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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
94G1484(II)R & 95G0010(II)R

IN THE MATTER OF)	
)	
THOMAS H. CLEMENTS,)	REPRIMAND
ATTORNEY AT LAW)	
)	

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

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.

In January 1993, you represented Ms. G.O. regarding a domestic matter, which included directing that child support be paid to her through the Cumberland County Clerk of Court. The court order directed your client's ex-husband to pay \$157 per week in child support to the clerk's office for Ms. G.O.'s benefit.

In May 1993, while you were still counsel of record for Ms. G.O., the Cumberland County Clerk of Court issued a show cause notice to her ex-husband, A.D., as it appeared that he had not complied

with the child support order. On June 1, 1993, Mr. A.D. filed a motion to reduce the support obligation. The attorney who ordinarily represented the clerk in child support enforcement matters had previously represented Mr. A.D. in the domestic case. He correctly concluded that he had a conflict of interest and therefore declined to represent the clerk in the show cause matter.

As of July 15, 1993, you agreed to handle this matter for the clerk. After becoming involved in the case, it appeared to you that Mr. A.D.'s motion to reduce child support had at least some merit and you proceeded to negotiate a consent order on behalf of the clerk, which reduced the amount of support owed and found that Mr. A.D. was not in contempt of court. You did not notify your former client, Ms. G.O., of your representation of the clerk and she did not consent to this representation or to the reduction in child support. By representing the Cumberland County Clerk of Court in a matter in which the clerk's interests were adverse to those of your former client, Ms. G.O., without Ms. G.O.'s consent, you engaged in a conflict of interest in violation of Rule 5.1(d) of the Rules of Professional Conduct.

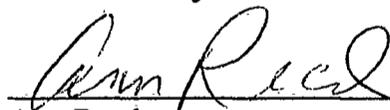
In November 1993, you undertook to represent Ms. P.D. respecting her efforts to domesticate a Florida domestic order and to enforce certain provisions of that order through the North Carolina courts. It appears that Ms. P.D. wrote to you on at least 12 occasions between Jan. 1, 1994 and May 23, 1995. You did not respond in writing to any of her requests for information and apparently telephoned her only twice concerning her case. Your failure to respond promptly to your client's requests for information concerning her case constituted a violation of Rule 6(b)(1) of the Rules of Professional Conduct.

Finally, it appears that you did not respond promptly to requests of the N.C. State Bar for information concerning Ms. P.D.'s complaint. You made no reply to bar counsel's letters of Aug. 17 and Sept. 11, 1995. As a result, the Chair of the Grievance Committee was forced to subpoena you to appear in Raleigh, at which point you finally replied to bar counsel's inquiry. You indicated that you had no real excuse for your delay in answering the State Bar. Your conduct in this regard violated Rule 1.1(b) of the Rules of Professional Conduct and is aggravated by the fact that you were reprimanded in October 1994 for neglecting a client matter and for failing to respond to the State Bar.

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 19th day of February, 1996.



Ann Reed
Chair, Grievance Committee
The North Carolina State Bar