

7 PRB

[31-May-2000]

STATE OF VERMONT
PROFESSIONAL CONDUCT BOARD

In Re: Kathryn Kent, Respondent

PCB File Nos.: 99.39, 99.52, 99.53 and 99.94

DECISION NO. 7

This matter was before Hearing Panel Number Two, comprising Martha Smyrski, Michael Filipiak and Douglas Richards, at Springfield, Vermont, on March 31, 2000. Present at the Hearing, in addition to the members of the Panel, was Michael Kennedy, Deputy Disciplinary Counsel. The matter for consideration concerned filings by Michael Kennedy, Deputy Disciplinary Counsel, in the matters noted as PCB File Nos. 99.39, 99.52, 99.53 and 99.94.

Because of the nature of this particular matter as to Petitions Of

Misconduct charging Kathryn Kent with violations of the Code Of Professional Responsibility, notices and Motion by Mr. Kennedy requesting that Admission of the Charges in the Petitions Of Misconduct, the Panel transmitted Notice Of Hearing under date of January 24, 2000 to the Sheriffs of Windham County and Bennington County requesting personal service of process, or an attempt at personal service of process, upon Ms. Kent. The Notice Of Hearing recited that matters to be considered by the members of Hearing Panel Number Two were Motion of Michael Kennedy, Deputy Disciplinary Counsel, dated October 19, 1999, consideration of evidence and exhibits and determination of Conclusions Of Law And Sanctions.

The Sheriff of Windham County, by Return dated January 31, 2000, recited "unable to serve the Defendant, had not lived there for at least one year and had not picked up mail, Post Office is holding mail."

The Sheriff of Bennington County, by Return dated March 8, 2000, recited "returned unserved, unable to locate Kathryn Kent at the address given, 532 Main Street, it being occupied by other persons."

Motion of Deputy Disciplinary Counsel Michael Kennedy, dated October 19, 1999 with attached exhibits, captioned "Motion To Deem That The Respondent Has Admitted The Charges In The Petitions Of Misconduct", as previously received by the Panel, was considered and following oral argument by Mr. Kennedy, granted. The Motion, with attached exhibits, as to Petitions of Misconduct, service of process and exhibits is by adoption

and reference made a part of this Panel's Findings Of Fact. In addition, there is attached and by reference adopted as part of the Findings Of Fact, single-page letter captioned, "Kent No. 1, 3-31-00," dated 8/1/98, directed to Shelley A. Hill, Bar Counsel, executed by David R. Singiser, captioned, "David R. Singiser, Kathryn A. Kent, Attorneys At Law, Bennington, Vermont."

As a further part of this Panel's Findings Of Fact, there is attached hereto and by reference made a part of these Findings Of Fact, separate Petitions Of Misconduct, dated September 24, 1999 and October 11, 1999. In addition to the foregoing Findings Of Fact, this Panel further finds the following as to the conduct of Kathryn Kent:

Kathryn Kent is an attorney licensed to practice law in the State of Vermont

Kathryn Kent was admitted to practice in the State of Vermont on September 10, 1996.

Kathryn Kent worked in a law office run by Attorney David Singiser.

On December 5, 1997, Attorney Kent entered an appearance on behalf of Roy Spofford in the matter docketed as Spofford v. Bennington Imports, et al., Dkt. No. 369-12-97 BnCv.

In her Notice of Appearance, Kathryn Kent indicated that she was co-counsel with Attorney Singiser.

The case was one in which the plaintiff alleged that the defendants had improperly terminated his employment.

On January 7, 1998, the defendants filed a Counter-Claim against Mr. Spofford.

On January 16, 1998, an Answer to the Counter-Claim was filed on behalf of Mr. Spofford.

During the course of the case, Mr. Spofford gave Kathryn Kent original documents relevant to this claim against his former employer.

By letter dated August 1, 1998, Attorney Singiser provided notice to the office of Bar Counsel that, as of that date, he was closing his office. The letter stated that Attorney Singiser would close several files that were still open and then would cease practicing law.

Kathryn Kent's name was on the letterhead.

The letter directed all future correspondence to P.O. Box 2333, West Brattleboro, Vermont 05301.

