

16747

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
01G0130

IN THE MATTER OF)

NATHANAEL K. PENDLEY)
ATTORNEY AT LAW)

REPRIMAND

On October 17, 2001, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Brian Combs.

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.

On April 11, 2001, you received a Letter of Notice and Substance of the Grievance which contained allegations of client neglect and failure to communicate adequately with your former client, Mr. Brian Combs. You failed to respond to the Letter of Notice within 15 days of its receipt, as mandated by 27 N.C. Admin. Code, Chapter 1, Subchapter B, Rule .0112(c). On May 9, 2001, the State Bar mailed to you a follow up letter reminding you of your duty to respond to the Letter of Notice. This letter also requested that you respond in some fashion by May 21, 2001. The date should have been May 31, 2001. The incorrect date appears as a typographical error. This follow

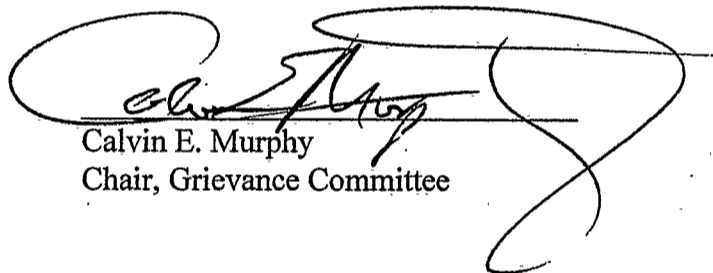
up letter was mailed to the same address at which you received the Letter of Notice, which is also your address of record with the North Carolina State Bar. Because you again failed to respond to the Letter of Notice, the State Bar mailed to the same address another follow up letter on June 5, 2001. When you failed to respond to the follow up letter, the Chairman of the Grievance Committee issued a subpoena for you to appear at the offices of the State Bar to respond to the Letter of Notice. The postal service made three separate attempts to deliver the subpoena via certified mail to your address of record. The postal service returned the subpoena unserved and marked unclaimed. Following the return of the subpoena, the Chairman of the Grievance Committee issued another subpoena, which was served upon you on October 10, 2001 by a sheriff's deputy. You then appeared and responded to the grievance at the time and place indicated on the subpoena.

Your failure to respond to the Letter of Notice in a timely manner violated Rule 8.1(b) of the Revised Rules of Professional Conduct. Rule 8.1(b) states in pertinent part, a lawyer shall not "knowingly fail to respond to a lawful demand or information from an admissions or disciplinary authority...." Further, N.C.G.S. § 84-28(b)(3) defines the failure to answer a formal inquiry of the North Carolina State Bar as misconduct for which discipline is appropriate.

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 30 day of October, 2001.



Calvin E. Murphy
Chair, Grievance Committee