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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
01G1118

IN RE: Lawrence J. D'Amelio, III,
ATTORNEY AT LAW

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REPRIMAND

On 22 Apr 2004, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by James Coone.

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 were engaged to close the refinance of Mr. and Mrs. Coone's mortgage on their home. The Coones expected to have sufficient funds from the new loan to pay off the prior loan, satisfy 2 judgment creditors, pay off another creditor, and receive about \$2,000 in cash back. The new lender provided you with estimates of the amounts owed to the creditors and directed you to verify the correct payoff amounts to each of the creditors before closing. You admitted that you failed to follow the lender's closing instructions to verify the correct payoffs and conducted the closing without accurate payoff amounts for each of the creditors. Additionally, the new lender expected to be in a first lien position after closing, which required satisfaction of not only the

prior mortgage, but also the judgments of record. After closing, you attempted to pay off the prior mortgage based on the amount recited in the HUD-1 you prepared using the new lender's estimates, but that lender would not accept the funds because it did not include payment of all that was owed. You did not consult with the new lender and ask for its instructions. Instead, you continued to try to deal with the prior lender. After several months, you agreed to disburse about \$7,000 more than recited on the HUD-1 form to pay off the prior mortgage. You also paid the non-judgment creditor. At that point you retained about \$5,900 in your trust account from the new loan. These funds were insufficient to payoff the judgment creditors or provide the Coones with any cash back. After contact by the Bar, you paid \$5,100 of that \$5,900 to the Coones. You admit that you did not pay the full balance to them because of your arithmetic error. You informed the Bar in August 2003 that you would release the balance of the funds to an appropriate party or interplead the funds with the court. You still had not done so as of March 2004.

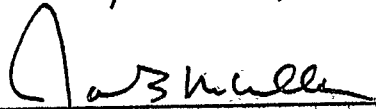
The Committee found that your above-described conduct violated several Rules and Revised Rules of Professional Conduct: By failing to follow the new lender's closing instructions and verify the payoff amounts for each creditor before closing, you handled a legal matter without adequate preparation in violation of Rule 1.1(b); by failing to assure that the new lender was placed in a first lien position by satisfying the judgment creditors, you failed to abide by your client's objectives in violation of Rule 1.2(a); by disbursing funds held in your trust account at variance from the directions given by the Coones and the new lender as reflected on the HUD-1, you disbursed trust funds contrary to the direction of your client in violation of Rule 1.15-2(m); and by failing to disburse or interplead the balance of the funds held in your trust account, you have failed to handle a legal matter with reasonable diligence and promptness in violation of Rule 1.3.

In deciding to issue a Reprimand, the Committee considered aggravating and mitigating factors: In aggravation, the Committee found that there were multiple violations, that you were unresponsive to the Bar's request for information at times, and that you have still not completely disbursed the funds or resolve the underlying legal matter. In mitigation, the Committee found that you had no prior disciplinary record and you had no selfish motive or intent.

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 13th day of July, 2004.



John B. McMillan
Chair, Grievance Committee