

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
08G0331

IN THE MATTER OF

Tracy H. Barley,
Attorney At Law

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REPRIMAND

On October 23, 2008 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by M. 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.

You were retained to represent M.B. in administering her mother's estate after her mother passed away in July 2005. In the fall of 2007, you informed M.B. that the necessary documents had been filed to close the estate when you had not actually filed the required documents. In October 2007, you decided you would no longer represent M.B., but did not inform M.B. or obtain M.B.'s consent to terminate the representation. M.B. attempted to contact you by

telephone, email, and written letters to inquire as to the status of her mother's estate and request a copy of her file, but you did not respond to M.B.'s inquiries or requests. Instead, you closed your file on M.B.'s estate matter and discontinued working on the estate. In July 2008, you still had not filed a motion to withdraw as the attorney of record with the clerk of court, and had not yet delivered a full copy of M.B.'s file to her new counsel despite repeated requests. The Grievance Committee determined you neglected M.B.'s estate matter by failing to act with reasonable diligence and promptness in representing M.B. in violation of Rule 1.3; by failing to communicate effectively with M.B. in violation of Rule 1.4(a)(2), (3), and (4); and by failing to properly terminate representation as well as protect M.B.'s interest upon termination of representation – specifically, by failing to surrender papers to which the client was entitled – in violation of Rule 1.16(c) and (d) of the Rules of Professional Conduct.

Additionally, you did not timely respond to the State Bar's Letter of Notice in this matter. You did not submit a response to this grievance until you were subpoenaed by the State Bar to appear before the Grievance Committee. The Grievance Committee determined you knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b) of the Rules of Professional Conduct.

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 \$100.00 are hereby taxed to you.

Done and ordered, this the 16th day of November, 2008



James R. Fox, Chair
Grievance Committee

JRF/lr