

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
16G0275

IN THE MATTER OF)	
)	REPRIMAND
KATHERINE L. MCKEE,)	
ATTORNEY AT LAW)	

On July 21, 2016 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by the North Carolina State Bar. The grievance was assigned to a Subcommittee, which thoroughly reviewed the results of the State Bar staff's investigation of this matter.

Pursuant to Section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Subcommittee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Subcommittee 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.

While you were with the firm of Kennon Craver, PLLC, you supervised paralegal P. Davis who assisted you with your representation in estate matters. The firm encouraged personal representatives who retained the firm, including Dr. D, to give the firm the checkbook(s) for any estate accounts. The firm provided such checkbooks to the paralegals, including P. Davis, to draft checks in the course of estate administration. You did not, however, conduct any periodic

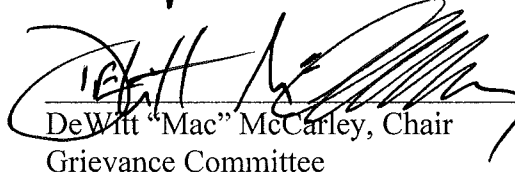
reviews of the original bank statements and/or cancelled checks for such estate accounts, including estate accounts for the estate of Jerry Clyde Cashion, to ensure P. Davis's conduct with respect to the estate accounts was compatible with your professional obligations. Accordingly, P. Davis's misappropriation from the Cashion estate was not discovered until after her employment was terminated for other reasons and another paralegal was assigned to the Cashion estate matter and reviewed the bank statements. An attorney cannot allow a paralegal to have the checkbook for a fiduciary account without taking some reasonable steps to review the original bank records (not just what a paralegal has a chance to prepare and hand to the attorney) on a periodic basis and ensure the paralegal's conduct comports with the attorney's professional obligations, including her obligations under Rule 1.15-2 and Rule 8.4. See e.g. North Carolina State Bar v. Tisdale, 13 DHC 5; North Carolina State Bar v. Kempson, 13 DHC 7. Your failure to take such steps was a failure to supervise an assistant in violation of Rule 5.3(b).

The Grievance Committee was concerned with the lack of recognition in your correspondence with the State Bar of a supervising attorney's obligations with regards to a fiduciary account over which the firm gains control by encouraging the personal representative to give the firm the checkbook and to which the firm gives a paralegal access by giving the paralegal the checkbook. In mitigation, however, the Grievance Committee considered that you and the firm did take the protective measure of not having the paralegal be a signatory on estate accounts, that you had certain supervisory practices in place, and that you reviewed some records in the course of the Cashion estate administration. These factors do not excuse your failure to supervise P. Davis sufficiently with respect to the Cashion estate accounts, but support issuance of written discipline rather than referral to the DHC.

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 July 23, 2010 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 \$350.00 is hereby taxed to you.

Done and ordered, this the 14th day of September, 2016.


DeWitt "Mac" McCarley, Chair
Grievance Committee

DM/lb