

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
10G0085

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IN THE MATTER OF )  
 )  
Todd W. Davis, ) CENSURE  
ATTORNEY AT LAW )  
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On July 22, 2010, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by J. H.

Pursuant to section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Committee found probable cause. Probable cause is defined in the rules as "reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action."

The rules provide that after a finding of probable cause, the Grievance Committee may determine that the filing of a complaint and a hearing before the Disciplinary Hearing Commission are not required and the Grievance Committee may issue various levels of discipline depending upon the misconduct, the actual or potential injury caused, and any aggravating or mitigating factors. The Grievance Committee may issue an admonition, a reprimand, or a censure.

A censure is a written form of discipline more serious than a reprimand, issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused significant harm or potential significant harm to a client, the administration of justice, the profession or a member of the public, but the misconduct does not require suspension of the attorney's license.

The Grievance Committee believes that a hearing before the Disciplinary Hearing Commission is not required in this case and issues this censure to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this censure.

You prepared a last will and testament for JLS, which you took to JLS's home in April 2008. JLS signed the will but no witnesses signed the will in his presence. You later directed two of your office employees to sign the will as witnesses. The employees were not present when JLS signed the will nor had JLS acknowledged his signature to them. Because your employees did not sign the will in JLS's presence, their sworn declarations (stating that they signed in JLS's presence) were false. By directing your staff to falsely attest that they witnessed the signing of JLS's will, you knowingly induced others to violate the Rules of Professional Conduct in violation of Rule 8.4(a) and ratified conduct by a subordinate that violated the Rules, in violation of Rule 5.3(c). You notarized the signatures on JLS's will. By notarizing witness attestations on a will that was not signed by witnesses, you committed a criminal act (e.g., violation of N.C.G.S. § 10B-60) in violation of Rule 8.4(b) and engaged in conduct prejudicial to the administration of

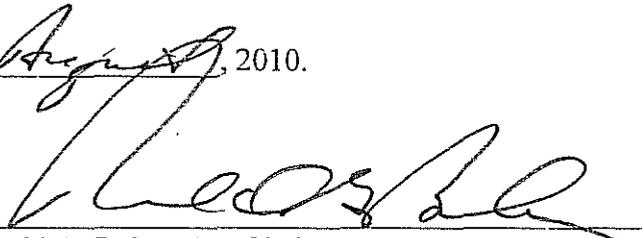
justice in violation of Rule 8.4(d). Because JLS's will was not executed in compliance with NCGS § 31-3.3, it was eventually nullified.

In response to the State Bar's inquiry about this matter, you stated that your employees had, unbeknownst to you, taken it upon themselves to sign JLS's will. You specifically asserted that you "never directed any employees who were not present to sign the will." This statement was false, and therefore violated Rule 8.1(a) (false statement in disciplinary matter) and Rule 8.4(c) (dishonest conduct).

You are hereby censured by the North Carolina State Bar for your violation of the Rules of Professional Conduct. The Grievance Committee trusts that you will ponder this censure, recognize the error that you have made, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. This censure should serve as a strong reminder and inducement for you to weigh carefully in the future your responsibility to the public, your clients, your fellow attorneys and the courts, to the end that you demean yourself as a respected member of the legal profession whose conduct may be relied upon without question.

In accordance with the policy adopted January 24, 2008 by the Council of the North Carolina State Bar regarding the taxing of the administrative and investigative costs to any attorney issued a censure by the Grievance Committee, the costs of this action in the amount of \$100.00 are hereby taxed to you.

Done and ordered, this 26 day of August, 2010.

  
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Ronald G. Baker, Sr., Chair  
Grievance Committee  
The North Carolina State Bar