

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
09G0851 and 09G1234

IN THE MATTER OF)
)
Clifton J. Gray, III,) CENSURE
ATTORNEY AT LAW)
)

On April 15, 2010, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by T.H. and K.C.

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.

A censure is a written form of discipline more serious than a reprimand, issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused significant harm or potential significant harm to a client, the administration of justice, the profession or a member of the public, but the misconduct does not require suspension of the attorney's license.

The Grievance Committee believes that a hearing before the Disciplinary Hearing Commission is not required in this case and issues this censure to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this censure. I am certain that you will understand fully the spirit in which this duty is performed.

You undertook representation of T.H. in a legal malpractice matter. T.H. paid you \$1,250 toward your \$2,500 fee. T.H. became dissatisfied and discharged you. T.H. filed a fee dispute petition. You agreed to refund \$500. T.H. did not receive the \$500 refund and contacted the fee dispute facilitator ("facilitator"). According to the facilitator's phone records, she attempted to contact you six times. You failed to respond to the facilitator's calls and request for information regarding the \$500 refund. You therefore failed to participate in the fee dispute process in good faith in violation of Rule 1.5(f). Because you failed to respond to the facilitator, a grievance file was opened. In response to the grievance, you denied any failure to respond to the facilitator. You stated that you made several calls to the facilitator, but did not receive a response. You stated you would provide phone records proving

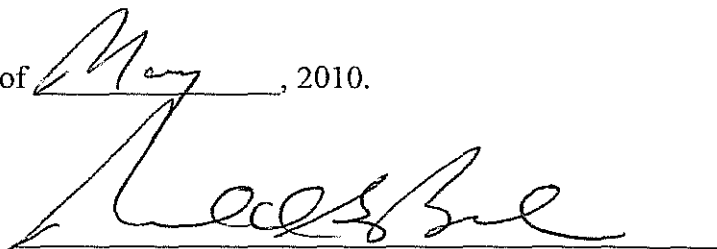
your attempts to contact the facilitator. Deputy Counsel asked you to provide the phone records. You failed to provide the phone records. You also stated you mailed two checks to T.H. to satisfy the \$500 refund. You were asked to provide Deputy Counsel with copies of the checks and accompanying cover letters. You failed to provide the requested documents. Instead, you provided a new \$500 check to Deputy Counsel to forward to T.H. Your failure to provide the phone records and copies of the checks and cover letters is a violation of Rule 8.1(b). Because you failed to provide documentation to dispel your failure to comply with requests for information, the Committee concluded that your statements that you called the fee dispute facilitator and mailed two checks to T.H. were untruthful in violation of Rule 8.4(c).

You represented K.C. in a traffic matter. K.C. was not satisfied with your representation. K.C. filed a fee dispute petition against you. You failed to respond to the fee dispute in violation of Rule 1.5(f). A grievance file was opened. Upon notice of the grievance, you faxed a letter to the fee dispute facilitator stating that you received notice of the fee dispute on September 24, 2009 and responded to the same on September 25, 2009. You attached a copy of your response to the fee dispute. As part of the grievance investigation you were asked to provide a copy of the facsimile confirmation page showing you faxed your response to the fee dispute on September 25, 2009. You failed to respond the Deputy Counsel in violation of Rule 8.1(b). The Committee considered K.C.'s complaint that you failed to diligently handle his traffic matter. The Committee concluded that you competently and diligently handled K.C.'s traffic matter.

You are hereby censured by the North Carolina State Bar for your violation of the Rules of Professional Conduct. The Grievance Committee trusts that you will ponder this censure, recognize the error that you have made, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. This censure should serve as a strong reminder and inducement for you to weigh carefully in the future your responsibility to the public, your clients, your fellow attorneys and the courts, to the end that you demean yourself as a respected member of the legal profession whose conduct may be relied upon without question.

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 censure by the Grievance Committee, the costs of this action in the amount of \$100.00 are hereby taxed to you.

Done and ordered, this 17 day of May, 2010.



Ronald G. Baker, Sr., Chair
Grievance Committee
The North Carolina State Bar