

[13-Mar-2002]

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: Thomas Daly, Esq.
PRB File No. 2001.189

DECISION 33

Disciplinary Counsel served a Petition of Misconduct dated October 8, 2001 upon Thomas Daly for violating Rule 1.5 and Rule 1.15(b) of the Vermont Rules of Professional Conduct.

Respondent filed his Answer under date of October 30, 2001 and raised the following defenses:

Failure to state a claim upon which relief can be granted.

The Professional Responsibility Board lacks jurisdiction over Respondent for conduct alleged to have occurred prior to his admission to the Vermont Bar.

Respondent is not vicariously liable for conduct of others.

On December 27, 2001, Respondent's counsel, Lisa B. Shelkrot, Esq., filed Motion For Summary Judgment requesting dismissal of the Petition of Misconduct against Mr. Daly pursuant to V.R.C.P. 56.

In support of the Motion For Summary Judgment, there was filed a Memorandum of Law and certain exhibits.

Disciplinary Counsel did not file a response to the Motion For Summary Judgment within the time allotted by rule.

By letter and communication of March 12, 2002 to D. Richards, Esq. Disciplinary Counsel stated the following:

"Having reviewed Attorney Daly's affidavit and the accompanying materials, I will not file a response to the Motion for Summary Judgment that Attorney Shelkrot filed on his behalf on December 27, 2001. In addition, for the reasons that were stated in the Motion dated December 27, I would not object to a decision dismissing the Petition of Misconduct that was filed against Attorney Daly."

Based upon the foregoing, the Petition of Misconduct, dated October 8, 2001, filed against Thomas Daly, Esq. is dismissed.

Dated this 10th day of May, 2002.

FILED 5/13/02

HEARING PANEL NUMBER TWO

/s/

Douglas Richards, Esq., Chair
/s/

Michael H. Filipiak
/s/

Lawrin P. Crispe, Esq.