

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
19G0794

IN THE MATTER OF

BRIAN M. DUNAWAY,
ATTORNEY AT LAW

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REPRIMAND

On January 23, 2020 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by A. K. 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 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 associated with "Kealy Law Center" ("KLC") of Colorado. KLC held out to a North Carolina resident as able to provide her with legal representation, debt relief assistance, loan modification representation, and/or bankruptcy services. This North Carolina resident signed an agreement with KLC, which, at that point, began collecting a monthly fee of \$500.00 from this resident's bank account. You served as KLC's "North Carolina attorney." KLC is engaged in the unauthorized practice of law and debt adjusting in North Carolina. Clients paid money to KLC, including money for future filing fees and future legal services to be provided by you; a

good portion of these funds were entrusted funds, but they were not kept in a trust account maintained at an "eligible bank" pursuant to 27 N.C.A.C. 1D, § .1316(b). Moreover, you did not supervise the handling of the entrusted funds paid by your clients to KLC. Nonattorneys at KLC were providing legal services to North Carolina residents.

By permitting nonattorneys at KLC to provide legal services to North Carolina residents, you aided another entity in the unauthorized practice of law, in violation of Rule 5.5(f). By accepting a portion of the fees collected by KLC from North Carolina consumers for legal services that were not provided by an attorney licensed in this jurisdiction, you collected an illegal fee in violation of Rule 1.5(a). Additionally, by failing to supervise nonattorney employees of KLC 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). Additionally, you failed to ensure that the KLC trust account used for your clients' entrusted funds was reconciled monthly and quarterly in violation of Rule 1.15-3(d).

In determining that a reprimand 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 sincere remorse, your recognition of the serious issues with your association with KLC, and the immediate remedial actions you took in disassociating with the company upon learning of the compliance issues in the association.

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 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 reprimand by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

Done and ordered, this the 18th day of February, 2020.

A. Todd Brown Sr.

A. Todd Brown, Sr., Chair
Grievance Committee

ATB/lb