

NORTH CAROLINA

WAKE COUNTY

5641  
 BEFORE THE  
 GRIEVANCE COMMITTEE  
 OF THE  
 NORTH CAROLINA STATE BAR  
 00G0041

IN THE MATTER OF )

CARL W. HALL, III, )  
 ATTORNEY AT LAW )

REPRIMAND

On July 19, 2000, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by The North Carolina State Bar.

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.

Prior to May 1999, you undertook to draft wills for Mr. & Mrs. GW, who were then residents of Rowan County. In mid-May 1999, you met with Mr. & Mrs. GW to review the pour-over wills and health care powers of attorney which you had drafted for them. The wills and powers of attorney were executed in the presence of only one disinterested witness, whereas the law requires that two disinterested witnesses be present.

Accordingly, after you returned to your office, you directed a paralegal, JL, to sign the GWs' wills and health care powers of attorney as a witness, even though JL was not present at the time of execution of the documents by Mr. and Mrs. GW. JL indicated that she felt that she had no choice but to sign the documents, as you were her employer.

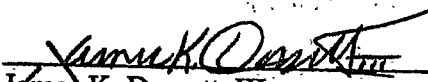
JL clearly could not properly sign Mr. & Mrs. GW's wills as a witness, as she had not seen them execute the documents. The fact that you were familiar with your clients' signatures and saw them sign the wills did not authorize JL to sign as an attesting witness. It is fundamental that a witness to a will must sign a will in the presence of the testator. As a certified specialist in the area of estates, you must certainly have known this.

Your action in this matter constituted conduct prejudicial to the administration of justice in violation of Rule 8.4(d) of the Revised Rules of Professional Conduct. It also jeopardized the validity of your clients' wills and therefore constituted a violation of Revised Rule 8.4(g).

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 7 day of August, 2000.

  
James K. Dorsett, III  
Chair, Grievance Committee