

[10-Jan-1997]

STATE OF VERMONT
PROFESSIONAL CONDUCT BOARD

IN RE: Gregory Howe, Esq. - Respondent
PCB Docket No. 94.01

DECISION NO. 116

We received a report of the hearing panel, recommending dismissal of this matter.

Based upon that report, we find that the complaining witness was subpoenaed to attend the hearing on the merits of this case but did not appear. Bar counsel represented that she was unable to prove the facts alleged in paragraphs 3 through 7 of the petition of misconduct. She asked that the sections alleging violation of DR 5-101(A) be dismissed.

Bar counsel then called three witnesses: Stephanie Turner, Gerald Robinson Putnam, Jr., and Respondent. The first witness testified as to a transcript she created from a tape recording identified as Plaintiff's Exhibit #9. The second witness testified as an expert witness. He opined, inter alia, that Plaintiff's Exhibit #9 for identification was a tape recording which had not been edited or tampered with.

Respondent then testified briefly. Bar counsel offered Exhibit #9. Respondent objected.

After some deliberation and consideration of the legal authority submitted by both parties, the hearing panel concluded that there was insufficient foundation on the present state of evidence to admit the offered tape recording. The panel indicated that it would reconsider if bar counsel had additional evidence or legal theory to support admissibility. At that point, bar counsel rested. Respondent offered no evidence.

Based upon this evidence, the panel was unable to make any findings of fact or conclusions of law relevant to the remaining allegations in the pending petition.

We conclude that there is insufficient evidence to prove any of the allegations of misconduct in the petition regarding the above captioned matter. We, therefore, dismiss the petition to the extent that it refers to PCB Docket No. 94.01.

Dated at Montpelier, Vermont this 10th day of January, 1997.

PROFESSIONAL CONDUCT BOARD

/s/

Robert P. Keiner, Esq. Chair

/s/

Joseph F. Cahill, Jr., Esq.

/s/

Charles Cummings, Esq.

/s/

Paul S. Ferber, Esq.

/s/

Michael Filipiak

/s/

Nancy Foster

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/s/

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Alan S. Rome, Esq.

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