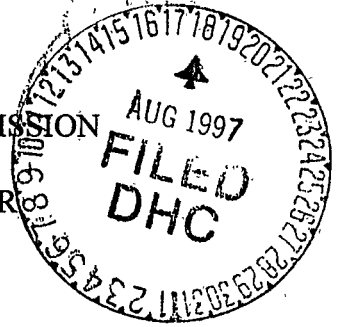


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WAKE COUNTY  
NORTH CAROLINA

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
96 DHC 16



THE NORTH CAROLINA STATE BAR  
PLAINTIFF

v.

JOHN L. HASH, ATTORNEY  
DEFENDANT

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)  
) FINDINGS OF FACT  
) CONCLUSIONS OF LAW  
) AND ORDER OF DISCIPLINE  
)  
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THIS MATTER was heard on July 9 - 11, 1997 before a hearing committee composed of Richard L. Doughton, Chair; Franklin E. Martin and Anthony Foriest. The Defendant, John L. Hash, was represented by David Pishko. The N.C. State Bar was represented by A. Root Edmonson and Carolin Bakewell. Based upon the pleadings and the evidence introduced at the hearing, the hearing committee hereby enters 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, John L. Hash (hereafter, Hash) was admitted to the North Carolina State Bar on Sept. 8, 1989 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. Joseph E. Downs (hereafter, Downs), who was named in the original Complaint herein, died in April 1997, prior to the date of the hearing herein.

4. During all of the relevant periods referred to herein, except as otherwise specified, Hash was actively engaged in the practice of law in the State of North Carolina and maintained law offices in Stokes County, North Carolina.

5. Between 1968 and 1986, Downs was employed as a lawyer by the Firestone Tire & Rubber Co., (now known as Bridgestone/Firestone, Inc. and hereafter referred to as Firestone) in Akron, Ohio.

6. For a number of years prior to and during Downs' employment, Firestone manufactured a multi-piece wheel known as an RH5 degree wheel which was used on one-to-five ton trucks.

7. Throughout and after Downs' employment at Firestone, a substantial number of products liability lawsuits were filed against Firestone which alleged that design defects in the RH5 degree wheel rim caused the wheel to "explode" during or after inflation of a tire mounted on the wheel.

8. During his employment at Firestone, Downs had substantial involvement in the direction and coordination of Firestone's defense of multi-piece rim product liability claims and lawsuits. He served as trial counsel in rim cases, attended many other trials, and selected and trained outside counsel and defense witnesses in a number of wheel rim cases.

9. During his employment at Firestone, Downs also interacted with government regulatory bodies concerning safety and regulatory compliance of rim and wheel products.

10. During his employment at Firestone, Downs learned secrets and confidences of Firestone relative to multi-rim piece rim litigation and other matters.

11. Multi-piece rim litigation is not a new or developing area of the law. The allegations and claims of the plaintiffs in the various rim cases against Firestone have not changed over time. Many of the same expert witnesses, issues, documentary evidence and lawyers reappear in rim litigation across the country.

12. Multi-piece rim litigation cases are both expensive and complicated to try. The liability portion of these cases ordinarily turns upon the testimony of expert witnesses and involve sophisticated engineering concepts. Acquiring the expertise to prosecute a multi-piece wheel rim case is a time consuming and difficult process. Many of the documents regarding previous wheel rim cases were stored in a facility in Kansas City, to which access was very limited.

13. In 1983, officials at Firestone demoted Downs and directed him to obtain counseling and treatment for alcohol abuse. Downs no longer had any responsibility for wheel cases.

14. Downs did not complete the course of treatment which he began at the Betty Ford Center and denied that he was an alcoholic. It was apparent to Downs' supervisor, Dave Thomas, that Downs was unhappy with his job assignments following his demotion in 1983 and that he believed he had been mistreated by Firestone.

15. In 1986, Downs left Firestone and accepted a position as counsel to R. J. Reynolds Tobacco Co. (hereafter, R. J. Reynolds) in Winston-Salem, N.C.

16. Downs served as corporate counsel to R. J. Reynolds until the summer or fall of 1988, when he was discharged by Reynolds. Thereafter, he left R. J. Reynolds and engaged in the private practice of law in Stokes County, N.C.

17. In approximately August 1986, Hash, who then lived in West Virginia, undertook to assist Anna Workman, whose husband and son had been seriously injured in an accident involving a Firestone multi-piece wheel rim. Ms. Workman's husband later died of the injuries he received in the accident.

