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STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
91G1071(IV)

IN THE MATTER OF

JAMES TOMS
ATTORNEY AT LAW

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REPRIMAND

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

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.

The Committee found that you qualified as executor for the estate of Wiley Ledbetter in September of 1990; that over the next couple of months, all of the estate assets had been collected and all of the claims against the estate had been paid except for the claim of the descendant's daughter; that for approximately ten months, from January of 1991 through October of 1991 when the daughter was paid, there was little work done on the estate; that from November of 1990 through December of 1991, you received no less than four notices from the clerk's office requesting that you file a 90-day inventory and an annual account or a final

account; that the daughter's claim was settled in October of 1991 but the estate was not finalized until February of 1992; that throughout this time period, one of the beneficiaries, the Church of God of Cleveland, Tennessee, made numerous requests for information concerning the status of this matter; and that you failed to promptly comply with these requests for information.


The Committee determined that this conduct violation Rule 6(B)(3) of the Rules of Professional Conduct which states that "a lawyer shall act with reasonable diligence and promptness in representing the client", and Rule 6(B)(1) which requires a lawyer to keep a client reasonably informed about the status of a matter and promptly reply with reasonable requests for information.

The Committee found as an aggravating factor the Admonition issued to you on February 16, 1992 for neglecting, as executor, the estate of Minnie Whitesides.

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 1 day of August, 1992.



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

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