

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
06G0844

IN THE MATTER OF)
)
Peter J. Underhill,) REPRIMAND
Attorney At Law)
)

On October 18, 2007 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.

You were retained as legal counsel for Default Real Estate Specialized Services, Inc. ("D.R.E.S.S.") from August 2005 to January 2007. D.R.E.S.S. was hired by lenders to provide the lenders with foreclosure/substitute trustee services, including legal services. D.R.E.S.S. arranged for you to appear as substitute trustee in the foreclosure matters for D.R.E.S.S.'s customers as part of your retainer agreement with D.R.E.S.S. D.R.E.S.S. entered into a business

relationship with TD Service Company/Melmet Default Services, Inc. (hereinafter "TD Service"). You represent that you did not participate in the formation of the business relationship between TD Service and D.R.E.S.S. or its ongoing operation and never had any direct contact with TD Service. Paperwork filed in foreclosure matters by TD Service contained your name as one of the substitute trustees. The Authorized Practice Committee of the North Carolina State Bar found that TD Service was engaged in the unauthorized practice of law in North Carolina by offering foreclosure services that included legal services directly to mortgage lenders. Through your association with D.R.E.S.S. and D.R.E.S.S.'s association with TD Service, you allowed your name to be used and your legal services to be provided to the customers of TD Service. In this way, you assisted D.R.E.S.S. and TD Service with the unauthorized practice of law in violation of Rule 5.5(d), even though your contact was indirect.

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 \$50.00 are hereby taxed to you.

Done and ordered, this the 11th day of January, 2008.



James R. Fox, Chair
Grievance Committee

JRF/lr