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STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
83 DHC 35

THE NORTH CAROLINA STATE BAR,
Plaintiff

VS.

MARION GOODSON, JR., ATTORNEY,
Defendant

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

FILED
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H. L. JAMES, SEC.
THE N. C. STATE BAR

This cause came on to be heard before a hearing committee of the Disciplinary Hearing Commission of the North Carolina State Bar composed of Robert W. Wolf, Chairman, Francis O. Clarkson, Jr. and Mary Cecile Bridges on Wednesday, October 12, 1983, in the counsel chambers of the North Carolina State Bar Building, 208 Fayetteville Mall, Raleigh, NC.

The plaintiff was represented by L. Thomas Lunsford, II, staff attorney for the North Carolina State Bar. The defendant was present and represented by Allen G. Roberts, Esquire. The committee considered the evidence offered by the parties, the stipulations entered into on a pre-hearing conference and the arguments of their respective counsel. Based upon clear, cogent, and convincing evidence, the committee unanimously makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The plaintiff, the North Carolina State Bar, is a body duly organized under the laws of the state 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, Marion Goodson, Jr., was admitted to the North Carolina State Bar on December 14, 1977, and is and was at all times referred to herein, an attorney at law, licensed to practice law in the state of North Carolina, subject to the rules, regulations, canons of ethics and code of professional responsibility of the North Carolina State Bar and of the laws of the state of North Carolina.

3. At and during all of the times hereinafter referred to, 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 Raleigh, Wake County, North Carolina.

4. That during the period between June 1st, 1982 and August 20, 1982, the defendant maintained a checking account incident to his law practice at the Planters National Bank in Raleigh, North Carolina; that said account was denominated "Marion Goodson, Jr., Trust Account" and was account number 0085-46-141-0784; that said trust account was closed by the Planters National Bank on August 20, 1982.

5. That during the period between June 1, 1982 and September 24, 1982, the defendant maintained a separate checking account at the Planters National Bank in Raleigh, North Carolina; that this account was denominated

"Marion Goodson, Jr." and was numbered 0085-46-745-420-1; that the personal account was closed by the Planters National Bank on September 24, 1982.

6. That plaintiff's Exhibit G composed of subparts 1-159, containing copies of all checks, memorandums of deposit, deposited items, drafts and bank statements, which constitute a complete record of all activity in the personal and trust accounts previously referred to between June 1, 1982 and September 24, 1982 has been admitted into evidence; that the authenticity of each and every item in Exhibit G has been admitted by the defendant; that the defendant has admitted that said item and all subparts therein constitute copies of every item processed in said accounts between June 1, 1982 and September 24, 1982.

7. That by deposit ticket dated June 9, 1982, the defendant deposited a check from Winston Mutual Life Insurance Company in the amount of \$3,000.00 made jointly payable to the defendant and to Shaw University, said deposit having been made to the trust account of the defendant at Planters National Bank; that said check, which was item number two of Exhibit G, represented payment to Shaw University, a client of the defendant, in partial settlement of a legal claim; that none of the aforementioned moneys has ever been paid to Shaw University.

8. That on June 25, 1982, the defendant deposited a check from Allstate Insurance Company in the amount of \$2,750.00, made jointly payable to James W. Mangum and the defendant into the trust account; that said check represented payment to the client, James W. Mangum, in settlement of a personal injury claim; that by trust account check number 1339 the defendant

paid James W. Mangum the sum of \$1,441.00 as his share of the settlement proceeds.

9. That during the period between June 1, 1982 and August 20, 1982, the defendant issued numerous checks on his trust account to satisfy personal obligations such as employees salaries, professional dues and personal business accounts; that the funds drawn from said trust account by means of these checks belonged at least in part to clients of the defendant..

10. That between June 1, 1982, and September 24, 1982, numerous deposits were made by the defendant into the personal account of Planters National Bank; that among these deposits at least seven deposits were made of funds belonging to clients of the defendant.

