

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
07G0198

IN THE MATTER OF

William T. Batchelor II,
Attorney at Law

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REPRIMAND

On July 12, 2007, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by S.M.F.

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 May 2006, S.M.F. sought your assistance in seeking visitation with her grandchildren. You quoted S.M.F. a flat fee of \$1,250.00 to seek visitation. S.M.F. paid you a \$75.00 consultation fee on 30 May 2006, and an additional \$1,200.00 in June 2006. In September 2006, you told S.M.F. she owed an additional \$950.00 in legal fees, based on a billing rate of \$200.00 per hour. S.M.F. paid the \$950.00. In October 2006, you informed S.M.F. that you needed

another \$1,000.00 "retainer" to continue the representation. S.M.F. paid the \$1,000.00. Thereafter, you informed S.M.F. that you required an additional \$2,500.00 by mid-December 2006 to continue the representation. S.M.F. paid you an additional \$240.00 in December 2006. In January 2007, you withdrew from the representation citing S.M.F.'s "failure to pay fees."

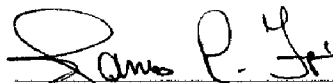
Rule 1.5 of the Rules of Professional Conduct provides that "the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation." The comments to Rule 1.5 clarify this obligation as follows: "Once a fee agreement has been reached between attorney and client, the attorney has an ethical obligation to fulfill the contract and represent the client's best interests regardless of whether the lawyer has struck an unfavorable bargain." The comments to Rule 1.5 further state: "An attorney may seek to renegotiate the fee agreement in light of changed circumstances or for other good cause, but the attorney may not abandon or threaten to abandon the client to cut the attorney's losses or to coerce an additional or higher fee."

With respect to S.M.F., you did not seek to renegotiate your fee due to changed circumstances. Instead, you began sending S.M.F. letters stating that she owed you additional funds. In so doing, you collected a flat fee and then unilaterally converted to billing at an hourly rate of \$200.00. Your failure to abide by the original fee agreement with S.M.F. and failure to renegotiate with S.M.F. resulted in S.M.F.'s expenditure of over \$2,000.00 more than she initially agreed to pay, and ultimately left S.M.F. without representation. Thus, your violation of Rule 1.5 of the Rules of Professional Conduct caused actual harm to your client.

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 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 the 6th day of August, 2007


James R. Fox, Chair
Grievance Committee

JRF/lr