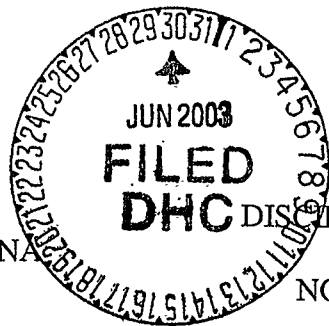


WAKE COUNTY

NORTH CAROLINA



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
03 DHC 05

8731

THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

EVELYN DOVE-COLEMAN, ATTORNEY
Dove-Coleman

)
)
) FINDINGS OF FACT,
) CONCLUSIONS OF LAW
) AND ORDER OF DISCIPLINE
)
)
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This matter was heard on the 23rd day of May 2003, before a hearing committee of the Disciplinary Hearing Commission composed of T. Paul Messick, Jr., Chair; Charles M. Davis and Betty Ann Knudsen. Defendant, Evelyn Dove-Coleman (hereafter, "Dove-Coleman") was not represented and did not attend the hearing. Bobby D. White represented plaintiff, the North Carolina State Bar.

A complaint was filed in this matter on January 23, 2003. Unsuccessful attempts were made to serve Dove-Coleman by certified mail and by Sheriff. Dove-Coleman was served by publication in the Kinston Free Press on March 3, 10, and 17, 2003. Pursuant to N.C. Civ. Pro. Rule 4 and §.0114(e) of the N.C. State Bar Discipline and Disability Rules, Dove-Coleman's answer was due no later than April 14, 2003. Dove-Coleman did not file an answer or other responsive pleadings and on April 23, 2003 the Secretary of the North Carolina State Bar entered an Entry of Default against Dove-Coleman.

Based upon the pleadings, the entry of default, and the evidence introduced at the hearing, the Hearing Committee hereby enters the following:

FINDINGS OF FACT

1. The North Carolina State Bar (hereafter, "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 North Carolina General Statutes and the Rules and Regulations of the North Carolina State Bar.

2. Defendant, Evelyn Dove-Coleman (hereafter, "Dove-Coleman") was admitted to the North Carolina State Bar on September 6, 1979 and was at all times relevant hereto licensed to practice law in North Carolina, subject to the rules, regulations and the Revised Rules of Professional Conduct of the North Carolina State Bar.

3. During all times relevant hereto Dove-Coleman was actively engaged in the practice of law and maintained a law office in Kinston, North Carolina.

4. Dove-Coleman was properly served with process pursuant to N.C. Civ. P. Rule 4 and the hearing was held with due notice to all parties.

5. In 1999, Dove-Coleman was entrusted with fiduciary authority to make all decisions necessary to care for Roberta and Blyden Jackson, (hereafter, Ms. Jackson or Mr. Jackson, respectively, or the Jacksons, collectively). The Jacksons were an elderly couple whom Dove-Coleman had known for several years.

6. On April 4, 1999, Dove-Coleman drafted and had the Jacksons sign a power of attorney in her favor. The power of attorney, which purported to give Dove-Coleman various powers to deal with the Jacksons' real and personal property, was recorded in the Orange County Register of Deeds Office on April 5, 1999.

7. As of April 4, 1999, Ms. Jackson had been in hospitals and nursing homes continuously since August of 1996 and lacked capacity to execute a power of attorney or manage her affairs.

8. Dove-Coleman drafted and obtained the Jacksons' signatures on the power of attorney in an attempt to gain control of the Jacksons' property for her own benefit and/or the benefit of third parties other than the Jacksons without proper authorization.

9. On April 7, 1999, Dove-Coleman prepared a deed conveying the Jacksons' home at 102 Laurel Hill Road, Chapel Hill, N.C. (Laurel Hill Road property) to herself.

10. The Jacksons did not agree to give the Laurel Hill Road property to Dove-Coleman, nor did the power of attorney authorize Dove-Coleman to convey the Jacksons' real property to herself.

11. In June 1999, James Hodges (hereafter, Hodges), who was the son of Ms. Jackson and the stepson of Mr. Jackson, learned that Dove-Coleman had deeded the Laurel Hill Road property to herself and demanded that Dove-Coleman re-convey the property.

12. Although Dove-Coleman promised to convey the property to Hodges in fee simple, Dove-Coleman did not do so. Instead, Dove-Coleman drafted a deed which gave Hodges a life interest in the Laurel Hill Road property and which left Dove-Coleman a remainder interest in the property.

