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NOTE

A New Standard for Disbarments: Misappropriation Through Gross Negligence - *North Carolina State Bar v. Ford*

INTRODUCTION

Stealing or misusing client's money has long been the cardinal sin of practicing lawyers.¹ Bar disciplinary boards, keenly aware that misappropriation erodes the public's confidence in the legal profession, usually take swift action to curb that misconduct. A finding of misappropriation, particularly when accompanied by clear signs of dishonest behavior by an attorney, is usually followed by disbarment, absent extreme extenuating circumstances.²

In North Carolina, any misappropriation severe enough to warrant disbarment has always been accompanied by a finding that the lawyer acted with dishonest intent or motive.³ In other words, the State Bar has always found the disbarred lawyer had the specific intent to take or misuse client funds.⁴ However, on September 16, 1994, the North Carolina State Bar's Disciplinary Hearing Commission (DHC) broke from that pattern. For the first time in its history, a DHC hearing committee disbarred a lawyer for gross negligence in handling and overseeing his trust account. *North Carolina State Bar v. Ford*⁵ signals the State Bar's willingness to apply the ultimate sanction of disbarment to any North Carolina lawyer whose reckless bookkeeping leads to misappropriation—even where intent is lacking.

1. *Reid v. Miss. State Bar*, 586 So. 2d 786 (1991). In disbarring a lawyer for misappropriation, the court stated: "[Embezzlement] is the capital crime of a lawyer to his profession." *Id.* at 788.

2. *See, e.g., In re Wilson*, 409 A.2d 1153 (N.J. 1979); *In re Addams*, 579 A.2d 190 (D.C. 1990); *Attorney Grievance Comm'n of Maryland v. Bakas*, 593 A.2d 1087 (Md. App. 1991). *See also* ABA/BNA *LAWYERS MANUAL ON PROFESSIONAL CONDUCT* No. 133, 45:506 (1993).

3. *See, e.g., 90 DHC 21; 93 DHC 2; 84 DHC 4; North Carolina State Bar v. Mulligan*, 101 N.C. App. 524, 400 S.E.2d 123 (1991).

4. While specific intent to misappropriate client funds was always an element in past disbarments, it was not necessary that the lawyer directly take the money. In at least one case, the Disciplinary Hearing Commission disbarred an attorney who directed his support staff to misappropriate funds. *See North Carolina State Bar v. Johnson*, 90 DHC 2.

5. 94 DHC 4.

THE CASE

On August 12, 1994, a hearing committee of the DHC⁶ of the North Carolina State Bar held a formal proceeding in the case of David P. Ford.⁷ Ford was charged with misappropriation of client funds, failing to maintain clients' funds in his trust account, failing to pay over sums owed to a client or third party as directed, and failing to properly supervise an employee.⁸

Licensed in 1977, Ford practiced law and maintained an office in Long Beach, North Carolina.⁹ From April, 1991 to May, 1992 he employed a secretary, Charlene Teal.¹⁰ It was during the period of her employment that a pattern of misconduct developed. The DHC hearing committee found that on several occasions money intended for real estate closings or other legal matters was deposited in Ford's trust account but not disbursed as requested by clients.¹¹ Neither Teal nor Ford had permission to use the proceeds for their benefit or that of a third party.¹²

In several instances, Ford's secretary wrote checks and endorsed them with Ford's signature.¹³ The evidence was conflicting as to whether Ford knew about Teal's check-writing activities. Teal testified she began signing checks on Ford's trust account, either in his name or her name, shortly after she began working for him in April, 1991.¹⁴ She testified that she signed, endorsed and cashed checks drawn on Ford's trust account at his request and direction, and deposited checks drawn on Ford's trust account into his business account at his request and direction.¹⁵ For his part, Ford testified that he neither authorized nor knew that Teal had written those checks and signed his name to them.¹⁶ He claimed that he first learned on April 24, 1992 that Teal was writing checks and endorsing his name.¹⁷

What Ford knew about Teal's check-writing activities was immaterial to the hearing committee's ultimate conclusion. The committee determined Ford's inattentiveness to his office financial records was

6. The composition, powers and duties of a hearing committee are set out in the RULES, REGULATIONS AND ORGANIZATION OF THE NORTH CAROLINA STATE BAR, art. IX, §§ 8.A.2, 9 (1994).

