

STATEWIDE GRIEVANCE COMMITTEE

Louis Giovanelly
Complainant

:

vs.

:

Grievance Complaint #09-0790

Steven F. Rogers
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 February 3, 2010. The hearing addressed the record of the complaint filed on September 4, 2009 and the probable cause determination filed by the Ansonia/Milford Judicial District Grievance Panel on November 17, 2009, finding that there existed probable cause that the Respondent violated Rules 1.4(a)(4), 1.4(b), 8.1(2), 8.4(3) and 8.4(4) 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 29, 2009. Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Beth Baldwin pursued the matter before this reviewing committee. The Complainant and the Respondent appeared at the hearing and testified. An exhibit was admitted into evidence. Reviewing committee member, Attorney Howard M. Gould was unavailable for the hearing. Since both the Assistant Disciplinary Counsel and the Respondent waived the participation of Attorney Gould, this matter was heard and decided by the undersigned.

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

In or around June of 2006, the Complainant retained the Respondent to settle his sister Serelda Giovanelly's estate. Ms. Giovanelly died on February 18, 2006. The Respondent did not provide the Complainant with a written fee agreement in connection with the representation. On July 12, 2006, the Complainant was appointed executor of his sister's estate. During the year following the Respondent's retention, the Complainant inquired about the progress of the estate. The Respondent did not adequately communicate with the Complainant regarding the status of the estate. The Complainant requested information from the Respondent regarding his fees. The Respondent did not respond. Ultimately, the Complainant retrieved the file from the Respondent and retained new counsel. On February 13, 2009 the Complainant, as executor, filed the Inventory and the Decedent's Estate Administration Account (hereinafter, "the Account"). The Account reflected attorney's fees to the Respondent in the amount of \$12,966.26. On March 30, 2009, the

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Account was approved by the Probate Court.

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

This reviewing committee also considered the following:

At the hearing before this reviewing committee, when questioned, the Respondent was unable to explain the basis upon which his \$12,966.26 fee was calculated, the number of hours devoted to providing the services on which the \$12,966.26 was based, or the hourly rate, if any, charged for his services.

This reviewing committee finds the following violations of the Rules of Professional Conduct and Practice Book by clear and convincing evidence:

The Respondent failed to keep the Complainant reasonably informed about the status of the estate and failed to comply with the Complainant's reasonable requests for information in violation of Rules 1.4(a)(3) and (4) of the Rules of Professional Conduct. The Respondent failed to explain the status of the estate matter to the extent reasonably necessary to permit the Complainant to make informed decisions regarding the representation in violation of Rule 1.4(b) of the Rules of Professional Conduct. The Respondent failed to file a response to the grievance complaint in violation of Rule 8.1(2) of the Rules of Professional Conduct and Practice Book §2-32(a)(1).

The record lacks clear and convincing evidence to substantiate a finding that the Respondent violated Rules 8.4(3) or 8.4(4) of the Rules of Professional Conduct.

Since we conclude that the Respondent violated Rules 1.4(a)(3), 1.4(a)(4), 1.4(b) and 8.1(2) of the Rules of Professional Conduct and Practice Book §2-32 (a)(1), and in consideration of the seriousness of the misconduct, we direct the Disciplinary Counsel to file a presentment against the Respondent in the Superior Court for the imposition of whatever discipline the court deems appropriate.

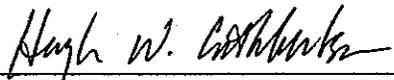
This reviewing committee also concludes by clear and convincing evidence that the Respondent failed to provide the Complainant with a written fee agreement in connection with the representation in violation of Rule 1.5(b) of the Rules of Professional Conduct. This reviewing committee further concludes that the Respondent's \$12,966.26 fee was unreasonable in violation of Rule 1.5(a) of the Rules of Professional Conduct, in consideration of the amount charged and collected, and the Respondent's complete inability to provide any basis for how the fee was calculated or justified. Since a presentment is a de novo proceeding, we further direct the Disciplinary Counsel to include the additional violations of Rules 1.5(a) and (b) in the presentment.

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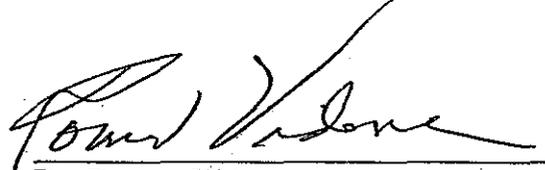
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Attorney Hugh W. Cuthbertson

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Dr. Romeo Vidone