

NORTH CAROLINA

WAKE COUNTY

11039  
BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
97G0857(II)

IN THE MATTER OF )

PAULA OGUAH, )  
ATTORNEY AT LAW )

CENSURE

On January 15, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by 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.

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.

While an Assistant Attorney General, you were assigned to defend a contested case hearing in the Office of Administrative Hearings in which Ms. Pamela Robinson, a clerk typist working for the Department of Corrections (DOC), alleged that the DOC's equal employment

opportunity office (EEO) failed to properly investigate her complaint of sexual harassment by her male supervisor, Robert Terry. You also defended a subsequent contested case hearing filed by Ms. Robinson alleging retaliatory discharge which was consolidated with the original case for hearing.

Ms. Gwen Sanders did the initial investigation of Ms. Robinson's sexual harassment allegations for the EEO. She prepared a "case prospectus" which she submitted to her supervisor, Mr. Alfonza Fullwood, manager of the DOC's EEO office. Ms. Sanders' prospectus concluded that "Mr. Terry had engaged in inappropriate conduct." The prospectus was signed by Ms. Sanders and Mr. Fullwood on or about February 7, 1996. The February prospectus was submitted to the director of the Division of Adult Probation and Parole (DAPP), Mr. Theodis Beck. After receiving the report, Beck called Fullwood and stated that the case prospectus needed to include a specific finding concerning whether the inappropriate conduct mentioned in the February 7 prospectus amounted to sexual harassment under the law. Fullwood hand wrote a conclusion that Terry's conduct did not rise to the level of sexual harassment on a copy of the February 7 prospectus and returned it to Ms. Sanders. Ms. Sanders drafted a new prospectus with the language Fullwood had suggested inserted in the prospectus. This prospectus was signed by Sanders and Fullwood on February 26, 1996 and again forwarded to Beck.

During the litigation of the contested cases, Ms. Robinson's attorney served several sets of interrogatories and requests for production of documents. You were advised by Fullwood about his having amended Ms. Sanders' initial prospectus after Fullwood's discussion with Beck. You were concerned about the appearance that there may have been improper collusion between Fullwood and Beck in the final determination of Robinson's sexual harassment complaint. Although you were aware of the existence of the February 7 prospectus when you responded to the petitioner's first set of interrogatories and request for production of documents on August 13, 1996, you did not produce the February 7 prospectus. Instead, you objected to petitioner's request because the request "seeks to have respondent provide privileged and confidential documentation protected pursuant to Rule 26(b)(1) of the North Carolina Rules of Civil Procedure." In subsequent requests for production of documents that would have required production of the February 7 prospectus, you filed similar objections to production of documents that would be "privileged and/or work product prepared in anticipation of litigation." You failed to produce the February 7 prospectus in response to the petitioner's discovery because you were concerned about the appearance of collusion between Fullwood and Beck. Your objections were not made in good faith.

On November 1, 1996, you saw the February 7 prospectus and the EEO's file while discussing the file with Ms. Sanders in preparation for her deposition. On November 4, you defended Fullwood's deposition. During Fullwood's deposition, petitioner's attorney asked Fullwood whether there was a first draft of the report. He was also asked whether the one he signed and sent to Beck was in the exact form in which Ms. Sanders had originally submitted it to him. In his deposition, Fullwood did not disclose the existence of the February 7 prospectus or the change that he had made to the initial prospectus after his discussion with Beck. You made no effort to get Fullwood to correct his deposition testimony. Ms. Sanders was deposed on November 14, 1996. Ms. Sanders testimony failed to disclose the existence of the February 7 prospectus. You failed to have Ms. Sanders correct her deposition testimony.

Anticipating that the petitioner would file a motion to compel responses to the discovery requests that you had objected to, you coordinated a meeting between yourself, Beck and Fullwood. The three of you discussed whether or not you should admit the existence of the February 7 prospectus, and because a copy was no longer in the file, state that a copy could not be produced. After a full discussion about how to handle the existence of the February 7 prospectus, it was agreed among the three of you that the existence of the February 7 prospectus would not be reported to Ms. Robinson's counsel.

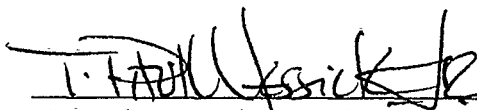
Your having concealed a document having potential evidentiary value during the discovery process violated Rule 7.2(a)(7). Your counseled your client to conceal the document constituted a violation of Rule 7.2(a)(8). By failing to correct the testimony of Fullwood and Sanders you violated Rule 7.2(a)(5). Your conduct was prejudicial to the administration of justice in violation of Rule 1.2(d).

In deciding to impose this censure rather than seeking a more severe discipline, the Committee considered the fact that you lost your position as an Assistant Attorney General as a form of sanction already imposed.

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 8<sup>th</sup> day of FEBRUARY, 1998.



T. Paul Messick, Jr., Chair Grievance Committee  
The North Carolina State Bar

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