7. The rules for a formal hearing by the DHC are set out in the RULES, REGULATIONS AND ORGANIZATION OF THE NORTH CAROLINA STATE BAR, art. IX, § 14 (1994).

8. 94 DHC 4.

9. *Id.* at Findings of Fact 2-3.

10. *Id.* at Finding of Fact 4.

11. *Id.* at Findings of Fact 5-56.

12. *Id.*

13. *Id.* at Findings of Fact 21, 24, 36, 44, 55.

14. *Id.* at Findings of Fact 66.

15. *Id.* at Finding of Fact 67.

16. *Id.* at Findings of Fact 22, 25, 37, 45, 56.

17. *Id.* at Finding of Fact 68.

the underlying reason he did not uncover improprieties sooner. The evidence that Ford had neglected the financial operations of his law office was overwhelming. For example, clients directed Ford to pay various costs related to the closings, such as title insurance premiums, taxes, and surveyor's fees.¹⁸ Ford or Teal wrote checks to cover those costs, but the checks were never mailed.¹⁹ An investigator at the State Bar found the unmailed checks in Ford's client files.²⁰ Ford admitted he only reviewed his trust account records every four months,²¹ and reconciled trust account balances every six months.²² He also testified he checked his regular business account records even less frequently.²³ The committee found that the misappropriation of clients' funds resulted from Ford's "gross negligence in handling their funds, including monitoring and maintaining his trust account."²⁴

In disbaring Ford, the hearing committee found that by failing to preserve and maintain funds of various clients in his trust account and by failing to pay or deliver funds to those clients as they directed, Ford violated several Rules of Professional Conduct, including Rule 10.1(A) and (C) and Rule 10.2(E).²⁵ Other violations of Rule 10.2(E)

18. *Id.* at Finding of Fact 58.

19. *Id.* at Finding of Fact 59.

20. *Id.*

21. *Id.* at Finding of Fact 60.

22. *Id.* at Finding of Fact 62.

23. *Id.* at Finding of Fact 61.

24. *Id.* at Finding of Fact 74.

25. *Id.* at Conclusions of Law (a) and (b). Rule 10.1(A) states:

Any property received by a lawyer in a fiduciary capacity shall at all times be held and maintained separately from the lawyer's property, designated as such, and disbursed only in accordance with these rules. These rules shall not be generally applicable to a lawyer serving as a trustee, personal representative or attorney in fact. However, a lawyer serving in such a fiduciary role must segregate property held in trust from property belonging to the lawyer, maintain the minimum financial records required by Rules 10.2(B) and (C) and instruct any financial institution in which property of a trust is held in accordance with Rule 10.2(F). The financial records referred to above shall be subject to audit for cause and random audit in accordance with the Rules and Regulations of the North Carolina State Bar.

Rule 10.1(C) states:

All money or funds received by a lawyer either from a client or from a third party to be delivered all or in part to a client, except that received for payment of fees presently owed to the lawyer by the client or as reimbursement for expenses properly advanced by the lawyer on behalf of the client, shall be deposited in a lawyer trust account. No funds belonging to the lawyer shall be deposited into the trust account or accounts except:

(1) Funds sufficient to open or maintain an account, pay any bank service charges, or pay any intangibles tax, or

(2) Funds belonging in part to a client and in part presently or potentially to the lawyer. Such funds shall be deposited into the trust account, but the portion belonging to the lawyer shall be withdrawn when the lawyer becomes entitled to the funds unless the right of the lawyer to receive the portion of the funds is disputed by the client, in which event the disputed portion shall remain in the trust account until the dispute is resolved. Rule 10.1(E) states:

Any property or securities belonging to a client received by a lawyer shall be promptly identified and labeled as the property of the client and placed in a safe deposit box or other

were found for his failure to pay county taxes for one client in a closing and failing to disburse funds he received in a fiduciary capacity.²⁶ The committee also concluded that by failing to adequately supervise Teal so as to prevent the misappropriation of his clients' funds, he violated Rule 3.3(B).²⁷ Significantly, no violation of Rule 1.2(C)²⁸ was found by the commission.

