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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
96G1388(II)R

IN THE MATTER OF)

MICHAEL E. SMITH,)
ATTORNEY AT LAW)

REPRIMAND

On July 17th, 1997, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Mr. Terry Shuford.

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 Chair 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 were retained by your client to file a lien against real property to secure money owed. While you did file the lien, you took no further steps to perfect the lien, which resulted in a loss of the benefit of the lien to the client. You also failed to file an answer in a lawsuit which had been filed against your client, and which you were retained to file. In response to repeated questions from your client you told the client

that the answer had been filed when in fact no answer had been filed. In addition, you charged clients for the preparation of "notice of contracts," which you never filed. When the client complained and demanded a refund of legal fees, you attempted to obtain from the client a release and waiver which would have discharged you from liability for any and all claims arising from legal work performed or requested to be performed. By failing to perfect the lien, failing to file an answer, and failing to file notice of contracts, you failed to act with reasonable diligence and promptness in representing your client in violation of Rule 6(b)(3) of the Rules of Professional Conduct. By attempting to obtain a release of liability for claims arising out of legal work performed, you violated your obligations under Rule 5.8 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 29th day of August, 1997.



Ann Reed
Chairman, Grievance Committee
The North Carolina State Bar