

STATEWIDE GRIEVANCE COMMITTEE

Milagros Cosme
Complainant

:

vs.

:

Grievance Complaint #07-1204

Robert D. Swartout
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 November 5, 2008. The hearing addressed the record of the complaint filed on December 11, 2007, and the probable cause determination filed by the Hartford Judicial District Grievance Panel for Geographical Area 13 and the town of Hartford on March 18, 2008, finding that there existed probable cause that the Respondent violated Rules 1.3, 1.4, 1.5, 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 September 22, 2008. Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Suzanne Sutton pursued the matter before this reviewing committee. The Complainant was ill and did not appear at the hearing. The Respondent did not appear.

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

The Complainant retained the Respondent to represent her in a family relations matter involving a modification. The Complainant paid the Respondent a \$1,000 retainer. The Respondent filed one pleading and then took no further action in the matter. The Complainant appeared at court on one occasion but the Respondent did not appear. The Respondent failed to notify the Complainant as to the status of the matter. The Respondent did not file an answer to the grievance complaint.

This reviewing committee concludes by clear and convincing evidence that the Respondent engaged in unethical conduct. The Respondent failed to pursue the Complainant's matter with reasonable diligence, in violation of Rule 1.3 of the Rules of Professional Conduct. The Respondent failed to adequately communicate with the Complainant, in violation of Rule 1.4(a) of the Rules of Professional Conduct. In light of his failure to pursue the matter, the Respondent's fee was unreasonable, in violation of Rule 1.5(a) of the Rules of Professional Conduct. The foregoing conduct further constituted conduct prejudicial to the administration

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of justice, in violation of Rule 8.4(4) of the Rules of Professional Conduct. The Respondent's failure to answer the grievance complaint violated Practice Book §2-32(a)(1) and Rule 8.1(2) of the Rules of Professional Conduct. We direct the Disciplinary Counsel to file a presentment against the Respondent in Superior Court for the imposition of whatever sanctions are deemed appropriate. The reviewing committee leaves to the discretion of Disciplinary Counsel whether to seek restitution in the presentment proceeding.

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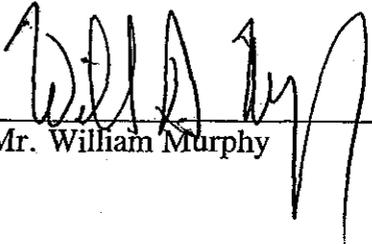
Attorney Hugh Cuthbertson

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Attorney Margarita Moore

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Mr. William Murphy