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B.E. James, Sec.  
The NC State Bar

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
84 DHC 9

IN THE MATTER OF

LARRY EUBANKS,  
ATTORNEY AT LAW

PUBLIC CENSURE

This Public Censure is delivered to you pursuant to §23 of the Rules of Discipline and Disbarment of the North Carolina State Bar as ordered by a Hearing Committee of the Disciplinary Hearing Commission following the hearing in the above-captioned proceeding on December 14, 1984, in which the Hearing Committee found that you had violated certain provisions of the Code of Professional Responsibility of the North Carolina State Bar.

The fact that a Public Censure is not the most serious discipline provided for under N. C. Gen. Stat. §84-28 and the Rules of the North Carolina State Bar should not be taken by you to indicate that the North Carolina State Bar in any way feels that your conduct in this matter was excusable or was considered by the members of the Hearing Committee of the Disciplinary Hearing Commission to be less than a very serious and substantial violation of the Code of Professional Responsibility. You undertook to represent your client, Bonnie Davis McGee, in settling her claim with the Michigan Miller's Mutual Insurance Company for fire damage to the residence which she owned and was occupied by her mother. After successfully negotiating a satisfactory agreement with the insurance company and receiving the draft, you failed in your duties to your client to fully protect her interests. First, your client had instructed you to deliver \$9,000 to her upon completion of the transaction. Second, your client had instructed you to deliver to her son the balance of the proceeds due her. Instead of depositing your client's funds in a trust bank account, permitting the draft to clear, and disbursing the funds in a manner in which you could be assured that the funds were properly disbursed and could account for the funds, you permitted a third party to receive the draft in a negotiable form upon receipt of \$8,000 - \$12,000, the exact amount of which you do not know to this day, and the promise that additional funds would be delivered to your client later. Your client did not receive those funds. Your client then retained the services of other counsel who demanded an accounting for the funds from you which you failed to provide. In fact, you failed to maintain any records from which you could produce an accounting for these funds and you have yet to account for the proceeds.

The Code of Professional Responsibility specifically requires that you deposit all funds of clients that you received into a trust account,, that you maintain complete records as to the disbursement of those funds, and that you account fully and completely for the receipt and disbursement of those funds.

Disciplinary Rules 9-102(A) and (B). By failing to deposit the insurance company draft in a trust account in this case, you violated the Disciplinary Rule. Further, by virtue of the fact that the funds were not deposited into your trust account and could not be accounted for, you have neglected legal matters entrusted to you and prejudiced or damaged your client in the course of a professional relationship in violation of Disciplinary Rules 6-102(A)(3) and DR7-101(A)(3). Your conduct was unprofessional. Not only did it violate the letter of the Disciplinary Rules of the Code of Professional Responsibility of the North Carolina State Bar, but also the spirit. It was not such conduct as is expected of a member of the legal profession. It brought discredit upon you, tended to place your fellow members of the Bar in disrepute, and damaged the reputation of the Bar in the eyes of the public.

The practice of law is a privilege and a responsibility which should not be taken lightly. Self-discipline by the Bar is one of the responsibilities of the practicing Bar undertaken to assure the public of the integrity of those who have been admitted to the practice. Your failure to conduct yourself within the bounds of the Code of Professional Responsibility was your error here. Strict compliance with the Code will help to insure that your conduct will never be questioned. You placed your privilege to serve the public as a lawyer in serious jeopardy.

The North Carolina State Bar is confident that this Public Censure will be heeded by you, that it will be remembered by you, and that it will be a benefit to you. We are confident that you will never again allow yourself to depart from strict adherence to the highest standards of the legal profession. Accordingly, we sincerely trust that this Public Censure, instead of being a burden, will actually serve as a profitable reminder to weigh carefully your responsibility to the public, your clients, your fellow attorneys, and the court, with the result that you will be known as a respected member of our profession whose word and conduct can be relied upon without question. Pursuant to §23 the Rules of Disciplinary Procedure, it is ordered that a certified copy of this Public Censure be entered upon the judgment docket of the Superior Court of Forsyth County and also upon the minutes of the Supreme Court of North Carolina.

This the 8<sup>th</sup> day of February, 1985.

Naomi S. Morris  
Naomi Morris, Chairman  
The Disciplinary Hearing Commission