

STATE OF NORTH CAROLINA

COUNTY OF WAKE

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
94G1191 (IV)

IN THE MATTER OF)

JEFFREY M. GULLER)
ATTORNEY AT LAW)

REPRIMAND

On October 19, 1995, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Michael B. Allran.

Pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, Rule .0113(a) 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 Chair 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.

The Grievance Committee found that complainant hired you in July of 1984 to pursue collection of unpaid commissions due from Automatic Material Handling, Inc.; that on September 25, 1984, you filed suit against AMH on behalf of complainant; that an answer was filed on or about February 4, 1985; that you filed a voluntary dismissal of this matter on July 16, 1985, without complainant's knowledge or consent; and that you failed to notify complainant of the dismissal which precluded complainant from re-filing suit against AMH within one year of the date of the

voluntary dismissal.

The committee determined that by dismissing the complaint without complainant's consent you violated Rules 7.1(a)(1), 7.1(a)(2) and 7.1(a)(3) of the Rules of Professional Conduct which state that a lawyer shall not intentionally fail to seek the lawful objectives of his clients through reasonably available means, that a lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, and that a lawyer shall not intentionally prejudice or damage his client during the course of the professional relationship.

The committee also determined your failure to notify complainant that you had dismissed the case violated Rule 6(b)(1) of the Rules of Professional Conduct which states that a lawyer shall keep the client reasonably informed about the status of a matter.

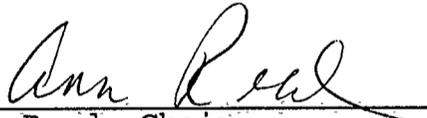
Finally, the committee found that after you dismissed complainant's case, you repeatedly advised complainant that the case was on the calendar and would be heard at some point in the near future. The committee determined that this conduct violated Rule 1.2(c) of the Rules of Professional Conduct which states that it is professional misconduct for a lawyer to engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

The committee found as aggravating factors your prior discipline and the prejudice to complainant due to the dismissal and your misrepresentation as to the status of the case.

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 15th day of November 1995.


Ann Reed, Chair
The Grievance Committee
North Carolina State Bar

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