

118.PCB

[14-Feb-1997]

STATE OF VERMONT

PROFESSIONAL CONDUCT BOARD

In re: Norman R. Blais, Esq., Respondent
PCB Docket No. 95.13

FINAL REPORT TO THE SUPREME COURT

Decision No. 118

Procedural History

In November of 1992, bar counsel received a complaint from one Ozzie Preiss of Colorado, alleging that his Vermont lawyer, respondent here, had failed to provide an accounting as to how his funds had been spent. Complainant also alleged that respondent had failed to answer his letters inquiring into this matter.

On November 15, 1993, bar counsel sent a copy of this complaint to respondent and asked for an answer to these allegations. She received no response. She renewed the request three months later.

Respondent answered on March 7, 1994, explaining that he was in the process of trying to clear up the confusion as to what monies, if any, were owed to the client. He included copies of letters written to the complainant and to out-of-state lead counsel, attorney Larry Pozner of Denver. He stated that he would provide bar counsel with additional information after he heard from Mr. Pozner.

Bar counsel heard nothing further from respondent. She wrote to him on April 13, July 28, and August 19, 1994, each time asking for a status report. Respondent did not answer any of these letters. The chair of the Professional Conduct Board wrote to respondent on September 7, 1994, requesting a response to the allegations and advising him that failure to respond could result in imposition of sanctions. Respondent did not answer. Bar counsel sent a certified letter on January 20, 1995, asking for a response. Respondent did not answer.

On February 15, 1995, bar counsel sent respondent a certified letter, informing him of her intent to seek a suspension of his license unless he began co-operating with her investigation. Respondent began co-operating on February 27, 1995, and continued to do so until May of 1995, when he told bar counsel that he was going to retain counsel. Bar counsel heard nothing further from respondent or his counsel, other than a response to a telephone inquiry in September of 1995, at which time respondent provided the name of his lawyer.

In November of 1995, bar counsel instituted disciplinary proceedings by filing a request for a probable cause review. The petition of

misconduct which gives rise to the instant action was filed on December 13, 1995. It alleged violations of Administrative Order 9, Rule 6D, DR 1-102(A) (5), and DR 9-102(B) (3).

A hearing panel held a hearing into this matter on May 29, 1996. The parties presented a stipulation of facts, attached hereto and incorporated herein by reference. The parties presented testimony and argument on the issue of conclusions of law and sanctions, issues upon which they did not agree.

The stipulated facts set forth not only the above history of non-co-operation with the investigation, but also facts demonstrating a failure to promptly provide an accounting of client funds upon request. The hearing panel concluded that respondent had violated all of the disciplinary rules as charged. It recommended that a sanction of public reprimand be imposed.

A hearing on this matter was held before the full Board pursuant to Rule 8D on December 6, 1996. Both parties submitted briefs. Bar counsel, respondent, and respondent's counsel appeared and addressed the Board.

Facts

Respondent agreed to serve as local counsel in the defense of an interstate federal drug prosecution. Lead counsel was Larry Pozner of Colorado. The defendant and mutual client was Ozzie Preiss.

Respondent agreed to provide legal services on an hourly basis. In order to pay respondent's fee, Mr. Pozner transferred to him approximately \$4,500.00 of Mr. Preiss' funds in May of 1992. On October 23, 1992, Mr. Pozner transferred another \$5,000. By March of 1993, counsel were successful in their efforts to win transference of this prosecution to Colorado, although respondent continued to handle matters in Vermont into April of 1993.

Respondent's relationship with this defense was primarily through Mr. Pozner, who controlled the client account. Mr. Pozner did not demand a strict accounting of respondent's time. In fact, the October 1992 transfer of \$5,000 was made after Mr. Pozner noted to respondent that respondent had put a considerable amount of effort into the case and had probably earned another \$5,000.

The incidents which give rise to this disciplinary action began in March of 1993 when Mr. Preiss, having been convicted in the Colorado federal court, telephoned respondent demanding information about the \$15,000 in fees which Mr. Pozner had given him. He wanted to know what respondent had done to earn those fees.

Respondent was initially startled. He knew he had received nearly \$10,000 in fees, but recalled nothing about an additional \$5,000. He wondered if perhaps he had misrecorded client funds or, worse yet, office staff had embezzled them. He was also concerned that there might be some problem between Mr. Pozner and Mr. Preiss. Respondent was very concerned that Mr. Pozner would be accused of wrongdoing by Mr. Preiss and that he (respondent) would be caught in the middle of this dispute.

Respondent went over his books. His records did not show receipt of

\$15,000. As to what he had done to earn the fees, he had not kept a running account of the hours spent on Mr. Preiss' defense. However, he was able to go over his schedule and determine how much time he had spent on the case. He was able to determine that of the nearly \$10,000 which Mr. Pozner had provided, defendant was entitled to a refund of \$837.14.

On June 9, 1993, respondent wrote a check for this amount. He did not mail this check, however, or contact either Mr. Preiss or Mr. Pozner to discuss the issue.

On July 20, 1993, Mr. Pozner wrote to respondent about Mr. Preiss' often expressed hope that a refund of fees from respondent could be used to pay other legal bills owed in Colorado. Mr. Pozner wrote, "Please draw up an itemization for him or at least get him a check for any monies you have left in trust." Respondent did not answer.

