

STATE OF CONNECTICUT



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STATEWIDE GRIEVANCE COMMITTEE

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Second Floor - Suite Two
287 Main Street, East Hartford, Connecticut 06118-1885

09/30/2011

OFFICE OF CHIEF DISCIPLINARY C
100 WASHINGTON STREET
HARTFORD CT 06106

WILLIAM O TOOLE
433 PLAZA REAL, STE 275
BOCA RATON FL 33432

RE: GRIEVANCE COMPLAINT #11-0166
DUBOIS vs. O TOOLE

Dear Respondent and Disciplinary Counsel:

Enclosed herewith is the decision of the reviewing committee of the Statewide Grievance Committee concerning the above referenced matter. In accordance with the Practice Book Sections 2-35, 2-36 and 2-38(a), the Respondent may, within thirty (30) days of the date of this notice, submit to the Statewide Grievance Committee a request for review of the decision.

A request for review must be sent to the Statewide Grievance Committee at the address listed above.

Sincerely,

A handwritten signature in cursive script, appearing to read "m.p. bowler".

Michael P. Bowler

Encl.

cc: Attorney J A. Rebollo
Mark A. Dubois

**NOTICE REGARDING DECISION
- PRESENTMENT -**

GRIEVANCE COMPLAINT # 11-01164

THE ATTACHED DECISION IS PRESENTLY STAYED IN ACCORDANCE WITH PRACTICE BOOK §2-35.

SECTION 2-35 STATES, IN PART, AS FOLLOWS:

(e) ... Enforcement of the final decision ... shall be stayed for thirty days from the date of the issuance to the parties of the final decision. In the event the respondent timely submits to the statewide grievance committee a request for review of the final decision of the reviewing committee, such stay shall remain in full force and effect pursuant to Section 2-38(b).

Note: This stay terminates upon the issuance of a final decision by the Statewide Grievance Committee.

DECISION DATE: 9/30/11

STATEWIDE GRIEVANCE COMMITTEE

Mark A. Dubois :
Complainant :
 :
vs. : Grievance Complaint #11-0166
 :
William O'Toole :
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, 1061 Main Street, Bridgeport, Connecticut on September 7, 2011. The hearing addressed the record of the complaint filed on March 2, 2011, and the probable cause determination filed by the Ansonia/Milford Judicial District Grievance Panel on June 27, 2011, finding that there existed probable cause that the Respondent violated Rules 1.4(a) (2) & (3), 1.5(a), 5.5(a), 8.4 (3) & (4) and 8.1(2) 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 27, 2011. Pursuant to Practice Book § 2-35(d), Assistant Disciplinary Counsel Suzanne Sutton pursued the matter before this reviewing committee. The Respondent did not appear at the hearing.

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

In or around September of 2010, Wladyslaw and Karmen Drag retained American Residential Law Group (hereinafter "American Residential") to assist them in the modification of their loan for property located in Connecticut. The Drags paid American Residential \$1,950. In January of 2011, American Residential notified the Drags that the Respondent, one of their affiliates, would be servicing the Drag's account. The written notice stated that the Respondent's services would be free. The Respondent's office is located in Florida, where he was licensed to practice law. The Respondent is not licensed to practice law in Connecticut.

On January 13, 2011, the Drags signed a retainer agreement with the Respondent for the Respondent to represent them in connection with the modification of their loan. The agreement stated that the Respondent's retainer fee had been paid by American Residential. The Drags also signed an Authorization Form on January 13, 2011, authorizing the lender to negotiate the terms of a work out agreement and/or pay off settlement with CM Group Holdings, LLC and to discuss requests for payment assistance with the Respondent's office. Thereafter, on January 19, 2011, the lender sent a letter to the Drags advising them that the authorization was not legible and requested that they send a legible copy. The Drags made repeated telephone calls to the Respondent's office regarding

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the status of their case, but nothing has been done in connection with the loan modification.

