

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
07G1418

IN THE MATTER OF

Nikita V. Mackey,
Attorney At Law

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REPRIMAND

On April 23, 2009, 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 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.

In 2005 you filed a bankruptcy petition. A question on the petition called for your marital status. You typed "single." At the time you prepared and filed the petition with the court, you were married. You falsely indicated single status on the bankruptcy petition in violation of Rule 3.3(a): Candor Toward the Tribunal and Rule 8.4(c): Misconduct.

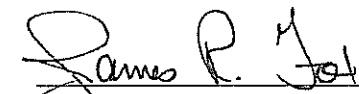
On December 13, 2007 you failed to appear for your criminal client's trial. Because of your absence, the court continued the trial. Your client remained in custody. The presiding judge issued a Show Cause Order for Criminal Contempt of Court against you. After a hearing, you were found guilty, held in criminal contempt of court and ordered to pay a \$100 fine. Your failure to handle your client's matter is neglect and a violation of Rule 1.3: Diligence. Your failure caused your client's trial to be delayed and caused disruption to the court in violation of Rule 3.2: Expediting Litigation and Rule 8.4(d): Misconduct.

During the State Bar's investigation of the grievance, you were repeatedly asked to provide your federal and state income tax returns. You failed to provide the records. The State Bar served you with a subpoena to produce signed federal and state tax returns for years 1997 through 2002. Thereafter, the State Bar received from you IRS transcripts for years 1997 through 2002. You did not provide the state tax returns. You were served with a second subpoena to appear and produce your signed federal and state tax returns. While you did provide additional copies of the federal tax transcripts, you did not provide any records pertaining to your state tax returns. Your failure to provide state tax records is a violation of Rule 8.1(b): Bar Admission and Disciplinary Authority.

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 18th day of May, 2009



James R. Fox, Chair
Grievance Committee

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