

NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
10G1275

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IN THE MATTER OF

Nile K. Falk,  
ATTORNEY AT LAW

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CENSURE

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On April 21, 2011, 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.

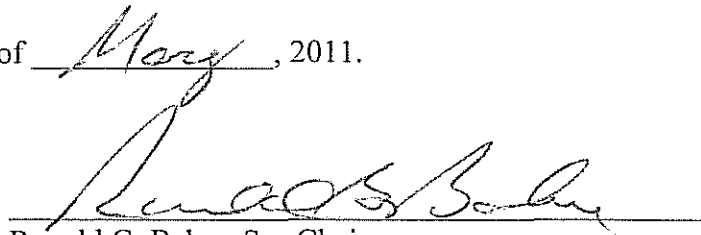
In September or October 2010, you approached a prosecutor in Edgecombe County District Court seeking dismissal of charges against your client due to the absence of the State's prosecuting witness. The prosecutor would not agree to the dismissal, noting that the prosecuting witness would be subpoenaed for the next court date she scheduled on the case file shuck. The prosecutor then handed the case file shuck to you so that you could be made aware of the court date. When the prosecutor later rechecked the case file shuck, she found that the case file had been marked in handwriting, without her or any other prosecutor's authorization or approval, to be voluntarily dismissed if the prosecuting witness did not appear for trial. When the prosecutor later confronted you about the unauthorized notation on the case file shuck, you acknowledged making the notation on the case file shuck and apologized. Another unsuspecting prosecutor may have been misled to dismiss the charge if and when the prosecuting witness failed to appear. By your

admitted making of the unauthorized notation on the shuck, you engaged in conduct which was prejudicial to the administration of justice in violation of Rule 8.4(d).

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 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 censure by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

Done and ordered, this 18 day of May, 2011.

  
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Ronald G. Baker, Sr., Chair  
Grievance Committee  
The North Carolina State Bar