

STATEWIDE GRIEVANCE COMMITTEE

Lindsay Hawk  
Complainant

:

vs.

:

Grievance Complaint #06-1118

Joseph Moniz  
Respondent

:

DECISION

Pursuant to Practice Book §2-35, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, conducted hearings at the Superior Court, One Court Street, Middletown, Connecticut on June 14, 2007 and January 10, 2008. The hearings addressed the record of the complaint filed on December 18, 2006, and the probable cause determination filed by the Hartford Judicial District Grievance Panel for Geographical Area 13 and the town of Hartford on March 16, 2007, finding that there existed probable cause that the Respondent violated Rules 4.4 and 8.4(3) of the Rules of Professional Conduct.

Notices of the hearing dates were mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on May 30, 2007 and December 4, 2007, respectively. Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Jeffrey Donahue and Patricia King pursued the matter before this reviewing committee. The Complainant and the Respondent appeared and testified. Exhibits were admitted into evidence.

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

The Complainant is involved with a business which provides audio/video services for litigation matters. The Complainant was hired by the Respondent for three different litigation matters in which disputes have arisen regarding the Complainant's fees. In the first matter (the "Anderson" case), the Complainant is owed \$100 (not including claimed interest) for making a copy of a tape at the Respondent's request in March of 2004. The Respondent does not dispute owing this fee.

The other two matters ("Dakers" and "Hymes") involved the production of videotaped documentaries. In the Dakers case, the Complainant claims to be owed \$3,200 plus interest, and in the Hymes case, \$8,670. In these two matters, there were disputes as to the specific services requested, and the Respondent stated that both bills are the responsibility of the clients on whose behalf the services were rendered. The Respondent noted that in his retainer agreement, he includes language making clients directly responsible for expenses in excess of \$100.

At the conclusion of the June 14, 2007 hearing date, the parties were given additional time to provide documents. In early August of 2007, the Disciplinary Counsel forwarded documents provided by the Complainant. The Respondent did not produce any documents, despite representing at the hearing that he would provide copies of invoices and a written statement from one of the clients. At the second hearing date on January 10, 2008, the Respondent stated that he was unable to locate any additional documents and could not reach the client. The Respondent again acknowledged responsibility for the \$100 bill in the Anderson matter, and represented to the reviewing committee that he would pay that bill on that same day, and provide a copy of the check to the reviewing committee. The Respondent also agreed to provide the reviewing committee with a copy of the retainer agreement in the Hymes matter. As of the date of this decision, the Respondent had not provided copies of either the check or the retainer agreement.

This reviewing committee concludes by clear and convincing evidence that the Respondent engaged in misconduct. The \$100 fee in the Anderson matter was incurred at the direct request of the Respondent, and the Respondent does not dispute that it is owed. Yet he has not paid it over the span of almost four years, despite acknowledging it at both the June 14, 2007 and January 10, 2008 hearing dates. Accordingly, in incurring that service but failing to pay for it, the Respondent made misrepresentations to the Complainant in violation of Rule 8.4(3) of the Rules of Professional Conduct. This furthermore constituted a complete disregard for the rights of a third person, the Complainant, by the Respondent in his representation of his client in that matter, in violation of Rule 4.4(a) of the Rules of Professional Conduct.

Regarding the Dakers and Hymes matters, this reviewing committee does not take a position, as these matters are disputed by the Respondent, both as to the amounts owed and the proper party responsible for their payment. It appears that they should be resolved in another venue, such as a civil court.

In considering an appropriate sanction, this reviewing committee believes that, although the amount involved is small, it reflects a larger problem on the part of the Respondent. In particular, this reviewing committee is very concerned by the Respondent's failure to be responsive in this matter. At both hearing dates, the Respondent represented that he would be providing additional documentation, but he failed to do so. This is reflective of other grievance complaints in which the Respondent failed to file an answer and, in the matter of Foster v. Moniz, #07-0217, where he neither answered nor appeared and was ordered presented.

Accordingly, this reviewing committee directs the Disciplinary Counsel to bring a presentment against the Respondent in Superior Court, for the imposition of whatever discipline the court deems appropriate. Since a presentment is a trial de novo, this reviewing committee further directs the Disciplinary Counsel to include a charge that the Respondent engaged in conduct prejudicial to the administration of justice, in violation of Rule 8.4(4) of the Rules of

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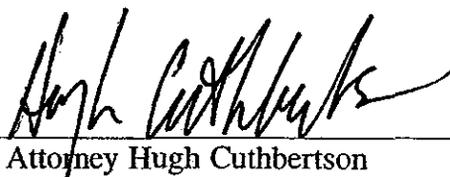
Professional Conduct, due to his failure to comply with his representations to this reviewing committee, especially regarding his failure to pay the \$100 fee on the day of the second hearing date, as he had stated he would.

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DECISION DATE: 3/14/08

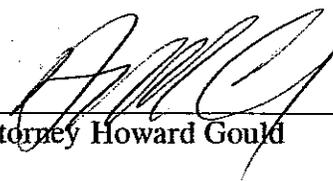
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A handwritten signature in black ink, appearing to read "Hugh Cuthbertson", is written over a horizontal line.

Attorney Hugh Cuthbertson

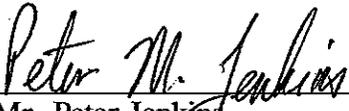
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Attorney Howard Gould

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Mr. Peter Jenkins