On March 7, 2011, the instant grievance complaint was sent by certified mail to the Respondent at 433 Plaza Real, Suite 275, Boca Raton, FL, 33432. The Respondent was advised that a response to the complaint was due within thirty days. The complaint was returned as "Not deliverable as addressed. Unable to forward." Thereafter, on April 14, 2011, Grievance Panel Counsel sent a letter to the Respondent at the same address requesting an immediate response to the complaint. The Respondent failed to respond to the grievance complaint, resulting in a finding of probable cause by the grievance panel. On July 27, 2011, the hearing notice for the September 7, 2011 hearing was mailed to the Respondent at the same address. The hearing notice was returned on August 4, 2011 as "Undeliverable. Commercial mail receiving agent. No authorization to receive mail at this address." The Respondent did not appear at the September 7, 2011 hearing.

This reviewing committee also considered the following:

Debt resolution, debt negotiation and debt settlement services are regulated in Connecticut pursuant to C.G.S. § 36a-671 et. seq. The banking regulations require individuals practicing debt relief work to obtain a license from the Connecticut Banking Commission. Attorneys admitted to practice law in Connecticut, however, are exempt from this licensing requirement. The Respondent is not licensed by the Banking Commission to provide debt relief services in Connecticut.

This reviewing committee concludes by clear and convincing evidence that the Respondent engaged in unethical conduct in connection with his representation of the Drags in the modification of their home loan. Although the Respondent is not licensed to practice law in Connecticut, pursuant to Rule 8.5(a) of the Rules of Professional Conduct, he is subject to the disciplinary jurisdiction of this state because he provided legal services to the Drags in Connecticut. We conclude that by providing legal services in Connecticut without being admitted to practice law in Connecticut, the Respondent engaged in the unauthorized practice of law, in violation of Rule 5.5(a) of the Rules of Professional Conduct.

We further conclude that the Respondent failed to communicate with the Drags and failed to keep them reasonably informed regarding the status of their case in violation of Rule 1.4(a) (2) & (3) of the Rules of Professional Conduct. The record also reflects that the Drags paid a \$1,950 retainer fee to American Residential and that this fee was used to pay the Respondent's retainer. The record indicates that other than sending the Authorization Form to the lender, the Respondent failed to perform any work on behalf of the Drags in connection with the modification of their mortgage. This reviewing committee, therefore, concludes that the fee charged by the Respondent was unreasonable, in violation of Rule 1.5(a)(4) of the Rules of Professional Conduct. We also find that by providing debt relief services to the Drags in Connecticut, in violation of the consumer finance laws, the Respondent engaged in conduct involving dishonesty, fraud, deceit and misrepresentation,

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in violation of Rule 8.4(3) of the Rules of Professional Conduct and conduct prejudicial to the administrative of justice, in violation of Rule 8.4(4) of the Rules of Professional Conduct. We conclude that the Respondent also violated Rule 8.4(4) of the Rules of Professional Conduct by engaging in the unauthorized practice of law in Connecticut.

Lastly, we find that the Respondent's failure to respond to the grievance complaint constitutes a violation of Practice Book § 2-32(a)(1). We note that all of the correspondence sent to the Respondent was sent to the address appearing on the retainer agreement he provided to the Drags in January of 2011. Thereafter, beginning in March of 2011 notices sent to the Respondent at that same address in connection with this grievance complaint were returned by the Post Office as undeliverable and unable to forward. It appears that the Respondent has abandoned his office and has left no forwarding address. Accordingly, we conclude that the Respondent has not established good cause for his failure to respond to the grievance complaint. Since the Respondent did not actually receive a copy of the grievance complaint, we can not conclude that he knowingly failed to respond to the grievance complaint, in violation of Rule 8.1(2) of the Rules of Professional Conduct.

This reviewing committee concludes that the Respondent's violations of the Rules of Professional Conduct are serious and warrant a presentment. Accordingly, we direct Disciplinary Counsel to file a presentment against the Respondent in the Superior Court for the imposition of whatever discipline is deemed appropriate.

DECISION DATE: 9/30/11

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Attorney Frank J. Riccio, II

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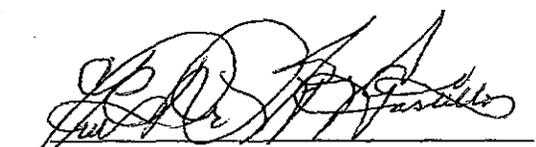
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Attorney Howard C. Eckenrode

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Rev. Simon Castillo