

PROFESSIONAL RESPONSIBILITY AND DISCIPLINE

By

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HE IS NOT CRYING "WOLF"

Many of us may recall, having progressed through the A, B, C's, that we read or had read to us Aesop's Fables. One such story concerned the shepherd's boy who, having falsely cried "wolf" once too often, was destroyed by a real wolf when his neighbors ignored his pleas for help.

I have only been in office for seven months. However, I am not only dismayed but somewhat discouraged by valid complaints against lawyers for their dilatory practices in the probate of estates. These offenders are not only attorneys who are not rated in Martindale-Hubbell Law Directory; they also are a.v. types who supposedly are leaders in our profession and generally enjoy great respect in their home communities. The estates entrusted to their attention vary in value from nominal to substantial, and the fees charged (and generally paid not later than at the time of the hearing on the final account) vary in the same degree.

I cite some examples. Investigation by this office developed that one attorney had 51 open and largely unattended files in his probate, now county, court. Another attorney had 24 such files in his court. Still another attorney had 21 files. These attorneys all practice in rural areas. But the same criticism can be directed to the city practitioner. He may not have such a large number of aging files but, as a rule, his estates are of greater value.

Attorneys who are guilty of this kind of unprofessional conduct have been and will be disciplined by (a) reprimand from the Board; (b) informal supervised probation with agreement not to engage further in probate practice; (c) supervised probation by order of the Supreme Court, with or without the sanction of (b); (d) suspension from practice for either a specified or indefinite period; (e) resignation in lieu of disciplinary action; and (f) disbarment.

I am in communication with the probate and county judges regarding this subject. I solicit their cooperation in bringing to my attention the chronic offender. But it is the probate practitioner himself who must dissipate much of the criticism directed against lawyers, by prompt and proper representation of those interested in the administration of estates.

The State Board of Professional Responsibility is not going to sit idly by and see our profession either destroyed, as in the case of the shepherd boy, or even eroded, and I am not crying "wolf".