

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
17G1266

IN THE MATTER OF	)	
	)	CENSURE
MO IDLIBBY,	)	
ATTORNEY AT LAW	)	

On July 26, 2018, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by K. S. 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.

In September 2012, K.S. paid you a \$4,000.00 flat fee to investigate whether it was possible to delay the entry of absolute divorce in her pending domestic case, and to file a Form I-360 petition (for adjustment of immigration status) under the Violence Against Women Act (VAWA). K.S.'s divorce decree was entered on 6 November 2012. In order to be eligible for an adjustment of status, a petitioner under VAWA must file within two years after her marriage to a U.S. citizen was terminated.

You did not communicate with K.S. for the better part of the ensuing year, and in 2013, she filed a fee dispute against you that was resolved via a settlement agreement. In the settlement, you agreed to refund \$1,200.00 to K.S. and to "timely and properly complete" the immigration services for which you had originally been hired. Your failure to diligently tend to K.S.'s matter during the first year after you were hired was in violation of Rule 1.3.

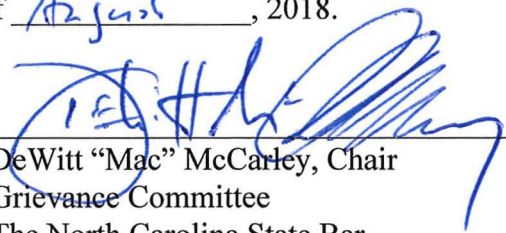
You did not file K.S.'s I-360 petition until 14 November 2014, eight days after her eligibility lapsed. This error caused significant harm, effectively depriving K.S. of her right to the immigration relief she sought. Accordingly, you were required pursuant to Rule 1.4 to report your error to the client. *See* 2015 FEO 4. The letter you purportedly sent to K.S. notifying her that the petition had been denied did not explain that the untimeliness was your fault.

You instructed your staff to mail K.S.'s petition by overnight mail approximately a month before it was actually received by USCIS. Your staff had no explanation for the delay, and neglected to maintain any tracking information for this mailing. This reflects that you do not have adequate policies in place to ensure that the actions of your non-lawyer staff are consistent with your professional obligations, in violation of Rule 5.3(a) & (b).

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 22nd day of August, 2018.



DeWitt "Mac" McCarley, Chair
Grievance Committee
The North Carolina State Bar

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