On August 5, 1998, Kathryn Kent informed the Board of Bar Examiners that her business address was P.O. Box 2333, West Brattleboro, Vermont 05301.

Kathryn Kent never notified Mr. Spofford or the Bennington Superior Court that she and Attorney Singiser had closed their practice.

In January of 1999, the Bennington Superior Court scheduled a Status Conference in the Spofford case after learning that Kathryn Kent and Attorney Singiser had left the State.

The Court sent notice of the Status Conference to Kathryn Kent.

The Court also sent notice to Mr. Spofford, due to its concern that Kathryn Kent would not notify her client.

Kathryn Kent did not appear for the Status Conference.

Mr. Spofford appeared at the Status Conference and informed the Court that he had been unable to contact Kathryn Kent and Attorney Singiser since November of 1998.

The issues in Mr. Spofford's case are sufficiently complex to require the assistance of counsel.

Prior to failing to appear at the Status Conference, Kathryn Kent never moved to withdraw from the case.

Kathryn Kent has not contacted the Court regarding Mr. Spofford's case since April of 1998.

Mr. Spofford has not heard from Kathryn Kent since November of 1998.

Mr. Spofford never asked Kathryn Kent to withdraw from the case.

Kathryn Kent never returned the file or any of the original documents that were provided to her by Mr. Spofford.

Mr. Spofford retained Attorney Berkeley Johnson after Kathryn Kent abandoned his case.

Kathryn Kent has not communicated with Attorney Johnson.

Kathryn Kent has not delivered the Spofford file to Attorney Johnson.

Without the file, and the original documents therein, Mr. Spofford's claim against the defendants has been prejudiced.

By letter dated June 2, 1999, the Office of Disciplinary Counsel asked

Kathryn Kent to respond to the allegations in a Complaint it had received from Judge Wesley.

The letter was sent to Kathryn Kent, Esq., P.O. Box 2333, West Brattleboro, Vermont 05301. That is the address that is on file with the Board of Bar Examiners as the Respondent's current address.

The address on file with the Board of Bar Examiners is the same address at which Attorney Singiser, in his letter announcing the closing of his practice, informed the Office of Bar Counsel he and Kathryn Kent could be contacted if necessary.

To date, Kathryn Kent has not answered the letter.

The letter was returned to the Office of Disciplinary Counsel marked "box closed, unable to forward."

Kathryn Kent has abandoned her law practice.

On October 5, 1999, a Hearing Panel found probable cause to believe that Kathryn Kent had violated the following provisions of the Code of Professional Responsibility: DR 1-102(A)(5), DR 1-102(A)(7), DR 2-110(A)(2) and DR 6-101(A)(3).

The Panel next turned its attention to consideration of Conclusions Of

Law to be applied in this matter. After consideration of oral argument by Michael Kennedy, Deputy Disciplinary Counsel and the Petitions Of Misconduct, this Panel concludes that Kathryn Kent has violated the Code of Professional Responsibility in the following manner:

Kathryn Kent violated DR 1-102(A)(5) of the Code of Professional Responsibility by failing to respond to a request from the Office of Bar Counsel and by failing to provide the Office of Bar Counsel and Board of Bar Examiners with a current address.

Kathryn Kent violated DR 1-102(A)(5) and DR 1-102(A)(7) of the Code of Professional Responsibility by abandoning Mr. Spofford and failing to return his file to him or his new attorney.

Kathryn Kent violated DR 2-110(A)(2) of the Code of Professional Responsibility by failing to take reasonable steps to protect a client's interests prior to effectively withdrawing from the representation by abandoning the client.

Kathryn Kent violated DR 6-101(A)(3) of the Code of Professional Responsibility by neglecting the legal matter entrusted to her by Mr. Spofford.

It is the Decision of this Board, based upon the foregoing, that the sanction to be imposed in this matter, as to Kathryn Kent, is suspension from the practice of law for a period of two years.

Dated at Springfield, Vermont on this 30th day of May, 2000.

HEARING PANEL NUMBER TWO

/s/

Douglas Richards, Chairman

/s/

Martha Smyrski

/s/

Michael Filipiak