

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
08G0319

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|                    |   |           |
|--------------------|---|-----------|
| IN THE MATTER OF   | ) |           |
|                    | ) |           |
| HERMAN L. STEPHENS | ) | 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 the 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.

In August 2007 you were hired by N. Neff to prepare and send a demand letter to a realty company seeking return of Ms. Neff's security deposit. As of November 2007 you had not drafted the letter and therefore neglected Ms. Neff's matter in violation of Rule 1.3: Diligence. You also failed to communicate with Ms. Neff regarding her matter in violation of Rule 1.4(a): Communication. In your response to the grievance you indicated that the reason you had not

drafted the letter was because of the Thanksgiving holiday. The Grievance Committee concluded that your failure was not because of the holiday and therefore your statement was false and/or misleading in violation of Rule 8.4(c): Misconduct.

Because of your failure to prepare the letter, Ms. Neff first asked for a refund of the fee she paid and when you did not respond, Ms. Neff filed a fee dispute petition. You failed to respond to the fee dispute in violation of Rule 1.5(f): Fees and provided a late response to the grievance 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

  
James R. Fox, Chair  
Grievance Committee

JRF/lr