

23015

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
05G0714

IN THE MATTER OF)

THOMAS E. BROCK,)
Attorney At Law)

REPRIMAND

On April 20, 2006 the Grievance Committee of the North Carolina State Bar met and considered the grievances 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 the course of your practice, you routinely conduct real estate closings for lenders that are selling properties obtained in foreclosure proceedings through your REO ("Real Estate Owners") Division. When a buyer agrees to purchase a lender's property, the buyer is asked to sign an addendum to the standard Offer to Purchase and Contract that permits the seller, rather than the buyer, to select the closing attorney. Your firm's REO Division is routinely selected by

a certain group of lenders. The buyer is advised that the buyer may choose to have an attorney of their choice present at the closing at their own cost and expense. You prepare an affidavit to be presented to the buyer at closing in which the buyer agrees that you will also represent the buyer on a limited basis at the closing. The buyer is not told that the buyer will be billed by your firm if the buyer chooses their own lawyer. The buyer is not made aware of the contents of the affidavit prior to closing.

In June 2005, a closing was scheduled for property on Dusty Loop Road in Statesville being purchased by a person with the last name of Webb. Webb chose to retain a lawyer of Webb's choice to represent Webb's interests at the closing. After being advised of the buyer's choice, your firm attempted to charge Webb a \$200 "cancellation fee" for cancelling the closing your office expected to conduct. No such cancellation fee had ever been a part of the contract addendum and had not been disclosed to Webb.

Your failure to disclose the existence of the so-called cancellation fee to Webb, who was not a regular client of yours, violated Revised Rule 1.5(b). Your failure to disclose to the buyer your limited representation of the buyer until the buyer is present for the closing, and your failure to inform Webb of the existence of the cancellation fee, so that the buyer and Webb could make informed decisions about the representation, violated Revised Rule 1.4(b).

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 8 day of December, 2006


Barbara ("Bonnie") B. Weyher, Chair
Grievance Committee

BBW/lr