

STATE OF NORTH CAROLINA
COUNTY OF WAKE

FILED
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B.E. JAMES, SEC.
THE N.C. STATE BAR

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
84G 0348(III)

IN THE MATTER OF

CECIL R. JENKINS, JR.,
ATTORNEY AT LAW

PUBLIC CENSURE

CORRECTED COPY

At its regular quarterly meeting on January 16, 1985, the Grievance Committee of the North Carolina State Bar conducted a preliminary hearing under Section 13 of the Discipline and Disbarment Rules of the North Carolina State Bar regarding the grievance filed against you by John C. Surles. The Committee considered all of the evidence before it, including your written statement to the Committee. Pursuant to Section 13(10) of the Discipline and Disbarment Rules, the Committee found probable cause. Probable cause is defined under the Discipline and Disbarment Rules as: "A finding by the Grievance Committee that there is reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action." The rules also provide that if, after a finding of probable cause, the Committee determines that a complaint and a hearing are not warranted, the Committee may issue a public censure upon the acceptance of the same by the attorney. That determination has been made by the Committee and the Committee issues this Public Censure to you.

As Chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this Public Censure and I am certain that you understand fully the spirit in which this duty is performed, that you will understand the censure, and appreciate its significance. The fact that a public censure is not the most serious discipline that may be imposed by the North Carolina State Bar should not be taken by you to indicate that any member of the Committee feels that your conduct was excusable or less than a serious and substantial violation of the Code of Professional Responsibility.

In January, 1983, you opened an interest bearing trust account at Wachovia Bank and Trust Company. You made an initial deposit into this account on January 5, 1983 with funds you had received on behalf of your clients in five cases. You made distribution of your clients' funds in a reasonably timely manner, but without distributing any of the interest earned on the clients' funds to those clients. You left most of your fees generated by these cases in this trust account to continue to draw interest.

In March, 1983, you placed the proceeds of another case into this trust account which became commingled with the fees which you had left in the account since January, 1983. You made timely distribution of those proceeds to your clients, but without distributing any interest to these clients.

In making distribution of some of the clients' funds from this interest-bearing trust account, you first transferred the funds to your office account from which distribution was made. This caused the clients' funds to be commingled with your office funds.

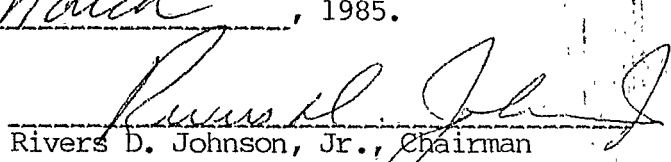
By commingling clients' funds with funds belonging to you or your law firm, you violated DR 9-102(A). By failure to distribute interest earned on your clients' funds to those clients you violated DR 9-102(B). You violated DR 9-102(B) even though you eventually paid all of your clients their interest after receiving a Letter of Notice from the North Carolina State Bar.

Your conduct was unprofessional. It violated not only the letter of the Code of Professional Responsibility but also its spirit. Your conduct was not the conduct expected of a member of the legal profession and an officer of the court. It brought discredit upon you, the profession, and the courts. It damaged both your reputation and the profession's. It placed your privilege to serve the public as a lawyer in serious jeopardy.

The Committee is confident that this Public Censure will be heeded by you, that it will be remembered by you, and will be beneficial to you. The Committee is confident that you will never again allow yourself to depart from strict adherence to the highest standards of the profession. Instead of being a burden, this Public Censure should serve as a profitable and everpresent reminder to weigh carefully your responsibilities to your clients, to the public, to your fellow attorneys, and to the courts.

Pursuant to Section 23 of the Discipline and Disbarment Rules, it is ordered that a certified copy of this Public Censure be forwarded to the Superior Court of Cabarrus County for entry upon the judgment docket and to the Supreme Court of North Carolina for entry in its minutes. This Public Censure will also be maintained as a permanent record in the judgment book of the North Carolina State Bar. Pursuant to policy adopted by the Council of the North Carolina State Bar on the taxing of costs in cases where discipline is entered by the Grievance Committee, you are hereby taxed \$50.00 as the administrative costs in this action.

This the 15 day of March, 1985.


Rivers D. Johnson, Jr., Chairman
The Grievance Committee