

STATEWIDE GRIEVANCE COMMITTEE

Stamford/Norwalk Judicial District  
Grievance Panel  
Complainant

:

vs.

:

Grievance Complaint #08-0647

Victor R. Biancardi, Jr.  
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 August 5, 2009. The hearing addressed the record of the complaint filed on July 16, 2008, and the probable cause determination filed by the Litchfield Judicial District Grievance Panel on September 29, 2008, finding that there existed probable cause that the Respondent violated Rule 1.7(a) of the Rules of Professional Conduct and the additional probable cause determination rendered by a reviewing committee of the Statewide Grievance Committee on February 24, 2009, finding that there existed probable cause that the Respondent also violated Rules 1.1, 1.5(a), and 8.4(4) of the Rules of Professional Conduct.

Notice of the hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on July 14, 2009. Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Karyl Carrasquilla pursued the matter before this reviewing committee. The Respondent appeared and testified. An exhibit was received into evidence. Allison Arana, Arli Banegas, and Joel Arana testified as witnesses. Dalia Malendez served as a Spanish-language interpreter for Joel Arana.

This reviewing committee makes the following findings of fact by clear and convincing evidence:

In October of 2006, the Respondent filed an appearance on behalf of Carlos Vanegas in State of Connecticut v. Carlos Vanegas. Mr. Vanegas was charged with Sexual Assault in the Fourth Degree and Risk of Injury to a Minor. Allison Banegas was the alleged victim. Allison Banegas was also the alleged victim in State of Connecticut v. Joel Arana. Mr. Arana was charged with Sexual Assault in the Second Degree. Allison Banegas and Joel Arana have since married. In November of 2006, Allison Banegas and Joel Arana consulted with the Respondent seeking legal advice to assist them in getting married. At that time, Allison Banegas was 15 years old. On November 6, 2006, the Respondent was paid \$500 for this initial consultation by Arli Banegas, Allison Banegas' mother. On November 11, 2006, the

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Respondent was paid an additional \$2000 by Arli Banegas for his representation of Allison Banegas and Joel Arana. For this, the Respondent advised Allison Banegas and Joel Arana that they could not be married in Connecticut, but they could be married in a state that permitted 15 year old girls to marry.

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

The Respondent's representation of Carlos Vanegas and Allison Banegas involved a concurrent conflict of interest. The representation of Carlos Vanegas as a criminal defendant and the victim, Allison Banegas, in the marriage advice consultation constitutes a conflict of interest. "[A]bsent consent, a lawyer may not act as advocate in one matter against a person the lawyer represents in some other matter, even when the matters are wholly unrelated." Official Comment to Rule 1.7 of the Rules of Professional Conduct. The Respondent did not obtain written informed consent from these clients. This conflict of interest violated Rule 1.7(a) of the Rules of Professional Conduct.

The Respondent charged \$2500 for two consultations which resulted in minimal legal advice to Allison and Joel Arana regarding marriage laws in Connecticut. This fee was unreasonable in violation of Rule 1.5(a) of the Rules of Professional Conduct.

We have considered Rules 1.1 and 8.4(4) of the Rules of Professional Conduct but do not find clear and convincing evidence in the record of a lack of competence or conduct involving fraud, dishonesty, deceit or misrepresentation.

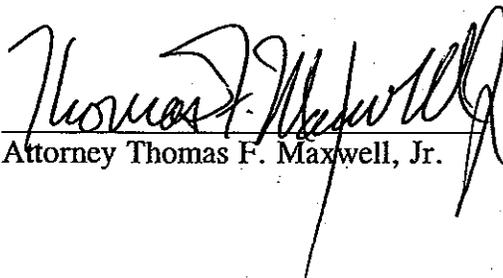
Accordingly, this reviewing committee reprimands the Respondent for violating Rules 1.5(a) and 1.7(a) of the Rules of Professional Conduct.

Additionally, pursuant to Practice Book §2-37(a)(2), the Respondent is ordered to make restitution to Arli Banegas in the amount of \$2000 for the portion of the legal fees she paid to the Respondent, which we find to be unreasonable, within sixty days of the date of this final decision.

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DECISION DATE: 10/9/09

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Attorney Thomas F. Maxwell, Jr.

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Attorney Frank J. Riccio, II

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Mr. William Carroll