

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
21G0124 & 21G0244

IN THE MATTER OF)
)
MARK A. KEY,) CENSURE
ATTORNEY AT LAW)

On July 15, 2021, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by G. S. and J. C. 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.

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.

Grievance File 21G0124

From 2017 to present, you represented R. Moore's estate in a personal injury matter and in the administration of the estate. Moore's niece, G. Silver, served as the fiduciary of the estate.

In January 2019, the clerk's office sent Silver a notice to file a final account. A copy of the notice was sent to you. You did not file a final account. On 5 February 2019, the clerk's office issued an order to file a final account, which was served upon Silver by sheriff that same day. The order required a final account to be filed within twenty days after service. A copy of the order was also sent to you. You did not file a final account. Over six weeks later, you sent an email to the clerk indicating that there would be additional money received in connection to a settled personal injury matter that would need to be disbursed to Moore's heirs. The clerk's office entered an order extending the time to file an account to 3 January 2020.

On 3 January 2020, the clerk's office sent Silver a notice to file a final account. A copy of the notice was sent to you. You did not file a final account. On 12 February 2020, the clerk's office issued an order to file a final account, requiring a final account to be filed within twenty days after service of the order upon Silver. The order was served upon Silver by sheriff a week later. A copy of the order was also sent to you. You did not file a final account.

Between 30 June 2020 and 12 January 2021, Silver filed two handwritten notes in the estate matter indicating that you had not responded to her calls regarding the required accountings.

You failed to timely file the required accounting for Moore's estate in violation of Rules 1.3, 1.15-3(f), and 8.4(d). You also failed to reasonably consult with Silver in violation of Rule 1.4(a)(2) and promptly comply with reasonable requests for information from Silver in violation of Rule 1.4(a)(4).

Grievance File 21G0244


In November 2020, J. Cyran retained you for assistance in obtaining post-conviction relief. Cyran was worried at the time about the possibility of being on probation and about what to do following the communications she had received from a probation officer. You told Cyran to respond to the probation officer, but you did not otherwise explain her obligation to report to the probation office or explain how you would address her concerns. Between 11 November and 24 December 2020, Cyran notified you when probation officers attempted to communicate with her and when she suspected a probation officer placed a tracking device on her vehicle. You assured Cyran that you had her back and that you had called the probation office on her behalf. In early January 2021, Cyran was pulled over and arrested on a warrant for a probation violation. Cyran was later charged with absconding probation and ordered to wear an ankle monitor.

You failed to represent Cyran with required diligence and promptness in violation of Rule 1.3, failed to communicate with Cyran about the means by which her objectives would be accomplished in violation of Rule 1.4(a)(2), and failed to keep her reasonably informed about the status of the probation matter in violation of Rule 1.4(a)(3).

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

Done and ordered, this 25th day of August, 2021.



Matthew W. Smith, Chair
Grievance Committee
The North Carolina State Bar