

AS RELATES TO THE FIRST CLAIM FOR RELIEF ALLEGED
IN THE COMPLAINT

4. Terry L. Stokes (hereinafter Stokes) has a daughter who in 1994 was enrolled in a school at the United Cerebral Palsy Center (hereinafter the center) in Greenville, North Carolina. Stokes' child suffered from cerebral palsy.

5. Brandon and Stokes have no family relationship.

6. Brandon and Stokes have no professional relationship.

7. On or about August 2, 1994, without Stokes having initiated any contact with him, Brandon visited Stokes' neighbor and friend, Sabrina Hill (hereinafter Hill). Brandon identified himself as an attorney who had previously represented other children from the center in negligence lawsuits. Brandon asked Hill questions about whether Stokes' child might be disabled. Brandon asked Hill whether Stokes had ever had an attorney review the child's medical records to determine whether there may have been any medical negligence that caused the child's current medical condition.

8. Brandon also asked Hill who might know more about the child's condition. Hill advised Brandon that Stokes' relative, Earl Smith (hereinafter Smith), from Ayden, North Carolina, might be helpful in answering some of Brandon's questions.

9. Brandon later personally visited Smith and identified himself as an attorney who had previously represented other children in medical negligence lawsuits. Brandon asked Smith if Stokes' child was disabled and whether an attorney had ever examined the child's medical records to rule out medical negligence. Brandon asked Smith to ascertain whether Stokes wanted him to review the child's medical records to determine whether there may have been any medical negligence that caused the child's cerebral palsy.

10. Brandon's interest in seeking to review Stokes' child's medical records was to secure representation in any medical negligence case that the records may have revealed was warranted. A significant motive for Brandon in securing representation of Stokes was the fee that the case might generate.

11. By approaching Hill and Smith and proposing that they advise Ms. Stokes of his availability to review her child's medical records to determine whether she had grounds for a claim for medical negligence, Brandon was attempting to solicit professional employment for pecuniary gain by in-person contact through the acts of others.

BASED UPON the foregoing Findings of Fact relating to the First Claim for Relief alleged in the Complaint, the hearing committee makes the following:

CONCLUSION OF LAW

Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. Sec. 84-28(b)(2) in that Defendant violated the N.C. Rules of Professional Conduct as follows:

By attempting to solicit fee-generating professional employment from Stokes in a potential medical negligence claim concerning her child's cerebral palsy, and doing so through in-person contacts with other who could influence Stokes, Brandon attempted to solicit professional employment from a prospective client with whom he had no family or prior professional relationship when a significant motive for doing so was his own pecuniary gain in violation of Rule 2.4(A), and attempted to violate Rule 2.4(A) through the acts of others in violation of Rule 1.2(A).

AS RELATES TO THE SECOND CLAIM FOR RELIEF ALLEGED IN THE COMPLAINT

12. Brandon has no family relationship with Stephanie Bethea (hereinafter Bethea).
13. Brandon and Bethea had no professional relationship.
14. Sometime in 1988, Brandon had an opportunity to see Bethea's child in Greenville. He noticed that the child had cerebral palsy.
15. Brandon subsequently made an in-person visit to Bethea's house and asked Bethea whether he could come in and speak with her about her child. Brandon advised her that he had represented children who were handicapped, including children with conditions similar to her child's, in negligence claims. He indicated that her child's condition may have been caused by inadequate medical care.
16. Brandon's interest in approaching Bethea in person was to secure representation in any medical negligence case that Bethea's child's medical records may have revealed was warranted. A significant motive for Brandon in securing representation from Bethea was the fee that the case might generate.

BASED UPON the foregoing Findings of Fact relating to the Second Claim for Relief alleged in the Complaint, the hearing committee makes the following:

CONCLUSION OF LAW

Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. Sec. 84-28(b)(2) in that Defendant violated the N.C. Rules of Professional Conduct as follows:

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By attempting to solicit fee-generating professional employment from Bethea in a potential medical negligence claim concerning her child's cerebral palsy, Brandon attempted, through in-person contact, to solicit professional employment from a prospective client with whom he had no family or prior professional relationship when a significant motive for doing so was his own pecuniary gain in violation of Rule 2.4(A).

BASED UPON the Findings of Fact and Conclusions of Law, and the consent of the parties, the hearing committee finds the following:

FACTORS IN AGGRAVATION

1. Multiple offenses.
2. Substantial experience in the practice of law.

FACTORS IN MITIGATION

1. Absence of a prior disciplinary record.
2. Absence of dishonest motive.
3. Full and free disclosure to the Committee and cooperative attitude toward the proceedings.
4. Character and reputation.
5. Interim rehabilitation through comprehensive review of the rules and regulations governing advertising and solicitation.
6. Sincere and genuine remorse regarding his conduct.
7. Remoteness of the conduct alleged in the second claim for relief.

BASED UPON the foregoing, the hearing committee enters the following ORDER OF DISCIPLINE:

1. Thomas B. Brandon, III is hereby suspended from the practice of law in North Carolina for a period of six months.

2. The suspension of Brandon's license is suspended for two years upon Brandon's compliance with the following conditions:

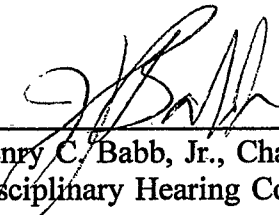
a. During each year of the two year stay period, Brandon shall participate in a 3 hour ethics block in which the issue of permissible vs. impermissible forms of attorney advertising is addressed.

a. Brandon shall violate no provision of the Rules of Professional Conduct during the two year stay period.


b. Brandon shall violate no laws of the state of North Carolina for the two year stay period.


3. The costs of the proceeding are taxed against Brandon as assessed by the Secretary.

Signed on this the 6 day of May, 1996 with the full knowledge and consent of the other members of the hearing committee.


Henry C. Babb, Jr., Chair
Disciplinary Hearing Committee

CONSENTED TO:


Alan M. Schneider
Attorney for Defendant


A. Root Edmonson
Deputy Counsel
North Carolina State Bar