

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
NORTH CAROLINA STATE BAR
9710GR033

IN THE MATTER OF)	
)	
EDGAR H. BRIDGER,)	REPRIMAND
ATTORNEY AT LAW)	
)	

On October 15, 1998, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by a Complainant, hereafter referred to as "Mr. J".

Pursuant to Section .0113(a) of the Discipline & Disability Rules of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing. After considering the information available to it, including the grievance, your response to the letter of notice, and the local grievance committee's report, 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 to the respondent attorney.

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

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

Complainant, Mr. J, was asked by a cash legatee of the estate of your long-time friend, Mr. Y, to advise her concerning the computation of her share of Mr. Y's estate as provided in Mr. Y's last will and testament. You drafted Mr. Y's last will and testament. You and your wife are also beneficiaries of a substantial gift under the provisions of Mr. Y's last will and testament. The Grievance Committee determined that you violated Rule 5.5 of the superseded

(1985) Rules of Professional Conduct¹ by preparing an instrument for Mr. Y giving you and your wife a substantial gift, when neither you nor your wife were related to Mr. Y.

The circumstances show that you had known and represented Mr. Y for about 35 years, having performed accounting and income tax planning services for Mr. Y. For about the last 17 years of Mr. Y's life, you were also close social friends. Mr. Y became bedridden in August, 1992 and died in November, 1995. As Mr. Y's health deteriorated, your role as his advisor was expanded to include managing much of Mr. Y's affairs, both personal and business.

In 1991, before Mr. Y's health deteriorated, Complainant, Mr. J, drafted Mr. Y's last will and testament. Under Mr. Y's original will, you were to receive a cash bequest and would share in the residuary estate in proportion to the ratio of Mr. Y's cash bequest to the total individual cash bequests. In 1993, Mr. J drafted a codicil to Mr. Y's last will and testament. Among other things, the codicil increased your cash bequest. In June 1993, Mr. J drafted a second codicil to Mr. Y's will, which (among other things) again increased your cash bequest.

In October or November 1993, Mr. Y told you that he wanted to remove the bank named as executor of his will and make you and his nephew co-executors. He also told you that Mr. J advised against removing the bank as executor. You suggested that Mr. Y retain another attorney to make changes in Mr. Y's will if Mr. J was reluctant to do so. However, Mr. Y did not want to deal with an attorney that he did not know. In early 1994, Mr. Y asked you to draft a third codicil to his will to delete some beneficiaries and add others. You insisted that Mr. Y retain Mr. J to make those changes, stating that you could not draft a codicil that made reductions in bequests because that would in effect increase your bequest in Mr. Y's residuary estate. Mr. Y nevertheless convinced you to make the changes on the basis that the changes he intended would not change your percentage of the residuary estate. You drafted a third codicil for Mr. Y, which he signed on March 4, 1994.

On at least two or three occasions in the latter part of 1994, Mr. Y again asked you to change his will to make you and Mr. Y's nephew co-executors. In each instance, you urged Mr. Y to consult with Mr. J. In early 1995, Mr. Y insisted that you draft a fourth codicil to change the executors. Mr. Y indicated that Mr. J was still reluctant to do so. You agreed to assist Mr. Y in drafting a fourth codicil, reflecting Mr. Y's desire to change executors. While you were preparing the fourth codicil, Mr. Y asked you to make changes in the beneficiaries which would have resulted in the net reduction of specific bequests. You declined Mr. Y's request on the basis that it would have increased your residuary bequest. Mr. Y suggested that he reduce your specific bequest to offset the increase in your share of the residuary estate. You agreed based on your knowledge that Mr. Y believed he could not get help from Mr. J and further based on Mr. Y's determination not to seek advice of another attorney.

Rather than prepare a fourth codicil to the will initially prepared by Mr. J, you incorporated all of Mr. Y's desired changes into a new will at Mr. Y's request. Except for changes in the cash bequests and a substantially revised article appointing executors, the new

¹ Rule 5.5 of the superseded (1985) Rules of Professional Conduct was adopted verbatim and renumbered as Rule 1.8(c) of the Revised Rules of Professional Conduct.

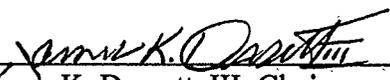
will was substantially the same as the will and codicils drafted by Mr. J. By accepting Mr. Y's offer to lower your bequest, you believed that you had avoided any additional benefit over the bequests provided for by Mr. Y in the prior versions of his will drafted by Mr. J. However, the facts show that the third codicil and the last will and testament that you prepared for Mr. Y made additional bequests to your wife, and in effect (even if not intended), made additional bequests to you.

The local grievance committee was convinced that you were truthful about efforts to get Mr. Y to seek other legal counsel and that you resorted to drafting the instrument only when you discerned that your long-time friend's wishes would not be accomplished unless you prepared the instruments. The local grievance committee likewise had no doubt that you merely followed Mr. Y's wishes and did not exercise any influence over him as to those instructions. The local committee also believed that your violation of Rule 5.5 of the Rules of Professional Conduct was unintentional and occurred in a situation in which you honestly believed that you had taken steps to ensure compliance with your ethical obligations by accepting Mr. Y's offer to lower your bequest. The fact remains, however, that you did draft the instruments giving you and your wife substantial gifts upon Mr. Y's death in violation of the Rule 5.5 of the Rules of Professional Conduct. Rule 5.5 contains a bright-line prohibition against doing so.

You are hereby reprimanded by the North Carolina State Bar for your professional misconduct. The Grievance Committee trusts that you will heed this reprimand, that it will be remembered by you, that it will be beneficial to you, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession.

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 the 2 day of November, 1998.



James K. Dorsett, III, Chair
Grievance Committee
The North Carolina State Bar