

STATEWIDE GRIEVANCE COMMITTEE

Philip Russell  
Complainant

:

vs.

:

Grievance Complaint #09-0204

David S. Feldman  
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, 235 Church Street, New Haven, Connecticut on February 3, 2010. The hearing addressed the record of the complaint filed on March 2, 2009 and the probable cause determination filed by the Ansonia/Milford Judicial District Grievance Panel on June 11, 2009, finding that there existed probable cause that the Respondent violated Rules 1.15(e), 1.15(f) 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 December 29, 2009. Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Suzanne Sutton pursued the matter before this reviewing committee. The Complainant and the Respondent did not appear. Reviewing committee member, Attorney Howard M. Gould was unavailable for the hearing. Since the Assistant Disciplinary Counsel waived the participation of Attorney Gould, this matter was heard and decided by the undersigned.

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

The Respondent was employed by the Complainant attorney. The Respondent departed the Complainant's employment in August of 2005. After departing the Complainant's firm, the Respondent took over representation of the pending litigation matter of Tracy Campbell v. Amica Mutual Insurance. In an August 10, 2006 letter of protection, the Respondent agreed that when the matter concluded, he would reimburse the Respondent for any advanced litigation expenses and that he would hold the contingency fee in escrow until the Complainant and the Respondent agreed upon an "equitable and reasonable division" of the fee. Thereafter, the Respondent did not return the Complainant's numerous telephone calls. The Respondent did not respond to Complainant's written inquiries regarding the status of the case.

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

This reviewing committee also considered the following:

On December 19, 2009 a reviewing committee issued a final decision directing Disciplinary Counsel to file a presentment against the Respondent in the Superior Court. (Grievance Compliant #09-0621 Hussein v. Feldman.)\* On January 29, 2010, a reviewing committee issued a final decision directing Disciplinary Counsel to file a presentment against the Respondent in the Superior Court. (Grievance Complaint #09-0570 Northrop v. Feldman)\*

This reviewing committee finds the following violations of the Rules of Professional Conduct and Practice Book by clear and convincing evidence:

The Respondent failed to file an answer to the grievance complaint in violation of Rule 8.1(2) of the Rules of Professional Conduct and Practice Book §2-32(a)(1). The Respondent's failure to account to the Complainant's request for information regarding the status of the litigation was prejudicial to the administration of justice in violation of Rule 8.4(4) of the Rules of Professional Conduct.

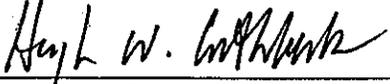
This reviewing committee concludes that the record lacks clear and convincing evidence to substantiate a finding that the Respondent violated Rules 1.15(e) or 1.15(f) of the Rules of Professional Conduct. The record does not reflect clear and convincing evidence regarding the outcome of the subject litigation or whether the Respondent received any legal fees.

Since we conclude that the Respondent violated Rule 8.1(2) of the Rules of Professional Conduct and Practice Book § 2-32(a)(1) and in consideration of the Respondent's disciplinary history, we direct the Disciplinary Counsel to file a presentment against the Respondent in the Superior Court for the imposition of whatever discipline the court deems appropriate. Since a presentment is a de novo proceeding, we further direct the Disciplinary Counsel to include a charge that the Respondent violated Rule 8.4(4) of the Rules of Professional Conduct by failing to account to the Complainant's request for information regarding the status of the litigation.

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jf

DECISION DATE: 3/5/10

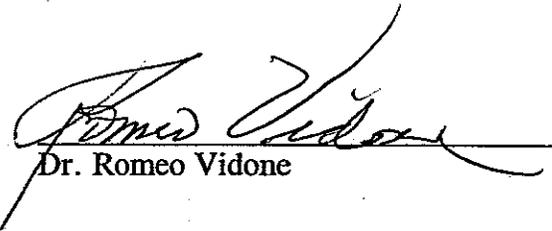
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Attorney Hugh W. Cuthbertson

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Dr. Romeo Vidone