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STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
92G0007 (III)

IN THE MATTER OF )

LLOYD M. GENIRY )  
ATTORNEY AT LAW )

REPRIMAND

On July 16, 1992, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by David S. Lackey.

Pursuant to section 13(A) of article IX of the Rules and Regulations 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, reprimand, or 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 represented Mrs. Joyce Stephens Kincaid in the collection of life insurance proceeds and the administration of the estate of her late husband who died in a hunting accident. You were also involved in the representation of Mrs. Kincaid in a wrongful death action involving her husband. As a result of her husband's death, Mrs. Kincaid came into a large sum of money. She discussed with you how she should invest the money. You talked with her about purchasing land and your stamp, coin, and print collections.

Mrs. Kincaid declined to purchase your stamp, coin, and print collections. Upon your request, Mrs. Kincaid loaned you a total of \$25,000.00. Ten thousand dollars of the \$25,000.00 loan was directly paid to your various creditors. Another \$10,000.00 was made payable to you in five checks of \$2,000.00 each. Mrs. Kincaid loaned you \$5,000.00 in another check made payable to you.

You gave Mrs. Kincaid an unsecured promissory note for the \$25,000.00 loan. Although you were married at the time that Mrs. Kincaid loaned you the money, you signed the unsecured promissory note. Furthermore, Mrs. Kincaid was not aware of your financial difficulties at the time that you requested a loan from her.

You have made the first two annual interest only payments on the promissory note, paid a portion of the third interest only payment, and never repaid any of the principal. On August 28, 1989, you confessed judgment to Mrs. Kincaid in the amount of the loan, but you have not paid anything since that time.

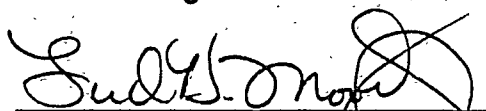
You entered into a business transaction with Mrs. Kincaid, your client at the time, under circumstances that were less than fair to her. As a result of your representation of Mrs. Kincaid, you knew that she had a substantial amount of money that she could lend to you. You gave Mrs. Kincaid an unsecured promissory note which put her at risk in ultimately securing payment on the note. Furthermore, you did not disclose to her the entire situation about finances and you did not explain to her the significance of receiving a promissory note signed solely by you when you were married and owned real estate with your wife. Again, looking at the entire transaction, it was unfair and risky to Mrs. Kincaid.

You have violated Rule 5.4(A) of the Rules of Professional Conduct with respect to your receiving a loan from Mrs. Kincaid. You, as debtor, and Mrs. Kincaid, as creditor, had differing interests in the loan transaction. Mrs. Kincaid expected you to exercise your best professional judgment to protect her interests in that loan transaction. Instead, you acted in a way that promoted your own interests to the detriment of Mrs. Kincaid. Furthermore, you did not suggest to Mrs. Kincaid that she seek independent counsel about the terms of the loan, prior to Mrs. Kincaid's loan to you.

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 20 day of September, 1992.

  
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Fred H. Moody, Jr., Chairman  
The Grievance Committee  
North Carolina State Bar

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