BACKGROUND

A. Pertinent Rules and Definitions

Central to the *Ford* disciplinary action was misappropriation of client funds. Misappropriation in the context of the legal profession has been defined as "[t]he unauthorized, improper or unlawful use of funds or property for purposes other than that for which intended . . . including not only stealing but also unauthorized temporary use for [the] lawyer's own purpose, whether or not he derives any gain or benefit therefrom."²⁹ Misappropriation includes defalcation³⁰ as well as conversion.³¹ When looking at misappropriation of client funds by attorneys, several courts have adopted the definition of misappropriation

place of safekeeping as soon as practicable. The lawyer shall notify the client of the location of the property kept for safekeeping by the lawyer. Any safe deposit box used to safekeep client property shall be located in this state unless the client consents in writing to another location. The lawyer shall not keep any of his or his law firm's property which is not clearly identified in such safe deposit box or other place of safekeeping.

NORTH CAROLINA RULES OF PROFESSIONAL CONDUCT (1994).

26. 94 DHC 4, Conclusions of Law (b) and (c).

27. *Id.* at Conclusions of Law (d). Rule 3.3, entitled "Responsibilities Regarding Nonlawyer Assistants," states:

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(A) A partner in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer;

(B) A lawyer having direct supervisory authority over a nonlawyer shall make reasonable efforts to ensure that the nonlawyer's conduct is compatible with the professional obligations of the lawyer; and

(C) A lawyer shall be responsible for conduct of such a nonlawyer that would violate the Rules of Professional Conduct if engaged in by a lawyer if:

(1) The lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) The lawyer is a partner in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

NORTH CAROLINA RULES OF PROFESSIONAL CONDUCT (1994).

28. Rule 1.2(C) states: "It is professional misconduct for a lawyer to . . . (C) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation. . . ." NORTH CAROLINA RULES OF PROFESSIONAL CONDUCT (1994).

29. BLACK'S LAW DICTIONARY (6th ed. 1990) (hereinafter BLACK'S).

30. ABA/BNA LAWYERS' MANUAL ON PROFESSIONAL CONDUCT, No. 133, 45:501 (1993). Defalcation is defined as "misappropriation of trust funds or money held in any fiduciary capacity, and failure to properly account for such funds." BLACK'S, *supra*.

31. *Id.* Conversion is defined as "[a]ny unauthorized act which deprives an owner of his property permanently or for an indefinite time." BLACK'S, *supra* note 29.

tion set out by New Jersey courts: "any unauthorized use by the lawyer of clients' funds entrusted to him including not only stealing, but also unauthorized temporary use for the lawyer's own purpose, whether or not he derives any personal gain or benefit therefrom."³²

In an effort to prevent misappropriation, Canon X of the North Carolina Rules of Professional Conduct spells out strict requirements lawyers must follow when handling client money.³³ Rule 10.1 requires that "any property received by a lawyer in a fiduciary capacity shall at all times be held and maintained separately from the lawyer's property, designated as such, and disbursed only in accordance with these rules."³⁴ Under Rule 10.1, "a lawyer serving in such a fiduciary role must segregate property held in trust from property belonging to the lawyer, [and] maintain the minimum financial records required by Rules 10.2(B) and (C). . . ."³⁵ Rule 10.2 contains various technical requirements on the care and maintenance of trust accounts.³⁶ For example, Rule 10.2(C) outlines the minimum records lawyers must keep to be in compliance with the rule. Rule 10.2(E) provides that "A lawyer shall promptly pay or deliver to the client or third persons as directed by the client the funds, securities, or properties belonging to the client to which the client is entitled in the possession of the lawyer."³⁷

Ruling on one provision of Canon X, the North Carolina Court of Appeals in *North Carolina State Bar v. Speckman*³⁸ concluded strict liability should be applied in deciding whether a violation had occurred.³⁹ The court said that a lawyer's motive for commingling personal funds with client funds in his trust account had no bearing on whether the defendant violated the Rules of Professional Conduct.⁴⁰

However, until the *Ford* case, the State Bar's Disciplinary Hearing Commission had never disbarred a lawyer for a violation of Canon X without a showing of dishonest conduct. Previous disbarments always involved deliberate misappropriation of client funds where the DHC

32. *In re Wilson*, 409 A.2d 1153, 1155 n.1 (N.J. 1979).

