

PCB 36

[28-Aug-1992]

PCB No. 36

STATE OF VERMONT  
PROFESSIONAL CONDUCT BOARD

In re: John G. Hutton, Esq., Respondent  
PCB File No. 89.15

NOTICE OF DECISION

Upon consideration of the stipulation submitted by bar counsel and respondent, the Professional Conduct Board finds that respondent is now in compliance with the Supreme Court's order of August 21, 1991 and has agreed to a specific timetable for submission of audit reports by a certified public accountant. The Board finds that further prosecution of this matter would not be productive. Accordingly, the pending petition to suspend Respondent from practice is dismissed without prejudice to renew should Mr. Hutton fail to comply with the disciplinary order and the stipulation of August 26, 1992.

Dated in Montpelier, Vermont, this 28th day of August 1992.

PROFESSIONAL CONDUCT BOARD

/s/

\_\_\_\_\_  
J. Eric Anderson, Chairman

/s/

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Deborah S. Banse, Esq.

/s/

\_\_\_\_\_  
Nancy Foster

/s/

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Anne K. Batten

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Shelley A. Hill, Esq.

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Joseph F. Cahill, Jr., Esq.

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Rosalyn L. Hunneman

/s/

\_\_\_\_\_  
Nancy Corsones, Esq.

/s/

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Robert P. Keiner, Esq.

/s/  
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Christopher L. Davis, Esq.

/s/  
\_\_\_\_\_  
Donald Marsh

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Hamilton Davis

/s/  
\_\_\_\_\_  
Karen Miller

/s/  
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Paul S. Ferber, Esq.

/s/  
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Edward Zuccaro, Esq.

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STATE OF VERMONT  
PROFESSIONAL CONDUCT BOARD

In re: John G. Hutton, Esq. Supreme Court Docket # 91-300  
PCB File # 89.15

STIPULATION

Bar Counsel Wendy S. Collins and Respondent John G. Hutton, Esq., by and through counsel, Frederick G. Cleveland, Esq., hereby agree and stipulate to the following:

1. On June 9, 1992 Bar Counsel filed a petition seeking suspension of Respondent from practice for failure to comply with the Supreme court's disciplinary order of August 21, 1991. By that order, Respondent was required to submit quarterly audits to the Professional Conduct Board.

2. On June 18, 1992 respondent retained a certified public accounting firm to conduct an independent audit of Respondent's attorney trust account.

3. On August 10, 1992, the accounting firm submitted an independent auditor's report, attached hereto, as Exhibit 1. The report demonstrates to the satisfaction of Bar Counsel that Respondent is now in compliance with DR 9-102(C). The report complies with the Supreme Court's disciplinary order.

4. Bar Counsel withdraws the pending petition to suspend Respondent from practice with leave to refile without prejudice in the event Respondent fails to comply with the terms of this stipulation.

5. Respondent agrees to file quarterly audit reports prepared by a certified public accountant at respondent's expense. These reports will be submitted to bar counsel within 60 days of the close of each quarter.

6. Beginning October 1, 1993 and continuing until September 30, 1995, respondent will file semi-annual audit reports prepared by a certified public accountant at respondent's expense. These semi-annual reports will be submitted to bar counsel within sixty days of the close of the first and third quarters of each year.

7. Beginning October 1, 1995 and continuing for a five year period,

respondent will file annual audit reports on or before December 1 of each year. These audit reports, prepared by a certified public accountant, will cover the 12 month period beginning October 1 and ending September 30.

8. In the event respondent fails to furnish the audit reports in accordance with this agreement or in the event that the audit report discloses any discrepancy, Bar Counsel may initiate disciplinary proceedings in accordance with Administrative Order 9.

/s/

\_\_\_\_\_  
Wendy S. Collins  
Bar Counsel  
August 26, 1992

/s/

\_\_\_\_\_  
Frederick G. Cleveland, Esq.  
Counsel for Respondent  
August 26, 1992

/s/

\_\_\_\_\_  
John G. Hutton, Esq.  
Respondent  
August 27, 1992

cc: Nancy Corsones, Esq.  
J. Eric Anderson, Esq.  
Ms. Rosalyn Hunneman

cc: Nancy Corsones, Esq.  
J. Eric Anderson, Esq.  
Ms. Rosalyn Hunneman

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JOHN G. HUTTON, ESQUIRE  
CLIENT TRUST ACCOUNT  
AUDIT REPORT AND FINANCIAL STATEMENTS  
FOR THE TWO YEARS ENDED JUNE 30, 1992

