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NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
95G1291(IV)R

IN THE MATTER OF )

GREGORY S. CURKA, )  
ATTORNEY AT LAW )

REPRIMAND

On April 3, 1997 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Ms. Melissa A. Citron.

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, 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.

The Complainant hired you to represent her in an action for contempt, modification of child custody and change of visitation. A hearing on the contempt motion was scheduled on August 16, 1994. An order was entered in the case on January 12, 1995 that included a visitation schedule for the parties. You did not send your client a copy of that order, although she had requested that you provide her with a copy. You told her that the order had not been entered. On July 22, 1995, your client sent you a

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letter detailing her concerns about the manner, requesting a prompt reply. No adequate reply was forthcoming. On November 1, 1995, the Complainant sent you a letter requesting a return of her files, and a return of all documents signed in your office. You failed to respond or to return the files. It was not until the matter went to fee arbitration that you returned the file. When the arbitrator asked you whether or not you owed any portion of your fee to the Complainant, you told the arbitrator on several occasions that all of her retainer had been billed against. Copies of the bill subsequently produced indicated that a balance was owed to the client of approximately \$449.00. This amount was subsequently repaid, but only after the arbitration proceeding revealed the amount owed. Complainant asserted that she never received an itemized copy of the bill. You assert that you in fact previously forwarded copies of the bill to the Complainant. Based on the evidence presented, the Committee resolved this factual controversy in the Complainant's favor.

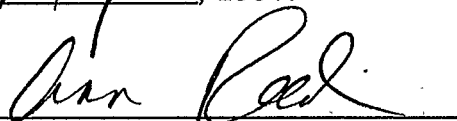
By failing to keep your client reasonably informed as to the status of the matter following repeated requests for information, and by failing to forward itemized bills to your client as requested, you violated Rule 6(b)(1) of the Rules of Professional Conduct. By failing to act with reasonable diligence and promptness in ascertaining that an order had been entered by the court and in forwarding that order to your client, you violated Rule 6(b)(3) of the Rules of Professional Conduct. By supplying false information to the arbitrator prior to verifying its accuracy in your records, you violated Rules 1.2(c) and 2.6(e)(2) of the Rules of Professional Conduct. By failing to return your client's file when requested, you violated Rule 2.8(a)(2). By failing to refund the unearned portion of your client's fee, you violated Rule 2.8(a)(3) of the Rules of Professional Conduct.

The fact that you have received no prior discipline was considered by the Committee as a mitigating factor in electing not to impose more severe discipline.

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<sup>th</sup> day of May, 1997.

  
Ann Reed  
Chairman, Grievance Committee  
The North Carolina State Bar

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