

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
11G0625, 11G0885, 11G0932, 11G1128 & 12G0393

IN THE MATTER OF

Wanda B. Daughtry,
ATTORNEY AT LAW

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CENSURE

On October 25, 2012, the Grievance Committee of the North Carolina State Bar met and considered the grievances filed against you by NC State Bar, L. M, B. T., E. M. and R. T.

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.

A censure is a written form of discipline more serious than a reprimand, issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused significant harm or potential significant harm to a client, the administration of justice, the profession or a member of the public, but the misconduct does not require suspension of the attorney's license.

The Grievance Committee believes that a hearing before the Disciplinary Hearing Commission is not required in this case and issues this censure to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this censure.

You served as guardian of the estate of W.M., who was declared incompetent. You failed to file an inventory or accounting for more than a year after you had disbursed all of the estate funds, despite multiple notices to file issued to you by the Clerk. This delay reflects a lack of diligence in violation of Rule 1.3, and your failure to account for fiduciary funds as required by law was in violation of Rule 1.15-3(f). You were sued in your capacity as guardian of the estate of W.M. and received discovery requests directing you to identify and produce "all documents related in any way" to your guardianship of W.M.'s estate. In response you produced an inventory and final accounting, which you indicated had been filed even though they had not been. You did not, however, produce any of the five notices to file that had been issued to you by the Clerk. Your inaccurate representations about having filed the inventory and accounting and your failure to produce requested documents that were in your possession

reflects that you failed to make a reasonably diligent effort to comply with the opposing party's discovery requests in violation of Rule 3.4(d)(2).

In February 2008, you were appointed guardian of the estate of J.B., who was declared incompetent. You did not file any accountings for the estate of J.B. until September 2010, when you filed two annual accounts and the final account simultaneously. This delay reflects a lack of diligence in violation of Rule 1.3, and your failure to account for fiduciary funds as required by law was in violation of Rule 1.15-3(f).

You served as guardian of the estate of M.B., who was declared incompetent. You did not timely file an inventory of the estate assets. At the time you filed the final account for the estate of M.B., you had already collected your commissions. You did not file an accompanying petition requesting the Clerk's approval of your commissions. Despite a specific directive from the Clerk to file a petition for commissions, you failed to file the petition until six months later, after you received notice that the State Bar was investigating this matter. Your failure to act with reasonable promptness and diligence regarding the estate of M.B. was in violation of Rule 1.3.

Since 2005, you have been the trustee of an irrevocable special needs trust established for the benefit of W.L., a disabled minor. Despite requests for trust accountings from W.L.'s mother (who is also his guardian ad litem), you did not provide her with an accounting of trust property during the first six years of your tenure as trustee. This violates Rule 1.15-3(f), which requires a lawyer who provides professional fiduciary services to render accountings as required by law or, "[i]f an annual or more frequent accounting is not required by law, a written accounting of all transactions concerning the fiduciary funds...shall be rendered to the beneficial owners, or their representatives, at least annually."

In 1997, you entered into a representation agreement indicating that you would represent R.T. in a worker's compensation case. Although you state that you subsequently withdrew from that agreement, you continued to communicate with R.T. about her case sporadically for the ensuing eleven years. R.T. reasonably believed you were representing her based on the intermittent advice and assistance you rendered. By failing to clarify that you were repudiating the representation agreement and did not intend to represent R.T., you failed to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b).

You are hereby censured by the North Carolina State Bar for your violation of the Rules of Professional Conduct. The Grievance Committee trusts that you will ponder this censure, recognize the error that you have made, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. This censure should serve as a strong reminder and inducement for you to weigh carefully in the future your responsibility to the public, your clients, your fellow attorneys and the courts, to the end that you demean yourself as a respected member of the legal profession whose conduct may be relied upon without question.

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 censure by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

Done and ordered, this the 4th day of February, 2013.

Margaret M. Hunt

Margaret M. Hunt, Chair
Grievance Committee
The North Carolina State Bar