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NORTH CAROLINA

WAKE COUNTY

FILED

1986 DEC 12 AM 10:28

S.E. JAMES, SEC.
NORTH CAROLINA STATE BAR

BEFORE THE

DISCIPLINARY HEARING COMMISSION
OF THE

NORTH CAROLINA STATE BAR
86 DHC 11

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

WALTER OLIVER MELVIN,
Defendant

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

This matter coming on to be heard and being heard on December 12, 1986 in the the Council Chambers, 3rd Floor of the North Carolina State Bar Building, 208 Fayetteville Street Mall, Raleigh, North Carolina before a hearing committee of the Disciplinary Hearing Commission composed of John B. McMillan, Chairman, Maureen Murray, and Alice Penny; and

BASED UPON the Default of Defendant for his failure to file Answer in this action and the evidence offered at the hearing, the hearing committee finds the following by clear, cogent, and convincing evidence:

FINDINGS OF FACT

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, W. Oliver Melvin, was admitted to the North Carolina State Bar on March 18, 1977 and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, and Code of Professional Responsibility of the North Carolina State Bar and the laws of the State of North Carolina.

3. During all of the periods referred to herein, the Defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Fayetteville, Cumberland County, North Carolina.

4. On June 12, 1986, Defendant was convicted of two counts of felony embezzlement in violation of N.C. Gen. Stat. §14-90 upon a plea of no contest to each of the felonies.

5. On June 12, 1986, Judge Henry V. Barnette, Jr. entered judgment in the above-referenced cases in the Superior Court of Cumberland County, file numbers 85 CRS 4327 and 85 CRS 48762.

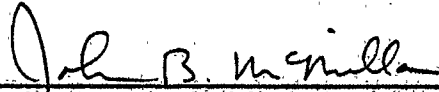
6. The crimes Defendant was convicted of are serious crimes as defined in §3(30) of Article IX of the Rules and Regulations of the North Carolina State Bar (The Red Book).

7. The crimes Defendant was convicted of are criminal offenses showing professional unfitness.

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

- (a) Defendant's conduct, as set out above, constitutes grounds for discipline pursuant to NCGS §84-28(b)(1) in that each of the offenses for which Defendant was convicted were criminal offenses showing professional unfitness.
- (b) Defendant's conduct, as set out above, constitutes grounds for discipline pursuant to NCGS §84-28(b)(2) in that Defendant engaged in illegal conduct involving moral turpitude in violation of DR1-102(A)(4) of the Code of Professional Responsibility.

Signed by the undersigned Chairman with the full accord and consent of the other members of the hearing committee this the 12th day of December, 1986.



John B. McMillan, Chairman

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ORDER OF DISCIPLINE

This matter coming on to be heard and being heard on December 12, 1986 before a hearing committee composed of John B. McMillan, Chairman, Maureen Murray, and Alice Penny; and based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW entered by the hearing committee of even date herewith; and further based upon arguments presented in the second phase of the hearing, the hearing committee enters the following ORDER OF DISCIPLINE:

- 1). The Defendant, Walter Oliver Melvin, is hereby DISBARRED from the practice of law in North Carolina.
- 2). The Defendant, Walter Oliver Melvin, shall forthwith surrender his license and permanent membership card to the Secretary of the North Carolina State Bar.
- 3). The Defendant, Walter Oliver Melvin, shall comply with the provisions of §24 of Article IX of the Rules and Regulations of the North Carolina State Bar.
- 4). The Defendant, Walter Oliver Melvin, is hereby taxed with the costs of this action.

Signed by the undersigned Chairman with the full accord and consent of the other members of the hearing committee this the 12th day of December, 1986.


