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NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
03G0790

IN THE MATTER OF)

Charles E. Clement,
Attorney At Law)

REPRIMAND)

On Wednesday, July 14, 2004 the Grievance Committee of the North Carolina State Bar met and considered the grievances filed against you by Charles S. Forester.

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.

You represented the Cones Condominium Unit Owners' Association, a homeowners' association for a condominium development located in Blowing Rock. The Association hired you to oppose development of an undeveloped commons area. Litigation ensued. During the course of the litigation you were compensated for your services on an hourly basis. You sent the Association itemized bills for payment of

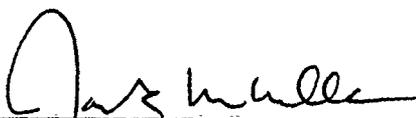
expenses you incurred and for fees for your services that you billed at the rate of \$150 per hour. The case was settled on November 17, 1999 on terms favorable to the Association. Included in the settlement was a \$25,000 cash payment to your client. Instead of sending a final bill based on the hourly basis charged during the litigation, you unilaterally changed your compensation agreement without your client's consent. You sent the Association a check for \$7,500, an invoice showing that your fee had been paid in full and retained the remaining \$17,500 of the settlement check as your own. The Association repeatedly asked you for an itemized statement of services and for return of the unearned portion of the fee. You failed to respond, did not provide the accounting requested by your client and kept the disputed money until the State Bar demanded an explanation and threatened to take action against you.

You hereby are reprimanded for violating the Revised Rules of Professional Conduct and causing potential harm to your former client, the administration of justice, and the profession of law. Your conduct in retaining \$17,500 of the settlement check in contravention of your fee agreement and over your client's protest violated Revised Rules of Professional Conduct 1.4 (a), Rule 1.5 (b), Rule 1.15 -2 (a), (g), (j) & (m). In addition, your failure to provide the accounting demanded by your client violated Rule 1-15-3 (d). In making this ruling, the Grievance Committee has taken in account as mitigating factors your remorse and refund of the \$17,500 of the fee before the Committee made its decision.

You are hereby reprimanded by the North Carolina State Bar for 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 the 10th day of August, 2004.


John E. McMillan, Chair
Grievance Committee

JBM/lr