

October 12, 2023

via email

Merrick Grutchfield
Program Administrator
Vermont Professional Responsibility Program
Office of the Court Administrator
109 State Street
Montpelier, Vermont 05609-0701

Re: PRB File No. 2022-124; 2023-076

Dear Merrick:

Attached please find Special Disciplinary Counsel's Petition of Misconduct and Certificate of Service in the above-referenced matter.

Thank you for your assistance.

Sincerely,

/s/ Samantha Lednicky

Samantha Lednicky
Special Disciplinary Counsel

Enclosures

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: W. Micheal Nawrath
PRB File No.

PETITION OF MISCONDUCT

In accordance with a finding of probable cause dated July 21, 2023, Special Disciplinary Counsel formally charges W. Michael Nawrath (Respondent) with the following violations pursuant to A.O. 9, Rule 11(D)(1)(b) as set forth below.

NOTICE TO RESPONDENT: This is a formal Petition of Misconduct. Pursuant to A.O. 9, Rule 11(D)(3), you are required to file an Answer within 20 days after served of the petition to the Professional Responsibility Program, 109 State St., Montpelier, VT 05609, with a copy to Special Disciplinary Counsel. Failure to file a timely answer may result in the face and charges being deemed admitted.

COUNT I

On or about January 17-18, 2022, W. Michael Nawrath, who was disbarred from the practice of law in Vermont in 2014 and has not been reinstatement, provided legal advice to G.G. and drafted a legal instrument in violation of Vermont Rules of Professional Conduct Rule 5.5(a). V.R.P.C. 5.5(a) (“A lawyer shall not practice law in a jurisdiction in violation of the regulations of the profession in that jurisdiction”); see also Administrative Order 41, § 2.

COUNT II

From on or about November, 2020 to the present, W. Michael Nawrath, has continuously and systematically provided legal advice and representation to John and Donna Benson, Brian and Susan Benson, and Mary Benson Herba in Docket No. 8B0623, and Docket No. 20-Env-00122 in violation of Vermont Rules of Professional Conduct Rule 5.5(a) and 5.5(b). V.R.P.C.

5.5(a) (“A lawyer shall not practice law in a jurisdiction in violation of the regulations of the profession in that jurisdiction”); V.R.P.C. 5.5(b) (“A lawyer who is not admitted to practice in this jurisdiction shall not ... establish ... [a] systematic and continuous presence in this jurisdiction for the practice of law.”); see also Administrative Order 41, § 2.

Facts Alleged in Support of Petition

2. Mr. Nawrath was disbarred from the practice of law in the State of Vermont effective March 14, 2014. He does not hold any other licenses to practice law.

3. The basis of Mr. Nawrath’s disbarment was numerous failures to respond to and communicate with clients, timely file responsive pleadings, comply with a Court Order, return client files, comply with the Rules of Procedure, misrepresent the status of a case to a client, and finally to respond to Disciplinary Counsel. Mr. Nawrath was found to have violated Rules 1.3; 1.4; 1.16(d) of the Vermont Rules of Professional Conduct and Rule 7(D) of Administrative Order 9. *In Re: W. Michael Nawrath*, Decision No. 169 (Aug. 30, 2017).

4. Mr. Nawrath reports that he “retired” from the practice of law in 2013 and was unaware of the decision to disbar him until approximately 2022. Mr. Nawrath’s LinkedIn profile states that he is a “Retired – Lawyer”. Apparently, Mr. Nawrath decided to retire but did not wind down his practice, notify the courts, or his clients.

5. Mr. Nawrath lives in Manchester Center, Vermont. He does not maintain a private office space in town and asserts that he does not hold himself out to the public as an actively practicing lawyer. However, his conduct demonstrates otherwise.

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6. He does have a home office where he stores files. He maintained a file for Gloria Grandinetti (G.G.), which he has since turned over to Attorney Corsones, including an original copy of the “First Amendment to Gloria C. Grandinetti Trust Dated August 24, 2016.”

7. On or about January 17, 2022, Mr. Nawrath reviewed a number of legal documents with G.G. in person at her home: a will, a revocable trust, power of attorney, and health care proxy form.

8. Mr. Nawrath reviewed and explained each document to G.G. He provided his opinion regarding the Trust document ‘included all her assets and that the Will was just a back-up document.’ He provided his opinion that the Trust did not accomplish her expressed wishes regarding permitting Michael Houlihan (M.H. had been cohabitating with G.G. for the previous 30 years, but they are unmarried) to stay in her home after her death. During this meeting Mr. Nawrath explained the specific terms and provisions in each documents to G.G. He asked her if that term or provision was something that she wanted in the document, and they discussed.

9. G.G. had difficulty reading, so Mr. Nawrath read each document to her aloud.

10. G.G. reportedly wanted to change the terms of the Trust regarding M.H. staying in her home after her death. Mr. Nawrath advised her that she would need to draft and execute an Amendment to the Trust to effectuate any changes to the terms he had just read her. He agreed to draft a Trust Amendment himself, that very night, and come back the next day. Mr. Nawrath agreed to do this given the ‘dire nature of her prognosis.’

