

STATE OF CONNECTICUT



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Statewide Bar Counsel

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STATEWIDE GRIEVANCE COMMITTEE

www.jud.ct.gov/sgc/
Second Floor - Suite Two
287 Main Street, East Hartford, Connecticut 06118-1885

01/06/2012

OFFICE OF CHIEF DISCIPLINARY C
100 WASHINGTON STREET
HARTFORD CT 06106

JAMES RICHARD WITTSTEIN
L.O. OF J.R.W., LLC
341 MELVILLE AVE
FAIRFIELD CT 06825

RE: GRIEVANCE COMPLAINT #11-0477
CHARLA vs. WITTSTEIN

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 that reads "Michael P. Bowler".

Michael P. Bowler

Encl.
cc: Attorney George J. Ferrio
Patricia R. Charla



STATE OF CONNECTICUT
JUDICIAL BRANCH

STATEWIDE GRIEVANCE COMMITTEE

Michael P. Bowler, *Statewide Bar Counsel*

287 Main Street
Second Floor – Suite Two
East Hartford, CT 06118-1885
(860) 568-5157 Fax (860) 568-4953
Judicial Branch Website: www.jud.ct.gov

Attorney Suzanne B. Sutton
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
100 Washington Street
Hartford, CT 06106

Attorney James R. Wittstein
Law Office of James R. Wittstein, LLC
341 Melville Ave.
Fairfield, CT 06825

RE: Grievance Complaint #11-0477, Charla v. Wittstein

Dear Assistant Disciplinary Counsel and Respondent:

Pursuant to Practice Book §2-82(b), the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, has reviewed the *Proposed Disposition Pursuant to Practice Book §2-82(b)* (hereinafter "*Proposed Disposition*") filed December 7, 2011, and submitted for approval in the above referenced matter. After careful consideration of the *Proposed Disposition*, the *Affidavit* of the Respondent submitted pursuant to Practice Book §2-82(d) and the entire record, and after conducting a hearing pursuant to Practice Book §2-82(b) on December 7, 2011, the undersigned hereby APPROVE the *Proposed Disposition*, a copy of which is attached hereto together with the *Affidavit* of the Respondent. Accordingly, the disposition agreed to by the Assistant Disciplinary Counsel and the Respondent in the above referenced matter and set forth in the *Proposed Disposition* is hereby made an order of this reviewing committee. The Respondent is ordered to attend in-person and at his own expense a continuing legal education ("CLE") course in legal ethics. Online courses and materials only courses do not comply. The course must cover Connecticut law. The CLE course is to consist of a minimum of 3 credit hours, and is to be taken within eight (8) months of the approval of this agreement. The Respondent is further ordered to provide the Statewide Grievance Committee with written confirmation of his compliance with this condition within 30 days of completion of the CLE course. The written confirmation should be in the form of a certificate of attendance or similar documentation from the course provider.

So ordered.

Grievance Complaint #11-0477
Decision
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cc: Attorney Patricia R. Charla
Attorney George Ferrio

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mp

DECISION DATE: 1/6/12

Grievance Complaint #11-0477

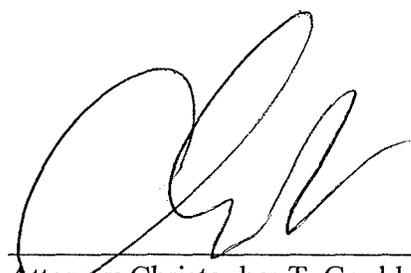
Decision

Page 3

A handwritten signature in black ink, appearing to read "Hugh W. Cuthbertson", written over a horizontal line.

Attorney Hugh W. Cuthbertson

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Attorney Christopher T. Goulden

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Dr. Romeo Vidone

STATEWIDE GRIEVANCE COMMITTEE

PATRICIA CHARLA
Complainant

GRIEVANCE COMPLAINT #
11-0477

v.

JAMES WITTSTEIN
Respondent

PROPOSED DISPOSITION PURSUANT TO PRACTICE BOOK § 2-82(b)

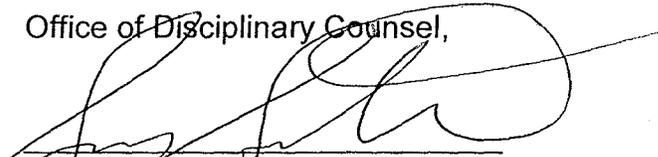
Pursuant to Practice Book § 2-82 (b) and Practice Book § 2-82(a) (2), the undersigned Respondent and Disciplinary Counsel stipulate and agree as follows:

