

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
14G0750

IN THE MATTER OF)	
)	
Eric S. Ellison,)	REPRIMAND
Attorney At Law)	
)	

On January 22, 2015 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by D. K. The grievance was assigned to a Subcommittee, which thoroughly reviewed the results of the State Bar staff's investigation of this matter.

Pursuant to Section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Subcommittee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Subcommittee 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.

Mr. D. K. hired you on July 9, 2014 to handle a speeding ticket. You did not go to court on July 16, 2014 to handle his case. On July 31, 2014, Mr. K. was arrested for failure to appear and he had to pay a \$1,500.00 bond to get out of jail.

In your response to this grievance, you admit that you did not appear in court for Mr. K. on July 16. You indicated that a new employee spoke with Mr. K. and failed to put his court date on your calendar. You stated that neither you nor your staff told Mr. K. that he did not have to appear in

court on the traffic charge. However, the Grievance Committee found that Mr. K. had a reasonable belief that he did not have to be in court based upon the waiver that he was required to sign. The waiver provided that "[i]n most cases, we are even able to handle this for you so that you need not be present in court saving you valuable time away from work, school or other important commitments." In addition, your office had Mr. K. sign a waiver of personal appearance. Finally, the Grievance Committee considered your admission that you had a relatively new employee who interviewed Mr. K. Since you were not present when the new employee interviewed Mr. K, you don't know for certain whether the new employee told Mr. K. that he did not need to come to court. Your failure to appear in court on July 16, 2014 violated Rule 1.3.

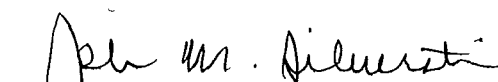
In addition, the Grievance Committee noted other problems with your handling of Mr. K.'s case. In your June 16, 2014 letter, you assured Mr. K. that your firm did not miss a court date. Your promise violates Rule 7.1(a)(2) of the Rules of Professional Conduct. In addition, your advertising notice, "THIS IS A LEGAL ADVERTISEMENT," did not comply with Rule 7.3(c)(1) as it is not in a font as large as or larger than your name on your letterhead, and the notice was not worded as required by Rule 7.3(c)(1).

State Bar deputy counsel wrote you on October 17, 2014 with additional questions. You did not respond by the deadline given to you or ask for an extension of time to do so. Deputy Counsel wrote you again on November 5, 2014 and asked that you answer follow-up questions. You did respond to those questions by letter dated January 20, 2015. In that letter, you stated that you were experiencing some family problems which accounted for your failure to respond to deputy counsel's questions. The Grievance Committee took into consideration that you were experiencing family problems. However, you still failed to respond promptly to the State Bar and cooperate in the investigation, in violation of Rule 8.1(b). You are advised to contact the staff attorney should you ever need an extension of time to respond to a grievance or any questions from the Office of Counsel regarding a grievance.

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 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 reprimand by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

Done and ordered, this the 9th day of February, 2015.



John M. Silverstein, Chair
Grievance Committee