18. Hash had never handled a wheel rim case before August 1986 and had limited experience in handling other kinds of product liability cases.

19. Shortly after undertaking to represent Ms. Workman, Hash moved from West Virginia to Winston-Salem, North Carolina. He continued to represent Ms. Workman, although he had not yet filed suit on behalf of her husband and son.

20. In October or November 1987, Hash met Downs and the two quickly became friends.

21. When the two met, Hash knew of Downs' connection with Firestone and his involvement with wheel rim litigation. Early in their acquaintance, Hash informed Downs that he had a client with a potential wheel rim case against Firestone and described Mr. Workman's injuries to Downs. Hash and Downs recognized that it would constitute a serious conflict of interest for Downs to become involved in any way in wheel rim litigation against Firestone.

22. In July 1988, Hash filed the complaint in Workman v. General Motors et al., in the U.S. District Court for the Northern District of Ohio (hereafter, Workman). That action was a multi-piece wheel rim product liability action which named Firestone, General Motors (hereafter, GM), and others as defendants.

23. Hash and Downs were both admitted to the N.C. State Bar in 1989.

24. From October 1989 until October 1990, Hash sub-let an office from Downs in a small shopping center in King, N.C. While Hash and Downs shared office space,



they also shared the same fax line and post office box. There were no other attorneys in the office with Hash and Downs and the only employee was Mary Downs, Downs' wife.

25. After October 1990, Hash rented other office space in King, N.C.

26. At all times while Workman was pending, Hash concealed his King, N.C. address from Firestone's attorneys and from the court. To conceal the fact that he shared an office with Downs, Hash used a post office box in Winston-Salem on all correspondence with Firestone's lawyers and the court in Workman. Hash was aware that if Firestone's lawyers learned that he practiced law in the same town with Downs and had shared office space with him, that they would become suspicious and might move to disqualify him from the Workman case.

27. While Workman was pending, Hash used his King, N.C. address on correspondence and pleadings in matters other than the Workman case which did not involve Firestone.

28. Between approximately October 1987 and October 1991, Downs provided Hash with information and insights gathered during Downs' career at Firestone which were useful to Hash in pursuing the Workman case against Firestone. Among other things, Downs:

- a. told Hash that Stephen Blate, a former Firestone employee, had been treated badly by Firestone. This information, which was not generally known to plaintiffs' attorneys, added to Hash's resolve to take Blate's deposition.
- b. assessed the capabilities of Frances Prell, one of Firestone's attorneys with whom Downs had worked very closely before he left Firestone.
- c. discussed the capabilities of Max Nonnamaker and Robert Lee, two of Firestone's expert witnesses.
- d. helped Hash draft an amended complaint in the Workman case and other documents.
- e. met with Hash and Michael Maddox to prepare Maddox to testify as an expert witness in Workman. Maddox billed the Workmans for at least some of his time in this meeting, which took place at Downs' home in Stokes County.
- f. referred Hash to Ken Williford, a competent plaintiff's attorney, from Texas to assist Hash in trying Workman.

g. discussed the Workman case with Hash by telephone. These calls occurred on a number of occasions when Hash was out of town for conferences or other appearances in the Workman case and continued even after Hash and Downs no longer shared office space.

29. Downs neither sought nor obtained Firestone's permission to provide any assistance to Hash regarding the Workman case or any other wheel rim litigation against Firestone. Firestone would not have consented to any involvement by Downs in any wheel rim litigation against Firestone.

30. For a brief period in early 1990, Hash represented Downs respecting a civil dispute in which Downs was involved with an airplane broker named Eli Graubert.

31. During 1990, while they were sharing office space, both Hash and Downs participated in a domestic case filed in Surry County on behalf of Danny Goings.

32. In approximately September 1991, Hash settled the Workmans' claims against Firestone for \$1.2 million. Hash's fee in the case was \$469,418.66. Hash paid \$30,000 of the fee to David Looney, an Ohio lawyer who had served as local counsel in the Workman case.

33. In November 1991, within a day or two of receiving his fee, Hash wrote a check to Downs in the amount of \$234,709.33, which sum represented exactly 50% of Hash's fee in Workman. The fee paid to Downs by Hash represented payment for the assistance which Downs had provided to Hash during the Workman case.

34. Hash and Downs were not law partners at any time between 1986 and November 1991.

35. The clients in Workman were not advised of Downs' participation in the lawsuit or the risks to them of such participation and did not agree to it. The clients in Workman were not advised of and did not consent to any sharing of the fee in the case.

