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STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
91G0605(II)

IN THE MATTER OF)
)
E. C. BODENHEIMER, JR.,) REPRIMAND
ATTORNEY AT LAW)
)

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

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.

You undertook to represent Joseph Grissom respecting drug charges in March 1991. Grissom's family paid you an advance fee of \$1,500 on March 15, 1991, but discharged you shortly thereafter. You have failed to provide evidence that you performed sufficient work to justify retaining the entire \$1,500 fee. Additionally, although you offered to refund \$750 to Grissom your refund check to him was returned for insufficient funds and you evidently never refunded any portion of the fee.

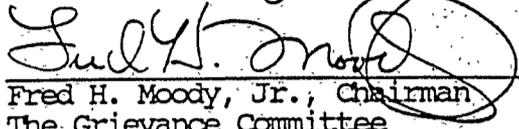
Rule 2.6(A) forbids attorneys to charge or collect an excessive fee. Rule 2.8 requires attorneys to refund the unearned portion of an advance fee paid to them, upon discharge. You violated both of these rules by retaining the entire \$1,500 paid to you by Grissom, when you had failed to perform work

to earn the entire fee.

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 May, 1992.



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