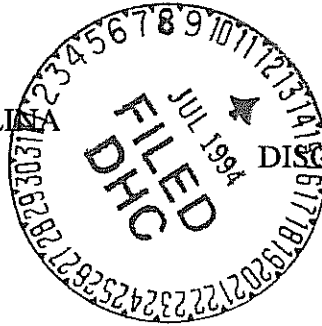


STATE OF NORTH CAROLINA
COUNTY OF WAKE



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
94 BCR 3

IN THE MATTER OF THE PETITION

FOR REINSTATEMENT OF:

RECOMMENDATION OF HEARING COMMITTEE

ROBERT D. HOAGLAND

THIS MATTER coming on to be heard and being heard on June 3, 1994, by a Hearing Committee composed of Paul L. Jones, Chairman; William H. White; and Richard L. Doughton; with the Petitioner, Robert D. Hoagland, present and being represented by R. C. Carmichael, Jr., and with Fern E. Gunn representing the North Carolina State Bar. Based upon the stipulations, evidence presented and arguments of counsel, the Hearing Committee makes the following

FINDINGS OF FACT

1. Petitioner was licensed to practice law in North Carolina on August 1, 1972.
2. Petitioner pled guilty to two counts of tax evasion on March 13, 1987. On May 21, 1987, Petitioner was sentenced to four years in prison and ordered to pay a \$5,000.00 fine. Petitioner evaded paying taxes by hiding his money in savings and investment accounts that he opened in the name of his sister, Carrie Hoagland, and in the name of a deceased man, James R. Morton. Petitioner placed his personal money in the accounts bearing his sister's and Morton's names so that the IRS could not tax him with the interest income earned from those accounts. However, no client money was involved.
3. At her request, Sarah Huffstetler gave Petitioner a check in the amount of \$500.00 to invest for her. Petitioner deposited the check into one of his bank accounts which he opened in the name of James R. Morton, a deceased man. Petitioner testified that he returned \$500.00 with no interest to Ms. Huffstetler.
4. Petitioner was disbarred on April 17, 1987.
5. Petitioner was unconditionally discharged by the agency of the United States government having jurisdiction over him on February 25, 1991. On October 23, 1992, the Clerk of Superior Court of Mecklenburg County issued a certificate evidencing Petitioner's

unconditional discharge and specifying the restoration of his rights of citizenship, pursuant to G.S. Sec. 13-1 and 13-2.

6. Petitioner has complied with the Federal Court's Order regarding his imprisonment and payment of a \$5,000.00 fine.

7. Petitioner's Notice of Intent to Seek Reinstatement was published in the November, 1993, issue of the *North Carolina State Bar Newsletter*.

8. On February 15, 1994, Petitioner filed a Petition for Reinstatement with the North Carolina State Bar.

9. There were no complainants for Petitioner to notify with respect to the disciplinary proceeding which led to his disbarment.

10. The records of the North Carolina State Bar indicate that the Order of Disbarment was not served upon the Petitioner in 1987.

11. The records of the North Carolina State Bar indicate that Petitioner was not sent a statement regarding the costs of the disciplinary action which resulted in Petitioner's disbarment.

12. On November 30, 1992, Petitioner paid \$24.20, the costs in the 1987 disciplinary proceeding which resulted in his disbarment. Petitioner paid the costs after receiving a copy of Dottie Miani's Affidavit.

13. On August 7, 1992, the date that Petitioner filed his first Petition for Reinstatement, and at this hearing, the Petitioner filed an Affidavit with the Secretary of the North Carolina State Bar certifying the steps he took to comply with Section 24 of the Discipline and Disbarment Rules.

14. The North Carolina State Bar has not received any complaints from Petitioner's former clients arising out of the winding down of his practice.

15. Petitioner offered evidence through testimony and affidavits that following his surrender of his license he notified his clients in writing that he would no longer be able to practice law. Petitioner located only one letter that he sent a client.

16. Petitioner did not file with the Secretary of the North Carolina State Bar, within ten days after the effective date of the disbarment order, an affidavit showing that he had complied with the provisions of the disciplinary order, with the provisions of Section 24, and with the provisions of all other state, federal, and administrative jurisdictions to which he was admitted to practice law. Petitioner testified that he did not know at that time that a disbarment order had been entered.

17. Petitioner has been an associate member of the Virginia State Bar since 1962. Petitioner did not inform the Virginia State Bar that he was convicted of a felony or that he was disbarred by the North Carolina State Bar until he wrote the Virginia State Bar by letter dated May 27, 1994. In his letter to the Virginia State Bar, Petitioner states that he did not know he was disbarred in March, 1987, (after he surrendered his law license) because the North Carolina State Bar "failed to send me a notice. I learned about it in 1992 for the first time as a result of my inquiry to the North Carolina State Bar, to which I am applying for reinstatement." This letter was written after counsel for the State Bar notified Petitioner's attorney that the Petitioner had not informed the Virginia State Bar of his conviction or status with the North Carolina State Bar. His failure to notify that organization earlier was not due to any wilful act on his part but resulted from an honest oversight. Petitioner has never practiced law in Virginia and has no present plans to do so.