13. Dove-Coleman failed and refused to re-convey her remainder interest in the Laurel Hill Road property.

14. On April 7, 1999, and June 13, 1999 Dove-Coleman withdrew a total of \$50,000 from Ms. Jackson's checking account at Nationsbank (hereafter, checking account), which Dove-Coleman characterized as legal fees.

15. The Jacksons did not authorize the payment of \$50,000 in legal fees, nor did Dove-Coleman provide legal services that would have justified the payment of a \$50,000 fee.

16. On June 14, 1999, Dove-Coleman withdrew \$15,000 from Ms. Jackson's checking account and relayed the money to Constance Eve (Ms. Eve), Ms. Jackson's sister.

17. Ms. Jackson died intestate in July 1999. Mr. Jackson and Hodges remained at the Laurel Hill Road property, except for Mr. Jackson's brief stay at Hillcrest Convalescent Center, Inc. (hereafter, Hillcrest) from June 1 through July 13, 1999. Mr. Jackson died on April 28, 2000. Mr. Jackson's will devised all personal and real property to Hodges in fee simple.

18. As of the date of her death in July 1999, Ms. Jackson was a resident of Hillcrest, which was holding \$90,000 in a fund for the benefit of the Jacksons.

19. Shortly after Ms. Jackson died, Dove-Coleman directed Hillcrest to disburse the entire \$90,000 to Ms. Eve. The power of attorney expired upon the death of Ms. Jackson and Dove-Coleman was not named executrix of Ms. Jackson's estate. Therefore, Dove-Coleman did not have proper authority to direct the release of the \$90,000 to Ms. Eve.

20. In February 1998, Dove-Coleman prepared a will for John J. Hannibal, Jr., (Hannibal).

21. Hannibal died in March 1998. His son, Charles Hannibal, qualified as executor of Hannibal's estate in March of 1999. Dove-Coleman and Fred W. Harrison (Harrison) acted as attorneys for the estate.

22. Harrison opened a general account at Branch Banking & Trust Co. (BB&T account) and a dividend account at Wachovia Bank (Wachovia account) for the estate.

23. In 2001 Harrison retired, leaving Dove-Coleman as the sole attorney for the estate.

24. Between Jan. 3 and Feb. 1, 2001, Dove-Coleman withdrew the entire balance from the BB&T and Wachovia accounts, which totaled \$5,302.95, and closed both accounts.

25. Dove-Coleman misappropriated all or a portion of the \$5,302.95 to her own use and benefit without authorization.

26. In April of 2002, Elizabeth Worthington (Worthington), the attorney for Charles Hannibal, demanded that Dove-Coleman return the \$5,302.95 from the closed BB&T and Wachovia accounts. Dove-Coleman paid Worthington a partial reimbursement of \$4,727.78 of the funds that Dove-Coleman had misappropriated from the Wachovia and BB&T accounts.

27. On May 1, 2002, upon demand from Worthington, Dove-Coleman gave Worthington a personal check for \$575.17 to reimburse the remaining funds that Dove-Coleman had misappropriated from the Wachovia and BB&T accounts.

28. On Feb. 5, 2001, Dove-Coleman received two checks from Putnam Investments totaling \$10,148.68. These checks were made out to the Hannibal estate and were the property of the estate. Dove-Coleman endorsed both checks and misappropriated the proceeds without the knowledge or consent of the executor of the Hannibal estate, the heirs or the Clerk of Court.

29. Dove-Coleman failed and refused to return the \$10,148.68 in check proceeds that she had misappropriated from the Hannibal estate.

In addition to the foregoing Findings of Fact, based upon the evidence introduced at the hearing, the Hearing Committee enters the following:

ADDITIONAL FINDINGS OF FACT REGARDING DISCIPLINE

30. The Defendant's misconduct is aggravated by the following factors:

- a. Dove-Coleman exhibited a dishonest or selfish motive.
- b. Dove-Coleman engaged in a pattern of misconduct, which occurred over several years.
- c. Dove-Coleman has violated multiple provisions of the Revised Rules of Professional Conduct.
- d. Dove-Coleman failed to acknowledge the wrongful nature of her conduct and failed to respond to the State Bar.
- e. Dove-Coleman took advantage of the vulnerability of her client.
- f. Dove-Coleman has substantial experience in the practice of law.
- g. Dove-Coleman has made no attempt to repay either the Jackson or the Hannibal estate and thereby appears indifferent to making restitution.

