

NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
96G1007(III)

IN THE MATTER OF )  
 )  
HARRY E. FISHER, )  
ATTORNEY AT LAW )  
 )

CENSURE

On January 23, 1997, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by the North Carolina State Bar.

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, a reprimand, or a censure.

A censure is a written form of discipline more serious than a reprimand, issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused significant harm or potential significant harm to a client, the administration of justice, the profession or a member of the public, but the misconduct does not require suspension of the attorney's license.

The Grievance Committee believes that a hearing before the Disciplinary Hearing Commission is not required in this case and issues this censure to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this censure. I am certain that you will understand fully the spirit in which this duty is performed.

In 1994 you undertook to represent Matthew R respecting a DWI charge which had been brought against Matthew R in September 1994. Matthew R paid you an initial fee of \$500. Thereafter, you told him that if he paid you another \$1,500 you could "clear up" the matter without the necessity of a trial. At the time when you made these statements you had no

reasonable basis for believing that the case could in fact be favorably resolved without trial. In fact, you were not able to work out a satisfactory resolution of the matter and a trial was held in July 1996. In that proceeding, Matthew R was convicted of DWI.

Your conduct in promising your client that you could dispose favorably of his DWI case without a trial in return for payment of a \$1,500 additional fee created an unjustified expectation about the results you could achieve, in violation of Rule 2.1(b) of the Rules of Professional Conduct.

You are hereby censured by the North Carolina State Bar for your violation of the Rules of Professional Conduct. The Grievance Committee trusts that you will ponder this censure, recognize the error that you have made, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. This censure should serve as a strong reminder and inducement for you to weigh carefully in the future your responsibility to the public, your clients, your fellow attorneys and the courts, to the end that you demean yourself as a respected member of the legal profession whose conduct may be relied upon without question.

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 censure by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this 31<sup>st</sup> day of January, 1997.

  
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Ann Reed, Chair Grievance Committee  
The North Carolina State Bar