

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
88GR 0575(II)

IN THE MATTER OF

RICHARD G. SINGER
ATTORNEY AT LAW

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PUBLIC REPRIMAND

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

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.

You represented the complainant, Marshall E. Sprague, in his purchase of three properties from Jerome Weber at United States Fidelity and Guaranty Company. These three properties were closed by your office on August 30, September 5, and September 14, 1984. In your response to the Grievance Committee, you admitted that you did not conduct formal closings in these three property transactions. Instead, a former paralegal, Jeri Kane, met with Mr. Sprague and witnessed Mr. Sprague's signing of three affidavits of occupancy of the properties. In these affidavits, Mr. Sprague attested that he would reside in each of the three properties. In fact, these affidavits were falsely made by Mr. Sprague and he did not occupy or intend to occupy the properties as his principal residence. Again, Ms. Kane witnessed two of the mortgagor's affidavits and signed her name to them. In an affidavit dated September 14, 1984, Ms. Kane indicates that she signed your name and believes she did so upon your request.

Due to your lack of involvement in conducting a formal closing in these three transactions, the lenders were given false affidavits regarding Sprague's occupancy of the property. Indeed, you may argue that Mr. Sprague had already misrepresented to the lenders that he would reside in these properties when he made application for the loans. However, it is conceivable that had you actually participated in the formal closings, which occurred during a short time period, you would have detected some impropriety in Mr. Sprague's execution of these three affidavits.

In a residential loan transaction, a lawyer may ethically represent both the borrower and the lender. The lawyer is deemed to represent both parties unless he disclaims his representation of one or the other parties. (See CPR 100) In this real estate transaction, you had a duty to both Mr. Sprague and the lenders. You had an obligation to ensure that no fraudulent documents were executed to the lenders and that the lenders' interests were protected. Fortunately, you seem to recognize your error in not participating actively in the closings. In your October 14, 1988 response to the 10th Judicial District Grievance Committee, you stated that "if I had known that the residency statement had been falsely executed, the transaction would not have closed."

You should also note that your responsibility to the parties in a closing cannot be shifted to your employee. It is very likely that if you had been present at the three closings, you would have detected the falsely executed affidavits and so informed the lenders of the problem.

Your conduct in this matter violated Rule 5.1(C), Rule 7.1(A)(1) and (3) of the Rules of Professional Conduct. Also, your apparent authorization of Ms. Kane to sign your name to the September 14, 1984 mortgagor's affidavit, without your being present, violated Rule 3.3(C).

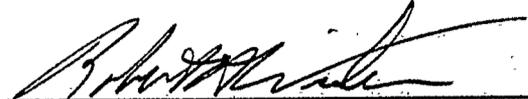
You are hereby publicly reprimanded by the North Carolina State Bar due to your professional misconduct. The Grievance Committee trusts that you will ponder this Public Reprimand, recognize the error that you have made, and that you will never again allow yourself to depart from adherence to the high 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

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