

NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
09G0408

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IN THE MATTER OF )

Marty S. McConchie, )  
Attorney At Law )

REPRIMAND

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On January 14, 2010 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by J. G.

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.

The Complainant hired you to handle the probate of the estate of his late wife in January 2008. You did not act in a timely fashion to probate the estate, failed to meet deadlines, and failed to keep appointments scheduled by the clerk of court. In December 2008, you promised the Complainant and the clerk of court that you would work rapidly to complete the probate of the estate. When you failed to follow through on this promise, the Complainant hired another

attorney. The Complainant's new attorney contacted you in January and March 2009 asking you for copies of all estate documents, but you failed to respond to the new attorney.

You neglected your client's case in violation of Rule 1.3 of the Rules of Professional Conduct. You also failed to provide necessary information to your client and his new attorney in violation of Rule 1.4(a)(2)(3)(4).

You received notice of this grievance on April 13, 2009, and were asked to respond to it within fifteen days of receipt of the letter of notice. You failed to respond to the grievance. You were given an extension to respond until May 15, 2009, but you did not respond at that time. After some communications between you and the deputy counsel assigned to the grievance, you agreed to provide a written response on or before December 4, 2009. You did not provide a response before that date. Due to your failure to respond to this grievance, the State Bar subpoenaed you to the Grievance Committee meeting which was scheduled for January 14, 2010.

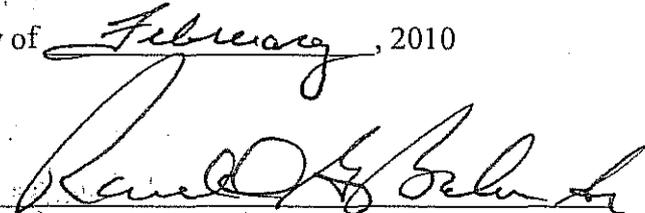
You finally provided some response to this grievance on the night before the Grievance Committee met. In your January 13, 2010 letter, you indicated that you went through a very difficult period in 2009, "during which time I neglected some of my responsibilities, particularly in regard to this case and to the underlying matter regarding [the Complainant] and the estate of his late wife." You further expressed your regret for the way you handled the Complainant's case.

You violated Rule 8.1(b) and 8.4(d) when you failed to respond to the various requests from the State Bar to answer the allegations in the Complainant's grievance. The Grievance Committee warns you to cooperate with the investigation of any grievance that may be filed against you in the future.

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 9 day of February, 2010

  
Ronald G. Baker, Sr., Chair  
Grievance Committee