John G. Hutton, Esquire  
Waitsfield, Vermont

We have audited the accompanying schedule of cash receipts and disbursements of your client trust account for the two years ended June 30, 1992. Although we have rendered assistance in the preparation of the accompanying schedule, it is your responsibility. Our responsibility is to express an opinion on the accompanying schedule based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the accompanying schedule is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts in the accompanying schedule. An audit

also includes assessing the accounting principles you used and any significant estimates you made, as well as evaluating the overall presentation of the accompanying schedule. We believe that our audit provides a reasonable basis for our opinion.

At your request, we have summarized the significant audit procedures we used:

a. We read pertinent sections of the Code of Professional Responsibility and the orders, stipulations and correspondence related to your case with the Professional Conduct Board. We secured your understanding in writing of what a CPA audit would entail and what assurances we would attempt to give. We received a substantial retainer from you before starting.

b. We inquired of you and Dennis Bache about the methodology used to reconstruct the client ledger as of July 1, 1990 and reconcile it to the balance in the client trust account. We reviewed workpapers prepared by Mr. Bache and correspondence on the matter. It appears the total amount of trust fund obligations at July 1, 1990 was approximately \$5,900 at which time the trust account had a balance of approximately \$3,400 - a difference of \$2,500. You restored that difference in installments as you were advised by Mr. Bache, \$368.57 in the third quarter of 1990 and \$1,004.01 on October 25, 1990. The remaining unaccounted balance of \$1,286.03 was characterized by him as "balances due John G. Hutton from clients." When it became apparent that collection of those amounts was problematic, you were advised in January of 1992 to pay that balance into the trust account, which is reflected in the entry \$1,332.27 in the first quarter of 1992.

#### INDEPENDENT AUDITORS' REPORT

(continued)

c. We inquired of you about your accounting systems and your understanding of the appropriate use of the trust account.

d. We tested transactions which included over 50% of all disbursements and receipts recorded in the trust account for the two years ended June 30, 1992. Testing included tracing to cancelled checks and reconciling to documents in the file such as settlement statements.

e. We tested the account balance at June 30, 1992 by reviewing the bank reconciliation and tracing the bank balance to the bank statement. We also reconciled the balance in the trust account at June 30, 1992 to the client balances in your client trust ledger.

f. We scanned the accounts receivable ledger and bank statements for your law practice, searching for misplaced trust account transactions. We inquired of you about the completeness of these records, your billing and collecting procedures, etc. We also scanned your law practice checking account for routine personal drawings for living expenses, an indication that law practice or trust funds were not deposited directly to a personal account.

g. We compared the relationships on the schedule of cash receipts and disbursements to our expected relationships. We traced each of client trust balances as of September 30, 1991 to subsequent disbursements in

early 1992.

h. We obtained written representations from you as to the completeness of your financial records, accuracy of your responses to our inquiries, and absence of any related party transactions or material events occurring between June 30, 1992 and August 10, 1992 (the date of our report).

In our opinion, the schedule of cash receipts and disbursements referred to above presents fairly, in all material respects, the cash transactions in the client trust account for the two years ended June 30, 1992, in conformity with the cash basis of accounting.

This report is intended solely for your use in meeting requirements of the Vermont Professional Conduct Board and should not be used for any other purpose.

Respectfully submitted,

HULL FOTHERGILL SEGALE & VALLEY  
Vermont Board of Public Accountancy

License Number 92-0000110

JOHN G. HUTTON, ESQ.  
CLIENT TRUST ACCOUNT  
SCHEDULE OF CASH RECEIPTS AND DISBURSEMENTS  
FOR THE TWO YEARS ENDED June 30, 1992

CASH BALANCE - JULY 1, 1990		3,381.48
Transactions July 1, 1990-September 30, 1990		
Cash receipts		
Ruetzler - Cassidy	30,195.36	
Interest	37.85	
John Hutton	368.57	
Total cash receipts	<hr/>	30,601.78
Cash disbursements		
Ruetzler - Cassidy	30,195.36	
Duncan - Bardes	1,687.50	
Vermont Bar Foundation - interest transfer	44.82	
Debit memo - copies	15.75	
Total cash disbursements	<hr/>	(31,943.43)
CASH BALANCE - SEPTEMBER 30, 1990		<hr/> 2,039.83
Transactions October 1, 1990 - December 31, 1990		

