

STATEWIDE GRIEVANCE COMMITTEE

New Haven JD GA7 and the towns of
Branford, East Haven, Guilford, Madison
and North Branford Grievance Panel
Complainant

vs.

Grievance Complaint #08-0176

Alfred J. Cronk
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, 1061 Main Street, Bridgeport, Connecticut on June 10, 2009. The hearing addressed the record of the complaint filed on February 25, 2008 and the probable cause determination filed by the Danbury Judicial District Grievance Panel on December 8, 2008, finding that there existed probable cause that the Respondent violated Rules 1.15(b) and 8.1(2) of the Rules of Professional Conduct and Practice Book §2-27(d).

Notice of the hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on May 1, 2009. Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Suzanne Sutton pursued the matter before this reviewing committee. The Respondent appeared and testified before this reviewing committee. Attorney Richard A. Smith represented the Respondent. Reviewing committee member Thomas F. Maxwell, Jr. was unavailable for the hearing. Since both the Assistant Disciplinary Counsel and the Respondent waived the participation of Attorney Maxwell, this matter was heard and decided by the undersigned.

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

The Respondent maintained an IOLTA trust account with Bank of America. On August 29, 2007, the Respondent's trust account check number 105832 in the amount of \$1,094.10 was presented for payment. At the time of presentation of the check, there were insufficient funds in the trust account resulting in an overdraft of \$832.59. On September 7, 2007, the Statewide Grievance Committee received notice of the overdraft. Pursuant to Practice Book §2-28 and the Rules of Procedures adopted by the Statewide Grievance Committee, the Statewide Bar Counsel forwarded a copy of the overdraft notice to the Respondent by letter dated September 19, 2007 and requested a written explanation of the overdraft, along with documentary evidence within ten days. On September 28, 2007, the Statewide Bar Counsel forwarded a second notice to the Respondent of the overdraft requesting a written response. The Respondent filed a response dated October 10, 2007. The Respondent contended that the subject check was drafted on the wrong account. By

Grievance Complaint #08-0176

Decision

Page 2

letter dated October 17, 2007 First Assistant Bar Counsel Frances Mickelson-Dera requested that the Respondent produce certain trust account documents. The Respondent did not respond to Attorney Mickelson-Dera's letter. On November 15, 2007, the Statewide Grievance Committee determined that the matter warranted further investigation and referred this matter to the Complainant, which resulted in the filing of this grievance complaint.

The Respondent did not file an answer to the grievance complaint.

This reviewing committee also considered the following:

At the June 10, 2009 hearing, Disciplinary Counsel indicated that upon visiting the Respondent's office, she learned that although the Respondent's accounting practices were very "lax", there was no malfeasance or misappropriation. Disciplinary Counsel further indicated that the Respondent provided her with the information that he did not provide to the Statewide Grievance Committee regarding the overdraft. Disciplinary Counsel further indicated that the Respondent has taken steps to address his accounting practices. Disciplinary Counsel explained that the Respondent has taken a continuing legal education course regarding client trust accounts and he has hired a bookkeeper. The Respondent, through counsel, indicated that he "just messed up" in failing to respond. The Respondent, through counsel, explained that although he had some "personal issues going on with his wife's family, with serious medical issues," he had "no excuses."

This reviewing committee concludes that the Respondent failed to file a response to the grievance complaint in violation of Rule 8.1(2) of the Rules of Professional Conduct. We further conclude that the Respondent's conduct in connection with the overdraft did not rise to the level of an ethical violation. The record lacks clear and convincing evidence that the Respondent violated Rule 1.15(b) of the Rules of Professional Conduct or Practice Book §2-27(d). Notwithstanding, since we conclude that the Respondent violated Rule 8.1(2) of the Rules of Professional Conduct, we reprimand the Respondent.

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DECISION DATE: 7/31/09

Grievance Complaint #08-0176

Decision

Page 3

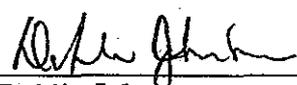


Attorney Salvatore C. DePiano

Grievance Complaint #08-0176

Decision

Page 4



Ms. Dahlia Johnston