

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
08G1425

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IN THE MATTER OF

Mary C. Fairley,  
Attorney At Law

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REPRIMAND

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On January 14, 2010 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by J. 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 engaged in the practice of law in North Carolina. Your practice included providing legal services for real estate closings. In 2004 and 2005 you closed 4 real estate transactions that were same-day flips in which J.Z. bought and sold the properties at issue on the same day. J.Z. did not own the properties at issue prior to the same-day closing dates, yet you falsely listed him as the owner on your preliminary opinions of title prior to those closing dates. The funds loaned

to the ultimate buyer were used by J.Z. to purchase the property from the original owner. In mitigation, the evidence indicated you took steps to try to make the transactions transparent to the parties and the lenders, including certain notations indicating use of the loan proceeds to purchase the property from the original owner on the HUD-1 Settlement Statements sent to the lenders. The Grievance Committee was concerned by your failure to appropriately respond to the State Bar's inquiries throughout the investigation of this grievance, however. You failed to provide information about J.Z. when originally requested and failed to timely respond to a supplemental inquiry in this file. Furthermore, you failed to comply with two separate subpoenas to produce files, including the 8 files from the 4 flips discussed above. Your failures to timely respond to the inquiries and subpoenas of the State Bar constitute violations of Rule 8.1(b) of the Rules of Professional Conduct. In mitigation, it is the understanding of the State Bar that you have been experiencing financial and health problems while this grievance has been pending. Accordingly, the Grievance Committee determined that a reprimand was the appropriate discipline for your violations of the 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 the administrative and investigative costs to any attorney issued a reprimand by the Grievance Committee, the costs of this action in the amount of \$100.00 are hereby taxed to you.

Done and ordered, this the 22 day of February, 2010

  
Ronald G. Baker, Sr., Chair  
Grievance Committee

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