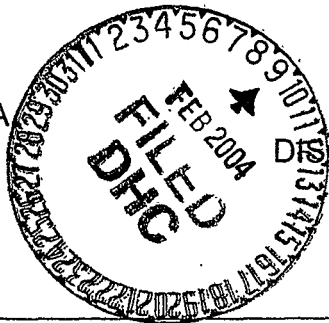


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NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
03 DHC 10

THE NORTH CAROLINA STATE BAR,
Plaintiff,

v.

THOMAS W. JONES, Attorney,
Defendant.

ORDER OF DISCIPLINE OF
DISBARMENT

This matter came before the Hearing Committee of the Disciplinary Hearing Commission composed of T. Paul Messick, Jr., Chair; W. Steven Allen, Sr., and H. Dale Almond on the Plaintiff's Motion for Entry of Order of Discipline of Disbarment. Orville D. Coward, Jr. represented the Defendant, Thomas W. Jones ("Jones" or the "Defendant"). Thomas F. Moffitt represented the Plaintiff (the "State Bar").

In his Answer, Jones admitted the factual allegations in the Complaint, and in his Response to the State Bar's Supplemental Amendment To Complaint, he stated that he (1) did not deny or contest the factual allegations in the Supplemental Amendment to the Complaint, (2) waived his right to a hearing and (3) did not oppose entry of an Order of Discipline disbarring him based on the conduct set forth in the Complaint, as amended. Thus, the pleadings have closed, the facts are not in controversy, and the matter is ready for disposition.

The Hearing Committee hereby makes the following:

FINDINGS OF FACT

1. 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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Jones was admitted to the North Carolina State Bar in 1968, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and

Regulations of the North Carolina State Bar and the Revised Rules of Professional Conduct.

3. During the times relevant to this Complaint, as amended, Jones actively engaged in the practice of law in the State of North Carolina and maintained a law office in the city of Sylva, Jackson County, North Carolina.

FINDINGS OF FACT AS TO COUNT ONE

4. On April 11, 2003, Jones was convicted by a jury in the United States District Court for the Western District of North Carolina of three felonies: (1) aiding and abetting bank fraud in violation of 18 U.S.C. § 1344; (2) making material false statements to influence the actions of a bank in violation 18 U.S.C. § 1014; and (3) conspiracy to commit bank fraud and make false statements to influence the action of a bank in violation of 18 U.S.C. § 371.

5. The conduct for which Jones was convicted related to two loans secured by real estate for which he served as closing attorney.

FINDINGS OF FACT AS TO COUNT TWO

6. On May 7, 1969, Jones was appointed by the Clerk of Court for Jackson County to serve as the guardian for Woodrow Justice, a veteran disabled in World War II. Under the provisions of the Veterans' Guardianship Act, guardians appointed for veterans are required to make annual accountings to court of funds received by the guardian and disbursements made on behalf of the veteran during the year. N.C. Gen. Stat. § 34-10.

7. In 2003 the Clerk of Court for Jackson County, Frank Watson, Jr., discovered that Jones had been embezzling funds from Justice's guardianship/trust funds. Jones admitted to Watson that he had embezzled the funds over the years and that the remaining accounts of Woodrow Justice were short of funds by over \$300,000.

8. Over the years, Jones had made accountings to the court that did not disclose the embezzlements.

9. Embezzlement by a guardian is a criminal offense under state law. N.C. Gen. Stat. § 14-90.

10. Part of the money that Jones embezzled was for disability compensation paid to Justice by the Department of Veterans Affairs. Embezzlement of money the Department of Veterans Affairs pays to a disabled veteran is a crime under federal law, 38 U.S.C. § 6101.

11. On August 11, 2003, a Consent Order of Interim Suspension was filed with the Disciplinary Hearing Commission, which Jones formally accepted on August 15, 2003, and which was filed on August 25, 2003. Incident to this order, Jones submitted his law license and membership card to the State Bar.

Based upon the foregoing Findings of Fact, the Hearing Committee makes the following:

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Committee and the committee has jurisdiction over the Defendant and the subject matter of this proceeding.

