v.)

PERRY R. SAFRAN, ATTORNEY,)
Defendant)

ORDER OF DISCIPLINE

This cause was heard by the undersigned duly appointed Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar on Monday, December 19, 1988. Based upon the Findings of Fact and Conclusions of Law entered in this cause, the Hearing Committee enters this ORDER OF DISCIPLINE:

1. As to the violations relating to Defendant's recommendation of the hiring of Grayson Kelley by the City of Raleigh, Defendant's license to practice law is hereby suspended for three years, with the suspension to be stayed upon satisfactory completion of the following conditions:

(a) That Defendant violate no provisions of the Rules of Professional Conduct throughout the three-year suspension period;

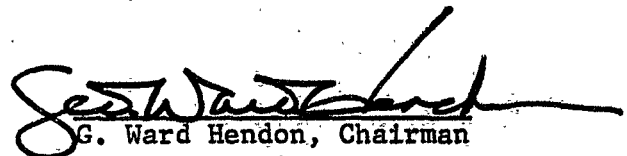
(b) That Defendant obey all laws of the State of North Carolina throughout the three-year suspension period;

(c) That Defendant attend and successfully complete three hours of continuing legal education on ethics from a sponsor accredited by the N.C. State Bar each year during the three-year suspension period. This requirement will be in addition to the minimum ethics continuing legal education requirement required of all North Carolina attorneys by the N.C. State Bar. Defendant shall submit proof of compliance to the North Carolina State Bar no later than December 31 of each year of the three-year suspension period.

(d) That Defendant pay the costs of this proceeding.

2. As to the violations relating to Defendant's votes to award City of Raleigh contracts to four clients, Defendant is hereby Publicly Censured, as set out in the attached Public Censure.

This the 10th day of January, 1989.


G. Ward Hendon, Chairman
For the Committee

00295

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
88 DHC 6

IN THE MATTER OF PERRY R. SAFRAN,)
ATTORNEY AT LAW)

PUBLIC CENSURE

This Public Censure is delivered to you pursuant to Section 23 of Article IX of the Rules and Regulations of the North Carolina State Bar as ordered by a Hearing Committee of the Disciplinary Hearing Commission following a hearing on December 19, 1988, at which the Hearing Committee found that you violated certain of the Rules of Professional Conduct of the North Carolina State Bar.

In 1986, you were serving as a Councilman on the Raleigh City Council. On four occasions during that year, you voted to award City contracts to contractors who were clients of yours. Moreover, you failed to reveal to the City Council your attorney-client relationship with the contractors before the votes. Your vote to award contracts to your clients violated Rule 8.1(B) and your failure to reveal the attorney-client relationship to the City Council violated Rule 1.2(C).

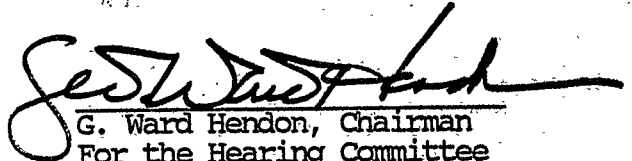
In deciding to publicly censure you for this conduct, rather impose more severe discipline, the Committee took into account the fact that the contractors in question were the low bidders on each project and that the votes to award the contracts were unanimous. The fact that the Committee has chosen to impose the relatively moderate sanction of public censure should not be taken by you to indicate that the Disciplinary Hearing Commission in any way condones your conduct in this matter, however.

The North Carolina State Bar is confident that this Public Censure will be heeded by you, that it will be remembered by you, and that it will be a benefit to you. It is hoped that you will never again allow yourself to depart from strict adherence to the highest standards of the legal profession. Accordingly, it is hoped that this Public Censure, instead of being a burden, will actually serve as a profitable reminder that you should weigh carefully your responsibilities to the public, your clients, your fellow attorneys and the courts to the end that you will ultimately be known as a respected member of our profession whose word and conduct can be relied upon without question.

Pursuant to Section 23 of the Rules of Disciplinary Procedure, it is ordered that a certified copy of this Public Censure be entered upon the judgment docket of the Superior Court of Wake County and also upon the minutes of the Supreme Court of North Carolina.

This the 10th day of January, 1989.

00296


G. Ward Hendon, Chairman
For the Hearing Committee

00297