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NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
96G1063(II)R

IN THE MATTER OF )

THOMAS H. CLEMENTS,  
ATTORNEY AT LAW )

CENSURE

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

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.

A censure is a written form of discipline more serious than a reprimand, issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused significant harm or potential significant harm to a client, the administration of justice, the profession or a member of the public, but the misconduct does not require suspension of the attorney's license.

The Grievance Committee believes that a hearing before the Disciplinary Hearing Commission is not required in this case and issues this censure to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this censure. I am certain that you will understand fully the spirit in which this duty is performed.

In February 1996, you undertook to represent KDC respecting an uncontested divorce. KDC paid you \$160. Shortly after this, however, KDC told you to "hold off" on filing the complaint which you had drafted. In late May 1996, KDC directed you to proceed with the divorce. You filed the complaint and had the case was calendared for trial in late January

1997. KDC attempted to call you on numerous occasions during the period of representation, but you failed to return most of these calls or otherwise communicate adequately with your client. Because of this lack of communication, KDC was not even aware that you had filed a complaint for him and he ultimately hired other counsel, who obtained a divorce for him in October 1996.


KDC filed a grievance against you concerning this matter, and you were notified of the complaint and asked to respond by the 12<sup>th</sup> Judicial District Grievance Committee on Sept. 11, 1996. You did not respond to the local committee, however, and the State Bar was forced to subpoena you to obtain a response to the complaint.

Your failure to communicate adequately with KDC violated Rule 6(b)(1) of the Rules of Professional Conduct and your failure to respond to the local committee constituted a violation of Rule 1.1(b) of the Rules of Professional Conduct. Your misconduct in this matter was aggravated by the fact that you have been previously disciplined by the State Bar. In 1994, you were reprimanded for neglecting a matter, failing to communicate and failing to respond to the local grievance committee. In 1995, you were again reprimanded, this time for engaging in a conflict of interest, failing to communicate with a client and failing to respond to the Bar's requests for information. In light of your prior history of discipline, the Grievance Committee wishes to stress to you that any future violations of the Rules of Professional Conduct on your part may well result in much more substantial discipline being imposed against you.

You are hereby censured by the North Carolina State Bar for your violation of the Rules of Professional Conduct. The Grievance Committee trusts that you will ponder this censure, recognize the error that you have made, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. This censure should serve as a strong reminder and inducement for you to weigh carefully in the future your responsibility to the public, your clients, your fellow attorneys and the courts, to the end that you demean yourself as a respected member of the legal profession whose conduct may be relied upon without question.

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 censure by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this 10<sup>th</sup> day of April, 1997.

  
Ann Reed, Chair Grievance Committee  
The North Carolina State Bar