

## STATEWIDE GRIEVANCE COMMITTEE

Karen Guay  
Complainant

vs.

Grievance Complaint #08-1023

Eugene Melchionne  
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, 300 Grand Street, Waterbury, Connecticut on March 3, 2009. The hearing addressed the record of the complaint filed on October 20, 2008, and the probable cause determination filed by the Waterbury Judicial District Grievance Panel on December 12, 2008, finding that there existed probable cause that the Respondent violated Rules 1.4(b) and 8.4(3) of the Rules of Professional Conduct.

Notice of the hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on January 30, 2009. Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Beth L. Baldwin pursued the matter before this reviewing committee. The Complainant appeared at the hearing and testified. The Respondent appeared and testified. No exhibits were received into evidence at the hearing.

This reviewing committee makes the following findings of fact by clear and convincing evidence:

On August 1, 2007, the Complainant retained the Respondent to represent her in her bankruptcy. The Respondent provided the Complainant with a written retainer agreement and the Complainant paid the Respondent \$900 towards a \$1,900 retainer. On April 21, 2008, the Respondent sent the Complainant a new retainer agreement requesting a \$2,000 retainer. The Respondent never filed a bankruptcy petition on the Complainant's behalf.

The Complainant telephoned the Respondent during the week before April 30, 2008 requesting a rebate. On April 30, 2008, the Respondent wrote to the Complainant stating that he does not give rebates but would extend to her a \$500 credit towards whatever his current fee is at the time, if she executes a new retainer agreement. The Complainant had not understood that she would lose her partial retainer payment if she did not pay the retainer balance within six months.

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

The Respondent's failure to clearly explain at the time of initial retention that the Complainant would lose her partial retainer payment unless she paid the retainer balance within six months constituted a violation of Rule 1.4(b) of the Rules of Professional Conduct. The Complainant was facing financial difficulties. It should have been clearly explained to the Complainant that she would lose her \$900 if she did not pay the balance within six months. This would have permitted her to make informed decisions regarding the representations. We do not, however, find clear and convincing evidence of a violation of Rule 8.4(3) of the Rules of Professional Conduct because we do not find that the Respondent made misrepresentations to the Complainant.

Accordingly, pursuant to Practice Book §2-37(a)(5), the Respondent is ordered to attend a continuing legal education course in the area of law office management in-person and at his own expense. On-line courses and materials only courses do not comply. The course must consist of a minimum of three (3) credit hours and must be completed within six (6) months of the issuance of this decision. The Respondent is further ordered to provide the Statewide Grievance Committee with written confirmation of his compliance with this condition within thirty (30) days of completion of the continuing legal education course.

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DECISION DATE: 5/22/09

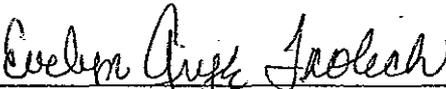
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Attorney Shari Bornstein

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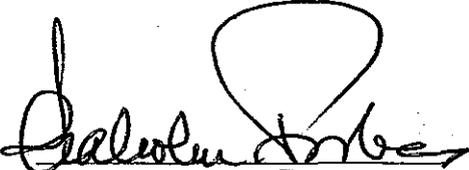
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Attorney Evelyn Gryk Frolich

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Mr. Malcolm Forbes