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NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
04G1326

IN THE MATTER OF

RICHARD A. SCHWARTZ,
ATTORNEY AT LAW

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REPRIMAND

On July 20, 2006, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you in the above captioned matter.

Pursuant to Section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing in your case. After considering the information available to it, including your responses 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 Revised 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.

One of your clients, a county board of education, sought your advice and legal services in connection with allegations of sexual assault committed by upperclassmen against underclassmen. Arrangements were made by school administrators for you to interview students and some parents. You and your associate attorney distributed your business cards to those interviewed, and told the parents of the underclassmen/victims that you had been brought in by the board of education to determine the truth about the events. Some of the parents of

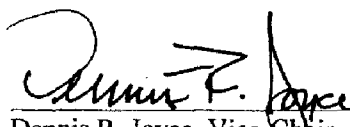
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underclassmen/victims believed that you were an independent investigator hired by the board of education solely for the purpose of conducting an investigation and were not aware that you had a preexisting attorney-client relationship with the school system. While conducting your investigation, you also provided ongoing legal advice to school officials, including advice about the wording of a press release on the issue. You failed to notify the parents of some of the underclassmen/victims about your pre-existing attorney-client relationship with the school system and about the fact that you were providing additional legal services and advice to the board of education or failed to clarify those facts. Your associate attorney conducted an interview of one underclassman/victim and his notes of the interview reflect that this underclassman/victim gave conflicting statements which your associate concluded were therefore not credible as to whether there was an act of penetration. An act of penetration, if true, would constitute a felony sexual offense. You were aware of the underclassman/victim's statements to your associate when you met with the District Attorney and his chief deputy. Although you did invite the District Attorney's office to subpoena your notes, including all witness statements describing any alleged acts, you failed to tell the District Attorney and his chief deputy about this underclassman/victim's statements to your associate and instead left them with the impression that your investigation had yielded no evidence of penetration. Your conduct is a violation of Rules 4.3 and 8.4(d). The Grievance Committee found that your misconduct was mitigated by your lack of prior discipline and by your apparent lack of any dishonest motive.

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 15TH day of MAY, 2007.


Dennis R. Joyce, Vice-Chair
Grievance Committee

