

STATEWIDE GRIEVANCE COMMITTEE

Nilo Mendonca :
Complainant :
vs. : Grievance Complaint #08-1118
Richard Williams :
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 July 1, 2009. The hearing addressed the record of the complaint filed on November 20, 2008, and the probable cause determination rendered by the Stamford Norwalk Judicial District Grievance Panel on April 9, 2009, finding that there existed probable cause that the Respondent violated Rules 1.1, 8.4(4) and 8.1(2) of the Rules of Professional Conduct as well as Practice Book §2-32(a)(1).

Notice of the July 1, 2009 hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on June 2, 2009. On June 11, 2009, the Respondent moved for a continuance of the hearing to obtain an unavailable witness. The motion was denied because the Respondent had failed to register with the Statewide Grievance Committee since 2002, failed to file an answer to the grievance complaint, and failed to make an offer of proof as to who the witness was or why their testimony was necessary to his defense. Pursuant to Practice Book §2-35(d), First Assistant Disciplinary Counsel Patricia King pursued the matter before this reviewing committee. The Complainant and Respondent appeared and testified. Mr. Gladston Ricardo also testified in this matter. The Complainant's testimony was interpreted by Mary Ann Andrade.

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

On May 23, 2007, the Court (Karazin, J.) ordered the Respondent suspended from the practice of law in Connecticut retroactive to January 31, 2003, the date of his initial interim suspension, until November 1, 2007. According to the court order, the Respondent would be eligible to apply for reinstatement to the bar after November 1, 2007 if he paid restitution in full to the Client Security Fund of \$7,500 for payments made to former clients and had no outstanding fees due connected to the practice of law including both the annual Client Security Fund fee and the attorney occupational tax. On May 22, 2007, the Respondent was administratively suspended from the practice of law for failure to pay the Client Security Fund fee. The Respondent has not made an application for reinstatement to

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the bar and is currently suspended and administratively suspended from the practice of law in Connecticut.

The Complainant is not a citizen of the United States. He ran a Brazilian restaurant in Bridgeport from 2001 until 2005. He sold the business and left the country. He owns a restaurant in Portugal. He was interested in finding a new business opportunity in the United States. His friend, Gladston Ricardo, told him that the Respondent was a good attorney who had handled Ricardo's immigration matters. The Complainant corresponded with the Respondent's office from Portugal. The Complainant mostly spoke to Fernando Goncalves, the Respondent's assistant, because Mr. Goncalves speaks Portuguese. The Complainant's son spoke with the Respondent about the immigration work.

The Complainant hired the Respondent as an immigration attorney to handle his visa to purchase a business in the United States. On October 19, 2007, the Respondent memorialized the representation agreement to the Complainant's son in an e-mail stating:

[T]he retainer and expenses deposit for your father is US\$12,000 for the L-1 business visa....The fee and expenses will cover the establishment and documentation of the business affiliation between the business in Portugal and the business here, the expedited processing of the visa petition, and the processing with the American consul and the US immigration authorities of a waiver.... Rest assured that Gladston Fernando and I will take all steps necessary to expedite your father's entry to the US.

The Respondent told the Complainant the visa could be granted in thirty days, but for an expedited fee it could be granted in ten days. The Complainant paid the Respondent \$14,540 by the end of November, 2007. The Complainant was still in Portugal at the time, waiting to sell his restaurant and come to the United States. After the Respondent was paid, the Complainant had trouble communicating with the Respondent and many of his and his family member's phone calls went unreturned.

On February 1, 2008, the Respondent told the Complainant in an e-mail to the Complainant's son that "I have had [the Complainant's] petition checked by a friend at USCIS, who has given me the information needed to be added to get a quick approval...." On May 6, 2008, the Complainant came to the United States. He discovered that the Respondent never filed an application. The Respondent finally filed an application on August 29, 2008 with the United States Citizenship and Immigration Services ("USCIS").