11. That between June 1, 1982, and September 24, 1982, fifty-eight checks were issued by the defendant against the personal account at Planters National Bank and were presented for payment to and honored by said bank; that in addition thereto said personal account was debited thirteen times to satisfy other obligations.

12. That by deposit ticket dated July 2, 1982, the defendant deposited a check from Southern Bell in the amount of \$3,000.00 made jointly payable to Willie E. Jones and Attorney, Marion Goodson, Jr., the defendant herein, into the personal account at Planters National Bank; that said check represented payment to the client of the defendant, Willie E. Jones, in settlement of a personal injury claim; that said settlement was entered without the knowledge of the defendant's client, Willie E. Jones; that no

portion of this money belonging to Willie E. Jones was paid to or on the account of Willie E. Jones until April, 1983, at which time the defendant gave to the said Willie E. Jones the check for the entire sum of \$3,000.00; that said check was not honored by the Planters National Bank due to insufficient funds; that on October 11, 1983, the evening prior to the date of this hearing, the defendant paid to Willie E. Jones, the sum of \$2,200.00, said payment being partially in cash and primarily in the form of a third party check.

13. That by deposit ticket dated July 2, 1982, the defendant deposited a check from Indiana Lumberman's Company in the amount of \$5,500.00 made jointly payable to Jacqueline Smith and the defendant into the personal account at Planters National Bank, which check represented payment to the said Jacqueline Smith in settlement of a legal claim; that there is no evidence that any check was ever issue on the defendants personal account or trust account payable to the said Jacqueline Smith or on her account.

14. That by deposit ticket dated July 9, 1982, the defendant deposited a check from Holyoke Mutual Insurance Company in the amount of \$4,000.00 made jointly payable to Benny Mitchell and the defendant into the personal account, which check represented payment to the said Benny Mitchell, in settlement of a legal claim; that there is not evidence of any check having been issued on either the personal account or trust account of the defendant to Benny Mitchell or on his account.

15. That by deposit ticket dated July 16, 1982, the defendant deposited a check from the Horace Mann Insurance Company in the amount of \$2,500.00 made jointly payable to Michelle Mangum and the defendant into the defendant's personal account, that said check represented payment to the said Michelle Mangum in settlement of a legal claim; that there is no evidence that any check was ever issued on the defendant's personal account or trust account payable to or on account of Michelle Mangum.

16. That by deposit ticket dated July 29, 1982, defendant deposited a check from Harleysville Insurance Company in the amount of \$4,700.00 made jointly payable to Edith Judge and the defendant into the defendant's personal account; that said check constituted payment to the said Edith Judge in settlement of a personal injury claim; that there is no evidence that any check was ever issued on the defendant's personal account or trust account payable to or for the use and benefit of the said Edith Judge.

17. That by deposit ticket dated August 16, 1982, defendant deposited a check from the North Carolina Farm Bureau Insurance Company in the amount of \$1650.00 made jointly payable to Betty McKnight and the defendant into the defendant's personal account at Planters National Bank; that said check constituted payment to the said Betty McKnight in settlement of a legal claim; that there is no evidence that any check was ever issued on the personal account or trust account of the defendant payable to or for the use and benefit of the said Betty McKnight.

18. That the defendant has committed acts which constitute grounds for discipline pursuant to North Carolina General Statute 84-28(a) and (b)(2),

