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Professional Responsibility Program

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March 29, 2019

Merrick Grutchfield, Program Administrator
Professional Responsibility Program
c/o Court Administrator's Office
109 State Street
Montpelier, VT 05609-0703

**Re: Melvin Fink
PRB File No. 2019-012**

Dear Merrick:

Please find attached a Motion for Reconsideration, filed by disciplinary counsel and joined by Respondent.

This is a public filing.

Thank you for your assistance.

Sincerely,
/s/Sarah Katz

Cc: David Sleight

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: Melvin Fink
PRB File No. 2019-012

Motion for Reconsideration

Disciplinary Counsel respectfully requests that the panel reconsider and amend in part its Order dated March 28, 2019. I have consulted with Respondent's counsel and he has authorized me to state he joins me in the motion.

1. No amended petition of misconduct is necessary.

The panel's order suggests the date alleged in the petition of misconduct, July 17, 2017, may be a "clerical error" by disciplinary counsel that requires an amended petition and an amended Answer by Respondent. This suggestion is incorrect. The date alleged in the petition is the correct date and disciplinary counsel has always been aware that the date in the original Information was not correct. The petition of misconduct was carefully worded to circumvent this problem. Disciplinary counsel represents to the panel that she consulted with Assistant Attorney General Paul Barkus, he agrees the date of the alleged conduct is July 17, 2017 and acknowledges the clerical error is on the part of the Attorney General's Office. He further stated to me on March 28, 2019 that on the date of the arraignment he amended the Information by hand on the court's copy, and that he intended to alert the court at the next calendar call that the docket report reflects the wrong charge date. Accordingly, neither an amended petition nor another Answer by Respondent is necessary.

2. Respondent, not disciplinary counsel, should be required to advise the panel when judgment has been entered.

First, in the event of a conviction, A.O. 9, Rule 17.A requires that the clerk of the trial

court transmit the certificate of conviction of a licensed lawyer to disciplinary counsel within ten days. However, as a practical matter, the trial courts are generally unaware of this automatic obligation and must be reminded to transmit the certificate. No notice is provided by trial courts to disciplinary counsel of any other aspect of a criminal proceeding involving a lawyer.

Second, the motion to stay was filed by Respondent. Respondent should accordingly be obligated to notify the panel as soon as judgment is entered in the trial court. As a party to the criminal proceedings, he is the party with timely and immediate notice of everything that occurs in those proceedings. Disciplinary counsel is not a party and does not receive court notices. Disciplinary counsel's ability to "monitor" is limited by either the State or Respondent conveying updated information regarding the criminal proceeding, or, by logging into VCAS to check to see whether any change has been entered in the Docket Disposition Report. If a change is observed in the docket entry, then disciplinary counsel would need to contact either the parties or the court to obtain a copy of any order of judgment and verify the online docket report is accurate, because sometimes it is not. By contrast, Respondent receives automatic and immediate notice of all orders and judgment relevant to the criminal proceeding and is in the best position to timely and accurately inform the panel of the status of that proceeding.

DATED: March 29, 2019

A handwritten signature in black ink, appearing to be 'SK' or similar, written over a horizontal line.

Sarah Katz, Disciplinary Counsel

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

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CERTIFICATE OF SERVICE

I certify that on March 29, 2019, Melvin Fink (Respondent) was served with the Motion for Reconsideration, which is joins, by U.S. mail with restricted delivery and return receipt to his attorney at the following address:

David Sleigh
Sleigh Law
PO Box 278
364 Railroad St., Suite E
St. Johnsbury, VT 05819

and via email to julie@sleighlaw.com.

in accordance with A.O. 9, Rule 14.A and Vermont Rule of Civil Procedure 5.



Sarah Katz

Disciplinary Counsel