

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITH PROGRAM

In Re: Norman E. Watts

PRB File Nos. 2019-102 and 2020-011

Respondent's Productions Pursuant to Requests to Produce

1. Produce any and all Documents related to instances in which You were notified by a professional responsibility regulatory body that a complaint was filed against You.

Response: Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.

2. Produce any and all Documents related to incidents in which You were notified by a professional responsibility regulatory body that a complaint was filed against You.

Response: Response: Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.

3. Produce any and all Documents related to personal or emotional problems that contributed to or caused the violations of the Vermont Rules of Professional Conduct as alleged in the Petition.

Response: Objection – Respondent denies he violated the Vermont Rules of Professional Conduct as alleged in the Petition; without waiving, None.

4. Produce any and all Documents related to personal or emotional problems that contributed to or caused the violations of the Vermont Rules of Professional Conduct as alleged in the Petition.

Response: Objection – Respondent denies he Violated the Vermont Rules of Professional Conduct as alleged in the Petition. Without waiving, none.

5. Produce documents sufficient to identify Your Compensation from Your Firm for the years 2014-2020.

Response: Objection - the request as not relevant to the allegations of the Petition, proportional to the needs of the matters under consideration, helpful to the panel in its deliberations and constitutes an invasion of privacy and secure proprietary information.

6. Produce all phone records for You, Your Firm and any other phone You used to communicate with clients from August 2017 through April 2019. To address the confidentiality of all other clients besides G.A., the records may be redacted to remove all but the last four digits of other clients' phone numbers.

Response: Objection – the request as not relevant to the allegations of the Petition, proportional to the needs of the matters under consideration, helpful to the panel in its deliberations and constitutes an invasion of privacy and secure proprietary information. Further, Respondent's firm has not retained phone bills or statements because payments are made online without paper statements.

7. Produce all Documents related to the analysis You conducted in 2018 that led You to the conclusion that G.A.'s claim for violation of the implied covenant of good

faith and fair dealing would not survive the motion for judgment on the pleadings filed by the defendant in the matter.

Response: First, the decision was based on Respondent's professional judgment that the claim was legally and factually unsupported by the evidence produced during discovery, contrary to the client's initial factual claims that led Respondent to accept the case. Second, covenant of good faith and fair dealing applies only when it is supporting by or related to a contractual relationship between the parties. The client reported that, as a matter of standard practice that the defendant relied on the voting of peers to determine promotions and always retained the ballots submitted by the employee interviewers. So, for the claim, we were banking on that point – the defendant's standard practice (which could be shown as an implied contract) and the ballots would be in evidence to prove the defendant ignored them in selecting the other candidate for the promotion, violating the implied employment contract and, thus, covenant. Contrary to the client's initial interview claim and throughout the litigation, by the time we progressed through discovery and depositional process, the defendant appeared to comply with its prescribed employee promotion process. There was no independent testimony or documentation supporting the client's claim that the defendant had violated its promotion process. Hence, the covenant claim would be dismissed and might damage the court's view of the contract claim itself. At one of the last depositions, I advised the client

that it was my legal evaluation and judgment that we should not pursue it. He seemed to understand and did not protest.

8. Produce all Documents related to any financial transactions You undertook in your trust account or operation account any time after you received the December 19, 2018 letter written by Michelle Kainen, Esq, CPA, regarding the audit of Your trust account to correct or respond to the issues identified in the December 19, 2018 letter.

Response: The Respondent overhauled the firm's accounting practices by eliminating the refundable retainers that had been offered to clients prior to the Kainen audit. Thus, no client funds were received into the trust account after that date – as noted in Ms. Kainen's letter, which is in evidence. Any remaining client funds were returned to the clients. No client lost any money nor did Respondent keep any such funds.

9. To the extent not already produced in response to Request 8, produce all Documents related to any financial transaction You undertook in Your trust account and operating account any time after you Signed the February 21, 2019 Stipulation of Facts and Jointly Proposed Conclusions of Law in PRB File No. 2019-006 to correct or respond to the issues identified therein.

Response: Please refer to Response 8.

10. Produce all Documents related to G.A.'s retainer, including without limitation Documents reflecting where it was deposited, Documents reflectin any transfer of the retainer funds at any time, Documents reflecting Your record-keeping for those funds, and Documents reflecting Your return of the retainer funds to G.A. in 2020.

Response: Objection - The documents have already been produced to Counsel as part of the Kainen audit documentation, the settlement and the conclusion of the PRB 2019-006 matter.

11. Produce all Documents that show that any retainer You received from 2015 through 2019 was placed in Your trust account and held there for the duration of the litigation.

Response: Objection - The Respondent already been produced the requested materials to Counsel as part of the Kainen audit documentation, the settlement and the conclusion of the 2019-006 matter.

12. Produce all Documents to support Your claim made in response to Counts I and IV of the Petition that G.A. “besieged one of the firm’s paralegals multiple times with inquiries about the matter and the summary process and demanded the paralegal provide the same explanations to his wife.

Response: Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.

13. Produce all Documents related to Your assertion in response to Count IV that G.A. “contacted Respondent and the firm’s paralegal multiple times by telephone, seeking explanations of each step in the litigation process.”

