

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY BOARD

In Re: Glenn Robinson, Esq.
PRP File No. 2013- 172

Disciplinary Counsel's Memo to Comply with the Panel's Order for Supplemental Briefing

Questions

- A. Do the provisions of procedural due process or any other provision of the law bar the Panel at this point in the proceeding from considering and determining whether or not Respondent engaged in conduct which is prejudicial to the administration of justice, in violation of Rule 8.4(d) of the Vermont Rules of Professional Conduct by presenting and entering into an agreement entitled Notice of Intent to Engage in Mutually Welcomed Romantic Relationship and Waiver of Claims (admitted into evidence as DC-5) with Pamela Binette, Respondent's employee, "*insofar as* paragraph 3 of the agreement purported to waive potential prospective claims of gender discrimination and/or sexual harassment against the Respondent? (

Respondent will not be denied "due process" under 14th Amendment if the Panel considers the evidence already admitted (specifically DC-5 – paragraph 3) in this proceeding in the context of a violation of Rule 8.4 (d) -engaging in conduct prejudicial to the administration of justice.

Respondent has had fair notice of paragraph 3. The evidence (set forth more specifically in DC's Proposed Findings) shows he asked his brother to include this provision in the document his brother drafted for him. (DC-2) He touted the protection it afforded in his July 3, 2013 interview with Detective Lance Burnham of the Vermont State Police.

Respondent had the fair opportunity to be heard on DC-5 guaranteed by the 14th Amendment and 3 VSA 809. He clearly understood the legal implications of paragraph 3 of DC-5 because he testified falsely, in the closing minutes of his testimony on January 3, 2018 that he and Ms. Binette had agreed to strike paragraph 3 from the document they signed "together" on September 28, 2012.

The panel is entitled to consider uncharged conduct in considering Sanctions. *In Re Frank Berk*, 157 Vt. 524, 528 (1991).

- B. Assuming the Panel is not barred at this point in the proceeding from making such a determination, did Respondent violate Rule 8.4 (d) by presenting and entering into an agreement entitled Notice of Intent to Engage in Mutually Welcomed Romantic Relationship and Waiver of Claims (Exhibit DC-5) with Pamela Binette, Respondent's Employee, *insofar as* paragraph 3 of the agreement purported to waive potential prospective claims of gender discrimination and/ or sexual harassment against the Respondent?

There is clear and convincing evidence that Respondent violated Rule 8.4 (d). DC relies on the evidence he submitted to prove violations of Rule 4.3 and Rule 8.4 (g). This evidence is set out in detail in DC's Proposed Findings of Fact, which were filed today (2/26/2018).

- C. Assuming the Panel is not barred at this point in the proceeding from making the determination and further assuming that the Panel finds and concludes that Respondent conduct violated Rule 8.4 (d), what is the appropriate sanction for that violation?

The ABA Standards for Imposing Sanctions: 6.11 say that either disbarment or suspension is an appropriate sanction when a lawyer engages in conduct that is “prejudicial to the administration of justice.”

A lawyer who asks an unrepresented person to sign a document which waives any right that unrepresented person has in suing that lawyer for “sexual harassment” is engaging conduct prejudicial to the administration of justice. A lawyer, Respondent, who pressures an unrepresented person, Pamela Binette, a person who the lawyer knows suffers from mental illness and who the lawyer knows is financially dependent her job in his law office, to sign a document in which this unrepresented person waives her right to sue him for sexual harassment is engaging in exceptionally unfair conduct which warrants disbarment.

Dated at Burlington, Vermont on February 26, 2018.

Robert V. Simpson
Disciplinary Counsel