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NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
97G0581(IV)

IN THE MATTER OF )

JAMES C. HORD, )  
ATTORNEY AT LAW )

REPRIMAND

On January 15, 1998, 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, a Reprimand, or a 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 1996 and 1997 you represented George and Elizabeth Smith in bankruptcy proceedings before the Bankruptcy Court for the Western District of North Carolina. The Smith's initial conference with you was in May 1995 but their petition was not filed until December 6, 1995. You continued to represent them until the court allowed

your motion to withdraw in April 1996. The Committee found that during the course of your representation of the Smiths you committed several acts that violated the Rules of Professional Conduct.

First, in the seven months between your initial conference with the Smiths and the date you filed bankruptcy, the Smiths suffered adverse financial consequences, including having their car repossessed. Second, you failed to explain to the Smiths their basic rights and responsibilities in a bankruptcy proceeding. Third, you negotiated and settled a claim with Cabarrus Bank without the Smith's knowledge or approval.

Fourth, you made several misrepresentations to your clients and to the bankruptcy court in connection with a show cause hearing against you. For example, you advised your clients to misrepresent their ability to make bankruptcy payments and advised them not to attend a creditors meeting for the purpose of obtaining a dismissal. You also submitted a fee application that misled the bankruptcy court into believing that you had maintained contemporaneous time records.

Fifth, you deposited a fee from your client directly into your own account prior to court approval of such fee. The fee exceeded the presumptive one in Chapter 13 cases and, consequently, the local court rules require approval by the bankruptcy court before you could accept and convert the fee. Moreover, at the time you deposited the fee, you did not maintain a client trust account.

Your above-mentioned conduct violated Rules of Professional Conduct 1.2(c), 6(b)(2) & (3), and 10.1(a). In deciding to issue a reprimand, the Committee considered the following aggravating and mitigating factors. In mitigation, the committee considered heavily the fact that the bankruptcy court entered sanctions against you, that you have successfully participated in the PALS program since the court ordered you to do so, and that you have taken measures to remedy problems with keeping your time records and with the handling of client funds. In aggravation, the committee considered that you had prior discipline for similar misconduct and that you committed multiple rule violations.

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 8<sup>th</sup> day of FEBRUARY, 1998.

T. Paul Messick, Jr.

T. Paul Messick, Jr.  
Chairman, Grievance Committee  
The North Carolina State Bar

