

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
06G0219

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IN THE MATTER OF	)	
	)	
Van H. Johnson,	)	CENSURE
ATTORNEY AT LAW	)	
	)	

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On January 18, 2007 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by S. L.

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.

A censure is a written form of discipline more serious than a reprimand, issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused significant harm or potential significant harm to a client, the administration of justice, the profession or a member of the public, but the misconduct does not require suspension of the attorney's license.

The Grievance Committee believes that a hearing before the Disciplinary Hearing Commission is not required in this case and issues this censure to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this censure.

In September 2004 you had a consultation with Mrs. S. L. regarding her marital problems. She specifically asked you about taking her children out of state and you gave her advice on that topic. In March 2005 you began to represent Mrs. S. L.'s husband, Mr. R. L., regarding divorce and custody issues and in his pursuit of an ex parte custody order against Mrs. S. L., citing Mrs. S. L.'s flight to another state. You did not obtain informed consent in writing from either party. This constituted a conflict of interest in violation of Rule 1.18(c) and (d) of the Revised Rules of Professional Conduct.

Before she left the state, Mrs. S. L. filed a domestic violence protective order against your client. Mrs. S. L.'s DVPO was dismissed for lack of prosecution, however you filed a complaint for custody and other issues several days before that dismissal without mentioning the pending action. Three days after

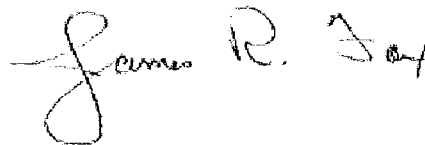
Mrs. S. L.'s DVPO was dismissed, you applied for an ex-parte custody order on your client's behalf without informing the judge of Mrs. S. L.'s recent action. Your failure to disclose pertinent facts violated Rules 3.3(d) and 8.4(c).

In your response to this grievance, you told the Grievance Committee that Mrs. R. L.'s DVPO was dismissed before you sought emergency custody. You did not tell the Committee that your complaint for custody had been filed while the DVPO was pending. You also led the Committee to believe you consulted the North Carolina State Bar about the potential conflict *in this matter* at or near the time the conflict arose, when, in fact, you had called the Bar for advice about a different case at a previous time. This conduct violated Rule 8.1(a) and 8.4(c).

You are hereby censured by the North Carolina State Bar for your violation of the Rules of Professional Conduct. The Grievance Committee trusts that you will ponder this censure, 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 censure 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.

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 censure 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<sup>th</sup> day of October, 2007.



James R. Fox, Chair  
Grievance Committee  
The North Carolina State Bar