

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE

NORTH CAROLINA STATE BAR
02G1584, 03G0200, 03G0990, 03G0991,
03G1190, 03G1264, 03G1289, 03G1356,
03G1395, 03G1605, 03G1717, 03G1743,
03G1763, 04G0108, 04G0289, 04G0458,
04G0741, 04G0784, & 04G0785

IN RE: TERRY T. ZICK,
 ATTORNEY AT LAW

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CENSURE

On January 20, 2005, the Grievance Committee of the North Carolina State Bar met and considered the grievances filed against you by Harold W. Lee II, Connie Shaver, Charles Hill, J. William Conway, Donna Bowen, Ronald Krueger, Daniel and Patricia Reynard, Rodolfo Mesa, 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.

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 believes that a hearing before the Disciplinary Hearing Commission (DHC) for consideration of discipline stronger than a Censure would be appropriate for the misconduct it finds in the above listed files. You have recently been before the DHC in

case number 03 DHC 19, however, for misconduct substantially similar to the conduct in the above listed files and that occurred, for the most part, contemporaneously with the conduct in the above listed files. Therefore, in light of the suspension you have already received from the DHC in 03 DHC 19 for substantially the same conduct, the Grievance Committee has decided not to send these additional files to the DHC and to issue this Censure to you instead. 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.

You represented Harold W. Lee II against US Airways and American Express One. During this representation you failed to respond to his telephone calls and seemed to avoid answering his questions when you did talk to him. While the lawsuit you filed for him was pending, you failed to adequately notify him of his deposition and failed to prepare him for his deposition. It is Lee's understanding that the lawsuit you filed on his behalf was dismissed after you failed to respond to a motion to dismiss. Lee asked you to provide him with a copy of correspondence in his file but you did not respond to this request. You were served with a letter of notice in this file, 02G1584, on January 27, 2003. You did not respond.

You represented Connie Shaver in a sexual harassment lawsuit. Connie Shaver complains that after you filed a lawsuit on her behalf you would not return her telephone calls and seemed to avoid answering her questions when she did talk to you. Shaver asked you for her file and asked you to refund her prepaid fee; you did not respond. Shaver states that when she went to your office to get her file, you told her to leave and not come back. You were served with a letter of notice in this file, 03G0200, on June 23, 2003. You did not respond.

You represented Charles Hill in May of 2001 for a bankruptcy matter. Charles Hill alleges you neglected his bankruptcy case, failed to communicate with him about his case, and failed to notify him of creditor meetings. You were served with a letter of notice in this file on September 30, 2003. You did not respond.

In May of 2002, you hired J. William Conway as a private investigator. Mr. Conway alleges you failed to pay him his fees for two cases. You were served with a letter of notice on January 16, 2004. You failed to timely respond to this State Bar inquiry, not responding until March 29, 2004.

In April 2001, you were retained by Donna Bowen to represent her in federal court in an employment case. Ms. Bowen alleges you neglected her case and failed to communicate with her. You were served with a letter of notice on January 5, 2004. You did not respond.

In May 2000, you were retained by Ronald Krueger to represent his son, Martin Krueger, on a DWI and Open Container charge. Mr. Krueger states that his son died before the matter was resolved and that although they notified you of the son's death and you promised to return the unearned portion of the prepaid fee you did not do so. You were served with a letter of notice in this file on January 5, 2004. You did not respond.

At various points in time during 2003 you were served with Notifications of Mandatory Fee Dispute Resolution for fee disputes filed by Bill Gore, Wanda Beal, Rasheed A. Rahman,

Mr. and Mrs. Kenneth White, Maribeth Murphy, Lewis Hall, and Karen Fitzpatrick. In 2004 you were served with Notifications of Mandatory Fee Dispute Resolution for fee disputes filed by Deborah Stillman and Eddie Lee Swinson. The fee disputes included allegations of neglect, failure to communicate, and failure to return client files upon request. You failed to participate in the fee dispute program as required, in most cases by failing to respond to the fee dispute notice at all, in two cases by failing to respond in a timely manner, and in one case by failing to respond to the State Bar's request for additional information. Consequently, grievance files were opened against you. You were served with a letters of notice in those grievance files. You did not respond to seven of the letters of notice; you provided a timely response to the letters of notice regarding Deborah Stillman and Eddie Lee Swinson.

