

STATE OF CONNECTICUT



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STATEWIDE GRIEVANCE COMMITTEE

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Second Floor - Suite Two
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05/31/2011

OFFICE OF CHIEF DISCIPLINARY C
100 WASHINGTON STREET
HARTFORD CT 06106

FRANCIS ANTHONY MINITER
MINITER & ASSOCIATES
100 WELLS STREET
SUITE 2K
HARTFORD CT 06103

RE: GRIEVANCE COMPLAINT #10-0997
NIZIANKIEWICZ vs. MINITER

Dear Respondent and Disciplinary Counsel:

Enclosed herewith is the decision of the reviewing committee of the Statewide Grievance Committee concerning the above referenced matter. In accordance with the Practice Book Sections 2-35, 2-36 and 2-38(a), the Respondent may, within thirty (30) days of the date of this notice, submit to the Statewide Grievance Committee a request for review of the decision.

A request for review must be sent to the Statewide Grievance Committee at the address listed above.

Sincerely,

Michael P. Bowler

Encl.

cc: Attorney John J. Quinn
David Niziankiewicz

**NOTICE REGARDING DECISION
- PRESENTMENT -**

GRIEVANCE COMPLAINT # 10-0997

THE ATTACHED DECISION IS PRESENTLY STAYED IN ACCORDANCE WITH PRACTICE BOOK §2-35.

SECTION 2-35 STATES, IN PART, AS FOLLOWS:

(e) ... Enforcement of the final decision ... shall be stayed for thirty days from the date of the issuance to the parties of the final decision. In the event the respondent timely submits to the statewide grievance committee a request for review of the final decision of the reviewing committee, such stay shall remain in full force and effect pursuant to Section 2-38(b).

Note: This stay terminates upon the issuance of a final decision by the Statewide Grievance Committee.

DECISION DATE: 5/31/11

STATEWIDE GRIEVANCE COMMITTEE

David Niziankiewicz
Complainant

vs.

Francis A. Minter
Respondent

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Grievance Complaint #10-0997

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 14, 2011. The hearing addressed the record of the complaint filed on December 13, 2010, and the probable cause determination filed by the Hartford Judicial District Grievance Panel for Geographical Area 13 and the Town of Hartford on February 9, 2011, finding that there existed probable cause that the Respondent violated Rules 8.1(2) and 8.4(4) 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 11, 2011. Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Karyl Carrasquilla pursued the matter before this reviewing committee. The Complainant did not appear at the hearing. The Respondent appeared at the hearing and testified.

Reviewing committee member Mr. Patrick Sheridan was not available for the hearing. The Respondent did not waive the participation of Mr. Sheridan in the consideration of the decision in this matter. Accordingly, Mr. Sheridan participated in the consideration and decision of this matter by review of the entire record, including the April 14, 2011 hearing transcript.

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

The Complainant filed a civil action against the Respondent on August 26, 2008 for the Respondent's failure to pay the Complainant for deposition transcripts. The Respondent filed an appearance on October 30, 2008, but did not defend the action. On April 20, 2009, the court awarded judgment to the Complainant in the amount of \$14,139, including costs. An execution was issued on June 8, 2009, but was not satisfied. Thereafter, on December 13, 2010 the Complainant filed the instant grievance complaint.

On December 14, 2010, the grievance complaint was sent to the Respondent by certified mail at the last business address registered by the Respondent with the Statewide Grievance Committee. The Respondent was directed to respond to the grievance complaint within thirty days. The certified mail delivery receipt indicates that the grievance complaint was delivered to the Respondent and

signed for on December 15, 2010. The Respondent did not respond to the grievance complaint as directed.

This reviewing committee also considered the following:

The Respondent acknowledged that he owes a debt to the Complainant. The Respondent testified that he did not defend the civil action because he did not contest the debt owed to the Complainant. The Respondent maintained that he did not pay the Complainant because he has been experiencing financial difficulties. The Respondent testified that he owed \$40,000 dollars to the Internal Revenue Service (hereinafter "IRS") which he has recently satisfied. The Respondent maintained that in addition to the debt owed to the IRS, he owed \$6,000 to the Department of Labor. The Respondent testified that he is paying down that debt and currently owes \$4,000. The Respondent advised this reviewing committee that he is presently not in a position to satisfy the judgment owed to the Complainant. The Respondent further testified that he never sought to have the judgment modified due to his financial difficulties.

The Respondent testified that he did not respond to the grievance complaint because grievance proceedings are quasi-criminal and therefore, he does not have to respond under the Fifth Amendment. The Respondent also argued that an attorney's failure to pay a judgment does not constitute a violation of Rule 8.4(4) of the Rules of Professional Conduct and that the Rule is void for vagueness. The Respondent did not provide any case law or authority in support of these arguments.