18. The Petitioner has not engaged in the unauthorized practice of law during the period of his disbarment.

19. Petitioner has regularly attended continuing legal education programs since early 1990, including programs relating to ethics and he has accumulated hours of continuing legal education greatly in excess of that required of active practioners in North Carolina.

20. Since 1989, Petitioner has worked as a paralegal for Frank Walker, an attorney in Charlotte. He has conducted numerous title searches for Walker and has also done legal research for him.

21. The Petitioner has also served as a paralegal for Legal Services of Southern Piedmont in Charlotte since February, 1990. In May, 1994, he was awarded a Certificate of Appreciation for outstanding service to Legal Services of Southern Piedmont, Inc.

22. In 1991, the Petitioner was awarded the degree of Master of Science in Criminal Justice from the University of North Carolina in Charlotte. Since that time, at the invitation of the Chairman of the Department of Criminal Justice, he has given lectures to classes on constitutional law.

23. The Petitioner has volunteered his services to several community organizations: The Homeless Shelter in Charlotte; the Charlotte Correctional Center; and the Mecklenburg County Bar.

24. On May 3, 1972, Petitioner purchased property in Charlotte and put the title to the property in the name of his sister, Carrie Hoagland. Ms. Hoagland was not aware that Petitioner had purchased the property in her name. When this property was sold on May 9, 1977, all proceeds from the sale of the property went to Hoagland.

25. On May 30, 1972, Petitioner purchased his home in Charlotte and placed the title of his home in the name of Carrie Hoagland, his sister. Ms. Hoagland had no ownership interest in Petitioner's home.

26. Petitioner registered his car in the name of Carrie Hoagland. Ms. Hoagland had no ownership interest in the car and she did not know that Petitioner had registered his car in her name.

27. Petitioner testified that he placed his real property and car in his sister's name to maintain "privacy." Petitioner testified that he wanted privacy to avoid potential creditors and/or claimants against him.

28. The title to Petitioner's house remained in his sister's name until two days prior to the first reinstatement hearing held before the Disciplinary Hearing Commission on December 4, 1992. Petitioner prepared a deed whereby his sister deeded his house to him after counsel for the State Bar questioned Petitioner about the situation at a meeting on November 23, 1992, with Petitioner and his attorney.

29. The title to Petitioner's car remained in his sister's name until he changed it to his own name on December 19, 1992.

30. The Petitioner has not engaged in any conduct during the period of disbarment constituting grounds for discipline under G.S. 84-28(b).

BASED UPON THE FOREGOING FINDINGS OF FACT, the Hearing Committee makes the following

CONCLUSIONS OF LAW

1. The Petitioner has proven by clear, cogent and convincing evidence that his citizenship has been restored;

2. The Petitioner has proven by clear, cogent and convincing evidence that he has complied with the orders and judgments of the Federal Court relating to the matters resulting in his disbarment;

3. The Petitioner has proven by clear, cogent and convincing evidence that he has not engaged in the unauthorized practice of law during the period of his disbarment;

4. The Petitioner has proven by clear, cogent and convincing evidence that he understands the current Rules of Professional Conduct;

5. The Petitioner has proven by clear, cogent and convincing evidence that he has complied with all rules governing the publishing of his Notice of Intent to Seek Reinstatement and the filing of his Petition for Reinstatement;

6. The Petitioner has proven by clear, cogent and convincing evidence that he has complied with all applicable orders of the Commission and the Council;

7. The Petitioner has proven by clear, cogent and convincing evidence that he has reformed and presently possesses the moral qualifications required for admission to practice law in this state;

8. The Petitioner has proven by clear, cogent and convincing evidence that permitting him to resume the practice of law within the State will not be detrimental to the integrity and standing of the Bar, to the administration of justice or to the public interests;

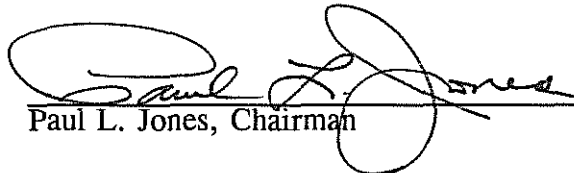
9. The Petitioner has proven by clear, cogent and convincing evidence that he has complied with Section 24 of the Rules of Discipline and Disbarment;

10. The Petitioner has proven by clear, cogent and convincing evidence that he has not engaged in any conduct during the period of disbarment constituting grounds for discipline under G.S. 84-28(b);

11. The Petitioner has proven by clear, cogent and convincing evidence that he has competency and learning in the law. However, it is the decision of the Hearing Committee that the restoration of his license be conditioned upon his successfully passing the North Carolina Bar examination.

WHEREFORE, the Hearing Committee recommends that the license to practice law of Robert D. Hoagland be reinstated, subject to the Petitioner taking and successfully passing the North Carolina Bar examination.

Signed by the undersigned Chairman with the full knowledge and consent of the other members of the Hearing Committee, this the 12th day of July, 1994.


Paul L. Jones, Chairman