

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
10G0313, 10G0806, 11G0468

IN THE MATTER OF

Joseph E. Altman,
Attorney At Law

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REPRIMAND

On January 24, 2013 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by the State Bar (10G0313), E.R (10G0806) and Charles (11G0468).

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.

10G0313: You were appointed to represent A.B. in a Brunswick County criminal matter. A.B.'s matter came on for hearing on the morning of March 8, 2010. A.B., the victim and the victim's witnesses were present for the hearing. You failed to appear for the hearing at the appointed time. Because you failed to appear, the judge removed you from A.B.'s case and

appointed new counsel. You appeared in court for A.B.'s matter during the court's afternoon session. Your failure to timely appear in court on behalf of A.B. prevented the court from disposing of A.B.'s matter. You interrupted the administration of justice in violation of Rule 8.4(d). Because you have an extensive history of being late for court or failing to appear without giving prior notice, the judge issued an Order to Show Cause against you. After a hearing, you were held in criminal contempt of court. You served a six hour jail sentence and were removed from the court appointed list for three months.

10G0806: In 2007, E.R. retained you to help him with a criminal matter and a civil litigation matter. The criminal matter was resolved by E.R. accepting a plea agreement. You filed a civil lawsuit to resolve a real estate contract dispute. Defendant's counsel filed an answer and a counterclaim. You failed to respond to the counterclaim. Defense counsel served you with requests for admissions. You failed to respond to the requests for admissions. Your conduct constitutes neglect in violation of Rule 1.3.

11G0468: On February 25, 2011, Charles filed a petition for an incompetency hearing for a determination on whether Shubert was competent to handle his affairs. A guardian ad litem ("GAL") was appointed for Shubert. Sara retained you to prepare a revocation of a healthcare power of attorney and a new power of attorney naming Sara as Shubert's attorney-in-fact. You prepared the documents. At the time you prepared the documents, you were aware of the pending competency proceeding and that a GAL had been appointed for Shubert. You did not communicate with Shubert or the GAL prior to preparing the documents. You and Sara appeared at the nursing home where Shubert lived. You obtained Shubert's signature on the documents and notarized the same. You should not have undertaken representation of Shubert or prepared legal documents on behalf of Shubert without consulting with Shubert to obtain his informed consent to the representation and to determine whether he needed or wanted the legal services requested. Further, you should have exercised independent professional judgment on behalf of Shubert and counseled Shubert with respect to the advisability of the requested legal services. You failed to communicate with Shubert prior to preparing the documents and instead prepared documents for Shubert at Sara's direction. You therefore violated Rules 1.4(a) and (b), 1.8(f) and 5.4(c).

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 July 23, 2010 by the Council of the North Carolina State Bar regarding the taxing of administrative fees and investigative costs to any attorney issued a reprimand by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

Done and ordered, this the 18th day of February, 2013.

Margaret M. Hunt

Margaret M. Hunt, Chair
Grievance Committee

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