

STATEWIDE GRIEVANCE COMMITTEE

New Britain Judicial District and Hartford  
Judicial District for Geographical Area 12 and  
the towns of Avon, Bloomfield, Canton,  
Farmington and West Hartford Grievance  
Panel

Complainant

vs.

Grievance Complaint #08-0941

Mark Villeneuve

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, One Court Street, Middletown, Connecticut on June 11, 2009. The hearing addressed the record of the complaint filed on September 26, 2008, and the probable cause determination filed by the Windham Judicial District Grievance Panel (hereinafter "Grievance Panel") on January 7, 2009, finding that there existed probable cause that the Respondent violated Rules 8.1(1) and 8.4(3) and (4) of the Rules of Professional Conduct.

This matter was originally scheduled for a hearing on March 12, 2009, but was continued due to the lack of a quorum on the reviewing committee. A hearing scheduled for April 9, 2009 was continued at the request of the Respondent so that the Respondent could make arrangements to travel to the hearing from Maine. The matter was, thereafter, scheduled for a hearing on June 11, 2009. Notice of the June 11, 2009 hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on May 1, 2009.

On May 6, 2009, the Respondent filed a Motion for Summary Judgment on the basis that Rule 8.4(3) and (4) of the Rules of Professional Conduct was void for vagueness, unconstitutionally broad and violated the First Amendment. This reviewing committee denied the motion on June 2, 2009, indicating that it did not have the authority to rule on the constitutionality of a Rule of Professional Conduct adopted by the judges of the Superior Court. Thereafter, on June 5, 2009, the Respondent filed a Motion for Ruling on the motion to dismiss originally filed with the Grievance Panel on October 28, 2008. The Motion to Dismiss for Lack of Subject Matter Jurisdiction alleged that the matter should be dismissed because the grievance complaint was not executed under penalties of false statement. This reviewing committee denied the motion on June 9, 2009, finding that the grievance complaint was executed by the Complainant under penalties of false statement.

Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Karyl Carrasquilla pursued the matter before this reviewing committee. The Respondent did not appear at the hearing. Rather, on June 9, 2009, the Respondent filed a written submission entitled Respondent's Testimony for Hearing, indicating that he was not able to travel to Connecticut for the hearing. This reviewing committee heard the testimony of Ms. Sandra Cunningham who was called as a witness by Disciplinary Counsel.

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

On or about January 4, 2008, Sandra Cunningham, Human Resources Director for the State of Connecticut Workers' Compensation Commission, posted an announcement on the Department of Administrative Services State Employment website for a staff attorney position. Ms. Cunningham received an application and resume from the Respondent via email indicating that he graduated cum laude from Western New England College School of Law in 2004 and that he had been an assistant note editor for the Law Review. The application also stated that the Respondent was currently employed at the Law Offices of Jean Smith located in Meriden, Connecticut. The Respondent listed Attorney Smith's telephone number as 860-256-4579.

Ms. Cunningham and the Chief Law Clerk interviewed the Respondent on February 11, 2008 for approximately one hour. Thereafter, Ms. Cunningham checked the references provided by the Respondent at the interview and sought to verify the information contained in the Respondent's employment application and resume. Ms. Cunningham learned that the Respondent graduated from Western New England College School of Law, but did not participate in Law Review or graduate cum laude. Ms. Cunningham was also unable to find a listing for Attorney Smith in the telephone book or in any online directories. Attorney Smith's law firm also failed to appear in the Workers' Compensation's computer system, despite the Respondent's claim that while at the firm he handled all aspects of workers' compensation matters, including formal administrative hearings. The computer system, however, revealed that the Respondent was employed by another law firm during the time the Respondent was allegedly working at Attorney Smith's law firm. Ms. Cunningham called the law firm to confirm that the Respondent had been employed as an associate with the firm during that time. This employment, however, was not listed on the Respondent's application or resume.

Ms. Cunningham further determined that the contact information provided for two of the Respondent's references was incorrect. The Respondent listed Professor Jamison Colburn as the Respondent's Law Review advisor and provided an address of 244 State Street, Southington, Connecticut 06228. This street address and zip code in Southington, however, did not exist. Furthermore, the 860 area code provided for Attorney Smith was not the area code for Meriden where Attorney Smith's law office was located.

On May 6, 2008, Ms. Cunningham advised the Statewide Grievance Committee of her concerns regarding the representations contained in the Respondent's employment application.