11. Mr. Nawrath went home that evening and drafted a Trust Amendment. The next day, on January 18, 2022, Mr. Nawrath went back to G.G.’s home with his wife (a notary public), and reviewed the Trust Amendment with G.G. He then had her sign 3 or 4 separate

copies of the Trust Amendment. He read the Trust Amendment to G.G. word for word and confirmed that was the language she wanted to use.

12. No one assisted Mr. Nawrath in drafting the Trust Amendment nor reviewed it prior to it being signed by G.G. He had her sign multiple copies because ‘in his practice’ he knows that getting multiple originals is important. There was confusion regarding where she was supposed to sign and what words she was supposed to write (on one copy she wrote the words “trustee” and “grantor”). Mr. Nawrath maintained the original copies until turning them over to Attorney Christopher Corsones (Attorney for M.H. in pending estate litigation).

13. Mr. Nawrath had some concerns regarding G.G.’s testamentary capacity prior to January 17, 2022 (related to her cancer treatment and use of pain medication) but ‘determined,’ based on his professional judgment, that she had testamentary capacity as of January 18, 2022.

14. G.G. died on March 13, 2022.

15. After G.G. died, Mr. Nawrath communicated multiple times with M.H., advising him on what to do, including going to her bank with the trust documents to add M.H.’s name to G.G.’s accounts. Mr. Nawrath also provided advice to M.H. on what to do if G.G.’s son showed up at the house, and further had a conversation with the Chief of Police and M.H. regarding M.H.’s concerns.

16. Mr. Nawrath reports that he did not receive any compensation for his time or work.

17. There is ongoing probate litigation regarding the validity of the Trust Amendment. *See generally, In Re: Trust of Gloria C. Grandinetti*, Case No. 22-PR-03055.

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18. Mr. Nawrath currently ‘represents’ (in his words he is a “representative” pursuant to Act 250 Rule 14(C)) John and Donna Benson, Brian and Susan Benson, and Mary Benson Herba (collectively ‘the Bensons’) before the District Environmental Commission, Docket No. 8B0623, and Docket No. 20-Env-00122.

19. When asked the following question: “Are you representing the parties for whom you have submitted a petition? In what manner—**are you their attorney?**” (emphasis added) He response with the following: “I am representing the 5 parties on my Petition pursuant to Rule 14(C), as "other representative of his (and her) choice." **I am not appearing as an attorney** for them, **I am a "recovering attorney."** I try not to speak any Latin and try to be not quite so insufferable as I was before I retired, but Mr. Roy and Mr. Moore may beg to differ.” (emphasis added).

20. Mr. Nawrath filed a party status petition on November 17, 2020 on behalf of the Bensons. From approximately November 2020 through the present, Mr. Nawrath has filed responsive pleadings with the District Environmental Commission, communicated with opposing counsel and the Commissioners, participated in hearings, observed hearings, and provided legal advice to the Bensons. His responsive pleadings cite statutes and case law, and include legal analysis.

21. Prior to November 17, 2020, Mr. Nawrath represented the Bensons in a Developmental Review Board matter, Mr. Nawrath also provided the Bensons advice in 2013 or 2014 regarding a house they were building at the time. Essentially, Mr. Nawrath has been providing legal advice to the Bensons on and off since his disbarment in 2014 culminating in entering his appearance as their ‘Representative’ in the two pending dockets.

22. Mr Nawrath, when he held a license to practice law in Vermont, handled Act 250 matters. Presumably he used that experience and special knowledge to assist the Bensons. It is clear from his filings that the content requires legal skill and knowledge.

23. Mr. Nawrath reports he is not compensated for his time or work. However, in an email communication on June 25, 2021, he commented that an email must have been sent for the purpose of “run[ning] up the bill for the Bensons” without indicating that he was not in fact billing or being compensated for his time.

24. Mr. Nawrath reports that in all correspondences with opposing counsel he disclaims that he is “NOT A LAWYER.”

25. Mr. Nawrath does not believe that his representation of the Bensons constitutes the unauthorized practice of law.

Dated at Burlington, Vermont on this 12th day of October, 2023.



Samantha V. Lednicky
Special Disciplinary Counsel

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: W. Michael Nawrath
PRB File No. 2023-076; 2022-124

CERTIFICATE OF SERVICE

I certify that on October 12, 2023, W. Michael Nawrath (Respondent) was served with the Petition of Misconduct in accordance with A.O. 9, Rule 14. A. and Vermont Rules of Civil Procedure Rule 5, by sending a copy to Respondent at the address provided to special disciplinary counsel by Mr. Nawrath via certified mail with return receipt requested at the following address:

W. Michael Nawrath
462 Hillcrest Road
Manchester Center, VT 05255

And via email to W. Michael Nawrath at w.michael.nawrath@gmail.com.

Dated at Burlington, Vermont on this 12th day of October, 2023.



Samantha V. Lednicky
Special Disciplinary Counsel