

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
09G1112 & 09G1251

IN THE MATTER OF	)	
	)	
Philip S. Adkins,	)	CENSURE
ATTORNEY AT LAW	)	
	)	

On April 15, 2010, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by V. A and 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.

A censure is a written form of discipline more serious than a reprimand, issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused significant harm or potential significant harm to a client, the administration of justice, the profession or a member of the public, but the misconduct does not require suspension of the attorney's license.

The Grievance Committee believes that a hearing before the Disciplinary Hearing Commission is not required in this case and issues this censure to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this censure.

You were retained to represent V.A. for work-related injuries. You failed to diligently pursue relief on her behalf, including: about three years passing with no action in V.A.'s case by the Industrial Commission with only intermittent occasional contact from you; telling V.A. you would check into options when the former employer filed for bankruptcy but failing to do so and failing to discuss this with V.A.; and failing to attend calendar call in Durham County Superior Court on V.A.'s behalf. You failed to respond to several of her inquiries and avoided communicating with V.A. Although you timely responded to the initial letter of notice from the State Bar in this matter, you failed to timely respond to a supplemental letter. Your conduct is in violation of Rules 1.3, 1.4(a)(4), and 8.1(b).

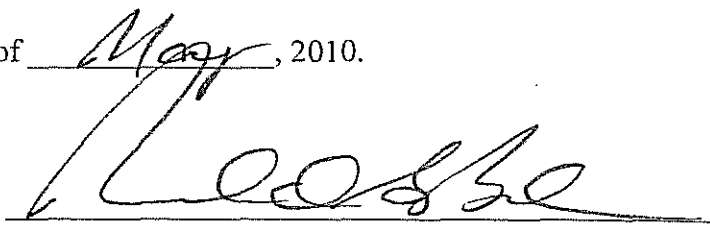
In a separate matter, you filed a motion for preliminary injunction in the United States District Court for the Eastern District of North Carolina for SPARC Academy and the other parties named as plaintiffs in that case. On July 14, 2008, the court on its own initiative set the hearing for your motion for preliminary injunction and the opposing party's motion to dismiss and denial of request for injunctive relief for July 16, 2008. The court notified you and opposing counsel by e-mail on July 14, 2008, pursuant to the electronic system utilized by the federal courts. You received that e-mail and contacted opposing counsel. You told opposing counsel you were on vacation and asked for assistance with getting the hearing date continued. Opposing counsel notified the court and the hearing was rescheduled. As with the initial notice of hearing date, on July 17, 2008 the notices that the hearing was rescheduled and of the new hearing date were sent to you by e-mail. The opposing party filed a motion for extension of time to submit documents for the hearing, which referenced the new hearing date of July 30, 2008, and mailed you a paper copy on July 24, 2008. You were sent electronic notice on July 25, 2008 setting the date for submission of pre-hearing briefs. You met the deadline for submitting the pre-hearing brief but failed to attend the hearing on July 30, 2008. Consequently, your clients' motion for preliminary injunction was dismissed and costs were taxed to your clients. When you received the State Bar's letter of notice in this file, you failed to timely respond. Your conduct is in violation of Rule 1.3, 8.4(d), and 8.1(b).

After considering your conduct in these two files and the factors set out in Rule .0113(k), the Grievance Committee determined a censure is appropriate for your conduct in these two files.

You are hereby censured by the North Carolina State Bar for your violation of the Rules of Professional Conduct. The Grievance Committee trusts that you will ponder this censure, recognize the error that you have made, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. This censure should serve as a strong reminder and inducement for you to weigh carefully in the future your responsibility to the public, your clients, your fellow attorneys and the courts, to the end that you demean yourself as a respected member of the legal profession whose conduct may be relied upon without question.

In accordance with the policy adopted January 24, 2008 by the Council of the North Carolina State Bar regarding the taxing of the administrative and investigative costs to any attorney issued a censure by the Grievance Committee, the costs of this action in the amount of \$100.00 are hereby taxed to you.

Done and ordered, this 19 day of May, 2010.



Ronald G. Baker, Sr., Chair
Grievance Committee
The North Carolina State Bar