

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
09G0575

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IN THE MATTER OF )

J. Frank Lay, II )  
Attorney At Law )

REPRIMAND )

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On October 22, 2009 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by J. P.

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.

On or about March 23, 2009, you communicated with KC, a person represented by counsel. Although certain evidence indicates you were aware, or should have been aware, of this person's represented status prior to your meeting with him, you were notified of his represented status during the meeting and yet continued to discuss the subject of that representation with him. The Committee was also concerned that certain statements from you in this matter were not

consistent with the circumstances and other statements in this matter. The Committee finds your conduct in meeting with KC was in violation of Rule 4.2(a) and hereby issues you this reprimand.

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 11<sup>th</sup> day of November, 2009

  
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James R. Fox, Chair  
Grievance Committee

JRF/lr