

STATE OF NORTH CAROLINA
COUNTY OF WAKE

10114
BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
88G 0208(III)

IN THE MATTER OF

ROBERT ERNEST WINFREY
ATTORNEY AT LAW

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PUBLIC CENSURE

On April 13, 1989, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by The North Carolina State Bar.

Pursuant to Section 13(7) of Article IX of the Rules and Regulations of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing. After considering the evidence, including your response to the Letter of Notice, the Grievance Committee found probable cause which is defined in the rules as "reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action."

The rules provide that after a finding of probable cause, the Grievance Committee may determine that the filing of a complaint and a hearing before the Disciplinary Hearing Commission are not required and the Grievance Committee may issue various levels of discipline depending upon the misconduct, the actual or potential injury caused, and any aggravating or mitigating factors. The Grievance Committee may issue a Private Reprimand, a Public Reprimand, or a Public Censure to the accused attorney.

The Grievance Committee was of the opinion that a complaint and hearing are not required in this case and issues this Public Censure to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this Public Censure. I am certain that you will understand fully the spirit in which this duty is performed.

A Public Censure is the most serious discipline that the Grievance Committee can impose. The Grievance Committee felt that your professional misconduct was a serious and substantial violation of the Rules of Professional Conduct and deserved the most severe form of public discipline short of actual suspension or loss of your license.

You had represented a client previously identified to you in our Letter of Notice on several matters in 1985 and 1986. In October 1987, you had some discussions with that client in which he advised you that he was involved in selling drugs. On October 30, 1987, the client delivered \$25,000 in cash to you at your home before he was to have left town. The funds were to be used to hire out of state counsel if the client needed counsel.

On November 5, 1987, the client asked for his money to be returned. You returned it to him, through his girlfriend, after deducting the fees he owed you from your previous representation. You never placed these funds in a trust account during the period you held the funds.

Your failure to place your client's funds in a trust account violated Rule 10.1(A) and (C). Had anything happened to you or the client, there would have been no record of his funds having been left with you.

Although there is no evidence to suggest that you held the money for any illegitimate purpose, you should not have kept the money at your home. Money held for clients should be segregated from your own funds in a trust account.

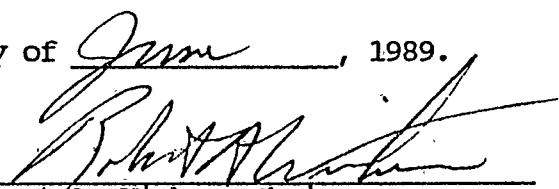
You are hereby publicly censured by the North Carolina State Bar due to your professional misconduct and violation of the Rules of Professional Conduct. The Grievance Committee trusts that this Public Censure will be heeded by you, that it will be remembered by you, that it will be beneficial to you, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. In order to remain a respected member of the legal profession whose conduct may be relied upon without question, you must in the future carefully weigh your responsibility to the public, your clients, your fellow attorneys and the courts. The Grievance Committee expects that no professional misconduct will occur in the future.

Pursuant to Section 23 of Article IX of the Rules and Regulations of the North Carolina State Bar, it is ordered that a certified copy of this Public Censure be forwarded to the Clerk of the Superior Court of Forsyth County for entry upon the judgment docket and to the Supreme Court of North Carolina for entry in its minutes. This Public Censure will be maintained as a permanent record in the judgment book of the North Carolina State Bar and a copy shall be sent to the local newspapers in the county in which you practice. A copy also will be sent to the complainant.

If you have not accepted this Public Censure within 15 days after it is served upon you, counsel shall thereafter be instructed to prepare and file a complaint against you with the Disciplinary Hearing Commission of the North Carolina State Bar. Your acceptance must be addressed to the Grievance Committee and filed with the Secretary. The hearing before the Disciplinary Hearing Commission is public and all of its proceedings and its decision are public.

In accordance with the policy adopted October 15, 1981 by the Council of the North Carolina State Bar regarding the taxing of the administrative and investigative costs to any attorney issued a Public Censure by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this 13 day of June, 1989.


Robert A. Wicker, Chairman
The Grievance Committee
North Carolina State Bar