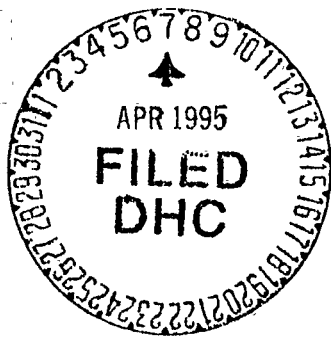


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BEFORE THE
Y HEARING COMMISSION
OF THE
AROLINA STATE BAR
94 DHC 18

vs.

**FINDINGS OF FACT
AND
CONCLUSIONS OF LAW**

FINDINGS OF FACT

4. Moses filed no Answer or responsive pleading.

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5. On March 31, 1995, the North Carolina State Bar received a report from Bob DeMonbreun, Ph.D., a clinical psychologist with the Department of Veterans Affairs Medical Center dated March 29, 1995. While that report shows some impairment, it does not show that Moses is disabled.

6. Until July, 1993, Moses was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Greensboro, Guilford County, North Carolina.

7. Prior to May 6, 1993, Moses undertook to represent Sabrina Armstrong (hereinafter Armstrong) regarding her claims for personal injury arising out of a bus accident which occurred in February, 1991.

8. On May 6, 1993, State Farm Mutual Automobile Insurance Company issued a check payable to Armstrong and Moses in the amount of \$1,317.50 in payment of Armstrong's medical payment claim (hereafter, med pay check). The med pay check was sent to Moses.

9. Armstrong endorsed the med pay check and directed Moses to use the proceeds to pay the medical bills incurred as a result of her injuries.

10. On May 14, 1993, Moses deposited the \$1,317.50 med pay check into an office account which he maintained at Southern National Bank (hereafter SNB office account). This deposit was credited to Moses' SNB office account on May 17, 1993. Moses' SNB office account was not a lawyer trust account maintained pursuant to Rule 10.1 of the NC Rules of Professional Conduct.

11. At the time the med pay check was deposited on May 14, 1993, the balance in Moses' SNB office account was \$284.92.

12. On May 14, 1993, Moses wrote check number 1033 payable to "CDM Acct." in the amount of \$500.00. Moses deposited this check into an account at Southern National Bank, account number 351-585763 (hereinafter CDM account), which he shared with two other attorneys with whom he shared office space. The CDM account was maintained by these attorneys for use in paying their shared office expenses.

13. There were no other funds on deposit in the SNB office account from which check number 1033 could be paid other than the funds of Armstrong. Moses appropriated to his own use funds he held in a fiduciary capacity to pay Armstrong's medical providers.

14. On May 17, 1993, Nationwide Insurance issued a check payable to Armstrong and Moses in the amount of \$3,300.00 in full accord and satisfaction of all claims Ms. Armstrong had against Nationwide's insured (hereinafter Nationwide check). The

Nationwide check was sent to Moses.

15. Armstrong endorsed the Nationwide check and left it with Moses to make the appropriate disbursements necessary to conclude her case.

16. On June 3, 1993, Moses deposited the \$3,300.00 Nationwide check into his SNB office account.

17. On June 3, 1993, Moses wrote check 1039 on the SNB office account in the amount of \$2,336.09 to Armstrong as the net proceeds in her case.

18. On June 3, 1993, Moses issued check 1040 drawn on the SNB office account in the amount of \$630 to Dr. George Kilpatrick in payment of health care services provided to Armstrong.

19. On June 3, 1993, Moses issued check 1041 drawn on the SNB office account in the amount of \$53.20 to Guilford Radiology on behalf of Armstrong.

20. On June 3, 1993, Moses issued check 1043 to Accu-Word Court Reporting Service in the amount of \$50.00 on behalf of Armstrong.

21. On June 3, 1993, Moses issued check 1044 drawn on the SNB office account in the amount of \$465 to Chen's Pain & Rehabilitation Clinic in payment of health care services provided to Armstrong.

22. On June 3, 1993, Moses issued check number 1046 drawn on the SNB office account in the amount of \$238.40 to Wesley Long Hospital in payment of health care services provided to Armstrong.

