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NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
88 DHC 1

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
vs.)
MONROE M. REDDEN, JR.,)
Defendant)

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

This matter coming on to be heard and being heard on May 27, 1988 before a hearing committee composed of James E. Ferguson, II, Chairman and Powell Majors; with the other member of the hearing committee being absent due to a miscommunication from the Chairman of the Disciplinary Hearing Commission; and with all parties stipulating and agreeing that this matter could be heard by the two members of the hearing committee present; and with A. Root Edmonson representing the North Carolina State Bar and Sam Johnson, Richard J. Vinegar and Harry H. Markins, Jr. representing the Defendant; and based upon the stipulations and the evidence and arguments presented at the hearing, the hearing committee finds the following to be supported by clear, cogent and convincing evidence:

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, Monroe M. Redden, Jr., was admitted to the North Carolina State Bar on August 11, 1951 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 Code of Professional Responsibility and the Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.
3. During all of the periods referred to herein, the defendant was actively engaged in the practice of law in the

State of North Carolina and maintained a law office in the City of Hendersonville, Henderson County, North Carolina.

4. Brenda Jones was a passenger in an automobile driven by Michael Lyle that was involved in a single car accident on September 28, 1980. The police report indicated that Lyle had been traveling at a high rate of speed on a wet road. He lost control of the automobile.

5. Brenda Jones was injured in the accident and was taken to the hospital. She was operated on as a result of the injuries.

6. Several months after the accident, Brenda Jones and her father, Bobby Jones, employed defendant to pursue an action to recover damages for Brenda Jones' injuries. Brenda Jones was a minor at the time of the accident and also at the time defendant was initially employed, having been born on August 24, 1965.

7. Defendant continued to represent Brenda Jones after she reached majority.

8. Defendant failed to negotiate any settlement of either claim.

9. Defendant neglected to file a Complaint on Bobby Jones' or Brenda Jones' behalf prior to the expiration of the statute of limitations on the claims.

10. After the statute of limitations had expired and Brenda Jones continued to make inquiry of Defendant's progress in settling her claim, Defendant contacted Brenda Jones and her father. An appointment was scheduled for Brenda Jones to meet with the Defendant on September 12, 1986.

11. On September 10, 1986, Defendant deposited \$5,000.00 into his trust account, labeled his "attorney account," at Northwestern Bank, account number 0161079634, and designated on the deposit slip that the \$5,000.00 represented money deposited for the "Brenda Jones matter." The \$5000.00 did not come from Lyle or his insurance carrier.

12. On September 12, 1986, Defendant met with Brenda Jones in his office. He represented that \$5,000.00 was available to settle her claim. The settlement was presented by the Defendant to Brenda Jones in such a manner as to suggest to her that the settlement proceeds were coming from an insurance company. Brenda Jones accepted the settlement.

13. At no time prior to the aforementioned September 12, 1986 meeting was Brenda Jones informed by the Defendant, in clear unmistakable terms that she understood, that the statute of limitations had run on her personal injury claim.

14. Defendant wrote Brenda Jones check number 804 dated September 12, 1986, in the sum of \$4000.00 from his attorney account as "Michael D. Lyle Settlement in Full."

15. Also on September 12, 1986, Defendant wrote check number 805 to himself in the sum of \$1,000.00 purportedly as his fee in the Lyle/Jones matter.

16. Defendant had Brenda Jones execute a release.

17. Defendant did not advise Brenda Jones that the funds used in the settlement were actually his funds, nor did he advise her to seek independent counsel to evaluate her claim.

18. Defendant did not explain to Brenda Jones the conflict he had with her when he advised her to accept the "settlement."

BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

(1) The conduct of the Defendant, as set forth above, constitutes grounds for discipline pursuant to N. C. Gen. Stat. §84-28(b)(2) in that the Defendant violated the Code of Professional Responsibility or Rules of Professional Conduct as follows:

(a) By allowing the statute of limitations to run on Bobby Jones's claim for medical expenses arising out of his minor daughter's September 28, 1980 accident without having filed suit on his behalf or settling the matter with Michael D. Lyle on his insurance carrier, defendant neglected a legal matter entrusted to him in violation of DR6-101(A)(3); failed to seek the lawful objectives of his client through reasonably available means in violation of DR7-101(A)(1); failed to carry out a contract of employment entered into with a client for professional services in violation of DR7-101(A)(2); and prejudiced or damaged his client during the course of the professional relationship in violation of DR7-101(A)(3) of the Code of Professional Responsibility.

