

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
10G0444, 10G0487, 10G0608, 10G0868

IN THE MATTER OF

Keith C. Booker,
Attorney At Law

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REPRIMAND

On April 21, 2010, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by S.S., J.D., J.F. and P.W.

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.

S.S. retained you to handle a traffic ticket matter. You asked S.S. to provide a copy of the ticket, the waiver form and the fee. The fee included the attorney fee and court costs and fines. S.S. failed to pay the fee or provide the ticket. You therefore did not appear in court on S.S.'s behalf. S.S. was called and failed and the court issued a failure to appear. You subsequently communicated with S.S. and informed her that you needed to receive the attorney fee before

going to court. S.S. agreed to pay the attorney fee. You handled S.S.'s ticket and had the failure to appear struck. You sent S.S. a letter informing her of the outcome. The letter directed S.S. to pay the court costs and fines. The letter was returned as undeliverable. The Committee did not find that you neglected S.S.'s matter or failed to communicate the status of her matter. Because S.S. did not receive written communication regarding the status of her case, S.S. tried to contact you at your Gastonia office only to find that the phone number was disconnected. At no time prior to closing your Gastonia office or disconnecting the phone did you inform S.S. or your other clients of the same. The Committee concluded that your failure to inform S.S. and other clients that you disconnected your phone number and provide an alternate number is a violation of Rule 1.4(a). You failed to timely respond to the grievance in violation of Rule 8.1(b).

J.D. retained you to handle a traffic ticket matter. You directed J.D. to provide you with the ticket, a copy of her driver's license, the waiver form and your fee. J.D. provided everything except a copy of her license. You had J.D.'s matter continued twice in order to give J.D. time to provide a copy of her driver's license. However, you failed to inform J.D. that you could not handle her ticket without the driver's license. Because of a clerical error, the third continuance you sought was not granted. J.D. was therefore called and failed and the court issued a failure to appear. Upon receiving notice of the failure to appear, J.D. tried to contact you at your Wadesboro office only to find that the phone number was disconnected. At no time prior to closing the Wadesboro office or disconnecting the phone did you inform J.D. or your other clients of the same. Your failure to communicate with the J.D. is a violation of Rule 1.4(a).

The Committee considered your argument that although you closed your Wadesboro and Gastonia offices and therefore disconnected the phone numbers associated with those offices, your letterhead contains an additional working phone number and therefore your clients had the ability to contact you. Because the State Bar Attorney Client Assistance Program and the Grievance Committee received several complaints pertaining to an inability to communicate with you because your phone number was disconnected, the Committee determined that the presence of another phone number on your letterhead, a number the clients obviously were not accustomed to calling, does not excuse your obligation to inform your clients of a change to your contact information. Your failure to keep your client's apprised of your contact information constitutes a failure to communicate in violation of Rule 1.4(a).

J.F. retained you to handle his traffic ticket matter. J.F. informed your secretary that he was charged with speeding 67mph in a 55mph zone. Your secretary accordingly quoted a fee. Upon receipt of J.F.'s ticket, you realized that J.F. was charged with speeding in a work zone. Because handling this type of ticket is more involved than a typical speeding ticket, your fee is higher. J.F. was quoted the wrong fee. Once you realized the error, you attempted to get J.F.'s matter continued in order to give J.F. time to pay the correct fee. However, you failed to inform J.F. of the same in violation of Rule 1.4(a). Due to a clerical error, J.F.'s matter was not continued. J.F. was called and failed and the court issued a failure to appear. J.F. contacted you. For the first time, you informed J.F. that additional fees were due. J.F. paid the additional fee. The next day, you handled J.F.'s matter including getting the failure to appear struck. J.F. was concerned that you would not handle his matter. J.F. retained Lawyer B to handle the ticket. Lawyer B did so and paid the court costs and fines. Subsequently, the clerk noticed an overpayment and provided J.F. with a refund. Under the mistaken belief that you handled his ticket after Lawyer B handled the same ticket, J.F. filed a Petition for a Disputed Fee with the

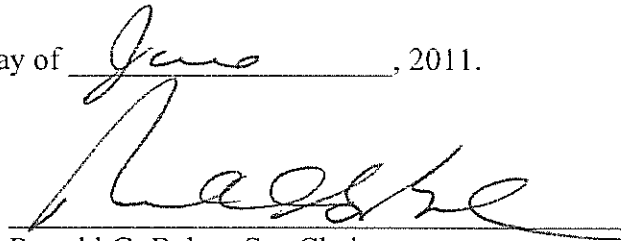
State Bar. The 26th District Fee Dispute Program Chair assigned the matter for mediation. You failed to attend the mediation in violation of Rule 1.5(f).

P.W. retained you to handle a traffic ticket matter. On July 23, 2010, you handled the ticket and had it reduced to improper equipment. Because you did not have a trust account check, you did not pay P.W.'s court costs and fines at that time. On July 26, 2010, your secretary informed P.W. that the ticket was handled and that P.W. would receive a letter explaining the outcome. P.W. did not receive a letter. P.W. called several times, but did not receive a letter or confirmation that the ticket had been handled. On August 25, 2010, P.W. received a letter from the DMV stating that his license was subject to suspension for failing to appear in court on July 23, 2010. P.W. immediately contacted you. It was only then that you reviewed P.W.'s file and recognized your failure to timely pay the court costs and fines. You neglected to ensure that P.W.'s matter was handled in a timely manner in violation of Rule 1.3. You also failed to inform P.W. that your error caused the DMV to send a suspension notice to P.W. in violation of Rule 1.4. Furthermore, you failed to timely respond to the grievance in 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 administrative fees and investigative costs to any attorney issued a reprimand by the Grievance Committee, an administrative fee in the amount of \$100.00 is hereby taxed to you.

Done and ordered, this the 2 day of June, 2011.



Ronald G. Baker, Sr., Chair
Grievance Committee

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