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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
93G0633 (II)

IN THE MATTER OF)

DAVID P. FORD,)
ATTORNEY AT LAW)

REPRIMAND

On October 27, 1993, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Robert Somerville.

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 were retained to represent Robert Somerville's company, Somerville Leasing Corporation, in an action against Kathy R. Fulford. You filed a lawsuit on October 26, 1989.

Mr. Somerville states that he telephoned and wrote you on several occasions. However, you seldom responded to his telephone calls.

You were not present in court when the case was called for trial. On July 16, 1992, Somerville Leasing Corporation's action was dismissed for failure to prosecute.

Mr. Somerville claims that you did not withdraw from his case and you failed to notify him that you were leaving the practice of law. Mr. Somerville was forced to hire another attorney with respect to his case.

Your failure to represent Mr. Somerville's company violates Rule 6(B)(3) of the Rules of Professional Conduct. This rule requires an attorney to act with reasonable diligence and promptness in representing his client. Your procrastination adversely affected your client's interest. Your failure to handle Mr. Somerville's case also violated Rule 7.1(A)(2).

Furthermore, you failed to communicate with your client about the status of his case in violation of Rule 6(B)(1) of the Rules of Professional Conduct. An attorney must communicate with his client during the course of the representation. Without such communication, a client is unaware of the developments in his case.

Furthermore, you failed to withdraw properly from your client's case. You did not advise your client that you were leaving the country and could not continue with his case. Instead, you abandoned your client's case and forced him to find another attorney to repair the damage caused by your neglect.

Mr. Somerville filed a grievance against you with the North Carolina State Bar on June 24, 1993. You were served with a substance of grievance and letter of notice regarding Mr. Somerville's allegations on August 6, 1993. You were required to respond to the letter of notice within 15 days of receiving it. Our office obtained no response from you to this grievance and you were subsequently given an extension to answer the grievance. By a letter dated August 24, 1993, the State Bar extended your time to respond to the grievance to September 3, 1993. The State Bar did not receive a response from you.

Your failure to respond to this grievance violates Rule 1.1(B) of the Rules of Professional Conduct. The North Carolina State Bar is authorized to regulate the conduct of lawyers. If the State Bar is to continue the policing of its attorneys, all lawyers must cooperate in the investigation of disciplinary charges.

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 4th day of November,
1993.

W. Erwin Spainhour

W. Erwin Spainhour, Chairman
The Grievance Committee
North Carolina State Bar

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