

STATEWIDE GRIEVANCE COMMITTEE

Ronald Oczkowski
Complainant

:

vs.

:

Grievance Complaint #08-0527

Richard S. Aires
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 January 7, 2009. The hearing addressed the record of the complaint filed on June 11, 2008 and the probable cause determination filed by the New Britain Judicial District and the Judicial District of Hartford for Geographical Area 12 and the towns of Avon, Bloomfield, Canton, Farmington and West Hartford Grievance Panel on September 28, 2008, finding that there existed probable cause that the Respondent violated Rules 1.1, 1.3, 1.4 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 4, 2008. Pursuant to Practice Book §2-35(d), Chief Disciplinary Counsel Mark A. Dubois pursued the matter before this reviewing committee. The Complainant did not appear at the hearing. The Respondent appeared and testified before this reviewing committee. Reviewing committee member William J. Carroll was unavailable for the hearing. Since both the Chief Disciplinary Counsel and the Respondent waived the participation of Mr. Carroll, this matter was heard and decided by the undersigned. Three exhibits were admitted into evidence.

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

In June of 2006, the Complainant retained the Respondent to represent him with regard to a workers' compensation matter. The Complainant's workers' compensation claim was resolved by stipulation dated March 4, 2008. The Respondent obtained a \$15,000 settlement for the Complainant. The stipulation was signed by the Complainant on April 11, 2008 and approved by the other side on July 5, 2008. On or about July 31, 2008, the Compensation Commissioner found the stipulation to be a "just and reasonable settlement of a disputed claim." On or about August 8, 2008, the Respondent forwarded a check to the Complainant in the amount of \$14,000 representing the settlement minus the Respondent's reduced fee of \$1,000.

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

This reviewing committee also considered the following:

Grievance Complaint #08-0527

Decision

Page 2

The Complainant alleged that the Respondent did not return his telephone calls. The Respondent contended that he communicated with the Complainant regarding the settlement documents. The Respondent claimed that after reviewing the settlement documents, he attempted to get some of the language changed with regard to future medical expenses. The Respondent acknowledged not returning certain telephone calls of the Complainant. The Respondent explained that he thought that he would first get something done relative to the language modification issue and then contact the Complainant. The Respondent testified that his efforts to modify the language took longer than expected and ultimately were unsuccessful. The Respondent testified that after speaking with the Complainant, he took a reduced fee of \$1,000 and waived expenses. The Respondent apologized for not answering the grievance complaint. The Respondent testified that he began to respond to the complaint but "got swept away" in other matters. The Respondent explained that at the time, he was feeling "very overwhelmed".

This reviewing committee concludes that the Respondent did not engage in unethical conduct in connection with his representation of the Complainant in the workers' compensation matter. The record lacks clear and convincing evidence that the Respondent violated Rules 1.1, 1.3 and 1.4 of the Rules of Professional Conduct. Notwithstanding, this reviewing committee concludes by clear and convincing evidence that the Respondent failed to timely respond to the grievance complaint in violation of Rule 8.1(2) of the Rules of Professional Conduct and Practice Book §2-32(a)(1). Since we conclude that the Respondent violated Rule 8.1(2) and Practice Book §2-32(a)(1), we reprimand the Respondent.

(4)

jf

DECISION DATE: 22709

Grievance Complaint #08-0527

Decision

Page 3



Attorney Hugh W. Cuthbertson

Grievance Complaint #08-0527
Decision
Page 4

Jorene M. Couture
Attorney Jorene M. Couture