1. James Wittstein (hereinafter Respondent), juris number 410378, was admitted to the bar of the State of Connecticut on December 12, 1994 and has no history of discipline.
2. The Respondent is currently in good standing.
3. This matter was instituted by grievance complaint dated June 15, 2011.
4. On September 28, 2011, the Grievance Panel for the Fairfield Judicial District found probable cause that the Respondent violated Rules 1.1(competence) 1.3(diligence), 1.4(a)(3) (communication), 1.15(e) safekeeping property), 8.4 (4) misconduct and 8.1 (2) and Practice Book Section 2-32(a)(1)(failure to respond) of the Rules of Professional Conduct.
5. The Respondent has tendered an affidavit pursuant to Practice Book § 2-82(d) attached hereto, and admits that the complainant initially asked him to hold the certain earmarked funds out of the closing proceeds until she could ascertain the proper address for the creditors, however, Respondent lost track of the amount of time he had held onto his client's loan proceeds and that this conduct violated Rule 1.3 of the Rules of Professional Conduct.
6. Respondent always kept the money in his IOLTA account. Respondent ultimately paid out all of the earmarked funds, most of which was paid to the complainant and the balance to the hospital which had subsequent to the closing, obtained a judgment lien. He obtained a release of the hospital's lien and has given that release to the complainant.

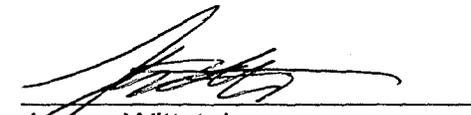
7. The Respondent and the Disciplinary Counsel agree that the Respondent will attend in-person and at his own expense a continuing legal education ("CLE") course(s) in LEGAL ETHICS. Online courses and materials only courses do not comply. The course must cover Connecticut law. The CLE course(s) is to consist of a minimum of 3 credit hours, and is to be taken within eight (8) months of the approval of this agreement. The Respondent will provide the Statewide Grievance Committee and Disciplinary Counsel with written confirmation of his compliance with this condition within 30 days of completion of the CLE course.
8. The Respondent understands that this is a disciplinary sanction and condition pursuant to Practice Book § 2-37(a).
9. The Respondent further understands that his failure to comply with all the terms of this/these conditions will result in the filing of a presentment pursuant to Practice Book § 2-37(c).
10. The Respondent and the Disciplinary Counsel agree that the Disciplinary Counsel will recommend that the Statewide Grievance Committee impose the sanction set forth in this agreement. If this agreement is rejected by the Statewide Grievance Committee, the Disciplinary Counsel will pursue this matter at a contested hearing.

WHEREFORE, this matter is submitted to the Statewide Grievance Committee for its approval in accordance with Practice Book § 2-82(b).

12/8/11
Date

Office of Disciplinary Counsel,

By: Suzanne Sutton
Assistant Disciplinary Counsel

12/8/2011
Date


James Wittstein
Respondent

STATEWIDE GRIEVANCE COMMITTEE

PATRICIA CHARLA
Complainant

GRIEVANCE COMPLAINT #
11-0477

v.

JAMES WITTSTEIN
Respondent

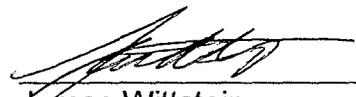
AFFIDAVIT

I am over the age of 18 and believe in the obligation of an oath. Pursuant to Practice Book § 2-82(d), I make the following affidavit:

1. The Proposed Disposition attached hereto and made a part hereof is voluntarily submitted.
2. I hereby consent to the form of disposition set out in the foregoing Proposed Disposition.
3. I am aware that I have a right to a full evidentiary hearing on this matter with the assistance of an attorney and I waive that right by entering into this agreement.
4. I have been neither subject to coercion nor duress and I am fully aware of the consequences of this Affidavit and Proposed Disposition.
5. I am aware of the current proceeding regarding my alleged violation of Rules 1.1(competence) 1.3(diligence), 1.4(a) (3) (communication), 1.15(e) safekeeping property), 8.4 (4) misconduct and 8.1 (2) and Practice Book Section 2-32(a) (1) (failure to respond) of the Rules of Professional Conduct.
6. I admit that I lost track of the amount of time that I had held onto my client's loan

proceeds which were earmarked to pay off certain unsecured debt and that this conduct violated Rule 1.3 of the Rules of Professional Conduct.

7. This type of situation has never happened before and I am certain that it will never happen again.
8. I agree to attend in-person and at my own expense continuing legal education ("CLE") course(s) in LEGAL ETHICS. Online courses and materials only courses do not comply. The course must cover Connecticut law. The CLE course(s) is to consist of a minimum of 3 credit hours, and is to be taken within eight (8) months of the approval of this agreement. The Respondent will provide the Statewide Grievance Committee and Disciplinary Counsel with written confirmation of his compliance with this condition within 30 days of completion of the CLE course.
9. I understand that Disciplinary Counsel will recommend that this matter be resolved by the imposition of the sanction set forth in the Proposed Disposition. If this agreement is rejected by the Statewide Grievance Committee, the Disciplinary Counsel will pursue this matter at a contested hearing.
9. I further understand that my failure to comply with all the terms and conditions stated herein will result in a presentment.


James Wittstein

STATE OF CONNECTICUT)

COUNTY OF *New Haven*)^{ss.}

Subscribed and sworn to before me this *8* day of *Dec*; 20*11*



~~Notary Public~~/Commissioner of the Superior Court