

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
10G0268

IN THE MATTER OF

Nicholas S. Ackerman,
Attorney At Law

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REPRIMAND

On July 22, 2010 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Y. T.

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.

Y. T. hired you in March 2008 to file a divorce complaint. Ms. T. asked you about the status of her divorce in emails dated September 19, 2009, October 26, 2009, November 7, 16, and 25, 2009, and December 14, 2009. You told Ms. T. that her divorce action had been calendared for hearing. On November 25, 2009, you told Ms. T. that the judge didn't sign the divorce papers, and that you were going to re-schedule the hearing. Ms. T. did not hear from you

for many months about the status of her divorce. In your response to this grievance, you stated that Ms. T.'s divorce was not heard by the court for various reasons. You finally obtained the divorce for Ms. T. in May 2010.

The Grievance Committee found that your delay in completing Ms. T.'s divorce violated Rule 1.3 of the Rules of Professional Conduct. In addition, you did not communicate adequately with Ms. T. about the status of her divorce, in violation of Rule 1.4(a)(3) and (4).

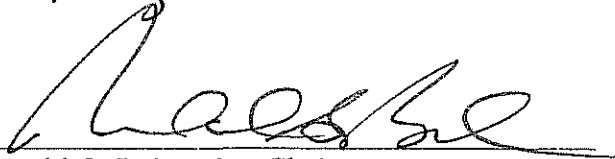
The deputy bar counsel assigned to this grievance directed additional questions to you by letter dated April 27, 2010. You did not respond to those questions, and a subpoena duces tecum was issued which required you to appear at the State Bar and produce certain documents. You did not appear at the State Bar, but sent various papers that you thought were responsive to the subpoena. The Grievance Committee found that your failure to answer the deputy bar counsel's questions showed a lack of cooperation in the grievance process, in violation of Rule 8.4(d).

In issuing this reprimand, the Grievance Committee considered as an aggravating factor the admonition that you received in July 2009 for your lack of diligence in getting the defendant served in Ms. T.'s divorce action.

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 January 24, 2008 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 \$100.00 are hereby taxed to you.

Done and ordered, this the 13 day of August, 2010



Ronald G. Baker, Sr., Chair
Grievance Committee

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