

STATE OF NORTH CAROLINA
COUNTY OF WAKE

711
BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
93G1158 (II)

IN THE MATTER OF

JOHN P. CARLTON,
ATTORNEY AT LAW

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REPRIMAND

On July 27, 1994, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by the North Carolina State Bar.

Pursuant to section 13(A) of article IX of the Rules and Regulations 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, reprimand, or 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 November 10, 1993, you entered a plea of guilty to an infraction of Title 18 U.S. Code Sections 2511(1)(d) and 2511(4)(b)(ii). Your plea arose out of your conduct prior to the 1992 gubernatorial election of listening to a tape recording of cordless telephone calls by members of the family of Jim Gardner,

then a gubernatorial candidate, and various campaign supporters. By listening to a tape recording of cordless telephone calls in violation of federal law, you engaged in a criminal act which reflects adversely upon your honesty, trustworthiness or fitness as a lawyer, in violation of Rule 1.2(B) of the Rules of Professional Conduct.

While the Grievance Committee by no means condones your misconduct in this matter, it did note that you promptly and fully admitted your wrongdoing, that you cooperated with the federal government, and that you have been substantially punished already by the publicity surrounding your federal conviction. The Committee is further aware that you have had a long, honorable career as a lawyer and jurist and believes that this incident marks an aberration which will never be repeated by you.

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 17th day of August, 1994.

W. Erwin Spainhour

W. Erwin Spainhour, Chairman
The Grievance Committee
North Carolina State Bar