

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
06G0588

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IN THE MATTER OF	)	
	)	
NIKITA V. MACKEY	)	REPRIMAND
Attorney At Law	)	
	)	

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On October 23, 2008 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by L. Washington.

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.

You represented Mr. Washington in a domestic matter. The Grievance Committee concluded that you neglected Mr. Washington's matter by failing to appear in court in violation of Rule 1.3: Diligence and failed to adequately communicate with Mr. Washington in violation of Rule 1.4(a): Communication. The Committee also found that the fee you attempted to collect from Mr. Washington is excessive in that the fee agreement calls for payment of \$4,000 plus an

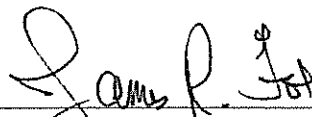
hourly rate without explaining what services Mr. Washington will receive for the \$4,000 or when the hourly billing begins. Your written fee agreement is therefore in violation of Rule 1.5(a) and (b): Fees.

In addition, you were twice asked by local Grievance Committee to provide a written response to the grievance. You failed to do so. In December 2007 you did forward to the State Bar a response letter dated June 7, 2006 purporting to be your original response to the local Committee. The Committee however concluded that your representation that you had responded to the local Committee was false in violation of Rule 8.1(a): Bar Admission and Disciplinary Matters and Rule 8.4(c): Misconduct. Lastly, since your response was not received until December 2007, your response was not timely filed in violation of Rule 8.4(d): Misconduct.

You are hereby reprimanded by the North Carolina State Bar for 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 \$100.00 are hereby taxed to you.

Done and ordered, this the 13th day of November, 2008

  
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James R. Fox, Chair  
Grievance Committee

JRF/lr