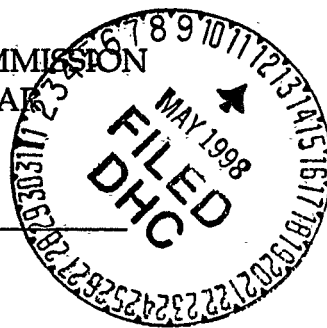


3311

WAKE COUNTY  
NORTH CAROLINA

BEFORE THE DISCIPLINARY HEARING COMMISSION  
OF THE NORTH CAROLINA STATE BAR  
98 DHC 9



THE NORTH CAROLINA STATE BAR, )  
Plaintiff )  
v. )  
JAMES LARKIN PAHL, )  
ATTORNEY )  
Defendant )

CONSENT FINDINGS OF FACT  
AND CONCLUSIONS OF LAW  
AND ORDER OF DISCIPLINE

This matter was heard by the consent of the parties before a hearing committee of the Disciplinary Hearing Commission composed of Franklin E. Martin, Chair; Fred H. Moody, Jr. and B. Stephen Huntley. The Defendant was represented by Alan M. Schneider. The plaintiff was represented by Clayton W. Davidson, III. Based upon the consent of the parties, the hearing committee hereby enters the following:

#### FINDINGS OF FACT

1. The Plaintiff, the North Carolina State Bar (the "State Bar"), is a body duly organized under the laws of the State of North Carolina and is the proper body to bring this proceeding under the authority granted to it in Chapter 84 of the General Statutes of North Carolina and the rules and regulations of the State Bar promulgated pursuant thereto (the "State Bar Rules and Regulations").

2. The Defendant, James Larkin Pahl (the "Defendant"), was admitted to the State Bar in August, 1972 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina subject to the State Bar Rules and Regulations and the Rules of Professional Conduct of North Carolina.

3. During all or a part of the relevant periods referred to herein, Defendant was engaging in the practice of law in the State of North Carolina and maintained a law office in Raleigh, North Carolina.

4. In 1996, Defendant was an equity partner in the firm of Smith, Debnam, Hibbert & Pahl, L.L.P. located in Raleigh, North Carolina ("SDHP").

5. SDHP was owned by three equity partners, namely the Defendant, Thurston Debnam and Carl Hibbert (the "Equity Partners"). The remaining individuals designated as "partners" in SDHP had no ownership interest, contributed no capital, and received an agreed upon salary. Only the Equity Partners received compensation as a percentage of profits.

6. Each of the three Equity Partners had an equal right to share in the profits of SDHP.

7. In 1996, Thurston Debnam was chairman of SDHP's Executive Committee (the "Chairman").

8. Equity Partners have never been authorized by SDHP to deposit directly into their personal bank accounts checks written by clients for fees or expenses and made payable to SDHP.

9. On or about November 22, 1996, the Defendant deposited to his personal account at Wachovia Bank a check in the amount of \$2,000 made payable to SDHP and which was written to the firm for legal fees by one of the firm's clients. The deposit was made without the knowledge and consent of the other equity partners.

10. On or about November 25, 1996, the Defendant attempted to deposit into his personal bank account at Wachovia another check in the amount of \$10,000.00 which was made payable to SDHP and was written by one of SDHP's clients for payment to the firm of legal fees. An employee at Wachovia Bank informed the Chairman of the attempted deposit, and the Chairman instructed the bank not to allow the deposit.

11. The Defendant has made unauthorized deposits into his personal account of other checks made payable to SDHP without the knowledge or consent of the other Equity Partners on the following occasions:

a. On or about October 16, 1996, the Defendant deposited to his personal account at Wachovia a check in the amount of \$9,421.95 which had been made payable to SDHP and which was written by a client as a retainer for services to be rendered.

b. On or about September 27, 1996, the Defendant deposited to his personal account at Wachovia a check in the amount of \$10,000.00 made payable to SDHP and which was written by a client as a retainer for services to be rendered.

c. On or about March 21, 1996, the Defendant deposited to his personal account at Wachovia a check in the amount of \$10,000 made payable to SDHP written by a client for payment of legal fees and expenses.

12. Despite the fact that Defendant contends that at the time he retained the funds in question, he was owed earned but undistributed income and capital contributions, the Defendant nevertheless owed a fiduciary obligation to the Equity Partners at SDHP which included an obligation to account to SDHP for any such funds received, and an obligation not to use SDHP funds for purposes other than for the business of SDHP. The Defendant violated those fiduciary obligations by appropriating the funds of SDHP to his own use without the knowledge and consent of the other Equity Partners.

Based upon the foregoing Findings of Fact, the hearing committee enters the following:

#### CONCLUSIONS OF LAW

1. All parties are properly before the hearing committee and the committee has jurisdiction over the Defendant and the subject matter.

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

a. By appropriating SDHP funds to his own use, the Defendant engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 1.2(c).

b. By appropriating SDHP funds to his own use, the Defendant engaged in conduct that is prejudicial to the administration of justice in violation of Rule 1.2(d) of the North Carolina Rules of Professional Conduct.

Based upon the foregoing Findings of Fact and Conclusions of Law and the consent of the parties, the hearing committee hereby enters the following:

#### ORDER OF DISCIPLINE

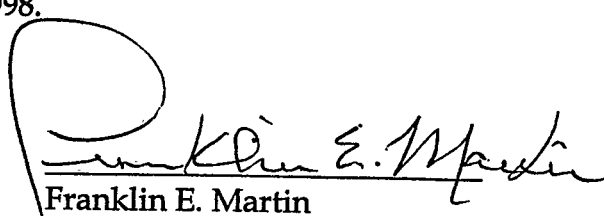
1. The Defendant, James Larkin Pahl, is hereby disbarred from the practice of law which disbarment shall be effective June 14, 1998.

2. The Defendant shall submit his license and membership card to the Secretary of the North Carolina State Bar by June 14, 1998.

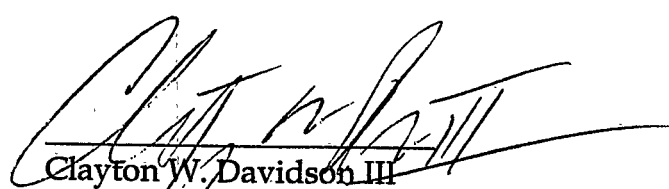
3. The Defendant shall pay the costs of this proceeding as assessed by the Secretary within thirty days following the service of the assessment of costs on the Defendant.


4. The Defendant shall comply with all provisions of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124 of the N.C. State Bar Discipline & Disability Rules, provided however, that the Defendant waives the requirement of service of this order upon him, and this order of disbarment shall be effective June 14, 1998 at which time the Defendant shall cease the practice of law.

Signed by the chair with the consent of the other hearing committee members, this the 11<sup>th</sup> day of May 1998.

  
Franklin E. Martin  
Hearing Committee Chair

CONSENTED TO:

  
Clayton W. Davidson III  
Attorney for the Plaintiff

  
Alan M. Schneider  
Attorney for the Defendant

  
James Larkin Pahl, Defendant