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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
9510GR017 & 95G1337(II)

IN THE MATTER OF)

WILLIAM A. GERALD,)
ATTORNEY AT LAW)

CENSURE

On July 25, 1996, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Janice Harris and the North Carolina State Bar.

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.

In 1995, one of your employees misappropriated client funds from your attorney trust account. The Grievance Committee concluded that you were unaware of the employee's activities and had no reason to suspect her of wrongdoing. Had there been evidence of intentional wrongdoing on your part, the Grievance Committee would have imposed far more substantial discipline. Nevertheless, your conduct in this matter violated several provisions of the Rules of Professional Conduct. Specifically, you failed to supervise your employee properly, failed to maintain proper trust account records and failed to reconcile your trust account statements quarterly.

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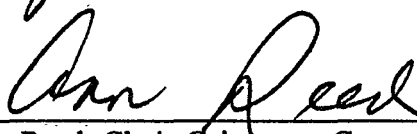
August 1995. Additionally, the deed of trust was not recorded until May 11, 1995, some eight months after the closing. The Grievance Committee concluded that you were unaware of these problems for some period of time because your paralegal failed to advise you of the letters and calls from the lender. Consequently, while it appears that you did not intentionally neglect this matter, the Committee did find that you failed to adequately supervise your paralegal, in violation of Rule 3.3 of the Rules of Professional Conduct.

The Grievance Committee found that your misconduct in this matter was mitigated by the fact that you demonstrated remorse for your conduct, cooperated with the State Bar, that you have no prior discipline and by the fact that you were suffering from serious emotional and physical difficulties at the time of your employee's misconduct.

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 4th day of August, 1996.


Ann Reed, Chair Grievance Committee
The North Carolina State Bar