Cash receipts	3,100.00	
Ruetzler	500.00	
Jope	37.95	
Interest	1,004.01	
John Hutton		
	<hr/>	
Total cash receipts		4,642.30
Cash disbursements		
McNally	47.61	
Ruetzler	3,100.00	
Jope	500.00	
Friedman - Tuttle	1,625.00	
Vermont Bar Foundation - interest transfer	32.25	
	<hr/>	
Total cash disbursements		( 5,305.20)
CASH BALANCE - DECEMBER 31, 1990		<hr/> 1,376.93

JOHN G. HUTTON, ESQ.

CLIENT TRUST ACCOUNT

SCHEDULE OF CASH RECEIPTS AND DISBURSEMENTS

FOR THE TWO YEARS ENDED JUNE 30, 1992  
(Continued)

Transactions January 1, 1991 - March 31, 1991

Cash receipts		
Gaylord	75,307.00	
Ruetzler - NSB	10,000.00	
Rader - Reilly	25,391.08	
Moore - Guardino	780.00	
R & R Deslauriers	57,793.87	
Grace - Hale	600.00	
Interest	103.73	
	<hr/>	
Total cash receipts		169,975.68
Cash disbursements		
Gaylord	75,307.00	
Ruetzler - NSB	10,000.00	
Flanagan	171.19	
Rader - Reilly	24,766.04	
Moore - Guardino	780.00	
R & R Deslauriers	57,793.87	
Vt. Bar Foundation - interest transfer	105.97	
	<hr/>	
Total cash disbursements		(168,924.07)
CASH BALANCE - MARCH 31, 1991		2,428.54

Transactions April 1, 1991 - June 30, 1991

Cash receipts		
Grace - Hale	700.00	
Interest	25.32	
	<hr/>	
Total cash receipts		725.32
Cash disbursements		
Grace - Hale	1,200.00	
Vt. Bar Foundation - interest transfer	28.60	
	<hr/>	
Total cash disbursements		( 1,228.60)
CASH BALANCE - JUNE 30, 1991		1,925.26

JOHN G. HUTTON, ESQ.

CLIENT TRUST ACCOUNT

SCHEDULE OF CASH RECEIPTS AND DISBURSEMENTS

FOR THE TWO YEARS ENDED JUNE 30, 1992

(Continued)

Transactions January 1, 1992 - March 31, 1992

Cash receipts		
Grace	150.00	
Bardes - Duncan	1,350.00	
Ruetzler	15,195.74	
Christiano	86,369.55	
Snow	1,682.57	
Interest	23.78	
John Hutton	1,332.27	
	<hr/>	
Total cash receipts		106,103.91
Cash disbursements		
Bardes - Duncan	1,350.00	
Ruetzler - Sonhar	15,195.74	
Christiano	86,369.55	
Runcie - Wood	46.75	
Cedar Valley, Inc.	100.00	
Zinn - Catone	100.00	
Sellers - Connell	55.00	
Posnick - Linden	334.96	
Macomber - Ruf	1,300.00	
Grace	250.00	
Vt. Bar Foundation - interest transfer	22.20	
John Hutton	56.60	
	<hr/>	
Total disbursements		(105,180.80)

CASH BALANCE - MARCH 31, 1992 1,789.62

Transactions April 1, 1992 - June 30, 1992

Cash receipts

Bardes - Duncan	2,324.55
Cahnman	71,615.93
Runcie - Wood	.50
Johnson	120.00
Schofield - Melindy	96,850.00
Interest	89.41
Bank error	.60

Total cash receipts 171,000.99

JOHN G. HUTTON, ESQ.

CLIENT TRUST ACCOUNT

SCHEDULE OF CASH RECEIPTS AND DISBURSEMENTS

FOR THE TWO YEARS ENDED JUNE 30, 1992

(Continued)

Cash disbursements

Snow	1,682.57
Bardes - Duncan	2,324.55
Cahnman	71,615.93
Johnson	120.00
Schofield	96,850.00
Vt. Bar Foundation - interest transfer	50.41
Check charges	28.97

Total cash disbursements (172,672.43)

CASH BALANCE - JUNE 30, 1992 118.18  
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June 30, 1992 cash balance comprised of:

Due to John Hutton	71.63
Interest not yet transferred	46.55

118.18  
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