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STATE OF NORTH CAROLINA
COUNTY OF WAKE

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GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
86G 0229(I)

IN THE MATTER OF

WILLIAM I. WOOTEN,
ATTORNEY AT LAW

PUBLIC CENSURE

At its regular quarterly meeting on July 23, 1986, the Grievance Committee of the North Carolina State Bar conducted a preliminary hearing under Section 13 of the Discipline and Disbarment Rules of the North Carolina State Bar regarding a grievance filed against you by the North Carolina State Bar. The Committee considered all of the evidence before it, including your written statement to the Committee. Pursuant to Section 13(10) of the Discipline and Disbarment Rules, the Committee found probable cause. Probable cause is defined under the Discipline and Disbarment Rules as: "A finding by the Grievance Committee that there is reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action." The rules also provide that if, after a finding of probable cause, the Committee determines that a complaint and a hearing are not warranted, the Committee may issue a public censure upon the acceptance of the same by the attorney. That determination has been made by the Committee and the Committee issues this Public Censure to you.

As Chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this Public Censure. I am certain that you will understand fully the spirit in which this duty is performed. The fact that a public censure is not the most serious discipline that may be imposed by the North Carolina State Bar should not be taken by you to indicate that any member of the Committee feels that your conduct was excusable or less than a serious and substantial violation of the Rules of Professional Conduct and the law of the State of North Carolina.

On January 30, 1986, you executed an affidavit for submission to the Grievance Committee of the North Carolina State Bar in support of a grievance filed by Charles Hugh McGowan, Jr. and Janice M. Barbre against another member of the Pitt County Bar. In your affidavit you asserted that the subject attorney "purposely mislead you" to accept the wording of a subordination agreement in a deed of trust which apparently required the subordination of your clients' lien to a much greater extent than had been contemplated by the parties in negotiating the transaction. You indicated in your affidavit that since you trusted that the subject attorney would insert the "understood and appropriate" clause, you failed to read the provision in depth but rather glanced hurriedly at the proffered language. You further indicated that you believed you had been "victimized by the misrepresentation of a fellow attorney."

Subsequently, on April 3, 1986, you executed another affidavit concerning the subject attorney's conduct. In that affidavit, which was executed at the behest of the accused lawyer and was ultimately submitted to the Grievance Committee in his defense, you contradicted your first sworn statement to the Grievance Committee. You indicated in your second affidavit that the accused attorney, "did not make any representations to me concerning the subordination clause and I did not rely upon any statements or representations of (him) in reviewing and accepting the documents." You further stated that, "[I]n no manner did (the accused attorney) fraudulently induce me to permit the Purchase Money Deed of Trust to be recorded nor did he make any representations which induced me to permit the recording. I did not raise any objection with (the accused attorney) concerning any of the documents."

You concluded your second affidavit by asserting that, "I am fully satisfied that (the accused attorney) perpetrated no wrong on my clients in the closing transaction and that he did not engage in any unethical or improper conduct in his dealings with me in this matter."

Although you attempted to reconcile your inconsistent statements in subsequent submissions to the Grievance Committee, their contradictory nature is plain and unjustifiable. In the opinion of the Grievance Committee you violated the letter and the spirit of Rules 1.2(c) and (d) of the Rules of Professional Conduct which prohibit misrepresentation by an attorney and conduct that is prejudicial to the administration of justice. In the instant case, it is clear that in at least one of your sworn statements, you misrepresented the conduct of a fellow lawyer. You compounded this regrettable lapse of professional responsibility by confusing the truth of the matter so completely that the Grievance Committee was unable to determine with confidence whether there was merit to the underlying grievance.

It also appears that you violated N.C. Gen. Stat. §84-28(b)(3) by knowingly misrepresenting the facts and circumstances surrounding the original allegation of misconduct.

Investigations of attorney misconduct are not undertaken lightly by the North Carolina State Bar. Since the professional reputation of an attorney is invariably at stake when his conduct is called into question, the Grievance Committee is obliged to proceed with great care. It follows then that any lawyer who volunteers or is called upon to assist the Committee by offering information regarding possible professional misconduct must also act with great circumspection. It is obvious from your contradictory sworn statements that you failed to appreciate the gravity of your actions and your responsibility. Indeed, your cavalier disregard for the truth may have subverted the disciplinary process in this instance.

The Grievance Committee realizes that your inconsistent statements may well have been more the product of imprecise recollection and poor judgment than an intent to deceive. For that reason, the Committee has not referred the matter for disciplinary prosecution. You should realize, however, that any recurrence of this sort of conduct would be likely evoke a more severe response. You are admonished to take greater care in the future to insure the accuracy of your assertions, particularly in professional matters.

The Committee is confident that this Public Censure will be heeded by you, will be remembered by you, and will be beneficial to you. The Committee is confident that you will never again allow yourself to depart from strict adherence to the highest standards of the profession. Instead of being a burden, this Public Censure should serve as a profitable and continuing reminder to weigh carefully your responsibilities to your clients, to the public, to your fellow attorneys, and to the courts.

Pursuant to Section 23 of the Discipline and Disbarment Rules, it is ordered that a certified copy of this Public Censure be forwarded to the Superior Court of Pitt County for entry upon the judgment docket and to the Supreme Court of North Carolina for entry upon its minutes. This Public Censure will also be maintained as a permanent record in the judgment book of the North Carolina State Bar. Pursuant to a policy adopted by the Council of the North Carolina State Bar regarding the taxing of costs in cases where discipline is entered by the Grievance Committee, you are hereby taxed \$50.00 for the administrative costs in this action.

This the 9th day of September, 1986.

Joseph B. Cheshire, Jr.
Joseph B. Cheshire, Jr., Chairman
The Grievance Committee