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NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
031GR001

IN THE MATTER OF )

Steven D. Simpson, )  
Attorney At Law )

REPRIMAND

On January 15, 2004 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Karen Krull.

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 2002, you agreed to represent Karen and Jeffrey Krull in a Chapter 13 bankruptcy action. You started working on the Chapter 13 petition in May 2002. Your own billing records reflect that a limited amount of work was done in the Krulls' bankruptcy case in June, July, or August of 2002. The Krulls' bankruptcy petition was finalized and filed on October 1, 2003.

The Grievance Committee found that the delay in preparing and filing the Krulls' Chapter 13 bankruptcy action was unreasonable and in violation of Rule 1.3 of the Revised Rules of Professional Conduct.

Prior to your representation of the Krulls in their Chapter 13 action, the Krulls hired you in August 2001 to assist them with their tax problems. At the time you agreed to represent the Krulls in their bankruptcy case, the Krulls owed you approximately \$4,650.00 in attorney's fees. Furthermore, at the time that the bankruptcy petition was filed on behalf of the Krulls, they owed you approximately \$3,700.00 in attorney's fees. Since the Krulls owed you money for attorney's fees, you were considered a creditor of the Krulls. The Grievance Committee found that you had a conflict of interest in violation of Rule 1.7, as you were a creditor representing debtors in their bankruptcy action. There is no evidence that you waived the prior attorney's fees in the tax case, before agreeing to represent the Krulls in the bankruptcy case.

The Grievance Committee was also concerned about the arrangement you had with the Krulls to pay your attorney's fee in their tax case outside of the Chapter 13 bankruptcy action. You did not disclose to the bankruptcy court that the Krulls owed you attorney's fees for representing them in their tax case. It could be argued that the Krulls committed perjury when they signed the bankruptcy petition and stated under penalty of law that they had disclosed all their debts. You also signed the petition, as the Krulls' attorney, indicating that all of their debts had been disclosed to the court. The Grievance Committee found that your conduct in this regard violated Rule 3.3(a)(1) and (3), Rule 8.4(c) and (d).

You charged the Krulls by the hour for your representation in the bankruptcy case. Your attorney's fee in the bankruptcy case totaled approximately \$7,479.28. You did not list these fees on the bankruptcy petition that you filed on behalf of the Krulls. In a letter dated November 12, 2002 from John F. Logan, the standing trustee of the Chapter 13 office, he specifically asked for a statement of attorney's fees. The trustee even asked if you were handling the matter pro bono.

The standard base fee for a Chapter 13 action in the Eastern District of North Carolina is \$1,400.00. This base fee includes time spent counseling the clients as to whether to file bankruptcy, the bankruptcy chapter to file under, preparation of the petition, and also any research time required to prepare the petition. The Grievance Committee found that the \$7,400.00 you charged the Krulls for the bankruptcy case violates Rule 1.5(a) in that the fee charged was either illegal or clearly excessive.

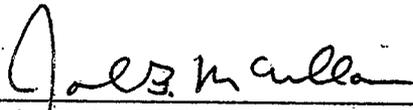
The committee noted that Mr. Logan's November 12, 2002 letter to you pointed out numerous deficiencies with the Krulls' Chapter 13 filing. In fact, the Chapter 13 office trustee threatened to move for dismissal of the plan due to "plan infeasibility, failure to file schedules, incomplete schedules, and discrepancies in schedules." The committee believed that your failure to file a complete Chapter 13 petition violated Rule 1.3 of the Revised Rules of Professional Conduct.

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 16<sup>th</sup> day of April, 2004.

  
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John B. McMillan, Chair  
Grievance Committee

JBM/lr