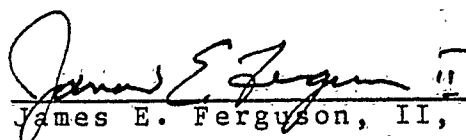
(b) By allowing the statute of limitations to run on Brenda Jones's claim arising out of the September 28, 1980 accident without having filed suit on behalf or settling the matter with Michael D. Lyle or his insurance carrier, defendant failed to act with reasonable diligence and promptness in

representing the client in violation of Rule 6(B)(3) of the Rules of Professional Conduct [neglected a legal matter entrusted to him in violation of DR6-101(A)(3) for conduct occurring prior to October 7, 1985]; failed to seek the lawful objectives of his client through reasonably available means in violation of Rule 7.1(A)(1) [DR7-101(A)(1) for conduct occurring prior to October 7, 1985]; failed to carry out a contract of employment entered into with a client for professional services in violation of Rule 7.1(A)(2) [DR7-101(A)(2) for conduct occurring prior to October 7, 1985]; and prejudiced or damaged his client during the course of the professional relationship in violation of Rule 7.1(A)(3) [DR7-101(A)(3) for conduct occurring prior to October 7, 1983].

- (c) By depositing the \$5,000 into his office account and implying to Brenda Jones that the \$5,000 had been received from Lyle's insurance carrier in an offer of settlement of Brenda Jones's claim, Defendant engaged in conduct involving dishonesty and deceit in violation of Rule 1.2(C).
- (d) By advising Brenda Jones to accept the \$4,000 "settlement" when he was personally liable to Brenda Jones for missing the statute of limitations, defendant represented a client when the representation of that client was materially limited by the lawyers own interests in violation of Rule 5.1(B).
- (e) By settling with Brenda Jones at a time in which he had a conflict of interest with her without fully advising her of her claim against him and without advising her to seek independent counsel, defendant engaged in conduct involving dishonesty, fraud, deceit and misrepresentation in violation of Rule 1.2(C).

(2) The above facts do not constitute a violation of Rule 5.8 and all claims contained in the Second Claim for Relief as set out in the Complaint were abandoned by the North Carolina State Bar and therefore these claims are hereby dismissed.

Signed by the undersigned Chairman with the full accord and consent of the other member of the hearing committee this the 28th day of June, 1988.


James E. Ferguson, II, Chairman

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NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
88 DHC 1

THE NORTH CAROLINA STATE BAR,)	
Plaintiff)	
)	
vs.)	ORDER OF DISCIPLINE
)	
MONROE M. REDDEN, JR.,)	
Defendant)	

BASED UPON the additional evidence offered at the disposition phase of this matter, and the arguments of counsel, the hearing committee makes the following additional findings:

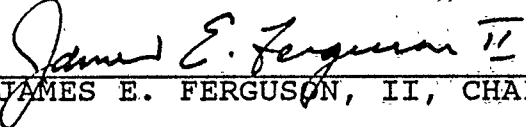
1. The Defendant had practiced law for thirty-five years prior to the offense which gave rise to this action.
2. Based upon the uncontradicted evidence provided by a great number of witnesses involving judges, attorneys, and clients of the Defendant, the Defendant had practiced law with distinction and honor for those thirty-five years.
3. The Defendant's judgment in this matter was impaired and influenced by pressures from his personal domestic difficulties; his increased workload caused by his having to assume responsibility for his father's caseload inasmuch as his father, with whom he alone practiced, was not able to continue to practice at his former capacity due to his age; and his personal physical health, including a diagnosis of an eye disorder presented to him as likely to cause reading blindness just two weeks prior to Defendant's meeting with his client in this matter.
4. Defendant's conduct in this matter which occurred in September, 1986 was an aberration in an otherwise apparent exemplary practice. This aberration was due to the above-listed pressures.
5. The uncontradicted evidence upon the disciplinary stage of the hearing establishes that there is no reasonable likelihood that the Defendant will engage in any further misconduct.

6. Defendant paid Brenda Jones from his own resources an amount satisfactory to her for any civil claims which she had against Defendant prior to the hearing of this matter.
7. The Defendant acknowledged and accepted responsibility for his misconduct and, in testifying at the hearing, appeared to be candid and contrite. The circumstances which produced his wrongful conduct were transitory and are not likely to recur.

BASED UPON the foregoing findings and the Findings of Fact and Conclusions of Law entered of even date herewith, the hearing committee enters the following ORDER OF DISCIPLINE:

1. The Defendant is suspended from the practice of law in North Carolina for six months.
2. Defendant's suspension is stayed for one year upon the following conditions:
 - (a) Defendant shall not violate any of the Rules of Professional Conduct.
 - (b) Defendant shall submit for examination the facts and circumstances surrounding any personal injury settlement at the request of the North Carolina State Bar.
 - (c) If either of the conditions above is violated at any time within one year from the effective date of this order, Defendant shall serve his full six months suspension.
3. Defendant is taxed with the costs of this action as determined by the Secretary.

Signed by the undersigned Chairman with the full accord and consent of the other members of the hearing committee this the 28th day of June, 1988.



JAMES E. FERGUSON, II, CHAIRMAN