2. As to Count One of the Complaint, as amended, the crimes described above for which Jones was convicted:

(a) Are criminal offenses showing professional unfitness as defined in 27 NCAC 1B § .0103 (17),

(b) Constitute professional misconduct and unfitness to practice law for which Jones may be disciplined as provided in N.C. Gen. Stat. § 84-28 (b)(1) and Rule .0115 of the Discipline & Disability Rules of the N.C. State Bar, (27 NCAC 1B § .0115), and

(c) Establish professional misconduct for violation of the Revised Rules of Professional Conduct as provided in N.C. Gen. Stat. § 84-28 (b)(2) in that they show that Jones was guilty of committing criminal acts that reflect adversely on his honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule 8.4 (b).

3. As to Count Two of the Complaint, as amended, Jones' acts and omissions relating to the embezzlement of money from Justice's guardianship/trust funds constitute misconduct and grounds for discipline pursuant to N. C. Gen. Stat. § 84-28 (b) (2) in that he violated the Revised Rules of Professional Conduct as follows:

(a) Jones violated Revised Rule 1.15-2; 1.15-3 in that he failed to properly account for funds he held in a fiduciary capacity as the legal guardian for Woodrow Justice and that he misappropriated over \$300,000 of those funds;

(b) Jones violated Revised Rule 4.1 in that he knowingly made false statements of material fact to cover up his misappropriation of fiduciary funds he held and managed as Woodrow Justice's legal guardian; and

(c) Jones violated Revised Rules 8.4 (a), (b), (c) & (g) in that he committed criminal acts that reflect adversely on his honesty, trustworthiness and fitness as a lawyer, engaged in conduct prejudicial to the administration of justice and intentionally damaged or prejudiced his client during the course of the professional relationship by misappropriating fiduciary funds belonging to Woodrow Justice that Jones administered as Justice's legal guardian.

The Hearing Committee also makes the following:

FINDINGS OF FACT REGARDING DISCIPLINE

1. Jones' conduct is aggravated by the following factors: (a) dishonest motive, (b) multiple offenses, and (c) substantial experience in the practice of law. 27 NCAC 1B. § .0114 (w)(1)(B), (D) & (I).
2. The Hearing Committee does not find that any mitigating factors are present.
3. The aggravating factors substantially outweigh the mitigating factors.
4. Jones' criminal conduct has caused significant harm to his clients and the administration of justice.
5. Jones' misconduct has also harmed the standing of the legal profession by undermining trust and confidence in lawyers and the legal system.
6. Disbarment is the only sanction that can adequately protect the public for the following reasons:
 - (a) An order of discipline less than disbarment would not sufficiently protect the public because Jones' misconduct involved commission of felonious crimes involving moral turpitude and violations of the public trust. The federal criminal convictions were based on fraudulent conduct and material misrepresentations, and the embezzlement of Woodrow Justice's money involved surreptitious theft carried out by a fiduciary over many years. It also constituted a fraud against the courts because Jones made false statements to the clerk of court to conceal his thefts and the true status of Jones' handling of Justice's funds in his capacity as Justice's guardian.
 - (b) Entry of an order imposing lesser discipline would fail to acknowledge the seriousness of the offenses that Jones committed. I would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar in North Carolina.

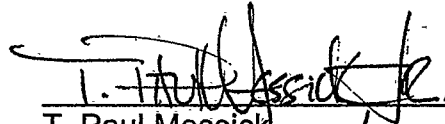
(c) The protection of the public requires that Jones not be permitted to resume the practice of law unless and until he demonstrates that he has reformed, that he understands his obligations to his clients, the public, the courts and the legal profession, and that reinstatement would not injure the standing of the legal profession. Disbarred attorneys must show reformation among other things, before they may resume the practice of law, whereas no such showing of reformation is required of attorneys whose licenses are suspended for a term certain.

Based upon the foregoing Findings of Fact and Conclusions of Law and the Findings of Fact Regarding Discipline, the Hearing Committee enters the following:

ORDER OF DISCIPLINE

1. Thomas W. Jones is hereby DISBARRED from the practice of law.
2. The Secretary of the State Bar shall permanently retain Jones law license and membership card.
3. Jones shall pay the costs of this proceeding as assessed by the Secretary Bar no later than 30 days from service of this order upon Jones.
4. Jones shall comply with all provisions of 27 NCAC 1B § .0124 of the North Carolina State Bar Discipline & Disability Rules ("Discipline Rules").

Signed by the undersigned chairman with the full knowledge and consent of the other Hearing Committee members, this the 29th day of January 2004.



T. Paul Messick
Chairman, Hearing Committee