

NORTH CAROLINA

WAKE COUNTY

22160  
BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
00G0754

IN THE MATTER OF

THOMAS M. LAVIGNE,  
ATTORNEY AT LAW

)  
)  
) REPRIMAND  
)  
)

On July 25, 2001, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by 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 to the respondent at [REDACTED]ney.

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.

In 1997, you were in a partnership with Dee W. Bray, Jr. During that year, you allowed a non-lawyer employee to assume primary responsibility for the two trust accounts utilized by your law office. The Committee found that you failed to exercise

adequate supervision over your non-attorney employee's operation of your trust accounts.

As a result of your inadequate supervision, several violations of the Rules and original Revised Rules of Professional Conduct occurred. The Rules were in effect until July 23, 1997. The original Revised Rules were in effect from July 24, 1997 until May 3, 2000.

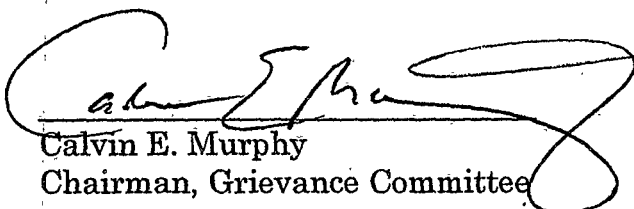
First, you did not maintain all client funds in your trust account in violation of Rule 10.2(a) and original revised 1.15-1(a). Second, you failed to promptly disburse funds to third persons as directed by your clients in violation of Rule 10.1(e) and Revised Rule 1.15-2(h). Third, you failed to reconcile the trust accounts at least quarterly in violation of Rule 10.2(d) and original Revised Rule 1.15-2(g). Fourth, you failed to maintain the minimum records required for trust accounts in violation of Rule 10.2(a)-(c) and original Revised Rule 1.15-2(b)-(d). Finally, the above violations occurred because you failed to ensure that your firm had in effect measures giving reasonable assurance that your non-lawyer's conduct would be compatible with your professional obligations in violation of Rule 3.3 and Revised Rule 5.3.

In deciding to issue this Reprimand, the Committee considered several aggravating and mitigating factors. In aggravation, you had substantial experience in the practice of law. You also had been warned by the Committee twice in the past three years. In mitigation, the Committee considered the following mitigating factors. First, the Committee found that the above violations were unintentional. Second, you took corrective actions to ensure that no client suffered actual harm. Third, you no longer practice law in the State of North Carolina. Fourth, you had no prior discipline. The Committee cautions you that more severe discipline likely would have been imposed if all these mitigating factors had not been present.

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 14 day of August, 2001.

  
Calvin E. Murphy  
Chairman, Grievance Committee