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NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
03G0675

IN RE: EDWARD B. KRAUSE)
Attorney At Law)
)

CENSURE

On July 23, 2003, 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 warranted 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 was of the opinion 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 January 2003, Eve C. Lape filed a grievance against you with the North Carolina State Bar. The North Carolina State Bar's Office of Counsel investigated the grievance, and it was dismissed by the State Bar Grievance Committee on April 11, 2003.

On April 15, 2003, you wrote Ms. Lape and advised her that the North Carolina State Bar had found that you had not violated the Rules of Professional Conduct. You further stated, "[b]y writing standerous [sic] letters to the North Carolina Referral Service and the judge, I do have an action for libel against you. Also there may be malicious prosecution by filing a frivolous grievance. If you will pay the enclosed bill, I will not pursue and [sic] further action against you." You also attached to your letter to Ms. Lape a bill for your legal services, including a charge of two hours for "preparation of letter to State Bar, February 6, 2003, and review of file."

The Grievance Committee found that your attempt to collect a fee for responding to Ms. Lape's grievance violated Rule 8.4(d) of the Revised Rules of Professional Conduct. As a member of the North Carolina State Bar, you have a professional responsibility to respond to any grievance filed against you. Your charging Ms. Lape for the two hours it took to prepare your response to the State Bar could have a chilling effect on a member of the public who wants to file a grievance against an attorney. Since our profession is self-regulated, the North Carolina State Bar's grievance process cannot be impeded by the type of conduct you exhibited in this matter.

The Grievance Committee was also concerned about your assertion that you may have grounds for malicious prosecution due to Ms. Lape filing a "frivolous grievance". The Grievance Committee's letter of April 11, 2003 indicated that there was no probable cause to believe you had violated the Rules of Professional Conduct, and therefore the grievance was dismissed. You were never advised in the Grievance Committee's letter that Ms. Lape's grievance was frivolous. The Grievance Committee found that your statement to Ms. Lape that she filed a frivolous grievance was in violation of Rules 8.4(c) of the Revised 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 the 6 day of August, 2003.



Sharon B. Alexander, Chair
Grievance Committee

SBA/nkt