in that the defendant failed to disburse funds held on account of his clients and used some^{of} these funds for his own benefit, thus engaging in illegal conduct involving moral turpitude in violation of Disciplinary Rule 1-102(A)(3) of the North Carolina Code of Professional Responsibility; that the defendant engaged in professional conduct that adversely reflects on his fitness to practice law in violation of Disciplinary Rule 1-102(A)(6) of the North Carolina Code of Professional Responsibility; that the defendant failed to promptly pay to his clients funds in his possession which the clients were entitled to receive in violation of Disciplinary Rule 9-102(B)(4) of the North Carolina Code of Professional Responsibility; that the defendant issued checks on his trust account to satisfy personal obligations, and to the extent that said funds were withdrawn which belonged to clients, engaged in illegal conduct involving moral turpitude in violation of Disciplinary Rule 1-102(A)(3) of the North Carolina Code of Professional Responsibility; that the defendant engaged in professional conduct that adversely reflects on his fitness to practice law in violation of Disciplinary Rule 1-102(A)(6) of the North Carolina Code of Professional Responsibility; and that the defendant improperly commingled with funds belonging to clients, personal funds or withdrew funds to the extent that he had some personal claim to said funds in violation of Disciplinary Rule 9-102(A) of the North Carolina Code of Professional Responsibility; that the defendant by depositing funds belonging to clients into his personal check account and by using said funds to satisfy his personal obligations, engaged in illegal conduct involving moral turpitude in violation of Disciplinary Rule 1-102(A)(3) of the North Carolina Code of Professional Responsibility.

19. That the hearing committee further finds as fact and based upon the prehearing stipulations of the plaintiff and the defendant the following:

(a) That on November 9, 1982, Ms. Edith M. Judge filed a grievance with The North Carolina State Bar charging the defendant with ethical misconduct.

(b) That on December 6, 1982, the Chairman of the Grievance Committee of The North Carolina State Bar issued a Letter of Notice to the defendant concerning the grievance pursuant to Rule 12 of the Discipline and Disbarment Rules. That on December 6, 1982, the Chairman of the Grievance Committee issued a subpoena to the defendant pursuant to Rule 28(2) of the said Rules commanding the defendant to appear before the Grievance Committee at The North Carolina State Bar Building in Raleigh, North Carolina on the 17th day of December, 1982, at 10:00 a.m. to testify concerning the grievance of Edith Judge and to produce certain financial records pertaining to his handling of the legal affairs of Edith Judge; that both the Letter of Notice and the subpoena were served upon the defendant as evidenced by a copy of the return receipt.

(c) That defendant failed to appear and produce the subpoenaed records on December 17, 1982, and did not advise or attempt to advise the plaintiff of his intention not to appear.

(d) That during a telephone inquiry by counsel for the plaintiff on the afternoon of December 17, 1982, the defendant acknowledged his failure to appear and agreed to present himself and his records at The State Bar Offices on December 20, 1982 at 3:00 p.m.

(e) That on December 20, 1982, the defendant did appear at The State Bar Offices at the appointed time but failed to bring the subpoenaed records. Counsel for the Plaintiff agreed to continue the matter until December 28, 1982 at 2:00 p.m. at which time the Defendant was told to produce the subpoenaed records.

(f) That on December 24, 1982, the Defendant's response to the Letter of Notice was due in accordance with Rule 12; that no response was received on December 24, 1982.

(g) That on December 28, 1982, the defendant failed to appear at the appointed time and did not make available the subpoenaed records; that on December 28, 1982, the Defendant did not communicate or attempt to communicate with the plaintiff in any way concerning his failure to comply with the subpoena.

(h) That on January 21, 1983, counsel for the plaintiff wrote a registered letter to the Defendant reminding the defendant that a response to the Letter of Notice was overdue and that he had failed to comply with the subpoena; that defendant was served with the letter on February 7, 1983, as evidenced by a copy of a return receipt.

(i) That on February 8, 1983, Counsel for the Plaintiff again wrote the Defendant by registered mail, transmitting copies of the Letter of Notice and the subpoena among other items.

(j) That the defendant did not acknowledge or respond to either the letter of January 21, 1983, or the letter of February 8, 1983.

(k) That on March 15, 1983, the defendant finally appeared in the offices of the plaintiff and submitted a written response to the Letter of Notice and also submitted a portion of the subpoenaed materials, including bank statements and cancelled checks, for inspection by the counsel for the plaintiff.