The Respondent's disciplinary history indicates that he has received five reprimands from the Statewide Grievance Committee and been ordered presented to the Superior Court in connection with eight other grievance complaints. In Grievance Complaint #08-0768, Gale v. Miniter, the Respondent was ordered presented to the Superior Court for failing to pay a civil judgment obtained by a court reporting service for the Respondent's failure to pay for transcripts.

This reviewing committee concludes by clear and convincing evidence that the Respondent engaged in unethical conduct. The evidence before this reviewing committee is uncontroverted that the Respondent failed to pay the civil court judgment rendered against him. The Respondent contended that his failure to pay the judgment was due to other financial obligations that he owed. Rather than defend the action and provide proof to the court of his financial inability to pay the judgment, the Respondent chose to ignore the court order. This reviewing committee concludes that the Respondent's actions constitute conduct prejudicial to the administration of justice in violation of Rule 8.4(4) of the Rules of Professional Conduct. The Respondent argues that failure to pay a judgment does not constitute a violation of Rule 8.4(4) of the Rules of Professional Conduct. The case law in Connecticut, however, definitively states that an attorney's failure to pay a judgment constitutes conduct prejudicial to the administration of justice, in violation of Rule 8.4(4) of the

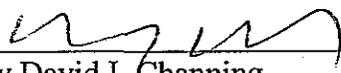
Rules of Professional Conduct. See Daniels v. Statewide Grievance Committee, 72 Conn.App. 203, 210 (2002); Statewide Grievance Committee v. Schwartz, Superior Court, judicial district of Hartford, Docket No. CV030827408 (February 16, 2005); Statewide Grievance Committee v. Nelson, Superior Court, judicial district of New Haven, Docket No. CV044001600 (April 5, 2005). Furthermore, contrary to the Respondent's argument, Connecticut has not found Rule 8.4(4) to be void for vagueness. See Disciplinary Counsel v. Villeneuve, Superior Court, judicial district of Litchfield, Docket No. CV096005430 (March 16, 2010), affirmed, 126 Conn. App 692 (2011). Accordingly, we reject the Respondent's arguments and find that the Respondent's failure to pay the civil judgment violated Rule 8.4(4) of the Rules of Professional Conduct.

Lastly, we address the Respondent's argument for failing to file a response to the grievance complaint. The Respondent contended that since grievance proceedings are quasi-criminal, filing a response would violate his Fifth Amendment right against self-incrimination. The Respondent, however, did not offer any case law to support his position and this reviewing committee rejects his argument. The case law in Connecticut states that a disciplinary proceeding is "... neither a civil proceeding nor a criminal proceeding, but is a proceeding sui generis, the object of which is not the punishment of the offender, but the protection of the court." Doe v. Statewide Grievance Committee, 240 Conn. 671, 678 (1997). We conclude that the Respondent failed to establish good cause for his failure to respond to the grievance complaint. Accordingly, we find that the Respondent violated Rule 8.1(2) of the Rules of Professional Conduct and Practice Book §2-32(a)(1).

In arriving at our decision, this reviewing committee considered the Respondent's extensive disciplinary history and the fact that he has been ordered presented in the Gale matter for failing to pay a court ordered judgment to a court reporter. We conclude that the Respondent's violations of Rules 8.1(2) and 8.4(4) of the Rules of Professional Conduct and Practice Book §2-32(a)(1) constitute serious misconduct. Accordingly, we direct Disciplinary Counsel to file a presentment against the Respondent in the Superior Court for the imposition of whatever discipline is deemed appropriate.

DECISION DATE: 5/31/11

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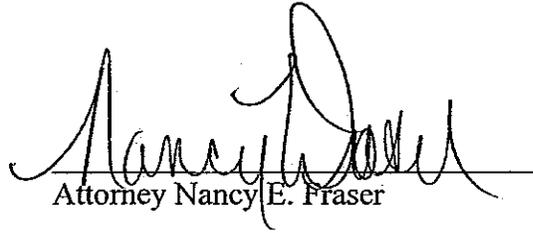


Attorney David I. Channing

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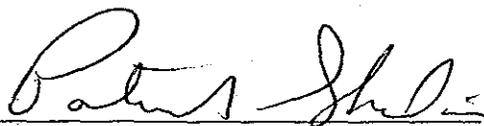


Attorney Nancy E. Fraser

Grievance Complaint #10-0997

Decision

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A handwritten signature in cursive script, appearing to read "Patrick Sheridan", written over a horizontal line.

Mr. Patrick Sheridan