

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
09G1382

IN THE MATTER OF)

John R. Bennett, III,)
Attorney At Law)

REPRIMAND)

On October 28, 2010, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by M.M.

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.

M.M. retained you to prepare estate plan documents. M.M. paid you \$7,500. M.M. was not satisfied with your services and requested a fee adjustment. You informed M.M. that you would not refund any portion of the fee and advised M.M. to file a petition for a disputed fee with the State Bar. M.M. filed a petition for a disputed fee. You received notice of the fee dispute. Although you provided a written response to the fee dispute, you failed to respond to the

fee dispute facilitator's request for additional information. Failure to respond to the fee dispute facilitator constitutes a failure to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f).

Because you failed to complete the fee dispute process, a grievance was initiated against you. In response to the grievance, you stated that an infection caused by a leg injury prevented you from responding to the fee dispute facilitator. On March 17, 2010, Deputy Counsel left you a voice mail message asking you to provide proof of your illness. You failed to respond. On June 7, 2010, Deputy Counsel sent you a letter asking for proof of your illness. You failed to respond. Your failure to respond to Deputy Counsel's request for additional information is a violation of Rule 8.1(b).

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 January 24, 2008 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 2 day of December, 2010



Ronald G. Baker, Sr., Chair
Grievance Committee

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