The application contains the following information: 1) the application states that the Complainant is the founder/president of Pantanal Restaurant LLC and uses this restaurant

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to sponsor his visa; 2) the application lists the Respondent's address as the restaurant's address; 3) the application states the Respondent's assistant Mr. Goncalves is the manager of the sponsoring restaurant; 4) the application states that the Respondent is the attorney in fact for the Pantanal Restaurant. In fact, the Complainant wanted to buy a new restaurant and is not associated with the Pantanal Restaurant. The Pantanal Restaurant does not have an office at the Respondent's office. Mr. Goncalves does not have a business association with either the Complainant or the Pantanal Restaurant. The Respondent was hired by the Complainant to provide legal services, not to be his power of attorney. The Respondent has no authority to provide legal services in Connecticut.

When the Complainant reviewed the application submitted by the Respondent he objected to the false statements made in the application. The application was withdrawn. The Complainant hired an immigration attorney and pursued a new application for a visa, which is currently pending.

Despite repeated requests, the Respondent did not file an answer to this grievance complaint. None of the mail sent to the Respondent's registered office address was returned to the Office of Statewide Bar Counsel as undeliverable.

This reviewing committee also considered the following:

The Respondent argued that he had done other work for the Complainant's family in connection with immigration matters.

The Respondent has not registered with the Office of Statewide Bar Counsel since 2002. The Respondent has been suspended since 2003, which stems from seven grievance complaints. He also has two prior reprimands. The Respondent represented to this reviewing committee that he had been reinstated to practice law in Connecticut on November 1, 2007, but that his license was inactive because of some technical issues.

This reviewing committee concludes, by clear and convincing evidence that the Respondent violated the Rules of Professional Conduct. We consider each Rule, for which probable cause was found, in turn.

Rule 1.1:

Rule 1.1 requires an attorney to provide a client with competent representation. We find clear and convincing evidence that the Respondent's representation was incompetent. The Respondent took an immigration case although he was not licensed to practice law. The Respondent made outlandish promises to the Complainant regarding the speed and ease with which his application would be accepted. After receiving a retainer from the Complainant, the Respondent failed to file an application or return phone calls in a timely

manner. The Respondent finally filed an application for a visa that was riddled with fraudulent and untrue statements. The Complainant had to begin the visa process all over because of the Respondent. For all the foregoing reasons, we find the Respondent violated Rule 1.1 of the Rules of Professional Conduct.

Rule 8.4(4):

Rule 8.4(4) states it is professional misconduct for an attorney to engage in conduct prejudicial to the administration of justice. In this case, the clear and convincing evidence shows that the Respondent tricked the Complainant and others into believing he was an attorney licensed to practice law. The Respondent also submitted a fraudulent immigration application to the USCIS. The application claimed that the Complainant wished to run the Pantanel Restaurant, which he had previously sold and was not currently affiliated with, that the Respondent was the "attorney in fact" for the business, that the Respondent's assistant was the manager of the business, and that the Respondent's office address was the address for the business the Complainant allegedly owned. None of these statements were true and we infer based on the clear and convincing evidence in front of us that the Respondent knew that none of these statements were true, but made them so that he could complete the application and it would be received favorably. In support of this, we note that the Respondent told the Complainant he would make changes to the application based on information he received from a friend at the USCIS that would allow the Complainant to get a quick approval. We also infer that the Respondent uses the title "attorney in fact" to convince clients that he is a licensed attorney while also avoiding any scrutiny from the immigration authorities, as they would believe this merely means he has obtained a power of attorney to make business decisions for the client. For all the foregoing reasons, we find the Respondent violated Rule 8.4(4) of the Rules of Professional Conduct.

Rule 8.1(2) and Practice Book Section 2-32(a)(1):

Rule 8.1(2) of the Rules of Professional Conduct states: [A] lawyer...in connection with a disciplinary matter, shall not...knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority...."

Practice Book §2-32(a)(1) states in part: "The respondent shall respond within thirty days of the date notification is mailed to the respondent unless for good cause shown such time is extended by the grievance panel. The response shall be sent to the grievance panel to which the complaint has been referred. The failure to file a timely response shall constitute misconduct unless the respondent establishes that the failure to respond timely was for good cause shown."

