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NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
96G0301(I)

IN THE MATTER OF )

PETER GEMBORYS, )  
ATTORNEY AT LAW )

REPRIMAND

On October 17, 1996, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by the 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, 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.

You practiced law in Wilmington from June 1989 to December 1993. During that time, you settled two or three personal injury cases for your clients. In each instance, you received a settlement check for the client. You and the client went to the bank, cashed the check, and you received your attorney's fee and the client received his or her portion of the settlement check. You did not deposit the settlement check into a trust account.

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Your conduct in this regard violated Rules 10.1(b) and 10.1(c) of the Rules of Professional Conduct. Rule 10.1(b) requires a lawyer to maintain one or more bank accounts separately identifiable from any business or personal account of the lawyer, which is to be labeled and designated as a trust account when the lawyer receives any money or funds belonging to another person or entity, either from a client or from third parties. Rule 10.1(c) requires that all money or funds received by a lawyer either from a client or from a third party to be delivered to a client shall be deposited in a lawyer trust account. The Grievance Committee understands that you later opened a trust account when you started a law practice in Havelock.

Also, during the time that this grievance was investigated, your law firm operated under a trade name, Gemborys Legal Services. You did not register your trade name with the North Carolina State Bar until it was pointed out to you by counsel. Your conduct violated Rule 2.3(a) of the Rules of Professional Conduct.

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 24<sup>th</sup> day of October, 1996.



Ann Reed  
Chair, Grievance Committee  
The North Carolina State Bar