

NORTH CAROLINA

WAKE COUNTY

7964

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
95G0515(II)R

IN THE MATTER OF )

JEROME K. PERSON )  
ATTORNEY AT LAW )

REPRIMAND

On January 11, 1996, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Ms. P.T.B.

Pursuant to section .0113(a) of the Discipline and Disability Rules 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 Ms. P.T.B. in March 1995 respecting a divorce and name change. Ms. P.T.B. paid you \$265. While the case was pending, Ms. P.T.B. made a number of attempts to communicate with you and your office staff about her matter. In response to the grievance, you stated that you rarely talk to clients by telephone but that they can speak with you "at the time of the hearing." You also stated that you agreed to speak with Ms. P.T.B. on the phone about her case only if she paid you an additional fee of \$150 per hour.

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The Rules of Professional Conduct require attorneys to communicate with their clients. See Rule 6(b)(1). The obligation of communication attaches to all matters which attorneys undertake. It is misleading to suggest that you will undertake a legal matter for a set fee, if that fee does not include reasonable communication about the case. Consequently, if you intended to charge an additional fee for telephone calls, you had an obligation to advise Ms. P.T.B. of that fact prior to undertaking her domestic case. By agreeing to charge a set fee in Ms. P.T.B.'s case, without advising her that she would be charged \$150 per hour for telephone conversations with you concerning her case, you omitted a material fact about your legal services, in violation of Rule 2.1(a).

You also violated the Rules of Professional Conduct by preparing an answer for Ms. P.T.B.'s husband. By drafting such an answer, you gave legal advice to an unrepresented party whose interests likely were in conflict with those of your client, in violation of Rule 7.4(a)(2) of the Rules of Professional Conduct.

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 6<sup>th</sup> day of February, 1996.



Ann Reed  
Chair, Grievance Committee  
The North Carolina State Bar