33. "A lawyer should strictly preserve the identity of funds and property held in trust." NORTH CAROLINA RULES OF PROFESSIONAL CONDUCT, Canon X (1994).

34. NORTH CAROLINA RULES OF PROFESSIONAL CONDUCT, Rule 10.1 (1994).

35. *Id.*

36. NORTH CAROLINA RULES OF PROFESSIONAL CONDUCT, Rule 10.2 (1994).

37. *Id.* at Rule 10.2 (E).

38. 87 N.C. App. 116, 360 S.E.2d 129 (1987).

39. Hornbooks arrive at the same conclusion as to the rules in general. See CHARLES W. WOLFRAM, MODERN LEGAL ETHICS - HORNBOOK SERIES: STUDENT EDITION, § 3.3.1 at 88 (1986) (noting that the Bar prosecutors do not, in seeking to prove a violation, have to show that a lawyer had a specific intent to violate a particular code provision or was driven by an improper motive).

40. *Speckman*, 87 N.C. App. at 123, 360 S.E.2d at 133. Commingling is a violation of Rule 10.1. See *supra* note 25.

also found a violation of Rule 1.2.⁴¹ Unlike other ethics rules, Rule 1.2 is a specific intent provision. A violation of Rule 1.2 is found when lawyers knowingly or intentionally engage in various types of misconduct, including dishonesty, fraud, deceit or misrepresentation.⁴²

ANALYSIS

Ford is a watershed event among disciplinary rulings in North Carolina. The case clearly signals that improper motive and intent are no longer needed to disbar a lawyer for misappropriation. Under the *Ford* holding, the mere fact that an attorney exhibited gross negligence in maintaining his books and supervising his employees is enough to warrant the ultimate sanction of disbarment.

A. Other Jurisdictions

North Carolina is not the first state to disbar lawyers for gross negligence in handling client funds. The organized Bar in Washington, D.C., appears to be at the forefront of this trend. Courts there have abandoned dishonest motive as a necessary prerequisite to disbarments for bookkeeping violations.⁴³ A presumption of disbarment now exists in all misappropriation cases resulting from something more than simple negligence.⁴⁴

A recent illustrative case in that jurisdiction is *In re Micheel*.⁴⁵ In *Micheel*, a lawyer commingled client money in his regular office checking account and then bounced two checks he himself wrote. He testified that the shortages in his bank account were merely the result of his own poor accounting practices, not of any intent on his part to misappropriate client funds.⁴⁶ A hearing board concluded that Micheel did not intentionally misappropriate the funds and was not guilty of conduct involving dishonesty. But the board determined that the lawyer's misappropriation resulted from recklessness rather than simple negligence. Relying on case law that held disbarment appropriate in virtually all cases of misappropriation involving more than

41. Deliberate misappropriation must be contrasted with unintentional misappropriation, which sometimes results when a lawyer's personal or business funds are commingled with those of the client. In those instances, unintentional misappropriation occurs when a lawyer inadvertently uses client funds or allows the trust account balance to fall below the amount needed to cover the client's funds.

42. NORTH CAROLINA RULES OF PROFESSIONAL CONDUCT, Rule 1.2(C) (1994).

43. See, e.g., *In re Harrison*, 461 A.2d 1034 (D.C. 1983).

44. See, e.g., *In re Godfrey*, 583 A.2d 692 (D.C. 1990); *In re Robinson*, 583 A.2d 691 (D.C. 1990); *In re Thompson*, 583 A.2d 1006 (D.C. 1990).

45. 610 A.2d 231 (D.C. 1992).

46. Apparently, Mr. Micheel was an extremely poor bookkeeper. The record also showed he bounced 65 checks in a one-month span from Oct. 10, 1987 to Nov. 9, 1987. *Id.* at 233 and n.8.

simple negligence, the court increased the board's sanction of a two-month suspension to disbarment of Micheel.⁴⁷

Most jurisdictions continue to draw a line between knowing, purposeful misappropriation and unintentional misuse of client money that results from bookkeeping errors or negligence. A New Jersey court once announced automatic disbarment in all lawyer misappropriation cases, saying the importance of public confidence in the bar was so important it was unlikely to be overridden by any mitigating factors.⁴⁸ But a later court found sanctions short of disbarment could be used when misappropriation resulted from shoddy bookkeeping. In a 1991 case, *In re Konopka*,⁴⁹ the court found an attorney had not knowingly misappropriated funds, but instead exhibited "an appalling lack of knowledge of the maintenance of separate trust balances for each client."⁵⁰ The court gave the attorney a six-month suspension.⁵¹

