

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
88 DHC 15

THE NORTH CAROLINA STATE BAR
Plaintiff,

vs.

SIDNEY VERBAL II, ATTORNEY
Defendant

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

This matter coming was heard on November 3, 1988, before a Hearing Committee of the Disciplinary Hearing Commission composed of John B. McMillan, Chairman, Fred Folger, Jr., and Sam L. Beam with Carolin D. Bakewell representing the North Carolina State Bar and the Defendant, Sidney Verbal, II, not appearing in person or by Counsel. Based upon the admissions of the Defendant deemed by his default for failure to file an Answer or other pleading in this matter and based upon the evidence offered at the hearing, the Hearing Committee finds the following Findings of Fact by clear, cogent and convincing evidence:

1. 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, Sidney Verbal, II, (hereafter Verbal), was admitted to the North Carolina State Bar in 1975 and is an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During all of the periods referred to herein, Verbal was actively engaged in the practice of law in the City of Charlotte, Mecklenburg County, North Carolina.

4. Verbal undertook to represent Pat Atilano, whose minor son, John Harvey, was injured in a motor vehicle accident in Charlotte, North Carolina on February 19, 1986.

5. Nationwide Mutual Insurance Company forwarded to Verbal a check for \$3,250 in settlement of the Harvey-Atilano claim on or about May 26, 1987.

6. On June 3, 1987, Verbal deposited the \$3,250 settlement check into his trust account, number 001464650, North Carolina National Bank, Charlotte, North Carolina.

7. After the settlement check was deposited, the balance in Verbal's trust account was \$11,385.

8. Verbal never paid any part of the \$3,250 in settlement proceeds to Ms. Atilano, despite her requests for payment.

9. The balance in Verbal's trust account as of May 31, 1988, was zero.

10. On October 6, 1987, Verbal was served with a Letter of Notice concerning his representation of Ms. Atilano and with a subpoena ordering production of Verbal's files relating to Ms. Atilano.

11. Verbal failed to appear and produce records relating to Ms. Atilano, as commanded by the subpoena and failed to respond to the Letter of Notice.

Based upon the foregoing Findings of Fact the Hearing Committee makes the following Conclusions of Law:

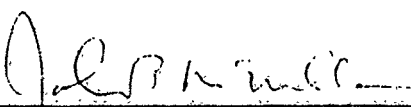
(a) By misappropriating the proceeds of a settlement draft sent to him by Nationwide Mutual Insurance Company for his client, Pat Atilano, Verbal committed a criminal act which reflects adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects, in violation of Rule 1.2(B) and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of Rule 1.2(C).

(b) By refusing to deliver to Ms. Atilano her share of the settlement proceeds, Verbal failed to promptly pay to the client funds belonging to the client, in violation of Rule 10.2(E).

(c) By refusing to respond to the Letter of Notice, Verbal failed to answer a formal inquiry issued in the name of the North Carolina State Bar, in violation of G.S. 84-28(b)(3).

(d) By refusing to respond to the subpoena served on him on October 6, 1987, Verbal is in contempt of the Grievance Committee of the North Carolina State Bar, in violation of G.S. 84-28(b)(3).

Signed by the undersigned Chairman with the full accord and consent of the other members of the Hearing Committee this the 15th day of November, 1988.



John B. McMillan, Chairman
For the Committee

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ORDER OF DISCIPLINE

This matter was heard on November 3, 1988, before a Hearing Committee composed of John B. McMillan, Chairman, Fred Folger, Jr., and Sam L. Beam. Based upon the Findings of Fact and Conclusions of Law entered by the Hearing Committee the following Order of Discipline is entered:

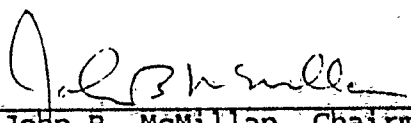
1. That Defendant, Sidney Verbal, II, is disbarred from the practice of law in North Carolina.

2. The Defendant, Sidney Verbal, II, shall forthwith surrender his license and permanent membership card to the Secretary of the North Carolina State Bar.

3. The Defendant, Sidney Verbal, II, shall comply with the provisions of Section 24 of Article 9 of the Rules and Regulations of the North Carolina State Bar.

4. The Defendant, Sidney Verbal, II, is hereby taxed with the costs of this action.

Signed by the undersigned Chairman with the consent of the other members of the Hearing Committee, this the 15th day of November, 1988, nunc pro tunc to the 3rd day of November 1988.


John B. McMillan, Chairman

#539