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STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
92G0606(II)  
92G0838(II)

IN THE MATTER OF )

THOMAS P. HELLER, )  
ATTORNEY AT LAW )

REPRIMAND

On January 14, 1993, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Charles A. Schneiders and Thomas Wallace.

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.

Charles A. Schneiders and Thomas Wallace filed grievances against you with the North Carolina State Bar. Although the conduct that Schneiders and Wallace complained about did not warrant discipline, the Grievance Committee now reprimands you about the manner in which you responded to these grievances. With respect to the Schneiders grievance, you failed to respond to the Letter of Notice within 15 days of receiving it. You were sent a letter dated September 25, 1992 which required you to provide a response on or before October 5, 1992. You failed to respond to this follow-up letter. A subpoena to produce documents was served upon you in the Schneiders grievance. As a result of receiving that subpoena, you sent a response to the Letter of Notice.

You also failed to respond to the grievance that Thomas Wallace filed against you. A Letter of Notice was served upon you and you were required to respond to it within 15 days of receiving it. After our office received no response to the Letter of Notice, we sent a follow-up letter dated November 9, 1992 and asked for a response by October 19, 1992 (sic). When our office received no response to our follow-up letter, you were issued a subpoena to produce documents. You responded by a letter dated December 7, 1992.

Your failure to respond to the Letters of Notice in the Schneiders and Wallace grievances is a violation of Rule 1.1(B) of the Rules of Professional Conduct. Furthermore, N.C. Gen. Stat. Section 84-28(b)(3) provides that a failure to answer a formal inquiry of the North Carolina State Bar is misconduct for which discipline is appropriate.

You have an obligation as an licensed attorney in this state to respond promptly to inquiries from the State Bar regarding allegations of professional misconduct. Your obligation to respond to the North Carolina State Bar flows from the State Bar's obligation to regulate its members and protect the public. The State Bar can only successfully engage in this self-regulation when lawyers cooperate with the rules with respect to the investigation of disciplinary complaints.

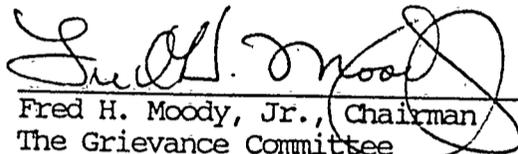
This is not the first time that the Grievance Committee has warned you about your conduct. On October 26, 1989, the Grievance Committee issued a Letter of Caution to you regarding your failure to properly communicate with your clients. As recently as July 11, 1991, you were issued a Letter of Admonition with respect to your failure to promptly respond to a grievance. In that Letter of Admonition you were advised to respond promptly to any other grievances that you may receive in the future. Obviously you did not heed to that advice.

The Grievance Committee advises you to take seriously your obligation to respond to complaints filed with the State Bar. In addition to the imposition of this reprimand, you are required to complete three (3) hours of continuing legal education in the area of ethics in addition to the minimum amount of continuing legal education required by the North Carolina Supreme Court. You should complete those three hours of ethics within 90 days of your receiving this Notice of Reprimand and Reprimand. You must provide verification of your completion of the three hours of ethics to the Office of Counsel, North Carolina State Bar, P.O. Box 25908, Raleigh, NC 27611.

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 Feb., 1993.

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

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