STATEWIDE GRIEVANCE COMMITTEE

Fernando Colon Complainant	:	
vs.	:	Grievance Complaint #10-0145
Steven W. Varney 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 July 1, 2010. The hearing addressed the record of the complaint filed on February 11, 2010 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 April 7, 2010, finding that there existed probable cause that the Respondent violated Rules 1.3, 1.5(b) 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 June 4, 2010. Pursuant to Practice Book §2-35(d), First Assistant Disciplinary Counsel Patricia A. King pursued the matter before this reviewing committee. The Complainant appeared at the hearing and testified. The Respondent did not appear.

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

On or about April 22, 2009, the Complainant paid the Respondent $2500 to represent him in connection with a juvenile matter. The Respondent did not provide the Complainant with a written fee agreement. The Respondent did not appear for the April 28, 2009 first court date in the Complainant's matter. The Respondent only appeared in court on one occasion, on May 1, 2009 for approximately 10 minutes, after the court ordered him to appear. The Respondent failed to appear at court proceedings on September 8, 2009 and January 12, 2010 in connection with the Complainant's matter. The Respondent did not act on the Complainant's matter. The Complainant called the Respondent on numerous occasions. The Respondent did not return the Complainant's calls. On or about January 20, 2010, the Complainant terminated the Respondent's legal services and requested a refund of the $2500 retainer. The Respondent did not refund the retainer. The Complainant's matter remains pending.

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

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

This reviewing committee concludes that the Respondent engaged in unethical conduct in connection with his representation of the Complainant regarding a juvenile matter. The Respondent failed to provide the Complainant with a written fee agreement in violation of Rule 1.5(b) of the Rules of Professional Conduct. The Respondent failed to act with reasonable diligence in representing the Complainant in violation of Rule 1.3 of the Rules of Professional Conduct, by failing to appear at court proceedings and failing to act on the Complainant's matter. The Respondent failed to file an answer to the grievance complaint in violation of Rule 8.1(1) of the Rules of Professional Conduct and Practice Book 2-32(a)(1).

Since we conclude that the Respondent violated Rules 1.5(b), 1.3 and 8.1(1) 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 adequately communicate with the Complainant in violation of Rule 1.4(a)(4) of the Rules of Professional Conduct, by failing to return the Complainant's telephone calls. The Respondent's $2500 fee was unreasonable in violation of Rule 1.5(a) of the Rules of Professional Conduct, in that the Respondent failed to act on the Complainant's matter. Since a presentment is a de novo proceeding, we further direct the Disciplinary Counsel to include the additional violations of Rules 1.4(a)(4) and 1.5(a) in the presentment.

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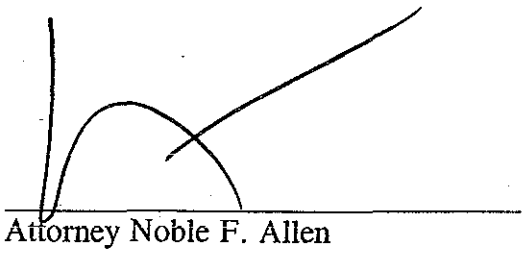
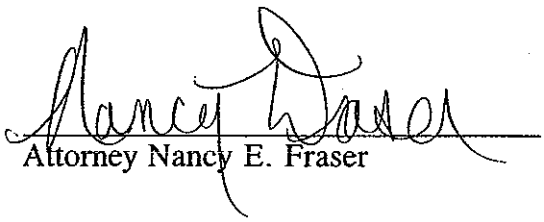
jf

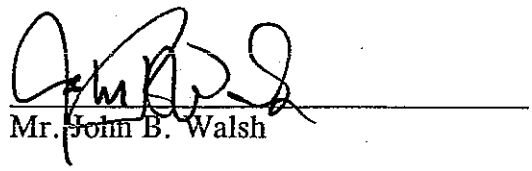
DECISION DATE: 9/10/10



Attorney Noble F. Allen



Attorney Nancy E. Fraser



Mr. John B. Walsh