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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
91G0844 (IV)
91G0876 (IV)

IN THE MATTER OF

JAMES L. WORIHEY,
ATTORNEY AT LAW

CENSURE

On January 14, 1993, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by T. Scott White and Marshall H. Karro.

Pursuant to section 13(A) of article IX of the Rules and Regulations 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 a censure.

A censure is a written form of discipline more serious than a reprimand, issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused significant harm or potential significant harm to a client, the administration of justice, the profession or a member of the public, but the misconduct does not require suspension of the attorney's license.

The Grievance Committee believes that a hearing before the Disciplinary Hearing Commission is not required in this case and issues this censure to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this censure. I am certain that you will understand fully the spirit in which this duty is performed.

You participated in a purported lawyer referral service called Charlotte Referral Service (CRS) from late July 1991 through early November 1991. An investigation of the practices of CRS revealed that the operators of the company initiated contact or conducted in-person solicitations with prospective clients. Rule 2.2 of the Rules of Professional Conduct provides that an attorney may participate in and share the cost of a private lawyer referral service so long as, inter alia, employees of the referral service do not initiate contact with prospective clients.

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In your response to the grievance filed against you regarding CRS, you stated that you paid Anthony King (one of the owners of CRS) a bi-weekly sum as your share of the advertising cost. Rule 2.2 provides that a lawyer who participates in a lawyer referral service shares in the cost of the service relating to administrative services, as well as advertisement, of the lawyer referral service.

Furthermore, it appears that CRS's advertisement did not comply with Rule 2.2(C) (5).

As a lawyer participating in a private lawyer referral service, you are professionally responsible for its operation. (See Rule 2.2(C)) As a participant in a private lawyer referral service, you must ensure that the referral service employees' conduct is not in violation of Rule 2.2 of the Rules of Professional Conduct. In addition, you have a ethical obligation to ensure that the employees of a private lawyer referral service do not cause you to directly or indirectly violate the Rules of Professional Conduct. (See Rule 1.2(A)) Should you participate in a private lawyer referral service in the future, you are advised to read the Rules of Professional Conduct regarding your responsibility.

The Grievance Committee also censures you about your former advertising practices regarding your law firm, Plaza Law Clinic. At the time you were using the trade name of Plaza Law Clinic, you had not registered that trade name with the North Carolina State Bar. Your failure to register the trade name of your law firm was in violation of Rule 2.3(A) of the Rules of Professional Conduct.

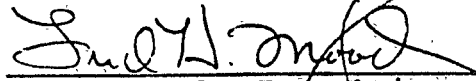
The Grievance Committee was concerned about some of the statements made in your advertisement about the Plaza Law Clinic. For example, some of your statements implied that lawyers charge higher fees to pay overhead expenses. This statement is not entirely true and is misleading since lawyer's fees can be based on factors other than overhead expenses. Also, you stated in the advertisement that "...everybody knows it's the secretaries who do all the work anyway!" This statement is also misleading since you did not explain that lawyers can use non-lawyers to perform certain services provided that the lawyer supervises that work.

You are advised to comply with Rule 1.2 of the Rules of Professional Conduct. That rule provides that a lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. The communication is false or misleading if it either contains a material misrepresentation of fact or law or omits a fact necessary to make the statement considered as a whole not materially misleading.

You are hereby censured by the North Carolina State Bar for your violation of the Rules of Professional Conduct. The Grievance Committee trusts that you will ponder this censure, recognize the error that you have made, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. This censure should serve as a strong reminder and inducement for you to weigh carefully in the future your responsibility to the public, your clients, your fellow attorneys and the courts, to the end that you demean yourself as a respected member of the legal profession whose conduct may be relied upon without question.

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 censure by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this 7 day of February, 1993.


Fred H. Moody, Jr., Chairman
The Grievance Committee
North Carolina State Bar

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