

STATEWIDE GRIEVANCE COMMITTEE

Michael J. Berescik
Complainant

:

vs.

:

Grievance Complaint #08-1158

Francis J. Ficarra
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, 80 Washington Street, Hartford, Connecticut on April 9, 2009. The hearing addressed the record of the complaint filed on December 4, 2008, and the probable cause determination filed by the Fairfield Judicial District Grievance Panel on February 4, 2009, finding that there existed probable cause that the Respondent violated Rules 1.3, 1.4 and 8.1(2) of the Rules of Professional Conduct and Practice Book §2-32(a)(1).

Notice of the hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on March 9, 2009. Pursuant to Practice Book §2-35(d), Chief Disciplinary Counsel Mark A. Dubois pursued the matter before this reviewing committee. The Complainant appeared at the hearing and testified. The Respondent did not appear. No exhibits were received into evidence at the hearing.

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

The Respondent represented the Complainant in his workers' compensation case which was settled in 2003. The Complainant questions whether the Respondent represented him properly in the workers' compensation case.

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

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

The Respondent's failure to respond to this grievance complaint constitutes violations of Rule 8.1(2) of the Rules of Professional Conduct and Practice Book §2-32(a)(1). The Respondent has not provided any good cause for his failure to respond.

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We do not, however, find clear and convincing evidence that the Respondent violated Rules 1.3 or 1.4 of the Rules of Professional Conduct. The Complainant's current questions regarding the Respondent's representation of him in his workers' compensation case in 2003 do not rise to the level of clear and convincing evidence of a violation of the Rules of Professional Conduct.

We conclude that a reprimand is appropriate for the Respondent's violation of Rule 8.1(2) of the Rules of Professional Conduct and Practice Book §2-32(a)(1). However, the Respondent has been disciplined by the Court at least three times pursuant to complaints filed within the five-year period preceding the date of the filing of this grievance complaint. During this five-year period, the Respondent was disciplined in the following cases:

Statewide Grievance Committee v. Francis Ficarra, CV04-0408625-S, Judicial District of Fairfield at Bridgeport, five-year suspension ordered on March 13, 2006 with an effective date of March 4, 2005 and a court reprimand with conditions ordered on December 2, 2005 in Disciplinary Counsel v. Francis Ficarra, CV05-4005438-S, Judicial District of Fairfield at Bridgeport pursuant to the following grievance complaints:

Bazon v. Ficarra, Grievance Complaint #04-0118, filed on February 5, 2004

Dworkan v. Ficarra, Grievance Complaint #04-0215, filed on March 4, 2004

Capra v. Ficarra, Grievance Complaint #04-0288, filed on March 26, 2004

Boyle v. Ficarra, Grievance Complaint #04-0308, filed on April 1, 2004

Moranski v. Ficarra, Grievance Complaint #04-0323, filed on April 6, 2004

Ferranti v. Ficarra, Grievance Complaint #04-0367, filed on April 19, 2004

Kudej v. Ficarra, Grievance Complaint #04-0905, filed on September 17, 2004

Kudej v. Ficarra, Grievance Complaint #04-0906, filed on September 17, 2004

Kudej v. Ficarra, Grievance Complaint #04-0907, filed on September 17, 2004

Kudej v. Ficarra, Grievance Complaint #04-0908, filed on September 17, 2004

Kudej v. Ficarra, Grievance Complaint #04-0909, filed on September 17, 2004

Kudej v. Ficarra, Grievance Complaint #04-0910, filed on September 17, 2004

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Huydic v. Ficarra, Grievance Complaint #04-1051, filed on October 27, 2004

Figueroa v. Ficarra, Grievance Complaint #05-0115, filed on February 3, 2005

Escaleira v. Ficarra, Grievance Complaint #05-0332, filed on April 4, 2005

Hilton v. Ficarra, Grievance Complaint #05-0892, filed on September 26, 2005

As such, pursuant to Practice Book §2-47(d)(1), we direct the Disciplinary Counsel to file a presentment against the Respondent in the Superior Court.

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DECISION DATE: 5/22/09

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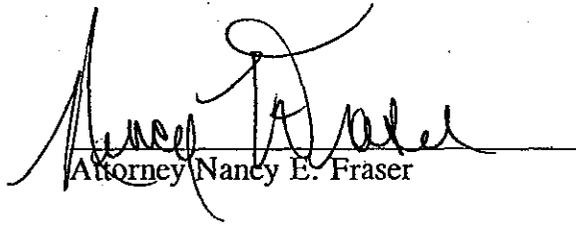


Attorney Geoffrey Naab

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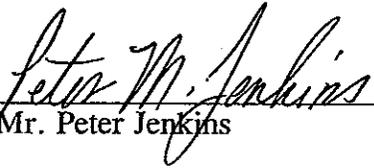


Attorney Nancy E. Fraser

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Mr. Peter Jenkins