STATEWIDE GRIEVANCE COMMITTEE

Alton Davis Complainant	:	
vs.	:	Grievance Complaint #08-0036
Gregory Granger 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, 80 Washington Street, Hartford, Connecticut on August 14, 2008. The hearing addressed the record of the complaint filed on January 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 May 27, 2008, finding that there existed probable cause that the Respondent violated Rules 1.1, 1.3, 1.4(a), 1.5 and 8.1 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 July 7, 2008. Pursuant to Practice Book §2-35(d), Chief Disciplinary Counsel Mark Dubois pursued the matter before this reviewing committee. The Complainant and the Respondent appeared at the hearing and testified. No exhibits were admitted into evidence.

Reviewing committee member Attorney Geoffrey Naab was not available for the hearing. Both the Disciplinary Counsel and the Respondent, however, waived the participation of Attorney Naab in this matter and agreed to have the undersigned render this decision.

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

In July of 2007, the Respondent was contacted by Attorney Jeffrey Oliveria to undertake the representation of the Complainant in a civil lawsuit. During this time, the Respondent's brother was diagnosed with a terminal illness. The Respondent reviewed the Complainant's file and agreed to handle the matter. The Respondent requested a $5000 retainer. On August 5, 2007, the Respondent's brother passed away. On or about August 15, 2007, the Complainant paid the Respondent $3000 toward the $5000 retainer and provided the Respondent with original documents to support his claim. Shortly thereafter, the Respondent contacted Attorney Oliveria and requested that he find another attorney to

represent the Complainant. Since Attorney Oliveria and the Respondent were unable to find another attorney to represent the Complainant, the Respondent continued to work on the Complainant's file.

In September of 2007, the Respondent's young son was hospitalized for seven to eight days. Shortly thereafter, the Respondent's wife was hospitalized. The Respondent contacted Attorney Oliveria and asked him to take the Complainant's case. Attorney Oliveria was unwilling to do so. The Complainant, thereafter, began leaving numerous telephone messages for the Respondent requesting that he return the original documents the Complainant provided as well as a copy of the lawsuit. The Respondent, however, failed to provide the requested documents.

The Complainant, thereafter, contacted Attorney Oliveria and requested that he contact the Respondent. Attorney Oliveria contacted the Respondent, who advised that he would call the Complainant. Failing to receive any response from the Respondent, the Complainant made numerous visits to the Respondent's office, left several more telephone messages and sent a registered letter to the Respondent. After receiving no response, the Complainant went to the Respondent's home in late October, 2007. The Respondent agreed to return the Complainant's retainer and documents the next day, but failed to do so.

In November of 2007, the Respondent met the Complainant at Hartford Superior Court to return the Complainant's documents and refund the retainer. The Respondent provided the Complainant with a check for the refund, but did not provide the Complainant with his documents. The Complainant immediately attempted to deposit the check, but it was dishonored. The check cleared, however, when the Complainant redeposited it several days later.

The Complainant eventually retained Attorney Robert Fiedler to handle his case. On November 13, 2007, Attorney Fiedler requested the return of the Complainant's file. On December 14, 2007, the Respondent provided Attorney Fiedler with the original documents that the Complainant had provided.

On January 15, 2008, a copy of the Complainant's grievance complaint was sent by certified mail to the Respondent's post office box address. The certified letter was returned unclaimed to the Statewide Grievance Committee on February 4, 2008. Thereafter, on February 7, 2008, the grievance complaint was sent to the Respondent's home address by regular mail. On February 13, 2008, the Respondent telephoned Grievance Panel Counsel Beth Cvejanovich and advised that he had been out of the office on a medical leave of absence since December of 2007 to care for his son and that he had just returned to his office to find the instant grievance complaint. On February 27, 2008, Attorney Cvejanovich wrote to the Respondent and advised that the grievance panel suggested that

the Respondent contact Disciplinary Counsel to discuss possible options available to the Respondent to enable him to attend to his family's medical needs, since the Respondent was taking another medical leave of absence. Attorney Cvejanovich advised that if the Respondent did not contact her or Disciplinary Counsel by March 5, 2008, the panel would continue to act on the grievance complaint. The Respondent did not file a response to the grievance complaint and the grievance panel filed its probable cause determination on May 27, 2008.

This reviewing committee also considered the following:

The Respondent maintained that he drafted the Complainant's lawsuit, but never filed or served the lawsuit. The Complainant maintained that the Respondent advised him that the lawsuit had been served. The Respondent further testified that he spoke with the Complainant at the end of September, 2007 and advised him to retain new counsel. The Complainant disputed that the Respondent ever advised him to retain new counsel.

The Respondent testified that he deposited the Complainant's retainer fee into his clients' funds account and kept the funds in this account until they were refunded to the Complainant. The Respondent stated that the initial refund check he issued to the Complainant was written off of his office operating account and that he had to transfer the Complainant's funds from his clients' funds account into this account. The Respondent contended that the Complainant presented the check for payment before the transferred funds were credited to the Respondent's office operating account.

The Respondent further testified that he was unable to respond to the grievance complaint due to the serious medical illnesses suffered by his wife and child. The Respondent maintained that his wife underwent emergency surgery at the end of January, 2008 and remained bedridden until May 14, 2008. During this time, the Respondent was solely responsible for the care of their eight year old son who is autistic and epileptic. The Respondent was required to accompany his son to school every day and care for his wife at home. The Respondent testified that he returned to work full-time on July 14, 2008. During his eight month leave of absence from work, the Respondent had four to five other law firms cover his practice. The Respondent acknowledged that he failed to communicate properly with the Complainant and failed to pursue the Complainant's matter with due diligence. The Respondent apologized for his actions and advised that his wife has fully recovered and is now able to care for their son.

This reviewing committee concludes by clear and convincing evidence that the Respondent engaged in unethical conduct. The Respondent's acknowledgement that he failed to adequately communicate with the Complainant regarding the status of the lawsuit and that he failed to pursue the Complainant's matter with due diligence supports a finding that the Respondent violated Rules 1.4(a) and 1.3 of the Rules of Professional Conduct.

This reviewing committee was unable to conclude that the Respondent failed to provide the Complainant with competent representation in violation of Rule 1.1 of the Rules of Professional Conduct or that the Respondent's fee was excessive in violation of Rule 1.5 of the Rules of Professional Conduct. Although the Respondent accepted a $3000 retainer from the Complainant, he provided the Complainant with a full refund. Lastly, this reviewing committee concludes that the serious medical needs of the Respondent's family during this time constitutes good cause for his failure to respond to the grievance complaint. The Respondent is advised, however, that an answer, no matter how untimely, is always preferable to filing no answer at all.

Since this reviewing committee concludes that the Respondent violated Rules 1.3 and 1.4(a) of the Rules of Professional Conduct, we order the Respondent to attend, in-person and at his own expense, a continuing legal education course in legal ethics. On-line courses do not comply. The course must consist of a minimum of three credit hours and must be completed within six 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 days of his completion of the continuing legal education course.

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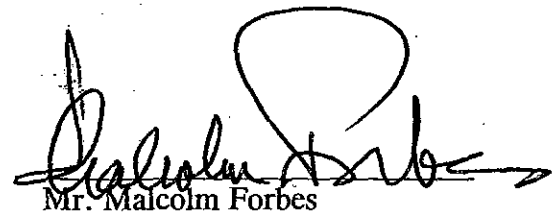
DECISION DATE: 10/24/08

Atty Evelyn Gryck Frolich

Attorney Evelyn Gryck Frolich



Mr. Malcolm Forbes