Other jurisdictions have accepted the general presumption that knowing or willful misappropriation should bring certain disbarment, absent compelling extenuating circumstances.⁵² At the same time, many states, including Ohio,⁵³ Florida,⁵⁴ Maryland,⁵⁵ and Massachusetts,⁵⁶ approve punishment short of disbarment where the attorney

47. *Id.* at 237. See also *In re Addams*, 579 A.2d 190, 191 (D.C. 1990) (en banc), in which the court recognized a presumption "that in virtually all cases of misappropriation, disbarment will be the only appropriate sanction unless it appears that the misconduct resulted from nothing more than simple negligence."

48. See *In re Wilson*, 409 A.2d 1153 (N.J. 1979), in which a New Jersey lawyer failed for almost two years to turn over \$23,000 to the client from the proceeds of a home sale. After the ethics complaint was filed, respondent paid the client but never accounted for the location or use of the funds in the interim. In another instance, the respondent obtained money for a client in the form of a \$4,300 check to the client's order. Respondent then forged the client's endorsement, and misappropriated the funds. In a case of willful misappropriation, the court said, "[M]aintenance of public confidence in this Court and in the bar as a whole requires the strictest discipline in misappropriation cases. That confidence is so important that mitigating factors will rarely override the requirement of disbarment." *Id.* at 1157-58.

49. 596 A.2d 733 (N.J. 1991).

50. *Id.* at 740.

51. *Id.* at 752.

52. See, e.g., *In re Phelps*, 760 P.2d 1331 (Or. 1988); *State ex rel. Nebraska State Bar Assoc'n v. Veith*, 470 N.W.2d 549 (Neb. 1991); *Matter of Pier*, 472 N.W.2d 916 (S.D. 1991); *Reid v. Miss. State Bar*, 586 So. 2d 786 (Miss. 1991).

53. See, e.g., *Office of Disciplinary Counsel v. Ball*, 618 N.E.2d 159 (Ohio 1993).

54. See, e.g., *Florida Bar v. Weiss*, 586 So. 2d 1051 (Fla. 1991). In that case, the Bar turned up shortages in a lawyer's trust account during a random audit. Shortages were caused by an accountant who had not been properly trained about trust accounts or supervised by the lawyer. The lawyer received a six-month suspension because there had been no knowledge of the misappropriation, nor had any client suffered injury. *Id.* at 1054.

55. See, e.g., *Attorney Grievance Comm'n of Md. v. Powell*, 614 A.2d 102 (Md. 1992). The court held that unintentional misappropriation resulting from disorganization and inefficiency of practice did not establish requisite dishonesty toward an ultimate sanction. The lawyer received an indefinite suspension, with the right to petition for readmittance after six months. *Id.* at 115.

56. See, e.g., *In re Driscoll*, 575 N.E.2d 46 (Mass. 1991). When closing funds were deposited in the trust account, the attorney used that money to pay office and personal expenses and the

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lacks a dishonest motive. Suspension is a typical sanction, although lesser disciplinary measures, including censure, are handed out when mitigating factors are present.⁵⁷

B. *North Carolina Cases*

North Carolina lawyers now have guidance as to what level of intent is required to warrant the ultimate sanction of disbarment in misappropriation cases. The territory has been mapped out by three disciplinary actions. In each case, a finding of intent or dishonest motive of the attorney was complicated by the involvement of support staff.

It is apparent that disbarment is almost certain for any lawyer who knowingly misappropriates client funds or directs support staff to do so. In *North Carolina State Bar v. Johnson*,⁵⁸ an attorney directed a member of his staff to misappropriate funds and give a false accounting to a client. The hearing committee found that the lawyer possessed the requisite intent to commit misconduct. Among various rules violations, the DHC concluded a violation of Rule 1.2(C) had occurred. Johnson was disbarred.

