



**IN DISCIPLINARY DISTRICT IX
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**

**IN RE: LARRY E. FITZGERALD,
BPR #10953, Respondent,
An Attorney Licensed to
Practice Law in Tennessee
(Shelby County)**

File No. 26247-9-SG

PUBLIC CENSURE

The Board of Professional Responsibility has determined that attorney Larry E. Fitzgerald should be publicly censured for the following:

On May 3, 2003, the Complainant states that Hank Conway of Memphis Bonding Company telephoned the Complainant in Edinburg, Texas to advise her that her sister and her mother had been arrested in Memphis on May 1, 2003. The Complainant further states that Mr. Conway advised the Complainant that he had obtained for her sister and mother a lawyer by the name of Larry Fitzgerald, however, Mr. Conway further stated the Complainant needed to send \$5,000. The Complainant refused to send \$5,000 but did agree to fly to Memphis on Sunday, May 4, 2003. On May 4, 2003, the Complainant flew to Memphis and met with Hank Conway

and attorney Larry Fitzgerald at the airport coffee shop. The Complainant states the Respondent advised her on May 4, 2003, that if the Complainant would retain the Respondent "momma will go home tomorrow, momma is going to walk". On May 5, 2003, the Complainant paid the Respondent \$5,000 in cash. The Complainant states that after court on May 5, 2003, the Respondent advised the Complainant that he could not convince the Complainant's sister to accept the blame, but that the Respondent could still get the Complainant's mother out without a bond. The Complainant visited with her sister on May 5, 2003. The Complainant's sister advised the Complainant that the Respondent had put pressure on her to take the blame for the crime so their mother could go free. On May 6, 2003, the Complainant requested a refund from the Respondent. The Respondent declined to provide any refund to the Complainant.

The Respondent acknowledges accepting a \$5,000 fee from the Complainant for the representation of both the sister and mother. The Respondent states he later took his name off the jacket for Complainant's mother as counsel of record and arranged for other counsel for the Complainant's mother. After this matter was reported to the Board, the Respondent did refund the Complainant her \$5,000 on June 27, 2003.

T.C.A. 40-11-126 defines "unprofessional conduct" by bondsmen or surety agents as being (1) no bondsman or surety agent shall suggest or advise the employment of or name for employment any particular attorney to represent the bondsman's principal. T.C.A. 40-11-124 states the clerk and sheriff in municipal courts shall have available a list of approved and

qualified and professional bondsmen. Hank Conway is **not** an approved and qualified bail bondsman.

By these acts, the Respondent violated Rule 1.4; 1.5; 1.7; 1.8; 1.16; 7.3; and 8.4 of the Tennessee Rules of Professional Conduct. The Board of Professional Responsibility **publicly censures** the Respondent.

Charles E. Carpenter

Charles E. Carpenter, Chairman
Board of Professional Responsibility
of the Supreme Court of Tennessee

DATE: *October 21, 2003*