John B. McMillan

STATE OF NORTH CAROLINA

In The General Court of Justice

☐ District ☒ Superior Court

File No

84-CRS-3247

Pitt

County Greenville

Seat of Court

File No

84-48-1205

STATE VERSUS

JUDGMENT SUSPENDING SENTENCE

Defendant
Garry Thomas Pegram☐ Misdemeanor☐ Special Probation

Race

White

Sex

Male

Age

40

☒ Fair Sentencing Act Felony☐ Pre-Fair Sentencing Act Felony

Attorney for State

Donald Stephens

☐ Def. found not indigent☐ Def. waived attorney

Attorney for Defendant

Jeffrey Miller

☒ Retained☐ Appointed

Thomas Haiswood

Norman Kellum

In open court the defendant appeared for trial on the following File No(s) and Charge(s) (include dates of offenses)

84-CRS-3247 Obtain Property by False Pretense (2-8&10-84)

The Defendant ☐ freely, voluntarily, and understandingly pled guilty to ☐ was found guilty by the court of: ☐ was found guilty by the jury of: ☒ pled no contest to

Offenses	G.S. No	Fel. Misd	Fel. class	Max. Prison Term	Presumptive Term
Corporate Malfeasance	14-254	Fel.	G	15 yrs.	4 yrs & 6 mos.

☐ The above listed offenses are consolidated for the purpose of judgment.

The Court having considered evidence, arguments of counsel, and statement of the defendant ORDERS AND ADJUDGES that the defendant be

imprisoned for a Term of **Three (3) years**In the custody of the ☒ N.C. Dept. of Correction ☐ Sheriff of _____ County.☐ and that the defendant shall pay the costs.☐ and that the defendant shall pay a fine of \$ _____☒ The defendant shall be given credit against this sentence for 0 days spent in confinement prior to this day.

For Use With Fair Sentencing Act Felonies Only: The Court has considered the aggravating and mitigating factors in G.S. 15A-1340.4(a) and

☐ makes no written findings because the prison term imposed is pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.☐ makes no written findings because the prison term imposed does not require such written findings.☐ makes written findings set forth on the Findings of Factors in Aggravation and Mitigation of Punishment (AOC-CR-303).

The execution of this sentence is suspended; and, the defendant is placed on:

☒ Supervised Probation for 3 years.☐ Unsupervised Probation for _____ years.☐ And, with the consent of the defendant, the entry of judgment of guilty is withheld pursuant to G.S. 90-96.☐ Special Supervised Probation for _____ years; and, as a special condition of probation, the defendant shall immediately serve a _____ term of imprisonment as specified below

Active Prison

In the custody of the

Term of

☐ N.C. Dept. of Correction☐ Sheriff of _____**A TRUE COPY**
CLERK OF SUPERIOR COURT
PITT COUNTY

During the period of probation, the defendant shall comply with the regular and special conditions of probation set out below

REGULAR CONDITIONS OF PROBATION — G.S. 15A-1343(b)

1. Pay to the Clerk of Superior Court the following sums:

Fine	Costs	As reimbursement for his court appointed attorney or public defender.	Restitution	Supervision Fee	Total Amount Due
\$	\$ 96.00	\$	\$ 5000.00	SEE #9	\$ 5096.00

☒ Name(s) and Addresses of Person(s) to Receive Restitution.☐ Perform reparations as set out below:

L. Allen Hahn, 200 W. Third St., Greenville, N. C.

2. Pay the total amount due pursuant to a payment schedule ☐ determined by the probation officer. ☒ set out by the Court below:Pay at a rate of no less than \$1500.00 per year to be paid in full within 3 years.☐ 3. Pay to the Clerk of Superior Court support for the persons named below as follows

Support for	In the amount of	Payment Schedule
\$	\$	

4. Commit no criminal offense in any jurisdiction. 5. Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269 without the written permission of the court. 6. Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip him for suitable employment. 7. Remain within the jurisdiction of the court unless granted written permission to leave by the court or his probation officer. 8. Report as directed by the court or his probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment. 9. Pay \$10 per month for probation supervision to the Clerk of Superior Court. 10. Notify the probation officer if he fails to obtain or retain satisfactory employment. 11. At a time to be designated by his probation officer, visit with his probation officer a facility maintained by the Division of Prisons. 12. Obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned. 13. Report to a probation officer in the State of North Carolina within 72 hours of his discharge from the active term of imprisonment. (Note: The regular conditions of probation apply to every defendant placed on probation unless the judge specifically provides otherwise, except that (1) conditions 7, 8, 9, 10, and 11 do not apply to a defendant on Unsupervised Probation, and (2) conditions 12 and 13 apply only to a defendant on Special Supervised Probation.)

