

STATEWIDE GRIEVANCE COMMITTEE

Michael Bowler  
Complainant

:

vs.

:

Grievance Complaint #08-0290

Matthew Paladino  
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 October 1, 2008. The hearing addressed the record of the complaint filed on March 31, 2008 and the probable cause determination filed by the Stamford/Norwalk Judicial District Grievance Panel on August 7, 2008, finding that there existed probable cause that the Respondent violated Rules 1.15 and 8.1 of the Rules of Professional Conduct and Practice Book Sections 2-27 and 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 5, 2008. Pursuant to Practice Book §2-35(d), Chief Disciplinary Counsel Mark Dubois pursued the matter before this reviewing committee. The Respondent appeared at the hearing and testified. No exhibits were admitted into evidence.

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

This matter was initiated due to an overdraft in the Respondent's clients' funds account. On February 25, 2008 and March 13, 2008 notices of the overdraft in the amount of \$252.00 were mailed to the Respondent by the Statewide Grievance Committee pursuant to Practice Book Section 2-28 requesting a written explanation of the overdraft. No response was made by the Respondent, resulting in the filing of this grievance complaint. On April 2, 2008, notice of the grievance complaint was mailed to the Respondent. The Respondent did not file an answer to the grievance complaint.

This reviewing committee also considered the following:

The Respondent appeared and testified at the hearing. The Respondent testified that he had closed his law office and was not practicing law for the last several years. The Respondent indicated that he maintained a business office, but had registered his home address with the Statewide Grievance Committee. The notices of the grievance complaint were sent to his home

and misplaced by one of his children. The only notice the Respondent received was the notice of the hearing. The Respondent testified that this was the reason he had not answered the overdraft notice letters or the grievance complaint.

The Respondent testified that he maintained a clients' funds account, but had only conducted one transaction through that account in approximately 5 years and kept only a small amount of money in the account. The Respondent testified that the one transaction he conducted in that account resulted in the overdraft that is the subject of this grievance complaint. The transaction was a real estate closing the Respondent conducted in selling property the Respondent and a family member jointly owned. The Respondent used the clients' funds account to issue a check from that closing. The Respondent calculated incorrectly that there was sufficient money in the account to cover the check. When notified by the bank the Respondent immediately covered the check.

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

We conclude by clear and convincing evidence that the Respondent violated Rule 1.15 of the Rules of Professional Conduct by his failure to properly safeguard and account for the funds in his IOLTA or clients' funds account which resulted in an overdraft. The Respondent failed to keep an accurate accounting but there is no allegation of misuse of any clients' funds.

The evidence also shows by clear and convincing evidence that the Respondent failed to file a timely response to the grievance complaint in violation of Practice Book Section 2-32(a)(1). Several notices of the grievance complaint were mailed to the address the Respondent had registered with the Statewide Grievance Committee. It is the responsibility of the Respondent to maintain a current address with the Statewide Grievance Committee for purposes of his professional responsibilities.

We cannot conclude, however, by clear and convincing evidence that the Respondent violated Rule 8.1 of the Rules of Professional Conduct because we cannot conclude that the Respondent knowingly, rather than negligently, failed to answer the grievance complaint. Neither can we find by clear and convincing evidence that the Respondent violated Practice Book Section 2-27 by failing to keep a separate accounting of client's funds or failing to maintain records for the clients' funds account. The overdraft resulted from a mathematical error made by the Respondent for one transaction, using an essentially inactive account, which the Respondent remedied when discovered.

Since we conclude that the Respondent violated Rule 1.15 of the Rules of Professional Conduct and Practice Book Section 2-32(a)(1), we order the Respondent to attend, in-person and at his own expense, a continuing legal education ("CLE") course in law office management. On line courses do not comply. The CLE course is to consist of a minimum of

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three credit hours and is to be taken within six months of the date of this order. The Respondent is further ordered to provide the Statewide Grievance Committee with written confirmation of his compliance with this condition within thirty days of completing the CLE course.

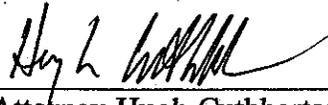
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DECISION DATE: 12/5/08

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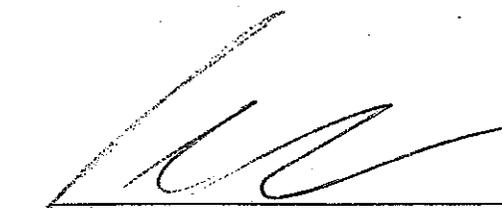
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Attorney Hugh Cuthbertson

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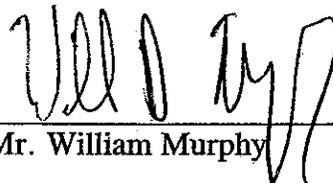
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Attorney Margarita Moore

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Mr. William Murphy