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STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
87G 0704 (I)

IN THE MATTER OF

KEVIN F. MACQUEEN  
ATTORNEY AT LAW

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PUBLIC REPRIMAND

On July 13, 1989, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Mary Tomlinson.

Pursuant to Section 13(7) of Article IX of the Rules and Regulations of the North Carolina State Bar, the Grievance Committee, after considering the evidence, including your response to the Letter of Notice, found probable cause which 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 a Private Reprimand, a Public Reprimand, or a Public Censure to the accused attorney.

The Grievance Committee was of the opinion that a complaint and hearing are not required in this case and issues this Public Reprimand to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this Public Reprimand and I am certain that you will understand fully the spirit in which this duty is performed.

A Public Reprimand is a serious form of discipline imposed by the Grievance Committee. The Grievance Committee felt that your conduct warranted public discipline due to your violation of the Rules of Professional Conduct. The committee trusts that this misconduct will not recur.

In 1987, you undertook to represent Mary Tomlinson in a domestic matter. Trial in Ms. Tomlinson's case was set for September 30, 1987. The week before trial, you concluded that, owing to a personality conflict with Ms. Tomlinson, you could no longer represent her. You failed to withdraw formally as counsel of record for Ms. Tomlinson, however, and you failed to explain clearly to Ms. Tomlinson that she needed to retain other counsel. Ms. Tomlinson was unaware of your plan to withdraw and appeared in court on September 30, 1987 with her witnesses, believing that you still represented her.

Rule 6(B) (1) requires an attorney to communicate adequately with his client and Rule 2.8 requires an attorney to obtain permission of a tribunal before withdrawing from a proceeding before that tribunal. Rule 2.8 further requires an attorney to give due notice to his client before withdrawing and to allow time for the client to obtain his or her file and retain other counsel.

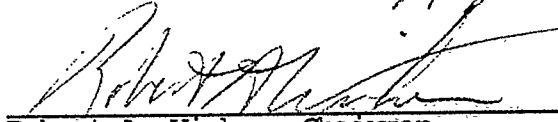
You are hereby publicly reprimanded by the North Carolina State Bar due to your professional misconduct. The Grievance Committee trusts that you will ponder this Public Reprimand, recognize the error that you have made, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. This Public Reprimand 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.

This Public Reprimand will be maintained as a permanent record in the judgment book of the North Carolina State Bar. Since a complaint was made and professional misconduct has been found, the complainant will receive a copy of this Public Reprimand. A copy also is available to the public upon request.

Within 15 days after this Public Reprimand is served upon you, you may refuse this Public Reprimand and request that charges be filed. Such refusal and request must be addressed to the Grievance Committee and filed with the Secretary. If you do file such refusal and request, counsel shall thereafter be instructed to prepare and file a complaint against you with the Disciplinary Hearing Commission of the North Carolina State Bar. The Hearing before the Disciplinary Hearing Commission is public and all of its proceedings and its decision are public.

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 2 day of August, 1989.

  
Robert A. Wicker, Chairman  
The Grievance Committee  
North Carolina State Bar

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