

12448

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
88GR 0483 (IV)

IN THE MATTER OF  
  
JON S. JOHNSON  
ATTORNEY AT LAW

)  
)  
)  
)

PUBLIC REPRIMAND

On October 18, 1989, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Dolly E. McNeely.

Pursuant to Section 13(7) of Article IX of the Rules and Regulations of the North Carolina State Bar, the Grievance Committee, after considering the evidence, including your response to the Letter of Notice, found probable cause which 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 a Private Reprimand, a Public Reprimand, or a Public Censure to the accused attorney.

The Grievance Committee was of the opinion that a complaint and hearing are not required in this case and issues this Public Reprimand to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this Public Reprimand and I am certain that you will understand fully the spirit in which this duty is performed.

A Public Reprimand is a serious form of discipline imposed by the Grievance Committee. The Grievance Committee felt that your conduct warranted public discipline due to your violation of the Rules of Professional Conduct. The committee trusts that this misconduct will not recur.

The complainant sought your assistance in April of 1986 relative to the purchase of property owned by complainant's aunt and incompetent husband. At some point during the course of that representation, it became apparent to you that litigation was necessary. You did not do much litigation so you referred the case to a partner, Jessie Walden, in your law firm. You claim that you asked Mr. Walden to file a complaint in the complainant's action. You also claim that Mr. Walden agreed to draft the complaint and to sue the necessary parties. However, when Mr. Walden left the firm in March or April of 1988, you had not determined whether Mr. Walden continued to pursue the matter on behalf of the complainant. You thought Mr. Walden was handling the complainant's case. But you did not communicate with Mr. Walden to ascertain if he was indeed handling the case for complainant.

Apparently, there was a communication gap between you, Mr. Walden and the complainant. The complainant retained you for assistance and she believed (at

the time she filed her grievance) that you represented her in all phases of her case. The confusion which resulted because of your referring the complainant's case to Mr. Walden indicates that you failed to represent zealously the complainant in her matter. Your conduct violated Rule 7.1(A)(1)(2)(3) of the Rules of Professional Conduct.

The Grievance Committee was also troubled by your failure to respond to the 26th Judicial District Grievance Committee regarding this grievance. The reasons you gave for failing to respond to your local grievance committee were unsatisfactory.

When you did not respond to the 26th Judicial District Grievance Committee, the grievance was referred to the North Carolina State Bar and you were sent a Letter of Notice. You also failed to respond to the State Bar. The Office of Counsel of the North Carolina State Bar sent you a reminder notice about your failure to respond to the Letter of Notice. You did not contact the State Bar's Office of Counsel to seek an extension to respond. Finally, you were subpoenaed by the North Carolina State Bar Grievance Committee and you appeared at the State Bar to respond to this matter. According to Deputy Counsel assigned to your grievance, you agreed to file a written response to this grievance and provide additional information regarding your attempts to rectify this situation with the complainant. You agreed to make such a written response to the Grievance Committee by September 15, 1989. However, you never provided a written response.

The North Carolina State Bar has the statutory authority to regulate the conduct of North Carolina licensed attorneys and to discipline those attorneys for professional misconduct. The North Carolina State Bar investigates allegations of attorney misconduct through its Grievance Committee and local grievance committees. A North Carolina licensed attorney has a statutory obligation to respond to any formal inquiry instituted by the North Carolina State Bar relative to disciplinary matters. You should have responded to the 26th Judicial District Grievance Committee as it is an investigative arm of the State Bar's Grievance Committee.

Even after receiving a Letter of Notice from the North Carolina State Bar, you failed to respond until a subpoena was issued. Such conduct shows a total disregard for your obligation as a licensed attorney in this state to give a full and fair disclosure of the circumstances surrounding a grievance that is filed against you.

The North Carolina State Bar can only investigate allegations of attorney misconduct when the involved attorney responds fully, fairly, and promptly. Your conduct relative to responding to the local grievance committee and the State Bar Grievance Committee violated N.C. Gen. Stat. Sec. 84-28(b)(3) and Rule 1.2(D).

You are hereby publicly reprimanded by the North Carolina State Bar due to your professional misconduct. The Grievance Committee trusts that you will ponder this Public Reprimand, 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 Public Reprimand 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.

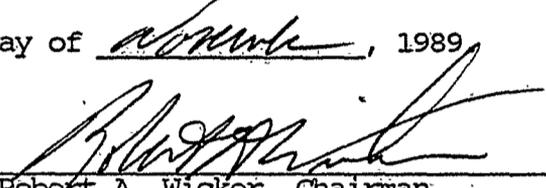
This Public Reprimand will be maintained as a permanent record in the judgment book of the North Carolina State Bar. Since a complaint was made and professional misconduct has been found, the complainant will receive a copy of

this Public Reprimand. A copy also is available to the public upon request.

Within 15 days after this Public Reprimand is served upon you, you may refuse this Public Reprimand and request that charges be filed. Such refusal and request must be addressed to the Grievance Committee and filed with the Secretary. If you do file such refusal and request, counsel shall thereafter be instructed to prepare and file a complaint against you with the Disciplinary Hearing Commission of the North Carolina State Bar. The Hearing before the Disciplinary Hearing Commission is public and all of its proceedings and its decision are public.

In accordance with the policy adopted October 15, 1981 by the Council of the North Carolina State Bar regarding the taxing of the administrative and investigative costs to any attorney issued a reprimand by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this 12 day of November, 1989

  
Robert A. Wicker, Chairman  
The Grievance Committee  
North Carolina State Bar

[211]

00413