

PCB 93

[07-Jul-1995]

STATE OF VERMONT
PROFESSIONAL CONDUCT BOARD

In re: PCB File No. 94.21

NOTICE OF DECISION

Decision No. 93

This matter was presented to us by stipulated facts which we adopt as our own and herein incorporate by reference.

Briefly summarized, the facts of this case involve a violation of the confidentiality provisions of the lawyer disciplinary system.

Respondent learned from his client that his client had filed a complaint with the Professional Conduct Board against opposing counsel in pending litigation. Respondent, who has been a Vermont lawyer for over 20 years, revealed that information to opposing counsel's associate who appeared as substitute counsel at a child support hearing. Respondent later discussed the complaint with the magistrate. Further, Respondent obtained a copy of the complaint and provided it to the substitute counsel. Complaints filed against attorneys are confidential unless and until probable cause is found that an attorney violated the Code of Professional Responsibility. No

such formal charges had been filed against the opposing counsel. There are certain exceptions to this rule under Rule 11B of the Permanent Rules Governing the Establishment of the Professional Conduct Board and its Operation, Administrative Order 9. However, none of those exceptions applied here.

By violating the confidentiality provisions of the attorney disciplinary system, Respondent engaged in conduct prejudicial to the administration of justice in violation of DR 1-102(A)(5).

Respondent has substantial experience in the practice of law and a history of prior discipline, although remote in time. In mitigation, Respondent had no dishonest or selfish motive and has co-operated fully with bar counsel.

In the past we have imposed private admonitions in cases where lawyers have engaged in similar misconduct. See *In re PCB File 91.49, Decision #45* (December 4, 1992). This sanction is consistent with Section 7.4 of the ABA Standards for Imposing Lawyer Sanction, given the aggravating and mitigating circumstance present.

A private letter of admonition will issue.

Dated at Montpelier, Vermont this 7th day of July, 1995.

PROFESSIONAL CONDUCT BOARD

/s/

Deborah S. Banse, Chair

/s/

George Crosby

Donald Marsh

/s/

Joseph F. Cahill, Esq.

Karen Miller, Esq.

/s/

Nancy Corsones, Esq.

Mark Sperry, Esq.

/s/

Paul S. Ferber, Esq.

Robert F. O'Neill, Esq.

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Nancy Foster

Ruth Stokes

/s/

/s/

Rosalyn L. Hunneman

Jane Woodruff, Esq.

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Charles Cummings, Esq.

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