

NORTH CAROLINA

WAKE COUNTY

6655
BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
97G0087(IV)

IN THE MATTER OF)

CURTIS O. HARRIS,)
ATTORNEY AT LAW)

REPRIMAND

On October 23, 1997, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Anthony Giordano.

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.

Riley Rufus Cabiness, Jr. died testate in Mecklenburg County on Aug. 6, 1993. Edward B. Newberry was named personal representative of the estate. In October 1993, Newberry retained you as attorney for the estate. On Nov. 2, 1993, at your request, Newberry paid you \$16,500 for legal work to be performed at a later date. You did not hold those funds in trust, even though you had done no significant work for the estate when you received the fee. Thereafter, although you did some work for the estate, you did not perform services sufficient to justify the fee which you had received.

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In May 1995, Newberry was succeeded as personal representative by Anthony Giordano. A hearing was held before the Mecklenburg County Clerk of Court in February 1996, at which time the Clerk determined that a reasonable fee for the services which you had provided to the estate was \$7,625. You were ordered to repay the estate \$8,875 within 90 days of April 4, 1996. Although you ultimately tendered \$4,500 to Giordano, you have yet to repay the remaining \$4,375 owed to the Cabiness estate.

By receiving and retaining \$16,500 as a fee in the Cabiness estate matter, and by failing to refund these sums when ordered to do so by the clerk, you received an excessive fee in violation of Rule 2.6 of the Rules of Professional Conduct. You also violated Rule 1.1(b) of the Rules of Professional Conduct by failing to respond to the N.C. State Bar's letter of notice respecting this matter.

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 3rd day of November, 1997.



Ann Reed
Chair, Grievance Committee
The North Carolina State Bar