(l) That on March 14, 1983, the Chairman of the Grievance Committee issued a Second Letter of Notice to the defendant relating to certain alleged misconduct in the defendant's handling of the client's money; that the defendant personally accepted service.

(m) That defendant's response to the Second Letter of Notice was due on March 31, 1982, pursuant to Rule 12; that no response from the defendant has been received.

20. That the defendant's misconduct based on the foregoing acts constitutes grounds for discipline pursuant to North Carolina General Statute 84-28(a) and (b)(3), in that the defendant, by failing to answer the letters and notice in timely fashion as required by Rule 12 of the Discipline and Disbarment Rules and by failing to appear pursuant to subpoenas as required by law, failed to answer formal inquiries of the North Carolina State Bar and Disciplinary matters in violation of the North Carolina General Statute 84-28(b)(3) and engaged in professional conduct that adversely reflects on his

fitness to practice law in violation of Disciplinary Rule 1-102(A)(6) of the North Carolina Code of Professional Responsibility.

BASED UPON THE FOREGOING FINDINGS OF FACT, THE COMMITTEE UNANIMOUSLY MAKES THE FOLLOWING CONCLUSIONS OF LAW:

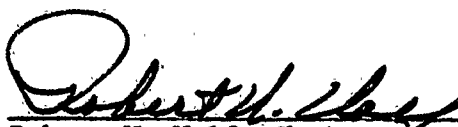
1. That the defendant engaged in conduct constituting grounds for discipline under North Carolina General Statute 84-28(a) and (b), 2 and B(3) in that,

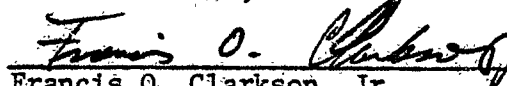
(a) the defendant, Marion Goodson, Jr., did commingle money belonging to clients with personal funds;

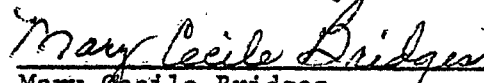
(b) that the defendant, Marion Goodson, Jr., did misappropriate money belonging to clients which was held by him in trust;

(c) that the defendant, Marion Goodson, Jr., did fail to answer formal inquiries of the North Carolina State Bar in connection with the grievance committee's investigation of 82G0327.

This the 14TH day of ~~October~~ ^{November}, 1983.


Robert W. Wolf, Chairman


Francis O. Clarkson, Jr.


Mary Cecile Bridges

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
83 DHC 5

THE NORTH CAROLINA STATE BAR,
Plaintiff

VS.

MARION GOODSON, JR., ATTORNEY,
Defendant

ORDER OF DISCIPLINE

This cause came on to be heard before the undersigned duly appointed members of the Hearing Committee of the Disciplinary Hearing Commission on Wednesday, October 12, 1983, in the Counsel Chambers of the State Bar, 208 Fayetteville Mall, Raleigh, North Carolina.

Based upon the Findings of Fact and Conclusions of Law entered by this Hearing Committee, the Hearing Committee enters this Order of Discipline:

1. The defendant is hereby suspended from the practice of law for a period of three years, effective beginning thirty (30) days from the service of this order upon the defendant or thirty (30) days after the affirmation of this order on appeal.
2. That the defendant shall surrender his license and his permanent membership card to the secretary of the North Carolina State Bar who shall maintain both items in his possession during the period of suspension.
3. That by and with the consent of the defendant, the first

eighteen (18) months of the above ordered suspension shall be active; that the last eighteen (18) months of the above ordered suspension shall be stayed on condition that the defendant shall submit a detailed plan satisfactory to the committee providing for the supervision and handling of clients funds in his trust account.

4. That the costs of this action be taxed to the defendant.

This the 14 day of ~~October~~ ^{November}, 1983.


Robert W. Wolf, Chairman


Francis O. Clarkson, Jr.


Mary Cecile Bridges