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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
04G0060 & 04G1434

IN THE MATTER OF

Phillip W. Barton,
Attorney At Law

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REPRIMAND

On April 14, 2005 the Grievance Committee of the North Carolina State Bar met and considered the grievances filed against you regarding your representation of S. T. and J. I.

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, and I am certain that you will understand fully the spirit in which this duty is performed.

You formerly represented JP regarding his wrongful termination claim. In July 2004 JP filed a fee dispute resolution petition with the State Bar. You were served with the notice of the petition by certified mail on July 27 and your written response was thus due on Aug. 12. When you did not respond the Bar sent you a follow up notice on Oct. 25. You did not file any written

response with the State Bar concerning JP's matter until Dec. 8, 2004, after the fee dispute petition file had been closed and the matter had been referred to the Grievance Committee.

You also filed a very late response to a request for follow up information from the State Bar regarding a fee dispute petition filed by another former client, ST. Your conduct in filing late responses to the Bar's fee dispute petitions and requests for information violated Rules 1.5. and 8.1(b).

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 \$50.00 are hereby taxed to you.

Done and ordered, this the 28 day of April, 2005


Henry Babb, Chair
Grievance Committee

HB/lr