- h. Dove-Coleman failed to cooperate with the N.C. State Bar in any way and has failed to show remorse.

31. Dove-Coleman's misconduct is mitigated by the following factors:

- a. Absence of a prior disciplinary record;

32. The aggravating factors do outweigh the mitigating factors.

Based on the foregoing Findings of Fact, the Hearing Committee hereby enters the following

CONCLUSIONS OF LAW

1. All parties are properly before the hearing committee and the committee has jurisdiction over Evelyn Dove-Coleman and the subject matter.

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

a. By obtaining Ms. Jackson's signature on a power of attorney in April of 1999 for the purpose of seizing control of the Jacksons' property, at a time when Dove-Coleman knew Ms. Jackson lacked mental capacity to sign the power of attorney, Dove-Coleman engaged in conduct involving dishonesty, fraud, or deceit in violation of Rule 8.4(c).

b. By deeding the Laurel Hill Road property to herself without proper authority, Dove-Coleman engaged in conduct involving dishonesty, fraud or deceit in violation of Rule 8.4(c), and engaged in criminal conduct that reflects adversely on her honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b).

c. By directing that \$90,000 be paid by Hillcrest Convalescent Center to Ms. Constance Eve, without proper authority, Dove-Coleman engaged in conduct involving dishonesty, fraud or deceit in violation of Rule 8.4(c).

d. By misappropriating the proceeds of the Putnam Investment checks and the funds from the Wachovia and BB&T accounts that belonged to the Hannibal estate, Dove-Coleman engaged in criminal acts that reflect adversely on her honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b), engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c), and failed to hold client or fiduciary funds in trust in violation of Rule 1.15-2(b).

3. Dove-Coleman's misconduct caused significant harm to the Jacksons' estate in that real and personal property belonging to the estate was transferred to others requiring legal action by Hodges to recoup estate assets.

4. Dove-Coleman's misconduct caused significant harm to the Hannibal estate in that the heirs to the Hannibal estate were denied the use and enjoyment of funds misappropriated by Dove-Coleman.

5. Dove-Coleman's failure to appear before the Disciplinary Hearing Commission undermines the State Bar's ability to investigate and regulate attorney conduct, the public trust in the disciplinary process, and the privilege of attorneys in North Carolina to remain self-regulating.

6. An order calling for discipline short of disbarring Dove-Coleman from the practice of law would not sufficiently protect the public for the following reasons:

a. Dove-Coleman engaged in multiple violations of the Revised Rules of Professional Conduct over a lengthy period of time, as opposed to an isolated act or mistake, and it therefore appears that her misconduct is the result of a problem or personality defect that is not readily changeable.

b. Dove-Coleman failed to provide any assurances that she has addressed whatever problem or character flaw caused her misconduct and therefore there is a substantial risk that her misconduct would be repeated if she is permitted to continue to practice law.

c. Entry of an order imposing lesser discipline would fail to acknowledge the seriousness of the offenses which Dove-Coleman committed, would be inconsistent with orders of discipline entered by this body in similar cases and would send the wrong message to attorneys regarding the conduct expected of members of the Bar in this State.

d. The protection of the public requires that Dove-Coleman not be permitted to resume the practice of law until she demonstrates that she understands her ethical obligations to her clients, and demonstrates that she is not suffering from any addiction or mental illness or condition that prevents her from practicing law competently.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Additional Findings of Fact Relevant to Discipline, the Hearing Committee enters the following

ORDER OF DISCIPLINE

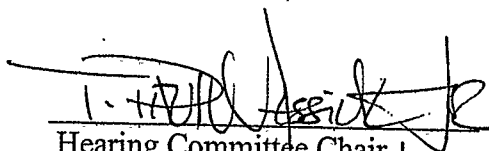
1. Defendant, Evelyn Dove-Coleman, is hereby disbarred from the practice of law beginning 30 days from service of this order upon Defendant.

2. Dove-Coleman shall submit her license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this order upon Defendant.

3. Dove-Coleman shall pay the costs of this proceeding as assessed by the Secretary no later than 30 days following service of this order upon Defendant.

4. Dove-Coleman 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 the consent of the other hearing committee members, this the 26th day of JUNE 2003.


Hearing Committee Chair)