23. On June 3, 1993, Moses issued check number 1047 drawn on the SNB office account in the amount of \$50 to pay Armstrong's ambulance charge.

24. Checks numbered 1046 and 1047 were returned for insufficient funds and were not paid.

25. Moses did not issue replacement checks to cover checks numbered 1046 and 1047. No portion of the \$238.40 has been paid to Wesley Long Hospital and no portion of the \$50 has been paid to Guilford County for the ambulance bill. No part of these amounts have been refunded to Armstrong.

26. Moses' office account at SNB was closed with a zero balance on or about July 6, 1993.

27. Moses appropriated to his own use funds he received in a fiduciary capacity to pay the obligations of Armstrong.

28. In July, 1993, Moses abandoned his law practice and left Greensboro.

29. On February 24, 1994, Moses was served with a Letter of Notice by certified mail requiring him to respond within fifteen days to a grievance related to his handling of Armstrong's funds. Moses was also served by certified mail on the same date with a subpoena for cause audit requiring Moses to produce all records relating to his handling of Armstrong's funds on March 15, 1994.

30. Moses did not respond to the Letter of Notice or the subpoena.

BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

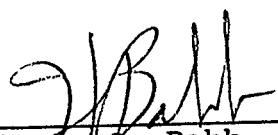
1. The Defendant is not disabled pursuant to Sec. 3(R) of Article IX of the Rules and Regulations of the North Carolina State Bar.

2. The conduct of the Defendant, as set out above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. Sec. 84-28(b)(2) in that Defendant's conduct violates the N. C. Rules of Professional Conduct as follows:

- (a) By failing to place Armstrong's funds which he received in a fiduciary capacity into a trust account, Moses failed to preserve funds of a client received in a fiduciary capacity in a lawyer trust account in violation of Rules 10.1(A) & (C).
- (b) By appropriating to his own use funds of Armstrong's which he held in a fiduciary capacity in his SNB office account leaving some of Armstrong's obligations unpaid, Moses committed a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer in violation of Rule 1.2(B); engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 1.2(C); and failed to preserve funds a client received in a fiduciary capacity in a lawyer trust account in violation of Rules 10.1(A) & (C).
- (c) By failing to respond to the Letter of Notice or subpoena, Moses knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 1.1(B).

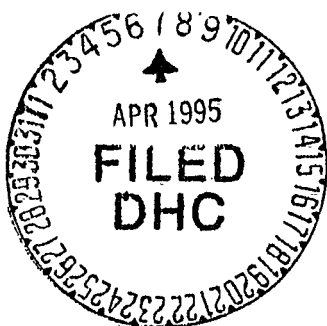
Signed by the undersigned Chairman with the full knowledge and consent of the other members of the hearing committee this

the 7 day of April, 1995.



Henry C. Babb, Jr.
Chairman, Hearing Committee

NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
94 DHC 18.

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

PINKNEY J. MOSES, Attorney
Defendant

ORDER
OF
DISCIPLINE

Based upon the Findings of Fact and Conclusions of Law of even date herewith; the hearing committee, composed of Henry C. Babb, Jr., Chairman, L. Patten Mason, and A. James Early, III, finds the following:

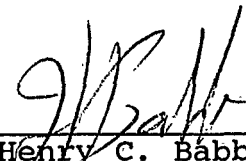
FACTOR NEITHER IN AGGRAVATION NOR MITIGATION

While there is evidence that Defendant suffered from substance abuse just prior to leaving Greensboro, but in the absence of any evidence from the Defendant that substance abuse was an impairment that caused his misconduct, the evidence of substance abuse was not considered either in aggravation or in mitigation.

BASED UPON all of the factors listed above, the hearing committee enters the following ORDER OF DISCIPLINE:

1. The Defendant, Pinkney J. Moses, is DISBARRED from the practice of law in North Carolina.
2. The Defendant shall forthwith surrender his license certificate and membership card to the Secretary.
3. The Defendant is taxed with the costs of this hearing as assessed by the Secretary.

Signed by the undersigned Chairman with the full knowledge and consent of the other members of the hearing committee this
the 7 day of April, 1995.


Henry C. Babb, Jr.
Chairman, Hearing Committee