

STATEWIDE GRIEVANCE COMMITTEE

Marc Reich
Complainant

:

vs.

:

Grievance Complaint #09-1097

Gary Woodfield
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, 300 Grand Street, Waterbury, Connecticut on June 1, 2010. The hearing addressed the record of the complaint filed on December 17, 2009, and the probable cause determination filed by the New Britain Judicial District and the Judicial District of Hartford for Geographical Area 12 and the towns of Avon, Bloomfield, Canton, Farmington and West Hartford Grievance Panel on February 3, 2010, finding that there existed probable cause that the Respondent violated Rules 1.2, 1.5(b) and 8.1 of the Rules of Professional Conduct and Practice Book §2-32(a)(1).

This matter was originally scheduled for a hearing on April 6, 2010, but was continued at the request of the Respondent. The matter was thereafter scheduled for a hearing on June 1, 2010. Notice of the June 1, 2010 hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on May 3, 2010. Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Suzanne Sutton pursued the matter before this reviewing committee. The Complainant appeared at the hearing and testified. The Respondent did not appear at the hearing. Two exhibits were admitted into evidence.

Reviewing committee member Attorney Noble Allen had to recuse himself from this matter due to the Respondent's failure to update his attorney registration to reflect that his new office address was located in the Hartford Judicial District and not the New Britain Judicial District. Since Attorney Allen's office is also located in the Hartford Judicial District, Practice Book §2-35(a) precluded him from sitting on this reviewing committee. Disciplinary Counsel waived the participation of a third reviewing committee member in this matter and agreed to have the undersigned render this decision.

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

On November 10, 2008, the Respondent was placed on disciplinary probation for two years with the condition that he limit his legal work to the "... representation of persons in cases assigned to him by the Commission on Child Protection" (CV-HHB-08-4018881S, Disciplinary Counsel v. Gary Woodfield).

Grievance Complaint #09-1097

Decision

Page 2

On February 4, 2009, the Complainant retained the Respondent to represent a minor in obtaining services from the State Department of Children and Families before the minor turned 18 in June of 2009. The Complainant was referred to the Respondent by another attorney. The Complainant met with the Respondent on February 4, 2009 at which time the Respondent spoke to the minor over the telephone. The Complainant paid the Respondent an \$875 retainer fee at the time, but never received a written retainer agreement. The Respondent advised the Complainant that he would file an action in court on behalf of the minor and send copies to the Complainant.

Following the February 4, 2009 meeting, the Complainant had difficulties communicating with the Respondent. The Complainant spoke with the Respondent six to eight times and left eight to fifteen messages with the Respondent regarding the status of the case prior to June of 2009. The Respondent told the Complainant he had filed the case, but that there were delays. The Complainant repeatedly asked for copies of the papers filed, but the Respondent never provided them to the Complainant. Several times the Respondent advised the Complainant that he had mailed the documents, but they must have been lost in the mail. On another occasion, the Complainant went to the Respondent's house and was advised by the Respondent that he did not have copies of the documents at his house, but that he would provide them to the Complainant. The Respondent never provided the documents. The Respondent eventually acknowledged to the Complainant that he never filed an action in court and agreed to return the retainer. The Respondent, however, has failed to return the retainer to the Complainant.

On December 22, 2009, a copy of the grievance complaint was sent by certified mail to the Respondent at the office address registered with the Statewide Grievance Committee. The Respondent was advised of his duty under Practice Book §2-32(a)(1) to submit a written response to the grievance complaint within thirty days. The delivery receipt reflects that the Respondent signed for the letter. The Respondent did not file a written response to the grievance complaint as directed.

The Respondent has failed to file the annual Attorney Registration form for 2010 with the Statewide Grievance Committee.

This reviewing committee concludes by clear and convincing evidence that the Respondent engaged in unethical conduct. The record before this reviewing committee indicates that the Respondent charged the Complainant \$875 to file an action in court prior to June of 2009 and that the Respondent failed to do so. We find that the Respondent's failure to take any action in connection with this matter constitutes a lack of diligence in violation of Rule 1.3 of the Rules of Professional Conduct. This reviewing committee further concludes that the Respondent's failure to provide the Complainant with a written fee agreement violates Rule 1.5(b) of the Rules of Professional Conduct. Lastly, we conclude that the Respondent's

Grievance Complaint #09-1097

Decision

Page 3

failure to submit a written response to the grievance complaint, which he received and signed for, constitutes a violation of Rule 8.1(2) of the Rules of Professional Conduct and Practice Book §2-32(a)(1).

In addition to the Rules cited by the grievance panel, this reviewing committee concludes by clear and convincing evidence that the Respondent's fee was unreasonable in violation of Rules 1.5(a)(4) and 1.16(d) of the Rules of Professional Conduct. The record reflects that the Respondent never filed the lawsuit he was retained to file. Furthermore, the Respondent has failed to provide any evidence to indicate that he earned any portion of the \$875 retainer fee.

This reviewing committee also concludes by clear and convincing evidence that the record supports a finding that the Respondent violated the misrepresentation provision of Rule 8.4(3) of the Rules of Professional Conduct by misrepresenting to the Complainant that he had filed the lawsuit and that he had sent copies of the lawsuit to the Complainant. We further conclude that the record supports a finding that the Respondent violated the November 10, 2008 disciplinary probation order by agreeing to undertake the representation of the minor. The November 10th order limited the Respondent's legal work to the representation of persons assigned to him by the Commission on Child Protection. The record clearly indicates that this matter was referred to the Respondent by private counsel. Accordingly, we conclude that the Respondent's violation of the court order constitutes conduct prejudicial to the administration of justice in violation of Rule 8.4(4) of the Rules of Professional Conduct. Lastly, this reviewing committee concludes that the record also supports a finding by clear and convincing evidence that the Respondent violated Practice Book §2-27(d) by failing to file the 2010 annual Attorney Registration form with the Statewide Grievance Committee.

This reviewing committee concludes that the Respondent's violation of Rules 1.3, 1.5(b) and 8.1(2) of the Rules of Professional Conduct and Practice Book §2-32(a)(1) warrant a presentment. Accordingly, we direct Disciplinary Counsel to file a presentment against the Respondent in the Superior Court for the imposition of whatever discipline the court may deem appropriate. Since the presentment will be a trial de novo, we further direct Disciplinary Counsel to include the additional violations of Rules 1.5(a)(4), 1.16(d) and 8.4(3) and (4) of the Rules of Professional Conduct and Practice Book §2-27(d) found by this reviewing committee.

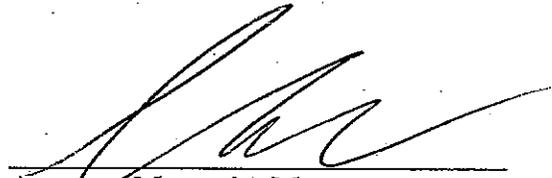
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DECISION DATE: 7.9.10

Grievance Complaint #09-1097

Decision

Page 4



Attorney Margarita Moore

Grievance Complaint #09-1097

Decision

Page 5


Mr. William Carroll