

NORTH CAROLINA
WAKE COUNTY

11.0 SEP -5
BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
80 DHC 1

THE NORTH CAROLINA STATE BAR,
Plaintiff,

-vs-

ROBERT D. HOLLEMAN, Attorney,
Defendant.

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

THIS CAUSE coming on for hearing before the undersigned members of the Disciplinary Hearing Commission of the North Carolina State Bar on July 25, 1980, with the Plaintiff being represented by David R. Johnson, Staff Attorney and the Defendant by Claude V. Jones, of the Durham County Bar, the Defendant being present. Pursuant to a pre-trial conference the parties stipulated that the parties are properly before the Hearing Committee and that the sole issue to be determined by the Hearing Committee is the extent of final discipline to be imposed. Based upon the evidence presented and arguments of counsel, the Committee hereby finds the following facts:

1. That 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, Robert D. Holleman, was admitted to the North Carolina State Bar on September 13, 1935, 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 Durham, Durham County, North Carolina.

4. On September 7, 1976, the Defendant was named as a co-defendant in an eighteen (18) count criminal indictment in the United States District Court for the Middle District of North Carolina, file number CR 76-238-D.

5. On March 30, 1977, the Defendant was convicted of Counts 1, 3, 5, 8, and 9 of the indictment. Count 1 of the indictment charged the Defendant of conspiring with four others to:

a. Wilfully misapply and cause to be misapplied for their own personal use and benefit and to the use and benefit of others the monies, funds, and credits of First Federal Savings and Loan Association of Durham, North Carolina, with intent to injure and defraud said Association; in violation of Title 18, United States Code, Sections 657 and 2.

b. Cause false entries and statements to be made on the records and reports of First Federal Savings and Loan Association with intent to injure and defraud said Association and to deceive officers, agents and examiners of the Federal Home Loan Bank Board, a regulatory agency of the United States; in violation of Title 18, United States Code, Sections 1006 and 2.

c. Defraud the United States of its right to have the laws pertaining to the regulation of Savings and Loan Associations insured by the Federal Savings and Loan Insurance Corporation administered honestly, fairly, and free from corruption, deceit, craft and trickery; the acts of the conspiracy commencing on or about January 11, 1973, and continuing thereafter to May 30, 1974.

Counts 3, 5, 8, and 9 of the indictment charged violations of Title 18, United States Code, Sections 657 and 2, wilfull misapplication of monies, funds and credits of a savings and loan association which association has its deposits insured by the Federal Savings and Loan Insurance Corporation.

6. That the crimes for which the Defendant was convicted as set out above were serious crimes as defined in Section 3(30) of the Discipline and Disbarment Rules of the North Carolina State Bar.

7. That the United States Court of Appeals affirmed the District Court Judgment on January 30, 1979.

8. That the Supreme Court of the United States denied the Defendant's Petition for Writ of Certiorari on October 1, 1979.

9. That the Defendant received notice that the Supreme Court denied the Petition for Writ of Certiorari on or about October 15, 1979.

10. That the Defendant voluntarily informed the North Carolina State Bar that he was aware of and would abide by Rule 15(1) of the Discipline and Disbarment Rules of the North Carolina State Bar by letter addressed to B. E. James, Secretary-Treasurer of the North Carolina State Bar, dated October 22, 1979.

11. On December 6, 1979, a Final Order imposing a prison term in a jail-type institution for three (3) months on each count to run concurrently was entered by the Court. The terms of the Final Order also provided for a period of probation of four (4) years upon the completion of the jail-type sentence and that a special condition of probation that the Defendant participate for the duration of his probation in a meaningful community service program as directed by the Probation Officer was imposed. The Defendant entered into his three (3) month jail-type confinement on February 28, 1980, and was released on or about May 15, 1980.

12. During the period of more than 44 years during which the Defendant practiced law in North Carolina, he ^{otherwise} conducted himself in an exemplary manner, both prior to and after the indictment, and that the members of the Durham community still hold him in great esteem and rapport.

Based upon the foregoing findings of fact the Hearing Committee makes the following conclusions of law:

1. The Hearing Committee has jurisdiction of the person and of the subject matter pursuant to North Carolina General Statute 84-28(a).

2. The Defendant's conviction of the crimes described are conclusive evidence of the Defendant's guilt of those crimes in this disciplinary proceeding pursuant to Rule 15(2) of the Discipline and Disbarment Rules of the North Carolina State Bar.