There is clear and convincing evidence that the grievance complaint was mailed to the Respondent at his registered office address and was not returned to the Office of

Statewide Bar Counsel. The Respondent had notice of the hearing and received a copy of the probable cause finding prior to the hearing. On June 12, 2009, the Respondent was informed that his motion for continuance was denied in part because he had failed to file an answer and that he needed to file an answer if he wished to request a continuance. The Respondent failed to file an answer to the grievance. We find there is clear and convincing evidence that the Respondent violated Rule 8.1(2) and Practice Book §2-32(a)(1).

We also considered the following relevant rule violations:

Rule 5.5:

Rule 5.5 prohibits a lawyer from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction. There is clear and convincing evidence that the Respondent is running an immigration law practice in Stamford, Connecticut and is undeterred by the fact that his license in this state is under suspension. There is also clear and convincing evidence that the Respondent is misleading USCIS by claiming he is an "attorney in fact" so as to avoid any scrutiny of his suspended license. We find there is clear and convincing evidence that the Respondent violated Rule 5.5 in representing the Complainant and that he is currently violating Rule 5.5 by operating an immigration law office without an active law license.

Rule 8.4(2):

Rule 8.4(2) prohibits an attorney from committing a criminal act which reflects adversely on his ability to practice law. The evidence shows, by clear and convincing evidence, that the Respondent is taking money under false pretenses from immigrants, including the Complainant and Mr. Ricardo, who believe he has an active license to practice immigration law in Connecticut.

Rule 8.4(3):

Rule 8.4(3) prohibits an attorney from engaging in fraudulent or deceitful conduct and from making misrepresentations. As noted above, the Respondent filed an application with USCIS that was riddled with fraudulent and untrue statements. Further, the Respondent's use of the term "attorney in fact" on the application is clearly done to mislead his clients and USCIS. We also believe that the Respondent's promise to obtain a visa for the Complainant in ten days for an increased legal fee when the application was not even filed for nine months after the retainer was paid was fraudulent and deceitful.

Further, we find the Respondent's representation to the panel that he had been reinstated to the Connecticut bar on November 1, 2007 was a false and deceitful statement. The Respondent became eligible to apply for reinstatement to the Connecticut bar on November 1, 2007 only if he paid restitution to the Client Security Fund and had no

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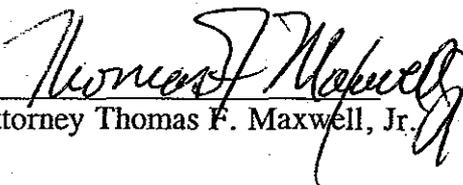
outstanding fees due connected to the practice of law including both the annual Client Security Fund fee and the attorney occupational tax. On May 22, 2007, the Respondent was also administratively suspended from the practice of law for failing to pay the annual Client Security Fund fee. The Respondent has never completed the conditions of his suspension and has not filed an application to be readmitted to the Bar.

Since we conclude that the Respondent violated Rules 1.1, 8.4(4), and 8.1(2) of the Rules of Professional Conduct as well as Practice Book §2-32(a)(1), we direct the Disciplinary Counsel to file a presentment against the Respondent in the Superior Court for the imposition of whatever discipline is deemed appropriate. In addition, we request Disciplinary Counsel pursue full restitution of \$14,540 for the Complainant; the Respondent had no right to collect any legal fee for representation while his license is suspended. Since a presentment is a de novo proceeding, we further direct the Disciplinary Counsel to include a charge in the presentment that the Respondent violated Rules 5.5 and 8.4(2) and (3). Additionally, since we conclude that the Respondent violated Rule 8.4(2) of the Rules of Professional Conduct, pursuant to Practice Book §2-35(f), a copy of this decision shall be forwarded to the Chief State's Attorney.

(D)
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DECISION DATE: 7/31/09

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Attorney Thomas F. Maxwell, Jr.

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Attorney Frank J. Riccio II

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William J. Carroll
Mr. William Carroll