

PCB 42

[04-Dec-1992]

STATE OF VERMONT
PROFESSIONAL CONDUCT BOARD

Re: PCB File 89.59

NOTICE OF DECISION

NO. 42

This matter was submitted to the Board by stipulation between Respondent and bar counsel. Based upon that stipulation, the Board makes the following findings of fact, conclusions of law and imposes a sanction of private admonition.

Facts

1. Respondent has been a member of the Vermont Bar for more than 15 years. He is in the private practice of law.
2. In October of 1989 and again in December of 1990, the court ordered Respondent to pay a sum certain in child support payments for the benefit of his minor son.
3. Respondent failed to make the payments as required by the order. Respondent did not take appropriate steps in good faith to test the validity of the order. Respondent did not request the court to modify its order prior to disobeying the outstanding order.
4. In July of 1991, the court found that respondent had failed to make twelve child support payments over a six month period, creating an arrearage in the amount of \$840.00. The court further found that Respondent had an ability to make the payments. The court held Respondent in contempt of court for violating its order. Respondent promptly purged himself of contempt by paying the court ordered child support.

Conclusions of Law

Respondent's conduct as described above violated DR 1-102(A)(7), DR 7-106(A) and EC 1-5 of the Code of Professional Responsibility.

Sanction

Mitigating factors present include absence of a prior disciplinary record, co-operative attitude toward the disciplinary proceedings, imposition of other penalties, emotional problems, and respondent's remorse for his failure to comply with the court order. Aggravating factors include substantial experience in the practice of law, a selfish motive, and the vulnerability of the victim.

Based on the above, the Board has issued a private admonition to respondent.

Dated at Montpelier this 4th day of December, 1992.

PROFESSIONAL CONDUCT BOARD

/s/

J. Eric Anderson, Chairman

/s/

Deborah S. Banse, Esq.

Nancy Foster

/s/

Anne K. Batten

/s/

Rosalyn L. Hunneman

/s/

Robert P. Keiner, Esq.

/s/

Donald Marsh

Karen Miller

/s/

Edward Zuccaro, Esq.

/s/

Joseph F. Cahill, Jr., Esq.

Nancy Corsones, Esq.

/s/

Christopher L. Davis, Esq.

Hamilton Davis

/s/

Paul S. Ferber, Esq.