SPECIAL CONDITIONS OF PROBATION — G.S. 15A-1343(b1)

- ☐ 14. Surrender his driver's license to the Clerk of Superior Court for transmittal to the Division of Motor Vehicles and not operate a motor vehicle in this State for a period of _____.
- ☐ 15. Not operate a motor vehicle in this State until he has been licensed to do so by the Division of Motor Vehicles.
- ☐ 16. Submit at reasonable times to warrantless searches by a probation officer, of his person, his vehicle or premises while he is present for the following purposes which are reasonably related to his probation supervision:
- ☐ stolen goods ☐ controlled substances ☐ contraband ☐ _____
- ☐ 17. Not use, possess or control any illegal drug or controlled substance unless it has been prescribed for him by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any such illegal drugs or controlled substances, and, not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept or used.
- ☐ 18. Successfully pass the General Education Development Test (G.E.D.) within _____ months.
- ☒ 19. Perform 320 hours of community or reparation service within 3 ^{years} ~~xxx~~ as follows: Perform community service in vocation approved by his probation officer that will best utilize his vocational training.
- ☒ 20. Other special conditions:
- (a) Defendant as of this day is disbarred from the practice of law. Any reinstatement is to be done pursuant to the rules and regulations of the state bar.
- (b) Remain gainfully employed at a job requiring his services for a minimum of _____ hours per week. If he ceases to be full time gainfully employed, he is to immediately notify his probation officer and accept such employment as his probation officer obtains for him.
- (c) Violate no laws of the State or federal government for a period of 3 years for which penalty exceeds 60 days in prison.

☐ Upon payment of the "Total Amount Due," the Probation Officer may transfer the defendant to Unsupervised Probation.

☐ A fee (including expenses) of \$ _____ was awarded the defendant's appointed counsel or public defender at a hearing in open court at which the defendant was present.

☐ IT IS ORDERED that the clerk deliver three copies of this Judgment to the Sheriff or other qualified officer and that the officer cause the defendant to be delivered, with these copies of the judgment, to the custody of the agency named on the reverse to serve the active prison term or until he shall have complied with the conditions for release pending appeal.

☐ The defendant gives notice of appeal to the Superior Court. The current Pre-Trial Release Order shall remain in effect. G.S. 15A-1431(e).

Date 11-26-84	Name of Presiding Judge David E. Reid, Jr.	Signature of Presiding Judge <i>David E. Reid, Jr.</i>
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I certify that this Judgment ☐ and attached Findings of Factors in Aggravation and Mitigation of Punishment (AOC-CR-303) is a true and complete copy of the original document(s) on file in this case.

Date of Certification	Date copies delivered to Sheriff	Signature and Seal
		<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk of Superior Court

Note: All defendants on supervised probation must sign below. Defendants on unsupervised probation must sign below only if required to perform community or reparation service.

I, the undersigned, do hereby certify that the defendant has been advised of his rights and that he has voluntarily accepted the conditions of probation and that he understands the consequences of failure to comply with the conditions of probation.

I, the undersigned, do hereby certify that the defendant has been advised of his rights and that he has voluntarily accepted the conditions of probation and that he understands the consequences of failure to comply with the conditions of probation.

I, the undersigned, do hereby certify that the defendant has been advised of his rights and that he has voluntarily accepted the conditions of probation and that he understands the consequences of failure to comply with the conditions of probation.

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