When misappropriation occurs unbeknownst to the attorney, and without any negligence on his part, punishment short of disbarment has been handed down. In *North Carolina State Bar v. Guller*,⁵⁹ an attorney worked with his paralegal wife who fabricated deposit slips and took loan proceeds from the trust account without his knowledge. The attorney's wife took pains to hide her misconduct. The attorney received a suspension, stayed upon the meeting of certain conditions, for multiple violations of Rule 10. However, the DHC found no violation of Rule 1.2(C).⁶⁰

account fell below the amount owed to the clients. Mitigating factors included lack of intent to harm clients, full restitution, and the fact that the lawyer suffered from depression and had sought counseling during the period. In approving a public censure, the court found no misrepresentation or dishonesty on the attorney's part, little harm to clients, and gave weight to the diligence of his representation of clients. *Id.* at 50.

57. *Id.*

58. 90 DHC 2.

59. 89 DHC 3.

60. *Id.* See *supra* note 28 for text of Rule 1.2(C). Even where a violation of Rule 1.2(C) is found and misappropriation is present, there are exceptions to the automatic disbarment rule, as a second disciplinary proceeding involving Guller shows. In *North Carolina State Bar v. Guller*, 90 DHC 20, Guller received a two-year suspension, stayed upon certain conditions, even though the DHC found a violation of Rule 1.2(C). Guller was disciplined for not ensuring his wife disbursed closing proceeds properly, and for obtaining credit on a check given to him by his wife when he knew, or should have known, the check might be worthless, given his wife's conviction for passing bad checks. Why was Guller not disbarred? Perhaps it was the excessive domestic entanglement of his situation—it was the bad check from his wife that ultimately led to the misappropriation. Guller's wife subsequently fled the country for her homeland of England and has not returned to the United States.

Ford sets out a new standard of gross negligence in misappropriation cases.⁶¹ As previously stated, *Ford* was found to have violated various provisions of Rule 10 for failing to maintain his books, as well as Rule 3.3(B) for failing to adequately supervise his support staff. No dishonest intent or motivation was found by the DHC, a first in a disbarment case.⁶²

The *Ford* case itself demonstrates the severity of bookkeeping neglect which, when coupled with misappropriation, will draw the State Bar's stiffest penalty. *Ford* admitted he only reviewed trust account records every four months, and reconciled trust balances no more than twice a year.⁶³ But *Ford* leaves open another critical question: how directly must a lawyer's behavior be linked to misappropriation by a support staff member to justify discipline under Rule 3.3?⁶⁴ A lawyer who regularly represents attorneys before the DHC⁶⁵ said these questions would be relevant in grading negligence or intent:

- * Was the staff member hired properly?
- * Did he or she receive proper training?
- * Did the attorney properly supervise his or her staff?
- * Did the support staff have a proven record of trustworthiness?
- * Did the attorney lack knowledge of the support staff's misconduct?
- * Did the attorney take any steps to cover up that misconduct?
- * Were immediate steps taken to rectify the misconduct?
- * Was there prompt and full restitution?
- * Were safeguards put in place to prevent future problems?

CONCLUSION

If past trends hold true, most misappropriation cases that come before the Disciplinary Hearing Commission will involve willful misconduct by attorneys.⁶⁶ But the *Ford* case indicates that the North Carolina State Bar has crossed a new threshold by disbarring an attorney for gross neglect in the handling of his trust accounts. Like other disciplinary agencies in other jurisdictions, the North Carolina State Bar is unlikely to automatically disbar attorneys for an unintentional misuse of client money. In practice, intent will probably figure into

61. 94 DHC 4.

62. *Id.*

63. See *supra* text accompanying notes 21-22.

64. See *supra* note 27 for text of Rule 3.3.

65. *Lawyers Could Face Disbarment For Sloppy Management*, N.C. LAW. WKLY., Jan. 16, 1995, at 3.

66. See THE NORTH CAROLINA STATE BAR OFFICE OF COUNSEL 1994 ANNUAL REPORT, at 3, which indicates that six lawyers were disbarred in 1994 for willful misappropriation.

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the degree of discipline handed down by the DHC, as will other factors, including the extent of harm to the client, the presence of any disability, and the promptness with which any problem was corrected.

The message to other North Carolina attorneys should be clear: dishonest intent is no longer needed in disbarment actions involving misuse of client funds. Sloppy bookkeeping or inadequate supervision of support staff which results in misappropriation of client funds could cost lawyers their license.

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