36. Hash reported only 1/2 of the fee in Workman as income on his 1991 income tax return, thereby treating the payment to Downs as a straight fee split.

37. After settling the Workman case, Hash undertook to represent the plaintiffs in three other wheel rim cases known as the Baker, Kelling and Logan cases.

38. In 1993, Hash accidentally sent a facsimile transmission bearing his King, N.C. office address to Fran Prell, a lawyer who was representing Firestone in the Baker case. The 1994 facsimile transmission constituted the first notice which any Firestone lawyer had received that Hash was practicing law in King, N.C. and not in Winson-Salem.

39. Following the discovery of Hash's true address and after conducting some investigation, Prell and other lawyers for Firestone filed motions to disqualify Hash in the Baker, Kelling and Logan cases.

40. Hearings were ultimately held in the Baker and Kelling cases on the motions to disqualify. Hash was represented by counsel in both proceedings and was afforded an opportunity to participate. Following the hearings, the federal judges in Baker and Kelling found that Hash had engaged in ethical misconduct by obtaining assistance and inside information from Downs. Hash was disqualified from proceeding in the Baker, Kelling and Logan cases and was forbidden to accept a fee in any of the three cases.

41. Hash opposed the motions to disqualify him and originally contended that Firestone had brought the motions in bad faith. He also testified at the Kelling disqualification hearing on July 26, 1994 that he had not tried to conceal his relationship with Downs. At the disciplinary hearing herein, however, Hash acknowledged that he did attempt to conceal the office sharing arrangement and his King address from Firestone's lawyers.

Based upon the foregoing Findings of Fact, the hearing committee enters the following:

#### CONCLUSIONS OF LAW

1. The defendant is properly before the hearing committee and the committee has jurisdiction over the person of John L. Hash and the subject matter of this complaint.

2. The defendant's conduct as set out in the Findings of Fact above, constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:

(a) By permitting Downs to assist him and provide legal advice in the Workman case when he knew or should have known that Firestone was not aware of and had not consented to Downs' involvement in the case, and when he knew that Workman was substantially related to prior wheel rim cases in which Downs had represented Firestone, Hash knowingly assisted Downs to engage in conduct which constituted a conflict of interest in violation of Rule 5.1(d), which conduct by Hash violated Rule 1.2(a).

(b) By giving half of the fee in Workman to Downs, when the Workman clients had not agreed to the arrangement in writing, Hash improperly divided a legal fee with a non-partner, in violation of Rule 2.6(d).

Based upon the foregoing Findings of Fact and Conclusions of Law and upon the evidence and argument of the parties concerning the appropriate discipline, the hearing committee hereby makes the additional

## FINDINGS OF FACT REGARDING DISCIPLINE

1. The defendant's misconduct is aggravated by the following factors:

- a. Dishonest or selfish motive;
- b. Submission of false evidence, false statements or other deceptive practices during the disciplinary process;
- c. Refusal to acknowledge wrongful nature of conduct; and
- d. Substantial experience in the practice of law.

2. The defendant's misconduct is mitigated by the following factor:

- a. Absence of a prior disciplinary record.

3. The aggravating factors outweigh the mitigating factor.

Based upon the foregoing aggravating and mitigating factors, the arguments of counsel and the evidence, the hearing committee hereby enters the following

## ORDER OF DISCIPLINE

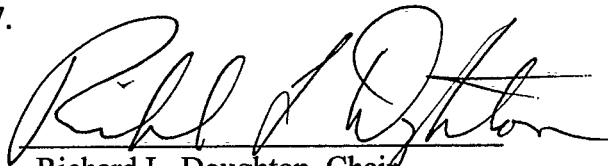
1. The defendant, John L. Hash, is hereby disbarred from the practice of law, effective 30 days from service of this order upon the defendant.

2. The defendant shall submit his license and membership card to the Secretary of the N.C. State Bar no later than 30 days following service of this order upon the defendant.

3. The defendant shall pay the costs of this proceeding as assessed by the Secretary no later than 1 year from the date of this order. Said costs shall include the costs incurred by the N.C. State Bar in obtaining the testimony of its expert witness, Prof. Helen Aristar-Dry and the cost of ensuring the attendance of the State Bar's witnesses at the disciplinary hearing.

4. The defendant shall comply with all provisions of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124 of the N.C. State Bar Discipline & Disability Rules.

Signed by the chair with consent of the other hearing committee members, this the 13 day of August, 1997.



Richard L. Doughton, Chair  
Disciplinary Hearing Committee