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NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
04G1143

IN THE MATTER OF

S. Matthew Lilly, Jr.  
Attorney At Law

REPRIMAND

On January 19, 2006 the Grievance Committee of the North Carolina State Bar met and considered the grievances 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 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.

On March 4, 2004, D. I. retained you to represent him in a divorce. Mr. I. paid you \$250.00 as your attorney's fee. It appears that you did not obtain a divorce for Mr. I.

On August 2, 2004, Mr. I. filed a petition for resolution of a fee dispute with the North Carolina State Bar. You failed to respond to Mr. I.'s fee dispute resolution petition. You were

sent two additional notices regarding your need to respond to the fee dispute petition, but you also failed to respond to those notices.

A grievance was established by the North Carolina State Bar on September 20, 2004 for your failure to respond to Mr. I's fee dispute resolution petition. You were served with the grievance on October 29, 2004, but you did not respond to it within 15 days of receiving it. Our office gave you an extension until November 29, 2004, but you did not respond to the grievance. The State Bar did not receive a response from you, even after you told your State Bar councilor that you would respond to the grievance.

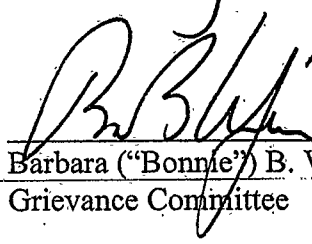
You were given a final extension until January 14, 2005 to respond to the grievance. You sent a letter dated January 14, 2005, indicating that you had refunded the full attorney's fee that Mr. I. paid you. However, you did not respond to the underlying allegations of the grievance.

Your failure to participate in the mandatory fee dispute resolution program of the North Carolina State Bar was in violation of Rule 1.5(f) of the Revised Rules of Professional Conduct. Furthermore, your failure to respond to the underlying allegations of the grievance was in violation of Rule 8.1(b) and Rule 8.4(d) of the Revised 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 \$50.00 are hereby taxed to you.

Done and ordered, this the 13<sup>th</sup> day of February, 2006

  
Barbara ("Bonnie") B. Weyher, Chair  
Grievance Committee

BBW/lr