

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
20G0834

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IN THE MATTER OF )  
 )  
DANIEL S. RUFTY, ) CENSURE  
ATTORNEY AT LAW )

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On July 15, 2021, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by the North Carolina State Bar. 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 associated with Babbs Law Firm, an out-of-state law firm not authorized to practice law in North Carolina. You aided Babbs Law Firm in falsely holding out to North Carolina residents as able to provide legal representation, debt relief assistance, loan modification representation, and/or bankruptcy services in this state. You also failed to maintain client entrusted funds in accordance with the Rules of Professional Conduct and aided others in the unauthorized practice of law.

By permitting nonattorneys at Babbs Law Firm to provide legal services to North Carolina residents, you aided another entity in the unauthorized practice of law, a criminal act that reflects adversely on a lawyer's professional fitness, in violation of Rule 5.5(f) and Rule 8.4(a), (b), and (d), respectively. By claiming to North Carolina clients that the legal services they purchased from Babbs Law Firm would be provided by North Carolina attorneys, you made false or misleading statements

about your services in violation of Rule 7.1(a) and engaged in conduct involving dishonesty or misrepresentation in violation of Rule 8.4(c). By failing to supervise nonattorney employees of Babbs Law Firm such that they were permitted to provide legal services directly to clients of the firm, thereby engaging in the unauthorized practice of law, you failed to take reasonable efforts to ensure that your nonlawyer assistants were acting in accordance with the professional obligations of the profession in violation of Rule 5.3(a). By allowing nonattorneys or attorneys not licensed in North Carolina to direct and control your provision of legal services to North Carolina residents, you permitted a person to direct or regulate your professional judgment in rendering legal services in violation of Rule 5.4(c). Moreover, when being interviewed by the Bankruptcy Administrator's Office about your handling of one of the Babbs Law Firm cases, you knowingly made a false statement of material fact in violation of Rule 3.3, Rule 8.4(c) and (d).


Additionally, by not supervising the handling of entrusted funds paid by your North Carolina clients to Babbs Law Firm, you failed to adequately supervise your assistants – employees of Babbs Law Firm – and their handling of entrusted funds in violation of Rule 5.3(b) and 1.15-2(a). By failing to ensure the bank account being used for your Babbs Law Firm clients' entrusted funds was reconciled monthly and quarterly, you violated Rule 1.15-3(d). By permitting Babbs Law Firm to hold the entrusted funds of your clients at a bank that is not an "eligible bank" pursuant to 27 N.C.A.C. 1D, § .1316(b), you violated Rule 1.15-2(b). Finally, by failing to communicate with the North Carolina clients of Babbs Law Firm prior to their retaining the firm, you failed to reasonably consult with your clients about the means by which the clients' objectives would be accomplished in violation of Rule 1.4(a) and failed to explain a matter to the extent reasonably necessary to permit the clients to make informed decisions regarding the representation in violation of Rule 1.4(b).

In determining that a censure was appropriate in this case, the Committee took into account the potential for serious harm that is created whenever licensed attorneys aid others in the unauthorized practice of law. The Committee also considered your prior disciplinary history and current five-year suspension.

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 25<sup>th</sup> day of August, 2021.

  
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Matthew W. Smith, Chair  
Grievance Committee  
The North Carolina State Bar