You were retained by Daniel and Patricia Reynard to represent them in their bankruptcy case. You neglected their case and failed to communicate with them. You also failed to maintain accurate documentation with the Bankruptcy Court in that case. You filed a Statement of Attorney Compensation on July 13, 2001 reporting you had been paid \$1,400.00 in legal fees. In 2003 you required the Reynards to pay you an additional \$450.00 in attorney's fees, which they did. You did not file an amended or additional Statement of Attorney Compensation with the Bankruptcy Court, failing to correct what had become a false statement of material fact made to that tribunal, nor did you file any application for payment of additional legal fees. You failed to comply with the statutory and regulatory provisions regarding attorney compensation.

You were retained by Denise Nott (aka Denise Dunn) to represent her in her bankruptcy case. She paid you \$500.00 in legal fees. After receiving Ms. Nott's payment, you filed an Application to Pay Filing Fee in Installments where you represented that you had not been paid any money or received any property to represent the debtor. However, you also filed a Disclosure of Compensation of Attorney for the Debtor statement reporting you had received \$500.00 and were owed \$700 more. The Application to Pay Filing Fee in Installments includes a certification that you did not receive any legal fee. Consequently, the Court denied your motion to pay the filing fee in installments, found that you had been paid \$500.00, and ordered you to personally pay the balance due on the filing fee. Your certification on the Application to Pay Filing Fee in Installments constitutes a false statement of material fact made to a tribunal.

In 2001, you filed a Chapter 13 bankruptcy petition on behalf of Kay P. Everett. In that case, you disclosed to the Court that you were paid \$1,600.00 in legal fees. The Court found that your fee should be reduced to \$1,400.00 and ordered you to refund \$200.00 to Ms. Everett and file an amended Disclosure of Compensation form. You did not refund \$200.00 to Ms. Everett and you did not file an amended disclosure for, in direct violation of the Court's order.

Rodolfo Mesa paid you an advance fee in September 2003 to represent him in recovering property seized from him by law enforcement. After Mr. Mesa retained you, you would not return his calls. Mr. Mesa also retained an attorney in Florida on this matter. The Florida attorney reported that you sent him a petition that you indicated you had filed in the matter on Mr. Mesa's behalf. This petition had not been filed and was not filed prior to the deadline for the filing of such a petition.

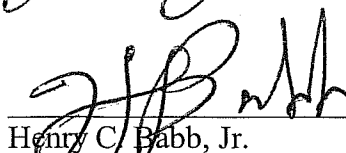
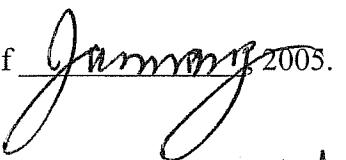
The Committee found that your above-described conduct violated several Revised Rules of Professional Conduct. You neglected clients' cases in violation of Rule 1.3, failed to communicate with your clients in violation of Rule 1.4, filed misleading documents and failed to correct false statements of material fact made to a tribunal in violation of Rule 3.3, failed to comply with Bankruptcy statutory and regulatory provisions regarding attorney compensation in violation of Rule 8.4(d), falsely suggested to a client's out of state attorney that you filed a pleading when in fact you had not in violation of Rule 4.1, failed to participate in the State Bar's fee dispute program in violation of Rule 1.5, and failed to respond to inquiries of the State Bar in violation of Rule 8.1.

In deciding to issue a Censure, the Committee considered aggravating and mitigating factors. In aggravation, the Committee considered the following factors: that you have engaged in a pattern of misconduct; that you have engaged in multiple offenses; the vulnerability of your clients, several of whom were bankruptcy clients who were negatively affected financially by your neglect and who could not afford to hire another attorney to assist them, and the potential effect of your neglect on Mr. Mesa's ability to pursue his petition to recover funds confiscated by law enforcement; your inaccurate filings with the Bankruptcy Court and your failure to comply with an order of the Bankruptcy Court. In mitigation, the Committee considered your statements of personal and emotional problems. In evaluating these files, the Committee also considered that you have already received a suspension from the Disciplinary Hearing Commission for substantially similar conduct occurring in about the same time frame.

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 27 day of January 2005.



Henry C. Babb, Jr.
Chair, Grievance Committee