

[04-Dec-1992]

STATE OF VERMONT  
PROFESSIONAL CONDUCT BOARD

In re: PCB File 91.12

NOTICE OF DECISION

NO. 43

This matter was submitted by stipulation of bar counsel and respondent. 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 presently in private practice.
2. The complainants retained respondent in 1989 to bring a civil suit on behalf of their minor child.
3. Respondent was attentive to the case in early 1990. He filed a complaint and provided copies of the summons and complaint to his clients.
4. Counsel for the defendant provided respondent with his client's answer as well as with a copy of correspondence with the defendant's insurer. Defense counsel told respondent that the insurer was denying liability on the grounds that defendant's conduct was intentional rather than negligent. He also advised that the insurance company was bringing a declaratory judgment action to determine the parties rights and responsibilities under the policy.
5. Respondent promptly sent copies of these documents to his clients and promised to keep them posted as to how the declaratory judgment action progressed. Respondent also spoke with one of the clients regarding selection of an expert witness. He promised to follow-up on the witness and get back to her.
6. Respondent failed to inform his clients of any further progress in the case. He also failed to respond to their many letters of inquiry and telephone messages for approximately one year.
7. The clients filed a complaint with the Professional Conduct Board. Respondent co-operated in the investigation of that complaint. He admitted that he was remiss in his failure to communicate with his clients and expressed remorse for his neglect. At the time these events occurred, respondent was suffering from a debilitating physical illness.
8. Respondent did not charge the complainants for the legal services he rendered and returned all of the \$500 retainer except for disbursements made on the clients' behalf. Respondent's conduct caused the complainants aggravation,

but caused no legal prejudice to their case.

9. Respondent has provided medical evidence that he is currently capable of practicing law on a part-time basis. He has transferred a substantial portion of his caseload to other counsel and has made arrangements to limit the scope of his practice.

Conclusions of Law

Respondent violated DR 6-101(A) (3) (neglect of a legal matter entrusted). In light of the mitigating factors described above, the Board has issued a private admonition.

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

PROFESSIONAL CONDUCT BOARD

/s/

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J. Eric Anderson, Chairman

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Deborah S. Banse, Esq.

/s/

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Anne K. Batten

/s/

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Rosalyn L. Hunneman

/s/

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Robert P. Keiner, Esq.

/s/

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Donald Marsh

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Karen Miller

/s/

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Edward Zuccaro, Esq.

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Nancy Foster

/s/

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Joseph F. Cahill, Jr., Esq.

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Nancy Corsones, Esq.

/s/

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Christopher L. Davis, Esq.

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Hamilton Davis

/s/

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Paul S. Ferber, Esq.