

STATE OF CONNECTICUT



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**STATEWIDE GRIEVANCE COMMITTEE**

*www.jud.ct.gov/sgc/*  
Second Floor - Suite Two  
287 Main Street, East Hartford, Connecticut 06118-1885

05/30/2008

OFFICE OF CHIEF DISCIPLINARY C  
100 WASHINGTON STREET  
HARTFORD CT 06106

ROBERT D SWARTOUT  
ATTORNEY AT LAW  
999 ASYLUM AVE, STE 410  
HARTFORD CT 06105

RE: GRIEVANCE COMPLAINT #07-0901  
BAJRAKTAREVIC vs. SWARTOUT

Dear Respondent and Disciplinary Counsel:

Enclosed herewith is the decision of the reviewing committee of the Statewide Grievance Committee concerning the above referenced matter. In accordance with the Practice Book Sections 2-35, 2-36 and 2-38(a), the Respondent may, within thirty (30) days of the date of this notice, submit to the Statewide Grievance Committee a request for review of the decision.

A request for review must be sent to the Statewide Grievance Committee at the address listed above.

Sincerely,

A handwritten signature in black ink that reads "Michael P. Bowler".

Michael P. Bowler

Encl.

cc: Attorney John J. Quinn  
Samir Bajraktarevic

**NOTICE REGARDING DECISION**

**- REPRIMAND -**

**GRIEVANCE COMPLAINT #** 07-0901

**THE ATTACHED DECISION IS PRESENTLY STAYED IN ACCORDANCE WITH PRACTICE BOOK §§2-35 AND 2-38.**

**SECTION 2-35 STATES, IN PART, AS FOLLOWS:**

**(e) ... Enforcement of the final decision ... shall be stayed for thirty days from the date of the issuance to the parties of the final decision. In the event the respondent timely submits to the statewide grievance committee a request for review of the final decision of the reviewing committee, such stay shall remain in full force and effect pursuant to Section 2-38(b).**

**SECTION 2-38 STATES, IN PART, AS FOLLOWS:**

**(b) ... Enforcement of a decision by a reviewing committee reprimanding the respondent ... shall be stayed for thirty days from the issuance to the parties of the final decision of the reviewing committee pursuant to Section 2-35(g). If within that period the respondent files with the statewide grievance committee a request for review of the reviewing committee's decision, the stay shall remain in effect for thirty days from the issuance by the statewide grievance committee of its final decision pursuant to Section 2-36. If the respondent timely commences an appeal [of the reprimand to the Superior Court] pursuant to subsection (a) of this section, such stay shall remain in full force and effect until the conclusion of all proceedings, including all appeals, relating to the decision reprimanding the respondent. If at the conclusion of all proceedings, the decision reprimanding the respondent is rescinded, the complaint shall be considered dismissed as of the date of the reprimand decision for all purposes....**

**DECISION DATE:** 5/30/08

STATEWIDE GRIEVANCE COMMITTEE

Samir and Katie Bajraktarevic  
Complainants

vs.

Grievance Complaint #07-0901

Robert D. Swartout  
Respondent

DECISION

Pursuant to Practice Book §2-35, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, conducted a hearing at the Superior Court, One Court Street, Middletown, Connecticut on April 10, 2008. The hearing addressed the record of the complaint filed on September 17, 2007, and the probable cause determination filed by the Judicial District of Hartford for Geographical Area 13 and the town of Hartford Grievance Panel on December 7, 2007, finding that there existed probable cause that the Respondent violated Rule 8.1(2) of the Rules of Professional Conduct and Practice Book Section 2-32(a)(1). The hearing also addressed the additional probable cause determination issued by the reviewing committee of Attorney Hugh W. Cuthbertson, Attorney Jorene M. Couture and Mr. William D. Murphy on January 23, 2008, finding that there existed probable cause that the Respondent violated Rules 1.1 and 1.3 of the Rules of Professional Conduct.

This matter was originally scheduled for a hearing on February 6, 2008, but was continued because of the determination of additional probable cause. The matter was thereafter scheduled for a hearing on April 10, 2008. Notice of the hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on March 6, 2008. Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Frank Blando pursued the matter before this reviewing committee. At the hearing, the Respondent appeared and testified. The Complainants did not appear. No exhibits were admitted into evidence.

