

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
14G0095 & 14G0924

IN THE MATTER OF)	
)	CENSURE
TERESA D. STEWART,)	
ATTORNEY AT LAW)	

On October 22, 2015, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by M.C. 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.

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.

You represented M.C. in an immigration matter in which M.C. was applying for Deferred Action for Childhood Arrivals. M.C. was born in Mexico, but she speaks English. You did not ask M.C. whether she spoke English, simply assuming she did not because she "answered the phone in Spanish." Based on this unreasonable assumption, you delegated all communication with M.C. to your Spanish-speaking staff. By failing to even ascertain whether an interpreter was necessary to communicate with your client, you failed to reasonably consult with a client about the means by which the client's objectives were to be accomplished in violation of Rule 1.4(a)(2). In connection with M.C.'s case, you also did not adequately supervise your non-lawyer assistants in violation of Rule 5.3(b): For example, you permitted your intern to engage in the unauthorized practice of law

by independently conducting the initial client consultation, during which she informed M.C. of "the process for application and the documentation that would be needed to support the application."

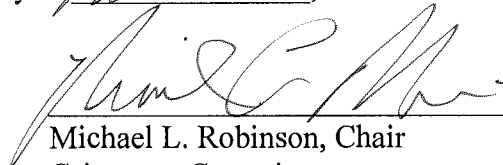
You submitted M.C.'s application to USCIS in December 2013, but did not attach several of the required supporting documents. In March 2014, USCIS sent a request for the missing documentation. You obtained two of the three necessary documents from M.C., and then responded to USCIS's request for the missing documents by filing what you knew to be an incomplete response six weeks before the deadline. As a result, M.C.'s application for Deferred Action was denied. When she contacted your office inquiring about the denial, you did not explain why her application was denied or what options remained, instead instructing your secretary to respond to M.C.'s inquiry. By filing a facially deficient application and an incomplete response on behalf of M.C., you failed to act with reasonable diligence and competence in violation of Rules 1.1 and 1.3. Your failure to explain why M.C.'s application was denied or discuss possible next steps was in violation of Rule 1.4(a)(3) and (4). Your decision to have your secretary provide this legal advice to M.C. when you were not present was in violation of Rule 5.3(b).

In addition, you failed to reconcile your attorney trust account in violation of Rule 1.15-3(d), leading to discrepancies between your records and the bank balance which prompted you to stop using the account in 2011. By mid-2013, you had identified all client balances in the account and were making the necessary deposits and disbursements to zero-out all of the client ledgers. The 2013 reconciliation reflected that there was one client for whom you had failed to timely make payment to the Clerk of Court, in violation of Rule 1.15-2(m). One of the checks by which you disbursed funds to yourself while reconciling the account did not contain a client attribution, in violation of Rule 1.15-2(h).

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 6th day of November, 2015.



Michael L. Robinson, Chair
Grievance Committee
The North Carolina State Bar