

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
89 DHC 42

THE NORTH CAROLINA STATE BAR
Plaintiff

v.

WILLIAM PEEL, ATTORNEY
Defendant

CONSENT ORDER OF DISCIPLINE

This matter coming before the undersigned Hearing Committee of the Disciplinary Hearing Commission pursuant to Section 14(8) of Article IX of the Rules and Regulations of the North Carolina State Bar; and it appearing that the parties have agreed to waive a formal hearing in this matter; and it further appearing that the parties stipulate and agree to the following Findings of Fact and Conclusions of Law recited in this Consent Order and to the discipline imposed, the Hearing Committee therefore enters the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar, is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. The Defendant, William Peel, was admitted to the North Carolina State Bar in 1959 and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, Code of Professional Responsibility and the Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During all of the relevant periods referred to herein, Peel was engaged in the practice of law in the State of North Carolina and maintained a law office in the town of Williamston, N.C.

4. In 1974, Peel was approached by Lou Dailey, then the wife of Dr. Martel Dailey. Mrs. Dailey asked Peel to witness a will which Mrs. Dailey stated that Dr. Dailey had signed.

5. At first, Peel refused to witness the will, since he had not seen Dr. Dailey sign it.

6. Several hours later, Mrs. Dailey returned to Peel's office and renewed her request for Peel to witness the will. Mrs. Dailey indicated that the couple was going on a trip the next day.

7. Peel then signed the will, although he had not seen Dr. Dailey witness the document. Peel also instructed two staff members to sign the will although neither had seen Dr. Dailey sign the will.

8. Peel told Mrs. Dailey that the "will was not worth the paper it was written on" and advised her to return to his office or that of another attorney after her trip to have a new will executed.

9. The will which Peel witnessed left all of Dr. Dailey's property to Mrs. Dailey and left nothing to the four children of Dr. Dailey's first wife.

10. Neither Mrs. Dailey nor Dr. Dailey returned to Peel's office to have a new will executed.

11. Following Dr. Dailey's death in 1985, the 1974 will was presented for probate. Peel signed an affidavit before the Clerk of Court, indicating that he had witnessed Dr. Dailey sign the will.

12. In August, 1987 the children of Dr. Dailey's first marriage brought a caveat proceeding, alleging that the signature on the 1974 will had been forged.

13. In approximately July, 1987, Peel was contacted by the attorney for the caveators. Peel stated that he had no specific memory of signing the Dailey will, but that it was his practice never to witness a will unless he had actually seen the testator sign the will.

14. In 1989, a few weeks before the trial of the caveat proceeding, Peel re-contacted the attorney for the caveators and told him that he had remembered the details surrounding the signing of the Dailey will, as set out in paragraphs 4 through 10, above. Thereafter, Peel testified at the caveat proceeding on behalf of the caveators.

15. Immediately upon recognizing his responsibilities for these actions, Peel voluntarily contacted the N.C. State Bar and acknowledged his responsibilities. He gave a full statement and fully cooperated with the Bar concerning this matter.

CONCLUSIONS OF LAW

1. By signing the Dailey will as a witness and instructing his employees to sign the will as witnesses, despite the fact that neither he nor the employees had seen the testator sign the will, the Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of DR 1-102(A)(4), engaged in conduct prejudicial to the

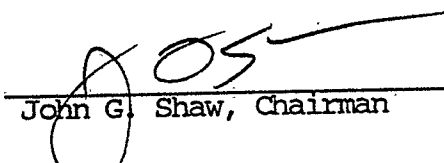
administration of justice in violation of DR 1-102(A) (5) and engaged in professional conduct which reflected adversely on his fitness to practice, in violation of DR 1-102(A) (6).

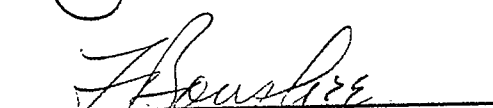
ORDER OF DISCIPLINE

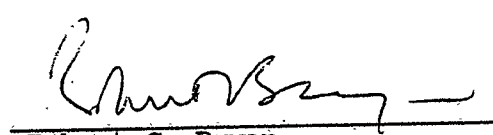
1. The Defendant, William Peel, is hereby publicly censured for signing a will as witness and instructing members of his staff to sign as witnesses, when none of them had seen the testator sign the will.

