

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
10G0047

IN THE MATTER OF)

Mitchell A. Wolf,)
Attorney At Law)

REPRIMAND)

On July 22, 2010 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by J. C.

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 represented NW in a personal injury case arising out of a June 2006 car accident. On 19 June 2006, NW began treatment with a doctor at Fuquay Chiropractic and Wellness Center. On 20 July 2006, the doctor faxed you a notice of lien. You acknowledged receipt of the notice of lien and agreed to pay the doctor out of any proceeds you received before you disbursed the

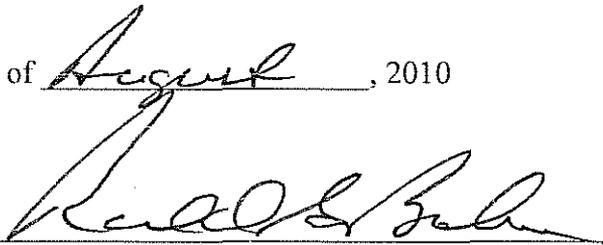
remainder to NW. You received settlement funds for NW in February 2009 but did not pay the doctor, a valid medical lien-holder, as required by NCGS § 44-50.

When the doctor perfected her lien, she became entitled to a portion of NW's settlement funds by operation of law. Therefore, when you received the settlement proceeds in trust, you were deemed to hold a portion of those funds for the doctor's benefit. By disbursing all of the funds (including those to which the doctor was entitled) to your client, you used entrusted funds for the benefit of someone other than the beneficial owner of the funds in violation of Rule 1.15-2(j). Although you asserted that this was an unintentional violation, the Grievance Committee was of the opinion that a lawyer with sixteen years of experience should know this basic principle regarding medical liens. Furthermore, the Grievance Committee noted that your failure to comply with the law and the Rules in this instance required a valid medical lienholder to make considerable additional effort to collect her fees, thereby undermining the purpose of NCGS § 44-50.

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 26 day of August, 2010


Ronald G. Baker, Sr., Chair
Grievance Committee

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