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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
06G0010

IN THE MATTER OF

Colleen Kochanek,
Attorney At Law

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REPRIMAND

On October 19, 2006 the Grievance Committee of the North Carolina State Bar met and considered the grievances 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.

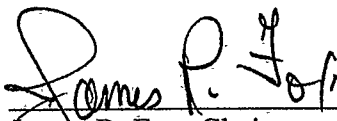
You worked at the law firm of Hafer & Caldwell, P.A., from about 2002 through November 2004. You left the firm, which was merging with another law firm, in about November 2004 and went to work for another law firm. At the time you left Hafer & Caldwell, P.A. in November 2004, you continued representing two individuals who had been clients of Hafer & Caldwell, P.A., CM and SC. CM had been a client of yours before you began practicing

with Hafer & Caldwell, P.A. and signed a letter acknowledging that her legal representation was being transferred to Hafer & Caldwell, P.A. when you joined that firm. SC originated as a client of Hafer & Caldwell, P.A. Although you and Mr. Caldwell disagree on how the amount due to Hafer & Caldwell, P.A. from the legal fees in these cases would be calculated, it is undisputed that some amount of the legal fee from each case was due to Hafer & Caldwell, P.A. Although Hafer & Caldwell, P.A. was no longer active, Mr. Caldwell continued to collect fees due to Hafer & Caldwell, P.A. from work done by the firm prior to its merger. You failed to notify Mr. Caldwell when the cases of CM and SC were settled, you failed to notify Mr. Caldwell when you received legal fees from these cases, and you failed to timely and fully respond to his requests for information on the status of these cases. Furthermore, although ethics opinion 2003 FEO 11 clarifies that legal fees received by an attorney who has left a law firm should be deposited into a trust account when the law firm is due some portion of the fee, you did not deposit the legal fee you received in CM's case into a trust account. You deposited the legal fee into your checking account and utilized the fee for your personal expenses. By failing to timely disclose your settlement and collection of fees to a former member of the firm who had a continuing financial interest in those fees, you failed to deal with Mr. Caldwell in the forthright manner required of members of our profession. By failing to deposit mixed funds into a trust account, you engaged in conduct in violation of Rule 1.15-2(g). In mitigation, the Grievance Committee recognized that you have acknowledged that some amount of the legal fees in the cases of CM and SC is due to Hafer & Caldwell, P.A. and that you have now provided Mr. Caldwell with all legal fees you received in the cases of CM and SC for processing and disbursement of your portion back to you. In further mitigation, the Committee notes your lack of prior discipline and your cooperation with the investigation of this matter.

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 October 15, 1981 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 \$50.00 are hereby taxed to you.

Done and ordered, this the 21st day of March, 2007



James R. Fox, Chair
Grievance Committee

JRF/lr