The matter was sent to the Complainant for investigation. On August 12, 2008, the Respondent responded to the Complainant's request for a response. The Respondent maintained that he was a victim of identity theft and that he had filed a complaint with the Federal Trade Commission (hereinafter "FTC") and the Hartford Police Department. The Respondent provided a confirmation sheet from the FTC dated July 9, 2007 indicating that a complaint had been filed with the FTC. The confirmation sheet provided a reference number and a link to obtain a printed copy of the complaint. The Respondent also provided a copy of a business card from the Hartford Police Department for Officer Martinez which referenced a case number. The Respondent advised the Complainant that he would mail him a copy of the police report when he received it from the police department. The Respondent never provided the Complainant with the police report as represented.

This reviewing committee also considered the following:

Ms. Cunningham testified that when she called the telephone numbers for Attorney Smith and Professor Colburn both went directly to voicemail. Ms. Cunningham indicated that she left messages and received return phone calls. Ms. Cunningham testified that the voices of both callers sounded similar. Ms. Cunningham further testified that she would be able to identify the Respondent if she saw him.

In his written submissions, the Respondent maintained that he did not file the application and resume for the staff attorney position and did not appear at the interview on February 11, 2008. The Respondent contended that he is the victim of identity theft and that someone used his identity to apply for the position. The Respondent maintained that there is insufficient evidence to prove that he submitted the documents. The Respondent maintained that the Hartford Police Department never provided him with a copy of the report and that he was advised that he would have to appear in person to obtain the report. The Respondent contended that he was unable to travel from Maine to Connecticut to obtain the report.

This reviewing committee concludes by clear and convincing evidence that the Respondent engaged in unethical conduct. The evidence presented to this reviewing committee indicates that the Respondent's application for employment with the Workers' Compensation Commission contained false and misleading information regarding the Respondent's law school education and work experience. The Respondent did not deny these allegations. The Respondent's only defense to this grievance complaint has been that he is a victim of identity theft and that he did not submit the application or appear at the interview. The Respondent, however, failed to provide any documentation to support this claim other than a confirmation sheet from the FTC indicating that a complaint was filed with the FTC on or around July 9, 2007 and a business card from the Hartford Police Department referencing a case number. Neither of these documents indicate that these were identity theft complaints relating to the Respondent's workers' compensation employment application. We note that the FTC complaint was filed in July of 2007, prior to the submission of the employment application.

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Furthermore, the Respondent has failed to provide a copy of either of these complaints during the nine month period that the grievance complaint has been pending, despite the fact that the FTC confirmation sheet indicates that a printable version of the complaint was available online. Furthermore, the Respondent also failed to appear at the June 11, 2009 hearing and testify under oath, despite being given a two month continuance from this reviewing committee so that he could make arrangements to travel to the hearing from Maine. Accordingly, we give little weight to the Respondent's written, unsubstantiated statements. Without further evidence to support the Respondent's claim of identity theft, we conclude that the employment application was submitted by the Respondent and that the misrepresentations contained therein constitute a violation of Rule 8.4(3) of the Rules of Professional Conduct.

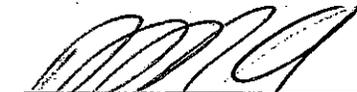
This reviewing committee cannot conclude that the Respondent's actions in submitting a false employment application constitutes conduct prejudicial to the administration of justice in violation of Rule 8.4(4) of the Rules of Professional Conduct. We are also unable to conclude by clear and convincing evidence that the Respondent's representation to the Complainant that he filed a claim with the Hartford Police Department was false. The record is void of any evidence to the contrary. The Respondent's failure to produce the police report does not establish clear and convincing evidence that the claim was not filed. Accordingly, since this reviewing committee concludes that the Respondent violated Rule 8.4(3) of the Rules of Professional Conduct, we direct Disciplinary Counsel to file a presentment against the Respondent in the Superior Court, for the imposition of whatever discipline is deemed appropriate.

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DECISION DATE: 8/21/09

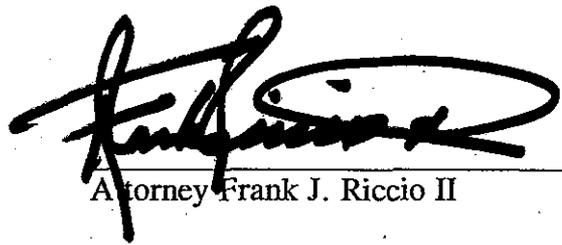
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Attorney Howard Gould

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Attorney Frank J. Riccio II

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Dr. Romeo Vidone