

6071

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
91G1205(II)

IN THE MATTER OF

PAUL CARRUTH,
ATTORNEY AT LAW

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REPRIMAND

On July 16, 1992, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by the North Carolina State Bar.

Pursuant to section 13(A) of article IX of the Rules and Regulations 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, reprimand, or 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 and I am certain that you will understand fully the spirit in which this duty is performed.

In 1985 Wilson Tew contracted to sell two houses on Burt Drive in Raleigh to Michael Houseman. You handled the closing of the sale, which occurred on Oct. 25, 1985. It appears that Houseman financed the sale by obtaining a loan from Guaranty Savings & Loan for a portion of the purchase price and that Tew loaned Houseman \$20,000. You were on notice that Tew was providing part of the purchase price for the houses, but you apparently did not notify Guaranty Savings & Loan of this fact. Moreover, the HUD-1 settlement statement which you drafted omitted any mention of the additional financing. This was a violation of the closing instructions from Guaranty to you. As closing

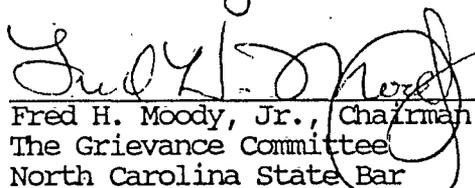
attorney, you represented both Houseman and the lender, Guaranty Savings & Loan. See CFR 100. Your failure to reveal the additional financing to Guaranty caused you to engage in a conflict of interest in violation of Rule 5.1 of the Rules of Professional Conduct. By failing to reveal the secondary financing on the HUD-1 settlement statement, you also engaged in misleading conduct in violation of Rule 1.2(C) of the Rules of Professional Conduct.

Your misconduct is mitigated by the fact that you did not profit personally by your actions, that the lender incurred no financial loss and by the passage of time since this incident.

You are hereby reprimanded by the North Carolina State Bar due to 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 \$50.00 are hereby taxed to you.

Done and ordered, this 7 day of August, 1992.


Fred H. Moody, Jr., Chairman
The Grievance Committee
North Carolina State Bar