

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
08G1107

IN THE MATTER OF

Michael A. DeMayo,
Attorney At Law

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REPRIMAND

On January 22, 2009 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by 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 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.

You sent a direct mail solicitation dated September 2, 2008 to a potential client. The advertising notice, "THIS IS AN ADVERTISEMENT FOR LEGAL SERVICES," was smaller than your name on the letterhead, which violates Rule 7.3(c).

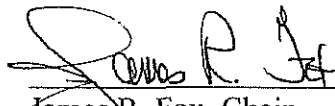
In addition, you indicated in your letter that you had assembled "a team of sixty (60) dedicated legal professionals who specialize in handling serious personal injury and wrongful death claims." The Grievance Committee found that your use of the term specialize in describing the legal professionals in your office violated Rule 7.4(b), as the term legal professionals could be understood to refer to the lawyers in your firm.

In issuing this discipline, the Grievance Committee took into consideration your prior discipline with respect to advertising issues. Furthermore, the Grievance Committee took into consideration that this is the second instance where you have indicated that the improper size of your advertising notice was due to a mistake that your staff made. You are advised to review carefully your advertising material and determine that it complies with the Rules of Professional Conduct before it is mailed.

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 13th day of February, 2009


James R. Fox, Chair
Grievance Committee

JRF/lr