3. The crimes of which the Defendant was convicted are serious crimes as defined by Rule 3(30) of the Discipline and Disbarment Rules.

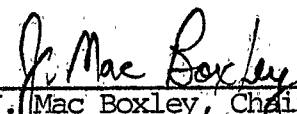
4. That under Rule 15(3) of the Discipline and Disbarment Rules the sole issue before the Hearing Committee is the extent of final discipline to be imposed.

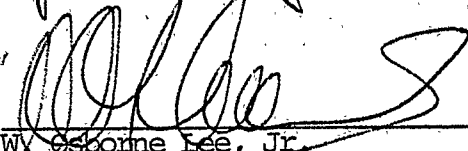
5. Grounds for the imposition of discipline exist under North Carolina General Statute 84-28(b) (1) and (2) and Rule 15 of the Discipline and Disbarment Rules in that the Defendant was convicted of a serious criminal offense showing professional unfitness, which conviction was affirmed on appeal and

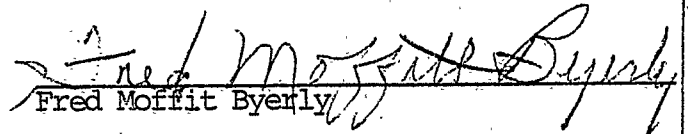
from which no further appeals may be taken and the Defendant engaged in illegal conduct involving moral turpitude and in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Disciplinary Rule 1-102(A) (3) and (4) of the Code of Professional Responsibility of the North Carolina State Bar.

6. That under Rule 15 of the Discipline and Disbarment Rules the Defendant was suspended from the practice of law on or about October 1, 1979, when the conviction of the crimes became final by the United States Supreme Court's denial of the Defendant's Petition for Writ of Certiorari.

This the 21st day of August, 1980.


J. Mac Boxley, Chairman


W. Osborne Lee, Jr.


Fred Moffit Byerly

NORTH CAROLINA

WAKE COUNTY

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ROBERT D. HOLLEMAN, Attorney,
Defendant.

ORDER

BASED upon the foregoing Findings of Facts and Conclusions of Law,
the undersigned Hearing Committee hereby ORDERS that:

1. The Defendant, Robert D. Holleman, be and is hereby suspended
from the practice of law in the State of North Carolina for two (2) years
commencing on October 15, 1979. The license of the Defendant will be
delivered to B. E. James, Secretary-Treasurer of the North Carolina State
Bar, within thirty (30) days of service of this order upon the Defendant.

2. The Defendant may not petition the Council of the North Carolina
State Bar for reinstatement before July 25, 1981.

3. The Defendant may accept employment as a paralegal provided
that such work does not constitute the unauthorized practice of law under
the laws of the State of North Carolina; that the Defendant does not have
any direct client contact; that the Defendant does not have any direct
contact with client funds; and that the Defendant does not derive any
profit, gain, recompense, or salary of any type, or wage of any type, other
than reimbursement of expenses, during the course of such employment.

4. A certified copy of this ORDER will be forwarded to the Clerk of
the Superior Court of Durham County for recording in the judgment docket and
filed with the Clerk of the Supreme Court in accordance with Rule 23 of
the Discipline and Disbarment Rules and North Carolina General Statutes
§84-32,

It is further ORDERED that the Defendant be taxed with the costs of this proceeding.

This the 21st day of August, 1980.

J. Mac Boxley
J. Mac Boxley, Chairman

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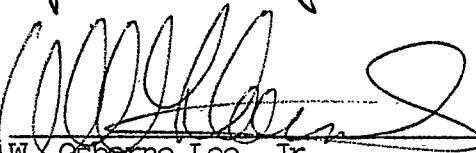
ORDER


The Hearing Committee upon its own motion pursuant to Rule 60 of the Rules of Civil Procedure hereby modifies that part of the ORDER previously entered in this cause relating to the time when the Defendant may apply for reinstatement such that:

2. The Defendant may petition for reinstatement to the State Bar Council in a timely manner prior to the third quarterly meeting in 1981, scheduled at the time of the entry of this Order for July 17, 1981, but not prior to the second quarterly meeting in 1981, scheduled at the time of the entry of this Order for April 17, 1981, the exact dates of said meetings being subject to change by resolution of the Council.

This the 21st day of August, 1980.


J. Mac Boxley, Chairman


W. Osborne Lee, Jr.


Fred Moffit Byerly