

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
13G0717

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IN THE MATTER OF )

Thomas D. Blue, Jr. )  
Attorney At Law )

REPRIMAND )

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On April 24, 2014 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 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.

In November 2010, your firm made a disbursement to a client from that client’s funds in the firm’s trust account. This disbursement was recorded on the firm’s general ledger but was mistakenly not recorded on the client ledger. In January 2012, the firm disbursed to the client what appeared to be the balance held for the client according to the client ledger. Because of the omission of the November 2010 disbursement from the client ledger, the January 2012

disbursement over-disbursed funds from the trust account to this client, using other entrusted funds in the trust account. The bookkeeping error and consequent over-disbursement were not discovered until a new assistant was conducting a quarterly reconciliation of the firm's trust account in August 2013.

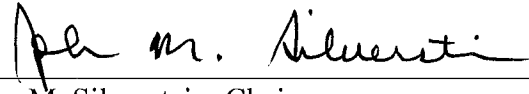
You were designated within your law firm as the attorney to supervise the non-attorney assistant to whom reconciliation of the firm's trust account had been delegated. You made yourself available for any questions the assistant had and you were aware the assistant sent e-mails to various attorneys in the firm reflecting her review of trust account records. You did not, however, review any reconciliations of the trust account. If you had been reviewing quarterly reconciliations, you would have discovered either that your assistant was not doing reconciliations or you would have discovered the error if the reconciliation had been properly done. During the investigation it was also discovered that the firm did not have a system in place to ensure clients received annual accountings when due.

Based on this evidence the Grievance Committee found you failed to adequately supervise your assistant in violation of Rule 5.3(b). Additionally, you failed to fulfill the duty delegated to you in the firm to ensure the firm's trust account was reconciled monthly and quarterly in violation of Rule 1.15-3(d). Last, the firm did not have a system in place to provide annual accountings when due under Rule 1.15-3(e). A cornerstone of client trust in an attorney is that the attorney will properly protect and maintain entrusted funds. The Grievance Committee recognized several mitigating factors in this case in determining appropriate disposition. The firm had a system in place to record disbursements on both the client ledger and trust account ledger, which overall worked well; there is only one error that is at issue in this case. The firm had a process in place by which reconciliations of the trust account were to occur, with appropriate provision for attorney supervision of the reconciliations. The non-attorney assistant to whom reconciliations had been entrusted periodically sent e-mails to billing attorneys reflecting her review of trust account records, which would seem to provide assurance that the non-attorney assistant was fulfilling her trust account duties. When the error was detected, you appropriately self-reported to the State Bar on behalf of the firm, the firm ensured the trust account was reimbursed, and the firm developed corrected procedures. While these mitigating factors do not excuse your failure to supervise the assistant and to ensure trust account reconciliations were being properly conducted, they do support issuance of written discipline rather than referral to the Disciplinary Hearing Commission.

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 22<sup>nd</sup> day of MAY, 2014.

A handwritten signature in cursive script that reads "John M. Silverstein". The signature is written in black ink and is positioned above a horizontal line.

John M. Silverstein, Chair  
Grievance Committee

JMS/lb