

STATEWIDE GRIEVANCE COMMITTEE

Michael P. Bowler
Statewide Bar Counsel
Complainant

vs.

Grievance Complaint #09-0598

Francis Minter
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 January 14, 2010. The hearing addressed the record of the complaint filed on June 24, 2009, and the probable cause determination filed by the Hartford Judicial District Grievance Panel for Geographical Area 13 and the town of Hartford on October 26, 2009, finding that there existed probable cause that the Respondent violated Rule 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 December 8, 2009. Pursuant to Practice Book §2-35(d), Chief Disciplinary Counsel Mark Dubois pursued the matter before this reviewing committee. The Respondent appeared at the hearing and testified.

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

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

On March 25, 2009, \$7,910.26 was wrongfully removed from the Respondent's IOLTA account by the Internal Revenue Service (hereinafter, "IRS") pursuant to a levy placed on the account due to the Respondent's failure to pay payroll withholding taxes. In addition, on March 25, 2009, an IOLTA check in the amount of \$274 was presented for payment. Due to the IRS levy, there were insufficient funds in the account, causing an overdraft of \$307. The Respondent learned of the levy on April 1, 2009 and contacted the IRS. The levy was released on April 1, 2009 and the funds were restored to the Respondent's IOLTA account on April 2, 2009.

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This reviewing committee also considered the following:

The Respondent testified that he failed to pay payroll withholding taxes for his employee for four quarters in 2008. The Respondent maintained that he failed to pay the withholding taxes because he did not have the money to do so. The Respondent testified that he paid the IRS \$11,750 in October of 2009, but still owes interest and penalties.

This reviewing committee concludes by clear and convincing evidence that the Respondent engaged in unethical conduct. The Respondent's admission that he knowingly failed to pay withholding taxes for his employee constitutes conduct involving dishonesty, fraud and deceit in violation of Rule 8.4(3) of the Rules of Professional Conduct.

This reviewing committee concludes that the Respondent's violation of Rule 8.4(3) of the Rules of Professional Conduct is serious and warrants a presentment. Accordingly, we direct Disciplinary Counsel to file a presentment against the Respondent in the Superior Court for the imposition of whatever discipline the court may deem appropriate.

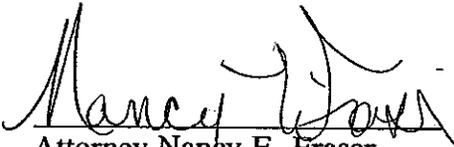
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DECISION DATE: 2/24/10

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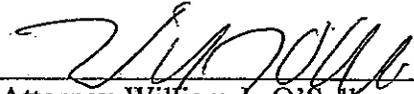
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Attorney Nancy E. Fraser

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Attorney William J. O'Sullivan