

9624

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
04G0228

IN THE MATTER OF)

John J. Peck,)
Attorney At Law)

REPRIMAND)

On Wednesday, July 14, 2004 the Grievance Committee of the North Carolina State Bar met and considered the grievances filed against you by Kelly M. Toms.

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, and I am certain that you will understand fully the spirit in which this duty is performed.

The complainant, Attorney Kelly M. Toms, shared office space with you for several months. Ms. Toms put a cup of frozen iced tea containing a roach in the office freezer. The cup of iced tea with the roach was evidence in Ms. Toms' client's case. Ms. Toms' client had recently taken a voluntary dismissal in his action, and he asked that Ms. Toms return the

evidence to him. Ms. Toms asked that the cup be stored in the freezer until her client could retrieve it the following week. Apparently, you removed the cup of iced tea with roaches from the freezer and disposed of it.

The Grievance Committee found that you destroyed evidence of Ms. Toms' client, in violation of Rule 8.4(d).

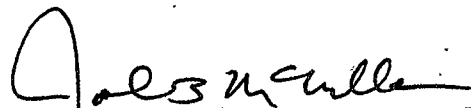
Another of Ms. Toms' clients brought a letter that he had received from the Department of Motor Vehicles to the office for Ms. Toms. Your secretary received that letter from Ms. Toms' client. When you learned that your secretary had accepted the letter from Ms. Toms' client to give to Ms. Toms, you shredded the letter.

The Grievance Committee found that you should not have destroyed information that Ms. Toms' client brought to her. Your conduct in this matter violated Rule 8.4(d) of the Revised Rules of Professional Conduct.

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 11th day of August, 2004.



John B. McMillan, Chair
Grievance Committee

JBM/lr