12702

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
00G0602

IN THE MATTER OF)
)
FLOYD B. MCKISSICK,) REPRIMAND
ATTORNEY AT LAW)
)

On October 23, 2003, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Reverend Thomas Griswell.

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.

The Grievance Committee at its January 2003 meeting originally considered this matter and issued a reprimand. At your request, and with the approval of the Chair of the Grievance Committee, the matter was reconsidered at the October 2003 meeting. After reviewing your statement requesting reconsideration and the facts of the case, the Committee declined to change its original recommendation.

You represented Blanche and Thomas Griswell (husband and wife) on various legal matters over a period of several years. Shortly after the death of Blanche Griswell, you prepared documents whereby Mr. Griswell renounced his right to qualify as executor of his wife's estate, gave Power of Attorney to Ms. Lily Richardson (Richardson), and deeded the marital home to Lily and Napoleon Richardson.

Eventually, Mr. Griswell came to realize the legal importance of what had transpired and instituted legal action to remove Richardson as executrix and regain the ownership of his home. Griswell, through counsel, also gave you notice of a conflict of interest should you represent Richardson. However, you continued to represent Richardson for several weeks necessitating that your former client file a motion to have you removed as counsel based on a claim of conflict of interest. You withdrew as counsel after the motion was filed but before the hearing was held.

Richardson was later arrested and charged with Domestic Exploitation of the Elderly. Although she later obtained new counsel to represent her on this criminal charge, you did assist her in being released from jail.

The interest of your former client, Mr. Griswell, was adverse to Richardson. Yet in the civil and, to a lesser extent, the criminal cases you represented Richardson.

The Committee found that your above-described conduct violated Rule 1.9 of the Revised Rules of Professional Conduct in that your actions in representing the Richardson's created a conflict of interest with Mr. Griswell.

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 November, 2003

Sharon B. Alexander
Chair, Grievance Committee