

130.PCB

[25-Jan-1999]

STATE OF VERMONT
PROFESSIONAL CONDUCT BOARD

In Re: PCB Docket No. 95.79

NOTICE OF DECISION

Decision No. 130

This notice memorializes the decision of the Professional Conduct Board reached July 10, 1998, when Respondent was placed on probation for a period of at least five years. The findings of fact and conclusions of law, as well as the sanction, imposed are all based upon stipulations filed by the parties.

The Board found, pursuant to a stipulation dated January 27, 1998, that Respondent represented complainants in a law suit for violation of fiduciary duty. Because the controlling law precluded any recovery under the theory alleged by respondent, the case was dismissed with prejudice.

Respondent did nothing further about the case for the next two years, other than trying to refer it to another lawyer. Eventually, Respondent told clients she would continue to pursue their claim and collected \$125 from them in order to pay filing fees. However, respondent had no viable legal claim to pursue. Respondent was inexperienced in the practice of law at the time and failed to adequately research the legal issues in violation of DR 6-101(A)(2). By leaving the case dormant for so long, without explaining to her clients that the case was meritless, Respondent neglected her clients in violation of DR 6-101(A)(3).

As a result of this conduct, Respondent was privately admonished and has voluntarily ceased the practice of law. Respondent returned the \$125.00 to her clients. Should Respondent return to legal practice, she will be on probation for no less than five years in accordance with the Board's Order of July 10, 1998. That order is attached hereto and incorporated herein by reference.

Dated at Middlebury, Vermont this 25th day of January, 1999.

THE PROFESSIONAL CONDUCT BOARD

/s/

BY:

Robert P. Keiner, Esq.
Chair

dal/9579order

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STATE OF VERMONT
PROFESSIONAL CONDUCT BOARD

In re: PCB File No. 95.79

ORDER

Based upon the joint stipulation of the parties, it is hereby ordered:

1. Respondent will voluntarily place herself on inactive status, effective August 1, 1998, for a period of no less than one year.

2. A private admonition in the above captioned case is imposed and Respondent is hereby placed on probation until further order of the Board. Probation will end no later than five years after Respondent reactivates her license to practice law, unless probation is violated before its termination.

3. The condition of probation for the first year (1998-1999) is that Respondent will take 20 hours of continuing legal education courses relevant to her anticipated practice. The courses selected will emphasize the development of practical legal skills.

4. If Respondent reactivates her license after one year or elects not to reactivate her license after one year but still plans to do so within the anticipated six-year period of probation, the educational condition in paragraph 3, above, will continue for each of the remaining years of anticipated probation on the following schedule: Year two (1999-2000), 18 hours of continuing legal education; year three (2000-2001), 16 hours; year four (2001-2002), 14 hours; year five (2002-2003), 12 hours; year six (2003-2004), the bar-wide standard 10 hours of continuing legal education.

5. If Respondent decides at any point during her inactive status to forego the practice of law for a more extended period of time, she may so notify the Board and condition number 4 will be suspended until such time as Respondent notifies the Board of her decision to reactivate her license.

6. Respondent agrees personally to notify the Board in writing and request the Board of Bar Examiners also to notify the Board of the effective date that Respondent's license to practice law is to be reactivated.

7. The following conditions of probation will become effective on the day that Respondent reactivates her license to practice of law:

- (1) Respondent will have in place an adequate and reasonable policy of legal malpractice insurance for the protection of her clients;
- (2) Respondent will either practice within a firm of at least one experienced attorney who will supervise her work or have in place a counselorship with an experienced trial attorney with whom

Respondent will:

- (A) Confer about the factual and legal issues in a potential client's case before Respondent accepts it;
 - (B) Confer in person and by telephone about office management; caseload; prosecution of her open cases; communication with clients; the factual, legal and ethical issues arising in her cases and any other issue of relevance to her legal practice.
- (3) The counselorship referred to in paragraph (2), above, shall be presented to Bar Counsel in contract form between Respondent and her counselor(s) and be for a period of not less than one year in duration. At least two months before the end of a counselorship contract, Respondent shall present to Bar Counsel a new counselorship contract extending for a period of not less than one year in duration. The counselorship program shall continue during the entire period of probation, from the date of reactivation of Respondent's license.

8. Respondent shall refund to her clients all costs associated with the lawsuit against the insurance company by a date to be determined between Respondent and Bar Counsel.

9. If Respondent reactivates her license without meeting all of the probation conditions contained in this Order, she shall be deemed in violation of probation on that day and shall be subject to additional sanction, including suspension of her license to practice law until the conditions contained in this Order have been met.

Dated at Montpelier, Vermont this 10th day of July, 1998.

PROFESSIONAL CONDUCT BOARD

/s/

Robert P. Keiner, Esq. Chair

/s/

Steven A. Adler, Esq.

John Barbour

/s/

Charles Cummings, Esq.

Paul S. Ferber, Esq.

/s/

Michael Filipiak

Nancy Foster

/s/

Barry E. Griffith, Esq.

Robert F. O'Neill, Esq.

/s/

/s/

Jessica Porter, Esq.

Alan S. Rome, Esq.

/s/

/s/

Mark L. Sperry, Esq.

Ruth Stokes

/s/

/s/

Jane Woodruff, Esq.

Toby Young

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