

NORTH CAROLINA

WAKE COUNTY

12992
BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
97G0723(III)

IN THE MATTER OF)	
)	
JAMES R. HUNDLEY, JR.,)	REPRIMAND
ATTORNEY AT LAW)	
)	

On April 16, 1998, 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.

In September 1995, your law firm, Wyatt, Early, Harris & Wheeler (WEHW) undertook to represent Textile Industries Inc., (Textile) respecting Textile's Chapter 11 bankruptcy petition. That same month, Textile filed an application for employment of counsel, which was accompanied by an affidavit of disinterestedness which you signed. The affidavit stated that neither you nor any other member of WEHW had any connection with Textile, its creditors or any other party in interest in the bankruptcy proceeding and that no member of WEHW represented any interest adverse to that of Textile. In fact, some of the attorneys at WEHW did have relationships with Textile, its creditors and parties in interest in the bankruptcy proceeding.

Moreover, WEHW attorneys engaged in conflicts of interest by representing interests adverse to those of Textile.

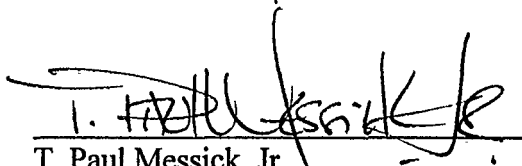
Ultimately, an investigation was conducted into various bankruptcy filings which had been made by Textile, the statements in the affidavit of disinterestedness, and the conduct of WEHW's attorneys. In May 1997, Hon. William Stocks entered an order which found that WEHW had failed to comply with the provisions of the Bankruptcy Code which require a broad disclosure of an attorney's connections and relationships with a debtor, the debtor's creditors and parties in interest in bankruptcy proceedings. Judge Stocks also found that WEHW had engaged in conflicts of interest by representing various entities whose interests were adverse to those of Textile. Judge Stocks ordered WEHW to disgorge more than \$112,000 in fees and sanctions and disqualified the firm from further representation of Textile. The order has been widely publicized in the local media and in Lawyers Weekly.

The Grievance Committee was greatly disturbed by the conduct of WEHW's attorneys in the Textile case, including your participation in the preparation and filing of the affidavit of disinterestedness with the bankruptcy court. That being said, the Committee found that your misconduct was mitigated by the fact that the affidavit was prepared hurriedly and that you were inexperienced in bankruptcy matters at the time, which contributed to your failure to recognize the significance of the relationships among and between Textile, its individual shareholders, other insiders and affiliates and WEHW. The Committee also recognized that your involvement in the case was limited to the early stages of the proceeding. Finally, your misconduct was mitigated by the fact that you have no prior discipline, you accepted responsibility in your response to the Grievance Committee and the fact that Judge Stocks' order imposed significant sanctions. Had these mitigating factors not been present, the Committee would doubtless have voted to impose more substantial discipline against you.

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 22nd day of July, 1998.


T. Paul Messick, Jr.
Chair, Grievance Committee