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NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
03G0136

IN THE MATTER OF )

John C. Frue, )  
Attorney At Law )

REPRIMAND

On October 19, 2006 the Grievance Committee of the North Carolina State Bar met and considered the grievances filed against you by D. C.

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.

From approximately 2000 to 2003, while engaged in the practice of real estate law, you neglected to ensure that title insurance premiums were disbursed from your trust account and title insurance policies issued in approximately 200 closings. You also neglected to ensure disbursements to pay prior mortgages and other obligations timely occurred after certain closings during this time period. You had entrusted these post-closing tasks to a non-attorney assistant

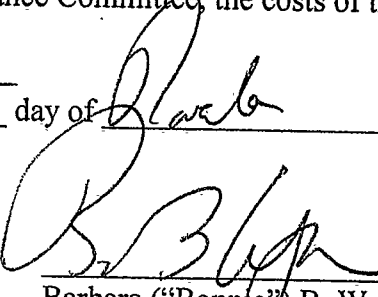
and failed to ensure that such tasks were completed. Furthermore, during this same time period, you disbursed more funds from your trust account than you had received for certain clients. You improperly had funds other than client funds in your trust account and the evidence does not indicate that other clients' funds were used to fund these overdisbursements. You did not ensure your trust account was properly reconciled each quarter and you were unaware of the overdisbursements. You had entrusted the bookkeeping and reconciliations tasks to a non-attorney assistant and failed to ensure it was properly done. Your failure to supervise your assistant enabled her to overdisburse funds from your trust account to your operating account and then to embezzle from your operating account. You failed to properly supervise a non-attorney assistant in violation of Rule 5.3, failed to ensure all tasks for closings were completed in violation of Rule 1.3, failed to properly maintain and disburse entrusted funds in violation of Rule 1.15-2, and failed to ensure proper quarterly reconciliations and accounting of trust funds in violation of Rule 1.15-3.

In mitigation, the Grievance Committee recognized that there is no evidence indicating you knew of, participated in, or benefited from the overdisbursements or your assistant's embezzlements. The evidence indicates you were unaware of your assistant's failures to complete client matters assigned to her and of her overdisbursements and embezzlements until you were contacted by the State Bar during this investigation. The Grievance Committee noted that due to other funds in your trust account, the evidence did not show other clients' funds were used to fund the overdisbursements from your trust account. The Grievance Committee recognized your diligent efforts to remedy the deficiencies in your trust account procedures and your post-closing procedures once these problems were brought to your attention, including the firing of the non-attorney assistant, your thorough review of your records, the audits you had done of your trust account, and your cooperation with the State Bar's investigation. Furthermore, the Grievance Committee recognized your deposit of significant personal funds into your trust account to ensure sufficient funds were present until completion of the auditing of your trust account and identification of all funds.

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 March, 2006

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

BBW/lr