

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
09G0406

IN THE MATTER OF

James E. Hairston, Jr.
Attorney At Law

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REPRIMAND

On January 14, 2010, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by R.H.

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.

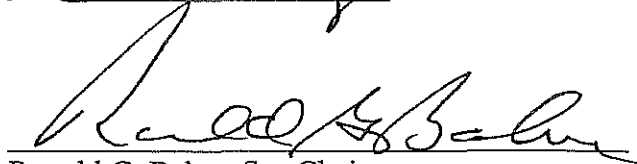
In December 2006 R.H. retained you to represent her in an employment matter. R.H. paid you \$15,000 to prevent defendant from enforcing a \$45,000 settlement. On January 3, 2007 the court entered an Order to enforce settlement. You agreed to file a Motion to Reconsider. You did not file the motion until February 13, 2008, more than thirteen months after the court entered its order. On March 21, 2008 the court denied the motion because it was not timely filed.

Your failure to file the motion within a reasonable time constitutes neglect in violation of Rule 1.3. Although you were R.H.'s attorney of record, you delegated the filing of the motion to an associate with your firm. The motion was filed without a supporting memorandum. You failed to supervise the associate in violation of Rule 5.1(c). Between January 2007 and July 2008, R.H. attempted to contact you for a status update. Although R.H. communicated with your staff, she was not provided with substantive information about her employment matter. You did not inform R.H. that you filed the Motion to Reconsider or that the court denied the motion until July 2008. Your failure to communicate with R.H. for more than a year is a violation of Rule 1.4(a).

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 January 24, 2008 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 \$100.00 are hereby taxed to you.

Done and ordered, this the 22 day of February, 2010


Ronald G. Baker, Sr., Chair
Grievance Committee

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