

[Filed 28-Dec-2005]

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY BOARD

In re: PRB File No 2005.188

Decision No. 85

The parties filed a stipulation of facts and recommended conclusions of law. Respondent waived certain procedural rights including the right to an evidentiary hearing. The Panel accepts the stipulation and recommendation and orders that Respondent be admonished by Disciplinary Counsel for placing a false or misleading newspaper advertisement in violation of Rule 7.1 of the Vermont Rules of Professional Conduct.

Facts

Respondent is a partner in a two lawyer firm which placed an advertisement in the local paper referring to the firm as "[name] County's Premier Criminal Defense firm."

The partners cannot factually establish that they are indeed the county's "premier" criminal defense firm. Respondent has no previous discipline. This decision is issued in conjunction with the decision in PRB File No. 2005.250, the proceeding against Respondent's partner.

Conclusions of Law

Rule 7.1 of the Vermont Rules of Professional Conduct provides that:

A lawyer shall not make false or misleading communications about the lawyer or the lawyer's services. A communication is misleading if it: . . .

(b) is likely to create an unjustified expectation about results the lawyer can achieve, or . . .

(c) compares the lawyer's services with other lawyer's services, unless the comparison can be justified.

In In re PRB File No.2002.093, Decision No. 55 (June 9, 2003, amended Nov. 19, 2003), affirmed by Supreme Court Entry Order, January 12, 2004, the hearing panel found that advertising which identified the attorneys as "experts" in certain areas created "an unjustified expectation about the results the lawyer can achieve." The advertisement in the present case has the same problem and compels the same result.

Sanctions

For the above reasons the Hearing Panel orders that Respondent be admonished by Disciplinary Counsel for violation of Rule 7.1 of the Vermont

Rules of Professional Conduct.

Dated December 28, 2005

Hearing Panel No. 8X

/s/

Peter Bluhm, Esq.

/s/

Robert Butterfield, Esq.

/s/

Tim Volk

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