

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
10G0293

IN THE MATTER OF)
)
Robert K. Trobich,) CENSURE
ATTORNEY AT LAW)
)

On January 20, 2011, the Grievance Committee of the North Carolina State Bar met and considered the grievance 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.

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 were retained to represent JC and SC as debtors in bankruptcy proceedings. You filed a Chapter 7 bankruptcy petition on their behalf, dismissed that petition, and then filed another Chapter 7 bankruptcy petition for them. You failed to appear at a hearing in the matter on December 1, 2006 for the debtors' Motion to Dismiss Chapter 7 Case, the trustee's Application for Attorney's Fees and Reimbursement of Expenses of Attorney for the Trustee, the trustee's Motion for Order Directing Payment of Anticipated Trustee Commission, and the trustee's Application for Order Directing Payment of Anticipated Realtor Commission. The court entered an order in which it found that the filing of the Chapter 7 by the debtors was the result of poor legal advice you gave to the debtors regarding whether the trustee would have the authority to sell the debtors' real property to satisfy outstanding tax liens. The court found that if you had advised the debtors of this possibility, they would

not have chosen to file for Chapter 7 bankruptcy. The court granted the debtors' motion to dismiss, but ordered you to pay \$10,000.00 to the trustee and \$8,100.00 to Charles Green of Prudential Carolinas Realty within 30 days. The December 2006 order also required the debtors to pay \$5,336.38 in attorney's fees and held you jointly and severally liable with your former clients for that amount. The order gave you 20 days to file any response, objection, or request for hearing. You filed nothing by that deadline and the order became effective.

Your former clients paid the trustee \$5,336.38 as required by the order. By order dated on or about February 23, 2007, the Court required you to reimburse your former clients that amount on or before March 26, 2007. You failed to do so. On April 10, 2007, new counsel for your clients filed a Motion for Contempt and for Sanctions based on your failure to comply with the February 23, 2007 order. You were notified electronically of the motion and notice of hearing. You did not respond and did not appear at the hearing.

The court heard the motion for contempt and sanctions on April 27, 2007 and entered its order on May 10, 2007. The court held you in contempt of the February 23, 2007 order, ordered you to pay \$1,000.00 in attorney's fees and expenses to your former clients' new attorney, ordered you to pay the \$5,336.38 as previously ordered, and ordered you to pay an additional sum of \$50.00 per day beginning May 1, 2007 for every day you failed to pay the \$5,336.38. You did not comply with the court's May 10, 2007 order.

On August 2, 2007, your former clients, through counsel, filed a Motion to Convert Sanctions Order to a Judgment, for Additional Sanctions, and for Additional Attorney Fees and served you electronically. You did not respond and did not appear at the August 31, 2007 hearing. On September 20, 2007, the court entered a money judgment against you for \$15,436.38, which included an additional \$1,000.00 in attorney's fees and \$50.00 per day from May 10, 2007 through August 31, 2007.

Also on September 20, 2007, the court ordered you to appear on October 26, 2007 in courtroom #5 of the Cleveland County Courthouse and show cause why you should not be held in contempt. You were served with the order and notice but did not appear or communicate in any way with the court. The court found you in contempt and barred you from practicing in that court until you purged your contempt by paying all sums due under the judgment including post-judgment interest, attorney's fees, and costs of collection.

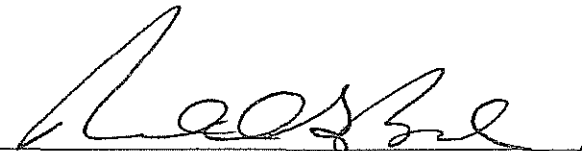
On December 29, 2009, your former clients filed a motion for additional sanctions. The motion and notice of hearing were served upon you by certified mail. You did not respond and did not appear at the February 26, 2010 hearing. The court entered an order on March 15, 2010 finding that your actions constituted willful, intentional, gross and flagrant violations of the court's orders. The court ordered you to pay additional attorney's fees and damages and converted the order to a final judgment in the amount of \$58,936.38 plus \$50.00 per day after February 26, 2010 until paid.

Your failure to attend the December 1, 2006 hearing and failure to respond to the order before the applicable deadline constituted a lack of diligence in your representation of your clients in violation of Rule 1.3, was conduct discourteous to the tribunal in violation of Rule 3.5(a)(4)(B), and was conduct prejudicial to the administration of justice in violation of Rule 8.4(d). Your subsequent failures to comply with court orders, failures to respond to motions for contempt and sanctions against you, and failures to appear in court for hearings constituted conduct discourteous to the tribunal in violation of Rule 3.5(a)(4)(B), and was conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

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 January 24, 2008 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 \$100.00 is hereby taxed to you.

Done and ordered, this 16 day of Feb, 2011.



Ronald G. Baker, Sr., Chair
Grievance Committee
The North Carolina State Bar