

NORTH CAROLINA
WAKE COUNTY

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

THE NORTH CAROLINA STATE BAR,)
Plaintiff)

vs.)

WILLIAM LAND PARKS, Attorney,)
Defendant)

PUBLIC CENSURE

This Public Censure is delivered to you pursuant to Section 23 of the Discipline and Disbarment Procedures of the North Carolina State Bar and pursuant to a Consent Order of Discipline entered in the above-captioned action by a Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar bearing the date of March 19, 1987. This Consent Order was based upon Findings of Fact and Conclusions of Law which were stipulated to and agreed upon by the parties in this action.

The fact that this Public Censure is not the most serious discipline provided for in North Carolina General Statute §84-28 should not be taken by you to indicate that the North Carolina State Bar in any way feels that your conduct in this matter was excusable or was considered by the members of the Hearing Committee of the Disciplinary Hearing Commission to be less than a very serious and substantial violation of the Code of Professional Responsibility.

In March of 1985 you were employed to represent Gerline Overton in her attempt to obtain proceeds from her deceased husband's insurance policy. Mrs. Overton received \$10,438.50 from her deceased husband's life insurance policy.

You prepared a power of attorney for Mrs. Overton and the power of attorney was executed by Mrs. Overton on March 15, 1985. This document provided that you would serve as the attorney in fact.

On March 15, 1985, you deposited the \$10,438.50 life insurance proceeds into an interest bearing checking account at the State Employees' Credit Union. This account was placed in your name and Mrs. Overton's name.

On May 23, 1985, you, as the attorney in fact, wrote a check for \$2,000 on Mrs. Overton's account, whereby you were the payee. This check contained the notation of "1626 Hamilton Street, Investment, Charlotte, North Carolina".

Public records would show and you have admitted that on July 24, 1985, you, purchased property located in Mecklenburg County from the U.S. Department of Housing and Urban Development. This property was listed in the Mecklenburg County Tax Collector's office as 1626 Hamilton Street, Charlotte, North Carolina. You are listed as the taxpayer of this property.

By your own admission, you applied Mrs. Overton's money as a down payment on the real estate you purchased for your benefit in Charlotte. You executed a promissory note with the promise to pay \$2,000 to Mrs. Overton. However, Mrs. Overton never received the promissory note or any evidence of security of the money you borrowed from her.

On August 7, 1985, you deposited \$2,000 plus \$101.38 as interest in the account of Mrs. Overton at the State Employees' Credit Union.

Your conduct in this matter violated Disciplinary Rule 5-101(A) of the North Carolina Code of Professional Responsibility. Disciplinary Rule 5-101(A) provides:

"Except with the consent of his client after full disclosure, a lawyer shall not accept employment if the exercise of his professional judgment on behalf of his client will be or reasonably may be affected by his own financial, business, property, or personal interests."

When a lawyer and a client enter into a business relationship, there is always a danger that the lawyer's professional judgment on behalf of the client will be adversely affected by the lawyer's own business or personal interest. Therein lies the conflict of interest. Your professional judgment must be free of any compromising influences such as financial, business, or personal interest in a business or loan transaction with your client. Indeed, your professional judgment as a lawyer should be exercised within the bounds of the law and solely for the benefit of your client.

You borrowed money from your client, Mrs. Overton, to assist you in the purchase of real estate for your benefit. You did not give a full disclosure to Mrs. Overton regarding the loan in that:

1. You did not inform Mrs. Overton that your interests (as a debtor) in the transaction were adverse or potentially adverse to her interests (as a creditor).

2. You failed to inform Mrs. Overton of the possible effects of the adverse or potentially adverse interests upon your ability to exercise your independent professional judgment on her behalf.
3. You did not advise Mrs. Overton to obtain independent advice from another attorney regarding the loan transaction.

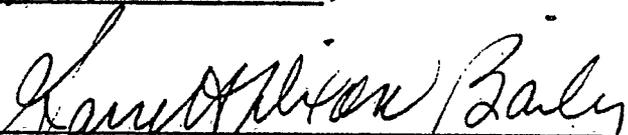
The case law in this area firmly establishes that a full disclosure must be made to the client if a lawyer enters into a business relationship with his client. Only after the client is given a full disclosure of the circumstances surrounding the business transaction can a client give consent to the business transaction involving the client and the lawyer.

Your financial dealings with your client gave the appearance of self-dealing. Such behavior weakens the very foundation of the attorney-client relationship: the trust that a client places in his attorney to use his professional judgment for the client's best interest. Your conduct in this matter tends to place you and your fellow members of the Bar in disrepute with the public. Our profession can not afford distrust from those who place their confidence in lawyers to represent their interests.

The Committee is confident that this Public Censure will be heeded by 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 Durham 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 North Carolina General Statute §84-29, you are taxed with the cost of this action.

This the 19th day of March, 1987.


Garrett Dixon Bailey, Chairman
(signing on behalf of the Hearing
Committee)