

[04-Jun-1993]

STATE OF VERMONT

PROFESSIONAL CONDUCT BOARD

IN RE: PCB File No. 92.13

NOTICE OF DECISION
NO. 54

This matter was submitted to the Board by Stipulation of Respondent and Bar Counsel. Upon consideration of this Stipulation, the Board voted to impose a private admonition upon Respondent for violating DR 6-101(A)(3). Below are the Board's Findings of Fact, Conclusions of Law and reasons for imposing discipline.

Facts

1. In March 1988 Respondent received a Quit Claim Deed for a time share unit, a Decree of Distribution and associated documents from an attorney in Connecticut to be recorded in the local Town Clerk's office. On March 22, 1988 Respondent wrote to the attorney advising him the documents had been sent to the Town Clerk and that he would forward the recorded documents when he received them from the Town Clerk.

2. After some time had passed the attorney had not received from Respondent the recorded Deed, and the client's check for the Property Transfer Tax had not been cashed. In September 1990 the attorney contacted Respondent's office and received a written reply indicating that as a result of a clerical error in Respondent's office the documents had not been filed. Respondent assured the attorney that the documents would be recorded promptly.

3. In March 1991, when the attorney had not received the documents, he again contacted Respondent's office. Respondent wrote a letter to the local Town Clerk enclosing the documents for recording along with his office check to cover the recording fees.

4. Again the documents were not recorded. When the out of state attorney still had not received the recorded deed, he contacted Respondent's office on January 8, 1992 and January 17, 1992 and spoke to Respondent's secretary. Respondent did not receive these telephone messages. The out of state attorney received no response from Respondent. Several days later the attorney wrote to the local Town Clerk who indicated that the documents in question had not been recorded.

5. Upon being notified of the complaint of the Board, Respondent confirmed that the documents had not been recorded. Respondent immediately hand-delivered the documents to the local Town Clerk together with his office checks to cover recording fees and property transfer tax.

6. It appears that it was a simple oversight that the documents were not recorded in 1988. Respondent has no explanation as to why there was no follow up to be sure the documents were recorded later on. Respondent

assumes full responsibility for this neglect. Although the March 1991 package of documents was misplaced either by Respondent's office or the Town Clerk's office, Respondent again did not follow up to be sure of proper recording. His check to the Town Clerk for recording was carried by his office as uncashed for eleven months without investigation.

Conclusions of Law

The Board finds that Respondent's conduct here violated DR 6-101(A) (3), (neglect of a matter.)

Sanction

The Board has imposed a private admonition, consistent with Standard 4.44 of the ABA Standards for Imposing Lawyers Sanctions. That Standard provides, "admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client and causes little or no actual or potential injury to a client".

Mitigating facts present include no prior disciplinary offenses, absence of a dishonest or selfish motive, free and full disclosure to the Board and a cooperative attitude toward the proceedings and payment out of Respondent's own funds for recording and property transfer tax. The only aggravating factor is that despite several opportunities to correct the problem over a two and one-half year period, Respondent failed to do so until the Complaint was filed by this Board.

Dated this 4th day of June, 1993.

PROFESSIONAL CONDUCT BOARD

/s/

J. Eric Anderson, Chairman

/s/

/s/

Deborah S. Banse, Esq.

/s/

Nancy Foster

/s/

Anne K. Batten

Joseph F. Cahill, Jr., Esq.

/s/

Rosalyn L. Hunneman

/s/

Nancy Corsones, Esq.

/s/

Robert P. Keiner, Esq.

/s/

Christopher L. Davis, Esq.

/s/

Donald Marsh

Paul S. Ferber, Esq.

/s/

Karen Miller

/s/

Edward Zuccaro, Esq.

/s/

Ruth Stokes

Jane Woodruff, Esq.