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NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
01G1159 & 01G1217

IN THE MATTER OF)	
)	
THOMAS P. HELLER)	REPRIMAND
ATTORNEY AT LAW)	
)	

On October 16, 2002, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Sandra Nakabayashi and 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 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 June 2001, the N.C. State Bar advised you that a former client, R.M., had filed a request for fee dispute resolution with the State Bar against you. Although you were properly notified of R.M.'s request by certified mail and were also sent a follow up letter, you did not respond nor did you participate in the fee dispute process. Your conduct in that regard violated Rule 1.5 of the Rules of Professional Conduct.

In August 2000, you agreed to represent S.N. regarding her claim against an individual who had sold her investment property. Although S.N. paid you \$10,000 to commence an action to rescind the purchase, you apparently did little or no work on the case. Moreover, you did not respond to inquiries of S.N. or her out-of-state lawyer about the case. In December 2001, after S.N. complained to the State, you refunded the \$10,000 retainer to S.N.

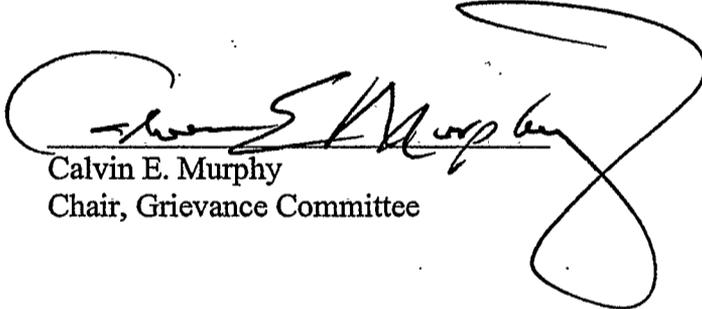
You also failed to respond in a timely fashion to the State Bar's notices concerning grievances filed against you by S.N. and by the State Bar, based upon your failure to participate in the fee dispute process with R.M. Moreover, you also failed to respond promptly to bar counsel's follow up letters about each of these complaints. Your failure to provide a full, timely response to the State Bar's letters of notice and requests for information violated Rule 8.1 of the Rules of Professional Conduct.

Our profession cannot retain the privilege of self-regulation if attorneys do not cooperate in the investigation and resolution of bar complaints. Accordingly, the Grievance Committee wishes to advise you that any future violations on your part could lead to the imposition of much more serious discipline, particularly since you have been disciplined in the past for similar misconduct.

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 5th day of NOV., 2002.



Calvin E. Murphy
Chair, Grievance Committee