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STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
85G 0073(I)

IN THE MATTER OF

ROSEBON D. B. WHEDBEE,
ATTORNEY AT LAW

PUBLIC CENSURE

At its regular quarterly meeting on April 10, 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 William E. West, Jr. 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.

You have admitted that you have used your trust account at Tarheel Bank and Trust Company in Ahoskie, North Carolina for the deposit of your personal funds, during the period from March, 1984 through January 21, 1985. At least two checks were written from this trust account to make personal payments on your house. Your admitted reason for using the trust account in this manner was to avoid an IRS tax lien that had been placed on your regular business accounts.

The purpose of a trust account of an attorney is to hold, in trust, those funds which rightfully belong to the attorney's client. Commingling of a lawyer's funds in the trust account jeopardizes the client's funds by potentially subjecting them to the reach of the lawyer's creditors. That danger came close to reality in this case. Personal funds of the attorney

should not be deposited in the attorneys trust account except for those reasons delineated in Disciplinary Rule 9-102(A)(1) and (2).

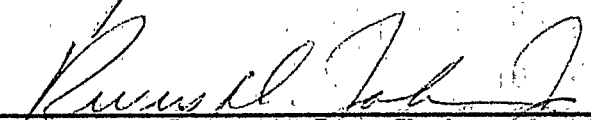
Your conduct in this matter was unprofessional. It violated, in particular, the letter and spirit of Disciplinary Rules 9-102(A)(1) and (2). Your conduct was not the conduct expected of a member of the legal profession, as you hold a sacred trust of your client's funds. The Grievance Committee believes that there was no misappropriation of your clients' funds. However, the appearance and probability of such an impropriety is a very real possibility under the facts of your situation. As you are aware, a lawyer should refrain from any action which gives the slightest appearance of impropriety.

Again, your use of your trust account should be solely under the restrictions stated in Disciplinary Rule 9-102. A lawyer's trust account should never be used for any ulterior motives, such as circumventing the actions of a governmental agency.

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 Hertford 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 10 day of May, 1985.


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