

NORTH CAROLINA  
WAKE COUNTY

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BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
90 DHC 20

THE NORTH CAROLINA STATE BAR,  
Plaintiff

vs.

JEFFREY M. GULLER, ATTORNEY  
Defendant

ORDER OF DISCIPLINE

BASED UPON the Findings of Fact and Conclusions of Law entered in this matter of even date herewith, and further based upon evidence offered and arguments of counsel, the hearing committee finds the following:

1. The Defendant was previously disciplined by a hearing committee of the Disciplinary Hearing Commission in June, 1989 in 89 DHC 3. In that matter, the hearing committee found that the most serious allegations of misconduct were caused by Defendant's wife, and that she concealed her misconduct from Defendant.
2. Defendant's wife was also a cause of much of the misconduct in this matter.
3. Defendant's wife, a native of England, has now returned to England, is not likely to return, and is not likely to be a cause for further misconduct in Defendant's law practice.
4. Although Defendant had violated conditions of the stay of the suspension imposed in 89 DHC 3, this hearing committee finds that Defendant should be given another opportunity to practice law outside of the influence of his wife.

THEREFORE, the hearing committee enters the following:

ORDER OF DISCIPLINE

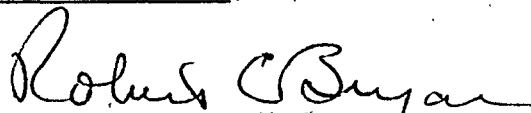
1. The Defendant, Jeffrey M. Guller, is suspended from the practice of law in North Carolina for a period of two years.
2. The suspension of Defendant's license is herewith stayed for a period of three years upon the following conditions:
  - a) Defendant shall not violate any of the Rules

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of Professional Conduct.

- b) Defendant shall employ an independent certified public accountant (CPA), at his own expense, to certify to the North Carolina State Bar each January and each June during the period of the stay that, based upon an audit of Defendant's trust account the CPA can certify that Defendant has complied with Canon X of the Rules of Professional Conduct of the North Carolina State Bar regarding trust accounts. Defendant must authorize the CPA to provide the North Carolina State Bar any requested support for the basis of the CPA's certification as may be deemed necessary.
- c) By January 1, 1994, Defendant shall pay Southern National Bank of Gastonia, North Carolina the debt he owes to them that resulted from a \$58,000 check deposited into Defendant's account at Southern National Bank which was not honored which was a condition of the stay in 89 DHC 3, and the loss incurred as a result of Southern National Bank paying Defendant's checks based upon Defendant's deposit of his wife's \$10,000 check in December, 1989.
- d) Defendant is taxed with the costs in this matter as certified by the Secretary.

Signed by the undersigned chairman with the full knowledge and consent of the other members of the hearing committee this the 24 day of April, 1991.



Robert C. Bryan, Chairman  
Hearing Committee

NORTH CAROLINA

WAKE COUNTY

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THE NORTH CAROLINA STATE BAR, )  
Plaintiff, )

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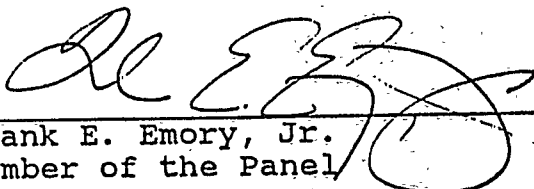
JEFFREY M. GULLER, ATTORNEY )  
Defendant. )

DISSENTING OPINION

I dissent from the findings of the Panel in this matter with respect to the Plaintiff's Second Claim for Relief insofar as it has determined that that the Defendant knew when he received it that the December 18, 1987 check from Jean Guller was invalid in light of the circumstances existing at that time. In my view the evidence was, at a minimum, in equipoise with respect to this finding. Moreover, a reasonable person could conclude that in light of the facts that (i) Jean Guller had recently been convicted of and sentenced for passing worthless checks; (ii) he and Jean Guller have been involved in a protracted disciplinary proceeding before the State Bar; and, (iii) Jean Guller would serve an active prison term if she passed another worthless check, he reasonably relied upon Jean Guller's representation that she had sufficient funds on hand to pay that check.

I concur fully in all other findings and conclusions of the Panel as well as the discipline meted out.

This 25th day of March, 1991.

  
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Frank E. Emory, Jr.  
Member of the Panel