2. The Defendant shall pay the costs of this proceeding.

This the 10 day of April, 1990.


John G. Shaw, Chairman


Frank L. Boushee


Robert C. Bryan

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR.
89 DHC 42

WILLIAM PEEL
ATTORNEY AT LAW

PUBLIC CENSURE

In 1974 you were approached by Mrs. Lou Dailey, then the wife of Dr. Martel Dailey. Mrs. Dailey brought you a will which she said had been signed by her husband. At first you refused to witness the will since you had not seen Dr. Dailey actually sign the document. Mrs. Dailey became indignant and left your office. An hour or two later, however, Mrs. Dailey reappeared and pleaded with you to witness the will, indicating that she and Dr. Dailey were going away on a trip early the next morning. Finally you agreed to witness the will even though you had not seen Dr. Dailey sign it. The will which you witnessed in your office left everything to Mrs. Dailey and left nothing to Dr. Dailey's four children by his first wife. Although you told Mrs. Dailey that the will was "not worth the paper it was written on" Dr. Dailey did not return to your office to have a new will executed, nor did you take any steps to remedy the situation. Dr. Dailey died in 1985.

In 1987 or 1988 you were contacted by an attorney who was representing one of Dr. Dailey's sons by his first marriage. The son believed that the signature on the May 1974 will was not that of Dr. Dailey. You told the attorney that you did not remember anything about the will but that you had never witnessed a will without actually seeing the testator sign. Although you believed this to be true at the time, you later recalled the circumstances surrounding the witnessing of Dr. Dailey's will. Thereafter you contacted the attorney for Dr. Dailey's son and explained what had happened.

Upon recognizing your error, you acted in an appropriate manner by voluntarily coming to the Bar and fully disclosing your conduct in this matter. You fully cooperated in all matters relating to this investigation.

By witnessing a will which you had not seen the testator sign, you engaged in conduct involving dishonesty, fraud, deceit or misrepresentation and also engaged in conduct prejudicial to the administration of justice in violation of Rules 1.2(C) and (D) of the Rules of Professional Conduct. The Grievance Committee determined to impose a Public Censure rather than refer this matter for a disciplinary hearing, in recognition of the fact that you voluntarily reported your misconduct to the State Bar, that you cooperated fully with the State Bar, that you testified truthfully at a trial respecting the validity of the will and that you have no prior record of professional discipline.


You are hereby publicly censured by the North Carolina State Bar due to your professional misconduct and violation of the Rules of Professional Conduct.

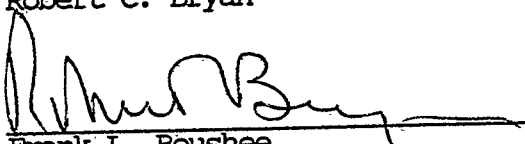
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The Grievance Committee trusts that this Public Censure will be heeded by you, that it will be remembered by you, that it will be beneficial to you, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. In order to remain a respected member of the legal profession whose conduct may be relied upon without question, you must in the future carefully weigh your responsibility to the public, your clients, your fellow attorneys and the courts. The Grievance Committee expects that no professional misconduct will occur in the future.

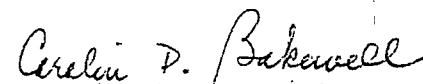
This the 14 day of April, 1990.

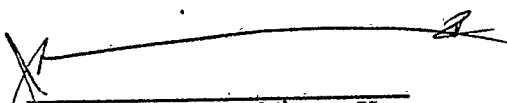

John Shaw, Chairman


Robert C. Bryan


Frank L. Boushee

Seen and consented to:


Carolin D. Bakewell
Attorney for Plaintiff


Joseph B. Cheshire, V
Attorney for Defendant

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