

June 22, 2017

The Grievance Committee
The North Carolina State Bar
P.O. Box 25908
Raleigh, NC 27611

Re: *Grievance Concerning Holtzman Vogel Josefiak Torchinsky PLLC Law Firm and Certain of its Lawyers – Erin Clark, Gabriella Fallon, Steve Roberts, Steven Saxe*

To the Committee:

I am and have been a member of the North Carolina State Bar since 1973. I am writing concerning the Warrenton, Virginia based law firm Holtzman Vogel Josefiak Torchinsky PLLC (“HVJT”) and certain of its above-referenced lawyers concerning their recent activities in North Carolina. The firm’s activities are described in detail in a recent report of Democracy North Carolina entitled, “The Deceit of Voter Fraud”, (the Report), which is attached here as Appendix A. That Report is based on the interviews and research of Democracy North Carolina and, if those facts as reported are accurate, they raise serious issues concerning possible violations of the North Carolina Rules of Professional Conduct as adopted by the North Carolina State Bar.

As an initial matter, the Report, as well as contemporaneous media reports, make it clear that HVJT, although based in Virginia, was practicing law in North Carolina in the aftermath of last year’s elections. (See Articles attached at Appendix B.) During that time period, as indicated in the Report, HVJT and its lawyers, on their own or on behalf of various North Carolina voters, filed numerous protest petitions with various county Boards of Elections accusing many voters of engaging in illegal voting, either through voting in multiple states or based on their alleged felony status.

As detailed in the Report, a large number of the allegations in those petitions turned out to be incorrect and, in instances in which that was pointed out to HVJT, it failed to correct that information. In addition, despite learning that its petitions, or at least portions of them, were objectively baseless, HVJT continued to file additional petitions with incorrect information.

Assuming the accuracy of the Report, it gives rise to serious questions regarding compliance with the following Rules of Professional Conduct:

- 3.1 (lack of meritorious claims or contentions);
- 3.3(a)(1) (failure to correct misstatements);
- 3.4 (failure to act fairly with respect to an opposing party);
- 4.1 (lack of truthfulness in statements to others);
- 4.4(a) (lack of respect for the rights of third persons).

I recognize that elections – particularly lately – can be very hard-fought affairs. That said, to the extent that lawyers are involved in representing clients in connection with elections, I do not believe that there should be any exceptions from the otherwise applicable ethical rules.

Thank you for your attention to this matter and please let me know if you have any questions.

Yours truly,
McMillan & Smith

A handwritten signature in black ink that reads "S T SMITH". The "S" is large and stylized, with a vertical line through it. The "T" is smaller and positioned between the "S" and "SMITH".

Stephen T. Smith