

16077

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
00G1102

IN THE MATTER OF)	
)	
THOMAS M. URQUHART,)	REPRIMAND
ATTORNEY AT LAW)	
)	

On July 23, 2003, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Ruth Whitley and Nancy Sidebottom.

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 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.

In 1996, Ruth Whitley sought your assistance in improving the performance of her mother's investments. You were also asked to do some tax returns for Mildred Whitley and Ruth Whitley, and for a trust established by Robert Whitley. In September 1996, Ruth Whitley asked you about doing some estate planning work for Mildred Whitley that would include putting Mildred's assets into trusts to avoid estate taxes. In April 1997, Mildred Whitley was in poor health, and was taken to Duke Hospital. You were asked to go to the hospital to advise about any estate planning documents that needed to be completed. You returned to Ahoskie and prepared a power of attorney for Mildred to give you the

power to sign any other necessary estate planning documents. When you returned to Duke Hospital with the documents, you found that Mildred was alert and able to understand any documents you would have asked her to sign, but Ruth Whitley and Nancy Sidebottom asked you not to present any documents to Mildred for her signature because they did not want Mildred to think that she would be signing documents in anticipation of her death. Nancy Sidebottom signed Mildred's name to the power of attorney that you had brought. Knowing that Mildred Whitley had not signed the power of attorney, you had a notary notarize Mildred's signature as though the notary had witnessed Mildred signing the document. Based upon that power of attorney, you prepared and signed other trust documents for Mildred Whitley. By having the power of attorney notarized as though Mildred Whitley had appeared before the notary and the notary had witnessed her signature, you engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

You are hereby reprimanded by the North Carolina State Bar due to 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 6 day of August, 2003.



Sharon B. Alexander
Chair, Grievance Committee