

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
10G1243

IN THE MATTER OF)	
)	
Eric D. Levine,)	CENSURE
ATTORNEY AT LAW)	
)	

On April 21, 2011, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by S. H.

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.

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.

In November 2008, S.H. retained you to represent him in a nuisance claim against the owners of the property next door to his house. You filed a complaint on Mr. H's behalf in district court. The case went to arbitration, and the arbitrator ruled against Mr. H. You were supposed to appeal the arbitrator's decision, but failed to do so. Consequently, the arbitration award was deemed a final judgment on September 14, 2009. Your failure to appeal the arbitrator's decision violated Rule 1.3 of the Rules of Professional Conduct.

You did not advise Mr. H. that you had not appealed the arbitrator's decision. Mr. H. met with you in February 2010, and you did not tell him that you failed to appeal the arbitration award.

Due to your lack of communication with Mr. H., he went to the courthouse in May 2010 and reviewed the file in his case. Mr. H. discerned that there had been no activity in the case since July 2009. Mr. H. stated that even when he spoke with you in November 2010, you still did not tell him that you had not appealed the arbitration award. The Grievance Committee found that your failure to advise your client that you had not filed the appeal involved neglect, in violation of Rule 1.3, and a failure to keep your client reasonably informed about the status of his case, in violation of Rule 1.4(a)(3).

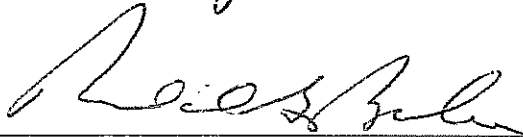
On or about February 16, 2009, you drafted a complaint (hereafter, February 16 complaint) where Mr. H. sued the property owners of the house adjacent to his. Mr. H. received the February 16 complaint by email. He signed the verification for the February 16 complaint before your employee, a notary on February 26, 2009. The February 16 complaint for which Mr. H. signed the verification was not filed in court. You prepared another complaint in the same action, filed it on March 6, 2009, and used the same verification that Mr. H. signed on February 26, 2009 for the February 16 complaint. Mr. H. did not swear before your notary those things set forth in the verification dated February 26, 2009, which was attached to the complaint you filed on March 6, 2009. You attached a false verification to the complaint filed on March 6, 2009, in violation of Rule 8.4(c)(d) of the Rules of Professional Conduct.

The Grievance Committee considered your prior discipline of two reprimands and a censure as an aggravating factor.

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 July 23, 2010 by the Council of the North Carolina State Bar regarding the taxing of administrative fees and investigative costs to any attorney issued a censure by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

Done and ordered, this 18 day of May, 2011.



Ronald G. Baker, Sr., Chair
Grievance Committee
The North Carolina State Bar