

STATEWIDE GRIEVANCE COMMITTEE

Stamford/Norwalk Judicial District

Grievance Panel

Complainant

vs.

David Gerstner

Respondent

Grievance Complaint #08-0424

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 May 8, 2008 and the probable cause determination filed by the New Haven Judicial District Grievance Panel for the Towns of Bethany, New Haven and Woodbridge on August 15, 2008, finding that there existed probable cause that the Respondent violated Rules 1.15(e), 8.1(2) and 8.4(3) of the Rules of Professional Conduct and Practice Book Sections 2-27(d) 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 did not appear at the hearing. No exhibits were admitted into evidence.

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

The Respondent was a title insurance agent for the Complainant, the Fidelity National Title Insurance Company of New York (hereinafter "Fidelity National") for the years 2005 and 2006. During that time, the Respondent issued title insurance policies for Fidelity National. In January of 2007, the Respondent closed his office without notice and did not provide Fidelity National with his new address. At the time, the Respondent had several outstanding policies he was processing, and he owed Fidelity National several outstanding title search fees for previous closings he had done. Fidelity National attempted to contact the Respondent and located a home address for the Respondent. Fidelity National sent the Respondent a certified letter asking for an accounting of all pending policies and remittance of the fees owed. The Respondent signed the certified letter receipt card but did not respond. The Respondent did not

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file an answer to this grievance complaint and did not respond to correspondence mailed by the Office of the Chief Disciplinary Counsel. During its investigation, the grievance panel determined that the Respondent also failed to register his client fund account with the Statewide Grievance Committee.

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

The Respondent's failure to provide Fidelity National with an accounting of the outstanding title policies he had pending and remit title search fees constitutes a violation of Rule 1.15(e). The Respondent's failure to remit title search fees owed Fidelity National further constitutes conduct involving dishonesty, fraud or deceit in violation of Rule 8.4(3) of the Rules of Professional Conduct. The Respondent's failure to file an answer to this grievance complaint constitutes a violation of Rule 8.1(2) of the Rules of Professional Conduct and Practice Book §2-32(a)(1). The Respondent's failure to register his client fund account with the Statewide Grievance Committee constitutes a violation of Practice Book §2-27(d).

Accordingly, this reviewing committee directs the Disciplinary Counsel to file a presentment against the Respondent in the Superior Court for the imposition of whatever discipline the court deems appropriate.

(E)

DECISION DATE:

11/7/08

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Attorney Hugh Cuthbertson

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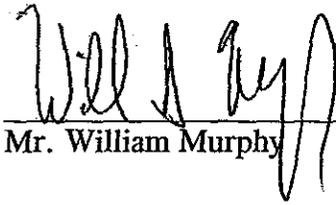


Attorney Margarita Moore

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A handwritten signature in black ink, appearing to read "Will Murphy", is written over a horizontal line.

Mr. William Murphy