Response: Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.

14. Produce any Documents related to Your assertion in response to Count IV that G.A. was “demeaning and condescending to the paralegal, a female.

Response: Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.

15. Produce all notices of depositions for G.A. and any other Documents setting for the the date of G.A.'s deposition.

Response: Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.

16. Produce all written communications between G.A. or G.A.'s wife on the one hand and any Person at Your Firm on the other hand,

Response: Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.

17. Produce all written communications from you or any Person at Your Firm to any other Person at Your Firm related to G.A.'s case.

18. Produce all written communications from You or any Person at Your Firm to any third-party related to G.A.'s case.

Response: Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.

19. Produce the underlying, contemporaneous timekeeping records for the \$1,215.09 set forth in Count V.

Response: Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.

20. Produce all Documents related [to] Your claim in response to Count V. that "The \$3,400 charge was at a discounted rate."

Response: Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation, including all the billing and payment records.

21. For each hourly employment litigation case You have worked on since 2010, produce Documents sufficient to show the total amount of legal fees You charged for each case and the phase of litigation at which each case was resolved.

Response: Objection - Objection – The request is for eleven years of information that is beyond the scope of the Petition and delves into client files no longer in the firm’s possession or control as our practice is to return all files to the clients at the conclusion of each case.

22. Produce all Documents related to any estimates of legal fees and expenses You have made in other hourly employment litigation cases.

Response: Objection - Objection – The request is for eleven years of information that is beyond the scope of the Petition and delves into client files no longer in the firm’s possession or control as our practice is to return all files to the clients at the conclusion of each case.

23. Produce all Documents supporting Your contention in response to Paragraph 24 of the Petition that You or anyone from the Firm spoke to G.A. about his retainer after Your representation of G.A. ended.

Response: Objection – The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the billing and payment records and related emails.

24. Produce all Documents You reviewed or consulted prior to stating in Your July 24, 2020 letter that You had already returned G.A.’s retainer to him.

Response: Objection - Respondent reviewed correspondence with G.A. that has already been produced to Counsel and spoke with the client, as observed in the referenced letter.

25. Produce all Documents related to Your statement in response to paragraph 30 of the Petition that G.A. “assured respondent that his son had won the lottery and he would bring the payments current for the remainder of the case.”

Response: Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications in voluminous amounts of emails.

26. Produce all Documents related to Your statement in response to paragraph 36 of the Petition that You “advised the client that is pattern of delayed payments might cause postponement of activities that would cause the balance to increase; that the remedy would be withdrawal.”

Response: Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.

27. Produce all Documents related to Your statements in response to paragraph 45 of the Petition, including any notes of conversations and e-mails with any Person related to those factual assertions.

Response: Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.

28. Produce the memorandum referenced in response to paragraph 51 of the Petition.

Response: Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.

29. Produce all Documents related to the calculations You created, per Your response to paragraph 55 of the Petition.

Response: Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.

30. Produce all Documents related to any estimate of fees and expenses You provided to J.H. including Documents related to any calculations You made and Documents you relied on in crating the estimates.

Response: Objection - The Respondent already produced all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.

31. Produce any list of witnesses You created during the courts of J.H.'s case and the date that list was created.

Response: Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.

32. Produce all Documents related to the decision to retain an expert in J.H.'s case including communications between you and J.H. regarding the cost of an expert.

Response: Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.

33. Produce all Documents related to the decision to your assertions in response to paragraph 67 of the Petition that the expert retained by You for J.H.'s case would not charge for his services.

Response: Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.

34. Produce all Documents related to Your assertion in response to paragraph 24 of the Petition that "Respondent indicated he would not charge for travel to the two west coast conferences with the client, not travel to depositions, the mediation or other in-state events."

Response: Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.

35. Produce all Documents related to the allegations in paragraphs 78 and 79 if the Petition.

Response: Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.

36. For those depositions that occurred in Boston, MA, Amherst, MA and Rochester, N.Y., produce all notices of depositions, subpoenas and e-mails scheduling the time and date of those depositions.

Response: Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails and pleadings.

37. Produce all Documents related to your assertions in response to the allegations in paragraph 80 of the Petition that “a) the Hotels were not ‘luxury,’ they were the only facilities available at the time; respondent was forced to stay an extra night because the return coach had already departed Boston; b) There were no charges for ‘unreasonable amounts’ for food and no charges at all for alcohol; hence receipts were not required.”

Response: Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails and expense statements.

38. Produce all Documents related to Your assertion in response to paragraph 87 of the Petition that “The engagement letter the client agreed to provided for the deduction of expenses from the retainer at the conclusion of the representation.”

Response: Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.

39. Please produce any policies, rules, intra-office memoranda or related Documents created in response to the audit conducted by Michelle Kainen, Esq., CPA, in 2018. This includes all e-mails or other intra-office communications related to any changes in policies.

Response: Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.

40.If you retain a testifying expert, please produce for each testifying expert: their resume or C.V., their file for this matter, all documents reflecting assumptions made for purposes of arriving at an opinion; all documents the expert relied on in forming an opinion and the expert's file.

Response: Respondent has not retained a testifying expert.

Dated: Quechee, Vermont on this July 7, 2021.

/s/ Norman E. Watts

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