

50 PRB

[13-Mar-2003]

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY BOARD

In re: PRB File No. 2000-040

Anne Whitten, Esq. - Respondent

ORDER-DECISION NO. 50

On August 12, 2002, Special Disciplinary Counsel filed a Petition of Misconduct against the Respondent. The Petition alleged a violation of DR7-104(A)(1) (communicating or causing another to communicate on the subject of representation with a party known to be represented by a lawyer in that matter). A Response to the Petition was timely filed, and the matter was scheduled for hearing before this Hearing Panel.

On January 20, 2003, Special Disciplinary Counsel filed a "Motion to Dismiss Petition of Misconduct". In that pleading, Counsel asserted that further witness interviews tended to demonstrate that the Respondent had not "caused" the communication described in the Petition. Special

Disciplinary Counsel, mindful of the pertinent burden of proof, as well as the pre-existing interpretation of DR7-104(A)(1), requested that the Petition be dismissed.

The Hearing Panel accepts Special Disciplinary Counsel's assessment of his case, and agrees that, under the circumstances described in the motion, dismissal is warranted. Accordingly, the Petition of Misconduct is DISMISSED.

Dated this 18th day of February, 2003.

Hearing Panel No. 4

FILED: MARCH 13, 2003

/s/

Paul Ferber, Esq., Chair

/s/

George Coppenrath

/s/

Robert Butterfield, Esq.