

NORTH CAROLINA
WAKE COUNTY

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1985 JAN -3 AM 11:32
B.E. JAMES, SEC.
THE N.C. STATE BAR

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
83 G 0106(II)

IN THE MATTER OF

HORACE LOCKLEAR
ATTORNEY AT LAW

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PUBLIC CENSURE

At its regular quarterly meeting on October 17, 1984, the Grievance Committee of the North Carolina State Bar conducted a preliminary hearing under Section 13 of the Discipline and Disbarment Rules of the North Carolina State Bar regarding the grievance filed against you by Mr. Kenneth Bruce Maynor. The Committee considered all of the evidence before it, including your statements in writing to the Committee, the signed accounting from the complainant, and the signed acknowledgement by the complainant of the receipt of the monies due him. Pursuant to section 13(10) of the Discipline and Disbarment Rules, the Committee found probable cause. Probable cause is defined under the Discipline and Disbarment Rules as: "A finding by the Grievance Committee that there is reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action." The rules also provide that if, after a finding of probable cause, the Committee determines that a complaint and a hearing are not warranted, the Committee may issue a 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 and I am certain that you understand fully the spirit in which this duty is performed, that you will understand the censure, and appreciate its significance. The fact that a public censure is not the most serious discipline that may be imposed by the North Carolina State Bar should not be taken by you to indicate that any member of the Committee feels that your conduct was excusable or less than a serious and substantial violation of the Code of Professional Responsibility.

In September, 1982, Mr. Maynor was arrested on drug charges and approximately \$10,230 in cash was seized by the Robeson County Sheriff's Department upon the arrest. In December, 1982, you represented Mr. Maynor when his guilty plea was entered to part of the charges. The money held by the Sheriff was to be returned to Mr. Maynor except for that portion claimed by the N. C. Department of Revenue and the IRS for taxes and the Sheriff for investigative costs. The Sheriff returned \$7,500 to Mr. Maynor on December 8, 1982. On December 17, 1984, you met with a representative of the N. C. Department of Revenue and Mary Green of the Sheriff's Department to apportion the balance of the funds held on behalf of Mr. Maynor by the Sheriff. The Department of Revenue was paid \$902.09 that day. The Sheriff's Department was paid \$150 from the fund. The balance was delivered to you in cash that day for you to deliver to your client. You have admitted to the Committee that you did not place that money in a trust account nor did you deliver it to your client immediately. You did not even notify your client that you had received the balance of his money. Then, on March 31, 1983, you were notified by the Chairman of the Grievance Committee that a grievance had

been filed against you concerning these funds by Mr. Maynor. Only then, in May, 1983, did you finally deliver the balance of the funds to Mr. Maynor. Thus, held your client's funds nearly five full months and only after you had been advised that a grievance had been filed did you deliver the funds. You have explained only that you kept Mr. Maynor's cash in a safe in your office.

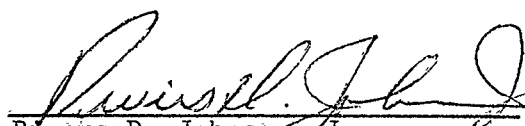
The Code of Professional Responsibility in North Carolina is very specific on your obligations as an attorney in the handling of money on behalf of a client. You are required as a condition precedent to the receipt of funds on behalf of a client to maintain a trust banking account in which only funds belonging to clients are maintained. You are required to promptly notify the client of the receipt of any funds, to maintain complete records regarding those funds, and to promptly pay those funds to the client. Disciplinary Rules 9-102(A) and (B). Your conduct violated these trust account rules. You did not deposit the money in a trust account. You did not advise your client of its receipt. You did not deliver the funds to your client in a timely manner and you did not maintain any records of its receipt or disbursement. It was only in response to demands from the Grievance Committee that you prepared any accounting of the funds to Mr. Maynor. The only redeeming feature of your conduct is the fact that you did eventually deliver the funds to Mr. Maynor. The fact that you are no longer engaged in the private practice of law mitigated the extent of the discipline.

Your conduct was unprofessional. It violated not only the letter of the Code of Professional Responsibility but also its spirit. Your conduct was not the conduct expected of a member of the legal profession and an officer of the court. It brought discredit upon you, the profession, and the courts. It damaged both your reputation and the profession's. You placed your privilege to serve the public as a lawyer in serious jeopardy. Finally, you violated one of the most sacred aspects of the attorney-client relationship, the fact that an attorney should always act as a fiduciary with respect to client funds and insure the integrity of those funds always.

The Committee is confident that this Public Censure will be heeded by you, that it will be remembered by you, and will be beneficial to you. The Committee is confident that you will never again allow yourself to depart from strict adherence to the highest standards of the profession. Instead of being a burden, this Public Censure should serve as a profitable and ever-present reminder to weigh carefully your responsibilities to your clients, to the public, to your fellow attorneys, and to the courts. It is hoped that the result will be that you can once again be known as a respected member of the profession whose word and conduct may be relied upon without question.

Pursuant to Section 23 of the Discipline and Disbarment Rules, it is ordered that a certified copy of this Public Censure be forwarded to the Superior Court of Robeson County for entry upon the judgment docket and to the Supreme Court of North Carolina for entry in its minutes. This Public Censure will also be maintained as a permanent record in the judgment book of the North Carolina State Bar. Pursuant to policy adopted by the Council of the North Carolina State Bar on the taxing of costs in cases where discipline is entered by the Grievance Committee, you are hereby taxed \$50 as the administrative costs in this action.

This the 26 day of November, 1984.


Rivers D. Johnson, Jr.
Chairman, Grievance Committee

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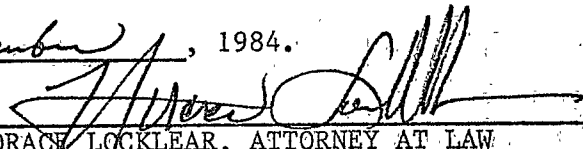
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J.E. JAMES, SEC.
THE N. C. STATE BAR

CERTIFICATE OF ACCEPTANCE OF SERVICE

This is to certify that Service of the foregoing NOTICE OF PUBLIC CENSURE AND PUBLIC CENSURE are hereby accepted this the 3 day of December, 1984 and receipt of copies of the same is hereby acknowledged.

This the 12 day of December, 1984.


HORACE LOCKLEAR, ATTORNEY AT LAW
83G 0106(II)

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1985 JAN -2 PM 1:25

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

Mr. David R. Johnson
The North Carolina State Bar
208 Fayetteville Street Mall
Raleigh, North Carolina 27611

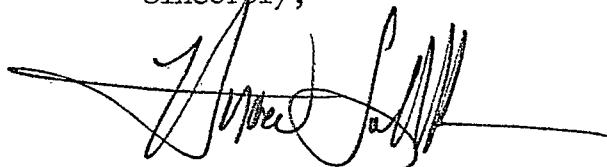
2503 Beechridge Road
Raleigh, North Carolina 27608
December 24, 1984

83G 0106(II)

Dear Mr. Johnson:

Reply to your letter of December 13, 1984. I accept
the Public Censure as ruled by your committee. I have submitted
the sum of \$50.00 as requested.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Horace Locklear', with a long horizontal flourish extending to the right.

Horace Locklear