

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
12G0713

IN THE MATTER OF

John F. Hanzel,
Attorney At Law

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REPRIMAND

On July 18, 2013 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by E. T.

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.

You represented E. T., J. A. and W. H. in a lawsuit against an insurance company based upon a claim that the insurance company denied payment of a policy because the policy had allegedly lapsed for nonpayment (hereafter, "lawsuit"). You pleaded in the lawsuit that the insurance company improperly cancelled the policy because the company had not given notice that the policy was due to lapse.

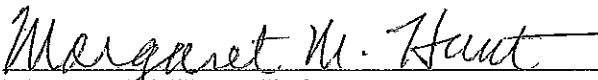
You represented Mr. H. in an investigation by the North Carolina Department of Insurance (DOI) in a matter regarding the same insurance policy at issue in the lawsuit. You stated that the matter at the center of the lawsuit was "related tangentially to that investigation." You admitted that your representation of Mr. H. in the DOI investigation overlapped with your representation of Mr. T., Mr. A. and Mr. H. in the lawsuit. You never disclosed your representation of Mr. H. in the DOI matter to Mr. T. Mr. T. learned of your representation of Mr. H. at the mediation of the lawsuit. The Grievance Committee found that you had a conflict of interest in your representation of Mr. H. in the DOI investigation and Mr. T. in the lawsuit, in violation of Rule 1.7(a). The Grievance Committee concluded that you should have foreseen the possibility that Mr. T.'s interests could be adverse to Mr. H's interests in the lawsuit. Mr. T.'s interests could have involved the assertion of a claim against Mr. H., but you represented both parties in the lawsuit.

You stated in your response that you learned that Mr. H. "admitted to timely receiving the insurance company's letter regarding reinstatement of the policy..." when recordings were played at the mediation of the lawsuit. You said that once you learned of the content of these recordings, "it became clear that a conflict of interest was present." Mr. T. retained new counsel. However, you continued to represent Mr. A. and Mr. H. "while sorting through the remaining conflict of interest issues." The Grievance Committee found that you should have immediately withdrawn from representation of Mr. A. and Mr. H. in the lawsuit once you learned of the conflict of interest, and your failure to withdraw immediately violated Rule 8.4(d).

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 12th day of August, 2013.


Margaret M. Hunt, Chair
Grievance Committee