

15494

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
96G1508(I) & 97G0763(I)

IN THE MATTER OF)	
)	
G. PHILLIP DAVID,)	REPRIMAND
ATTORNEY AT LAW)	
)	

On July 17, 1997, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by the 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, 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 ran a television advertisement in which the narrator stated that one deserved to have the best representation possible. The viewers of your television ad were told to call you if they were injured in an accident.

Your television ad violated Rule 2.1(c) of the Rules of Professional Conduct. That rule provides that a lawyer should not make a false or misleading communication about the lawyer or his services. A communication is false or misleading if it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

In addition, you sent a direct mail solicitation letter dated October 23, 1995 to Kevin Chatfield. You included the words, "This is an advertisement for legal services," at the beginning of the body of your letter to Mr. Chatfield. However, the disclaimer language was not in print as large or larger than your name on your letterhead.

Your direct mail solicitation letter to Mr. Chatfield did not fully comply with Rule 2.4(c) of the Rules of Professional Conduct because the disclaimer language was not in print as large or larger than your name on your letterhead.

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 21st day of August, 1997.


Ann Reed
Chair, Grievance Committee
The North Carolina State Bar