

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
04G0757

IN RE: MATTHEW F. GINN,
ATTORNEY AT LAW

)
)
)
)
REPRIMAND

On 14 Jul 2005, 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, 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.

On or about February 10, 2004, you agreed to represent a person with the initials DSC on a speeding ticket in Mecklenburg County District Court. DSC initially communicated with a legal assistant by the name of Natalie Duke, who received \$325.00 in cash from DSC for your representation. Of that amount, \$200.00 was to be your fee and the balance was court costs. You

accepted the \$200.00 for your fee, but did not deposit the \$125.00 into a trust account. Instead, you kept the cash in your file.

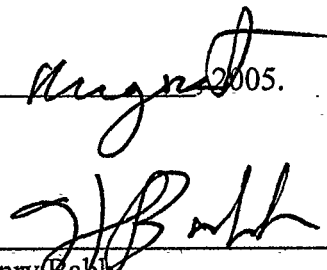
You had the hearing on the matter continued until April 14, 2004 and again until May 12, 2004. On May 12, 2004, you failed to appear in court on behalf of your client. (Your client understood that he could waive his appearance and did not appear either.) As a result, the North Carolina Department of Motor Vehicles notified your client that his driver's license would be suspended unless the traffic offense was properly disposed of. Although you may have indicated to your client that you would take care of the matter after you failed to appear in court, you asked another attorney to handle it for you. In the meantime, DSC went to other counsel, who handled the matter before you or the other attorney could. DSC informed Ms. Duke. After you learned that DSC had retained other counsel to handle the matter, you did not offer to refund either DSC's fee, which you did not earn, or the amount you received for costs. To date, you have not paid either the costs or the unearned fee to your former client.

The Committee found that your above-described conduct violated several Rules and Revised Rules of Professional Conduct. By failing to promptly deposit the cash you received for court costs into your trust account, you violated Rule 1.15-2(b). By failing to promptly return the court costs to your client after another attorney had taken care of his matter, you failed to promptly deliver property held in trust to your client in violation of Rule 1.15-2(m). By failing to refund the fee you had collected in advance, you failed to return the unearned portion of the fee upon discharge in violation of Rule 1.16(d) and retained an excessive fee in violation of Rule 1.5(a).

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 7 day of August 2005.


Henry Babb
Chair, Grievance Committee