

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
11G0524

IN THE MATTER OF

Timothy D. Smith,
Attorney At Law

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REPRIMAND

On July 19, 2012 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by G. A.

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.

On November 9, 2010, Mr. A hired you to represent him in equitable distribution and divorce matters. Mr. A wrote you on at least two occasions, March 3, 2011 and April 7, 2011, with inquiries about the status of his case. You did not respond to those letters. He also e-mailed you about his case, but you failed to respond to the e-mails. You did not take any substantive action in Mr. A's case until you received his grievance. Your failure to communicate adequately

with your client violated Rule 1.4(a)(1)(2). Your failure to attend diligently to Mr. A's legal matters violated Rule 1.3.

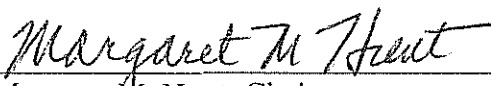
You obtained a divorce for Mr. A. However, Mr. A did not know that he was divorced. You claim that your office had sent Mr. A a copy of his divorce judgment. However, you were unable to produce any proof that you had notified your client about the outcome of his case. Your failure to communicate with your client violated Rule 1.4(a)(1)(2) and (3), and Rule 1.3.

Five months after the divorce was completed, you told the local grievance committee investigator that you were still willing to work on the equitable distribution claim if Mr. A would like. Once a divorce is finalized, the right to pursue equitable distribution is cut off. The Grievance Committee was concerned that you violated Rule 1.1 when you finalized Mr. A's divorce without determining if you needed to file for equitable distribution.

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 22nd day of August, 2012.


Margaret M. Hunt, Chair
Grievance Committee

MMH/lr