

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
09G1238

IN THE MATTER OF

Thomas L. Kummer,
Attorney At Law

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REPRIMAND

On January 24, 2013 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by B. M.

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.

You undertook to act as escrow agent per an agreement you entered into with two corporate entities operated by M.C. The escrow agreement provided that upon receipt of funds procured by M. C.'s entities, you would disburse the funds in a specified manner. In connection with this escrow arrangement with M.C., you promoted your Lawyer's Trust Account as being

available for the receipt of these funds. Your escrow services to M.C. and his entities were law-related services pursuant to Rule 5.7 of the Rules of Professional Conduct.

You received a communication from M.C. that B.M. would be providing separate funds in addition to the funds referred to in the escrow agreement and a document signed by M.C. and B.M. that purported to amend the escrow agreement you had previously entered into with M.C. The purported amendment provided that you were to "verify and validate" to B.M. the transaction from which M.C.'s entities were obtaining the funds subject to the escrow agreement. You communicated to M. C. that you would not agree to such an amendment to the escrow agreement and that you would require some written verification from the sender of the separate funds that M. C.'s entities had the authority to direct the disposition of the separate funds.

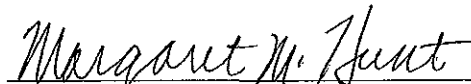
Although there was some indication that the separate funds were loaned to M.C.'s entities from a third party, C.R., Inc., you received the additional funds from B.M. and disbursed them according to M.C.'s instruction. You had reason to believe B.M. expected input from you, but you failed to communicate with B.M. to ensure that he, as sender of the funds, was in agreement that M.C. or his entities could direct the disbursement of the separate funds. This failure was in violation of your fiduciary duties and Rules 1.15-2(c) and 8.4(d) of the Rules of Professional Conduct.

You are not licensed to practice law in Nevada, although at the time of the above-noted activities you resided in Las Vegas. You held yourself out as an attorney located in Nevada, including in communications with the parties using letterhead indicating a Las Vegas address and listing your North Carolina State Bar membership number. You offered the use of your North Carolina Lawyer's Trust Account for your services. These activities are not permitted under the Rules of Professional Conduct in Nevada and violate the prohibition on the unauthorized practice of law in violation of Rule 5.5(a) of the North Carolina Rules of Professional Conduct.

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 January 24, 2008 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 \$100.00 is hereby taxed to you.

Done and ordered, this the 19th day of February, 2013.


Margaret M. Hunt, Chair
Grievance Committee