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NORTH CAROLINA

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE

WAKE COUNTY

NORTH CAROLINA STATE BAR  
02G0234

IN RE: DIEDRA L. WHITTED,  
ATTORNEY AT LAW

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)  
REPRIMAND

On 23 January 2003, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by the State Bar with respect to your failure to respond to a fee dispute resolution petition filed by your client Franklin Jones.

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.

Mr. Jones filed a petition for fee dispute resolution with the North Carolina State Bar in October 2001. The Bar issued a Notification of Mandatory Fee Dispute Resolution by certified mail on 2 November 2001. You received this letter on 16 November 2001. You did not respond

to it. A follow-up letter was sent by the Bar on 17 December 2001. You received this letter on 11 January 2002. You did not respond. The Bar called you on 17 January 2002. You returned the call on 22 January 2002 and promised a response "by Friday." You did not respond as promised. On 15 February 2002, the Bar again called your office and left a message. You again did not respond. Because of your non-response, a grievance file was opened by the Bar.

The Bar issued a letter of notice to you by certified mail on 1 April 2002. You did not accept receipt of this letter. The letter was resent and you accepted it on 28 May 2002. You did not respond. The Bar then issued a subpoena for your appearance at the Bar office, which was served on you 25 July 2002. You did appear at the Bar offices on 28 August 2002 as directed by the subpoena.

The Committee found that your above-described conduct violated two specific Revised Rules of Professional Conduct.

Rule 1.5(f) of the Revised Rules of Professional Conduct requires attorneys to participate in good faith in the fee dispute resolution process. Your failure to respond to the Bar's letters and telephone messages violated that rule. Rule 8.1(b) of the Revised Rules of Professional Conduct requires attorneys to respond to the inquiries of the Bar with respect to their conduct. Your failure to respond to the letter of notice necessitating the issuance of a subpoena to get any response from you violates that rule.

In deciding to issue a Reprimand, the Committee considered the following aggravating and mitigating factors. In aggravation, the Committee considered a previous admonition related to the failure to keep your client informed. In mitigation, the Committee considered that you did respond to the subpoena and cooperated with the Bar to resolve Mr. Jones' fee dispute and grievance.

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 6 day of February, 2003.

Sharon B. Alexander  
Sharon B. Alexander  
Chair, Grievance Committee