

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
10G0802

IN THE MATTER OF)

John J. Pavey, Jr.)
Attorney At Law)

REPRIMAND)

On July 14, 2011 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.

In about your third year of practicing law, you were the closing attorney for 13 construction loans made by SunTrust Mortgage, Inc. You represented the borrowers and SunTrust in those transactions. Your HUD-1 Settlement Statements inaccurately reflected that you had received certain funds from the borrowers for the closings when in fact those funds had been provided by the developer. You had neglected to check the source of those funds at the

time of the closing in violation of Rule 1.1 and 1.3, however, and were unaware of the source of the funds at the time of the closings. The inaccurate HUD-1 Settlement Statements failed to convey accurate information about the receipt and disbursement of funds to the lender in violation of Rule 1.4(b). Eventually, these loans went into default and SunTrust foreclosed. You represented the borrowers against SunTrust, thereby engaging in a conflict of interest in violation of Rule 1.9(a). You failed to appreciate the conflict at the time, but now recognize and acknowledge the conflict. The Grievance Committee found that it was your inexperience in the practice of law, rather than any intent to mislead the lender, that resulted in the above described conduct and rule violations. Accordingly, the Grievance Committee found it appropriate to issue a reprimand to you.

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 July 23, 2010 by the Council of the North Carolina State Bar regarding the taxing of administrative fees and investigative costs to any attorney issued a reprimand by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

Done and ordered, this the 9 day of Aug, 2011.

A handwritten signature in black ink, appearing to read "Ronald G. Baker, Sr.", written over a horizontal line.

Ronald G. Baker, Sr., Chair
Grievance Committee

RGB/lr