NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
08G1483

| | | |
|---|---|---|
| IN THE MATTER OF | ) | |
| | ) | |
| Ernest R. Carter, Jr., | ) | REPRIMAND |
| Attorney At Law | ) | |
| | ) | |

On July 23, 2009 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by M. B and P. B.

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 May 2004, M.B. and P.B. met with you regarding problems they had encountered with their home builder, subcontractor, and septic system installer. You agreed to represent M.B. and P.B. against these parties but did not contact the defendant companies on their behalf after the May 2004 meeting. On 13 September 2005, you sent M.B. and P.B. at letter stating that you were ready to proceed with the case. After you sent that letter, you had no further communication with

M.B. and P.B and did not take any action on their behalf. In February 2009, you refunded the entire $2,000.00 M.B. and P.B. had paid to you in May 2004.

By ceasing all communication with M.B. and P.B. and discontinuing work on their behalf, you failed to diligently represent your clients' interests and failed to adequately communicate with them in violation of Rules 1.3 and 1.4(a). The fact that $2,000.00 remained in your trust account on behalf of M.B. and P.B. for over four years without alerting you to the delinquent status of their client file also establishes that you failed to perform quarterly reconciliations of your trust account and failed to properly account for entrusted funds in violation of Rule 1.15-3(d) and (e).

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 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 reprimand by the Grievance Committee, the costs of this action in the amount of $100.00 are hereby taxed to you.

Done and ordered, this the 18 day of August, 2009

James R. Fox, Chair
Grievance Committee

JRF/lr