This reviewing committee finds the following facts by clear and convincing evidence:

The Complainants retained the Respondent in August 2003 to represent them in an immigration matter. The Complainants paid the Respondent a total of \$3000 from 2003 to 2007. On October 19, 2006, the Respondent was ordered by an Immigration Judge in Hartford, Connecticut to file all applications of adjustment of status by September 4, 2007. The Respondent failed to submit the applications as ordered. The Immigration Judge ordered Complainant Samir Bajraktarevic to be deported on September 4, 2007.

On September 19, 2007, the Respondent was sent by certified mail a copy of the grievance complaint which required his response within 30 days. The certified mail was returned unclaimed after three attempts. The Respondent was, thereafter, mailed a copy of the complaint by regular mail on October 18, 2007. The Respondent, however, never filed an answer to the complaint.

This reviewing committee also considered the following:

The Respondent testified at the hearing that in late 2003 he took over the Complainants' case from previous counsel from whom he received the case file. Previous counsel had filed on behalf of Complainant Samir Bajraktarevic an application for asylum and a petition for alien relative based on the Complainants' marriage. The Respondent maintained that an adjustment of status application is frequently filed along with a petition for alien marriage. The Respondent assumed that the adjustment of status application had been filed by previous counsel, although no such document appeared in the file. The Respondent testified that he did not hear the Immigration Judge's order on October 19, 2006 to file an adjustment of status by September 4, 2007. The Respondent maintained that he was speaking to the Complainants regarding the Court's order to obtain certified copies of criminal dispositions concerning Complainant Samir Bajraktarevic and did not hear the Judge's order regarding the adjustment of status.

At the hearing, the Respondent indicated that he purposely did not file an answer to the grievance complaint to prevent the disclosure of prejudicial information the Respondent felt might compromise Complainant Samir Bajraktarevic's pending immigration appeal. Subsequent counsel had filed a motion to reopen the order to deport Complainant Samir Bajraktarevic and the grievance complaint was attached to the motion. Respondent testified that any answer he filed would also be attached to the motion to reopen. The Respondent stated that his answer would have included information about Complainant Samir Bajraktarevic's criminal cases. The Respondent did not want to risk the denial of the motion to reopen by including that information, so he did not file an answer to this complaint. The Respondent testified that subsequent counsel has been able to reopen the order of deportation and the case is currently pending in Immigration Court.

This reviewing committee finds the following violations of the Rules of Professional Conduct and Practice Book by clear and convincing evidence:

The evidence indicates that the Complainants hired the Respondent to represent them in their immigration matter. The Respondent represented the Complainants during a four year period from 2003 until 2007. The Respondent failed to file adjustment of status applications within the requisite time period despite a court order to do so. The Respondent did not check his file to ascertain whether adjustment applications had been filed by previous counsel. This reviewing committee finds by clear and convincing evidence that the Respondent violated Rule 1.3 of the Rules of Professional Conduct by failing to comply with the court order to file the adjustment of status applications. This reviewing committee, however, cannot conclude by clear and convincing

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evidence that the Respondent failed to provide the Complainants with competent representation in violation of Rule 1.1 of the Rules of Professional Conduct.

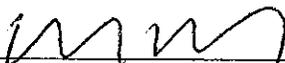
We further find by clear and convincing evidence that the Respondent violated Rule 8.1(2) and Practice Book Section 2-32(a)(1) by failing to provide an answer to this grievance complaint. The Respondent could have crafted a response to the complaint that was responsive to the complaint, but did not disclose the details of the prejudicial information regarding his client. The Immigration Court, having ordered the certified copies of the criminal dispositions, was aware of Complainant Samir Bajraktarevic's criminal arrests. Accordingly, this reviewing committee concludes that the Respondent's failure to file a response to the grievance complaint was not for good cause shown.

This reviewing committee hereby reprimands the Respondent for violating Rules 1.3 and 8.1(2) of the Rules of Professional Conduct and Practice Book Section 2-32(a)(1).

(E/3)

DECISION DATE: 5/30/08

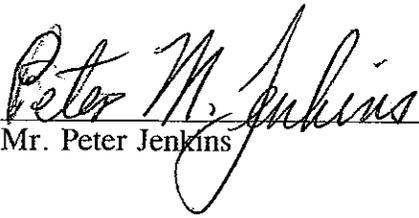
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Attorney David Channing

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Attorney Howard Gould

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Mr. Peter Jenkins