

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
03G1070

**TOLLY ALBERT KENNON III,
ATTORNEY AT LAW**

REPRIMAND

In February 2002, after the child support case was concluded, F.D.S. married Tammy B. F.D.S. and B. separated in July 2002.

In August 2002, you undertook to represent B. in a domestic action against F.D.S. In a complaint filed on Sept. 11, 2002, you sought a divorce from bed and board, custody and child support and alimony on B.'s behalf. F.D.S. did not consent to your representation of B.

Your conduct in this regard constituted a conflict of interest in violation of Rule 1.9 of the Revised Rules of Professional Conduct. Specifically, B.'s interests in the domestic case were adverse to those of your former client, F.D.S., and you obtained confidential information about F.D.S. during the 2001 domestic case. Finally, the domestic case action which you undertook in August 2002 for B. against F.D.S. was substantially related to the domestic case which you handled for F.D.S. in October 2001 against his first wife as both cases involved questions relating to F.D.S.'s support obligations.

The Grievance Committee was particularly disturbed that, in your response to F.D.S.'s complaint, you denied having represented F.D.S. in the October 2001 support case. Your response was directly contradicted by your own Oct. 10, 2001 letter to Jackie S., in which you expressly advised her that you were acting as F.D.S.'s attorney in the parties' custody dispute. You also wrote a letter to F.D.S. on the same day, in which you also confirmed that you had undertaken the case. The Committee wishes to remind you that the Rules of Professional Conduct require attorneys to provide full, fair and accurate responses to complaints filed with the State Bar. Should you ever receive any letters of notice from the State Bar in the future, the Committee expects you to provide a candid response and warns you that any deviation from the strict standard of truthfulness may well result in the imposition of much more substantial discipline.

You are hereby reprimanded by the North Carolina State Bar due to 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 29 day of April, 2003.

Sharon B. Alexander
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Chair, Grievance Committee