On November 17, 1993, Mr. Preiss wrote to respondent. The letter stated, in pertinent part,

I have asked you, through Larry Pozner, Esq., of the law firm of Pozner, Hutt & Kaplan, P.C. for a detailed account of hours and expenses that may have occurred when you allegedly represented me in certain criminal matters.

It is my understanding that the law firm of Pozner, Hutt & Kaplan, P.C. in Denver, Colorado, transferred \$15,000.00 to your trust account. Is that true?

If so, and at this time I have no reason to doubt that this in fact did occur, then, as we have asked so many times, where did my money go?

...

Please give me answers to the following questions and/or requests.

- a. A complete financial statement of where and to who my money was spent and why?
- b. Billing hours: A complete statement.
- c. Explain the relationship that existed or does exist between your law firm and the law firm of Pozner, Hutt & Kaplan, P.C. in Denver, Colorado.

Record, Exhibit 4 (emphasis in original).

Mr. Preiss asked for an answer by November 30, 1993. Respondent was still not certain about the \$15,000 claim. He did not respond to the letter.

Mr. Preiss wrote again on December 14, 1993, noting that respondent's failure to answer had caused him to become truly concerned. He stated that he would take legal action against respondent and file a disciplinary complaint unless he heard from respondent by December 28, 1993. Again, respondent did not answer.

Mr. Preiss began federal court proceedings to try to collect the funds he felt were owed to him. In support of that effort, Mr. Pozner executed an affidavit on February 3, 1994, stating that he had sent respondent \$14,412.14, and that he had requested on "numerous occasions...an itemization of his bill and an accounting of the money sent to him. In return, I have received neither phone calls nor letters from Mr. Blais."

Respondent received a copy of this affidavit. He then obtained counsel of his own to deal with this problem. Mr. Pozner eventually conceded that he had sent respondent approximately \$9,400, not the \$14,400 previously alleged. With the issue resolved of how much money Mr. Pozner had given to respondent, it was now clear to respondent that he owed Mr. Preiss only \$837.14, the amount of the check he had issued the previous June but never sent. On March 23, 1994, respondent's counsel sent Mr. Pozner that check along with a ledger sheet showing the receipt and disbursement of Mr. Preiss' funds.

The ledger sheet does not set forth a description or itemization of the time which respondent spent on Mr. Preiss' defense. The ledger sheet does, however, comply with the requirements of DR 9-102(C) in the way in which it was maintained.

Conclusions of Law

Respondent argued that his conduct satisfied the requirements of DR 9-102(B)(3) because he did, in fact, "maintain complete records of all funds...of a client coming into [his] possession" by maintaining a ledger in accordance with DR 9-102(C). Bar counsel concedes as much.

The issue in this case concerns the second part of DR 9-102(B)(3). Did respondent "render appropriate accounts to his client regarding them"?

Respondent initially argued before the hearing panel that since he eventually did render an accounting of client funds to his client, albeit a year after the client asked for the information, he has complied with the letter of the law and that there is no clear and convincing evidence of a violation. Before this Board, respondent argued, inter alia, that a sanction no greater than private reprimand is warranted because respondent had understandable reasons for delaying. Respondent argued that it was appropriate to delay in rendering his accounting until the false accusation against him, i.e., that he had received \$5,000 more than actually received, was resolved.

We cannot agree that it is appropriate to ignore multiple requests from an incarcerated, out of state client who asks his lawyer to explain to him (1) how much of the client's money the lawyer received and (2) what the lawyer did with the money. By simply ignoring this request for so many months, respondent failed to carry out his fiduciary duties to his client as required by DR 9-102(B)(3).

The client also asked for an hourly itemization of how respondent spent his time on the client's behalf. Respondent never provided this information to Mr. Preiss. Respondent did not keep records of his work on an hourly basis, although he was able to reconstruct his time in June of 1993, when he calculated that a refund was due of \$837.14.

If respondent had agreed to handle this defense on a flat fee basis, his inability to provide an hourly breakdown of services rendered might be understandable. However, he agreed to provide services on an hourly basis. Respondent was obligated to provide a written break down of how those hours were spent. Without such an itemized statement of the services rendered, the client is unable to evaluate what services were rendered and whether the fees charged were reasonable.

Respondent argues that his relationship with out of state counsel was such that he felt that no hourly accounting was necessary. Indeed, the evidence shows that Mr. Pozner controlled the purse strings. Until the question of an accounting came up, Mr. Pozner gave respondent every indication that his fees were reasonable and appropriate. Respondent argues that his failure to track his time is understandable in light of Mr. Pozner's conduct and expectations.

Lead counsel's conduct does not justify respondent's failure to answer the client's request for an accounting. Once the client asked respondent for an accounting, it was incumbent upon respondent to make some attempt to respond. Ignoring him was inappropriate.

Respondent compounded the problem by also ignoring the disciplinary process. For twelve months he ignored multiple letters from bar counsel and the chair of this Board, asking for his co-operation with this investigation. There was no justifiable excuse for such conduct. It clearly violated DR 1-102(A) (5) (conduct prejudicial to the administration of justice) and A.O. 9, Rule 6 D. See *In re Bailey*, 157 VT.424 (1991).

Sanction

We have engaged in considerable discussion as to what the appropriate sanction in this case should be. There is not a general consensus within the Board as to whether the failure to render appropriate accounting under the particular facts of this case, standing alone, mandates a public or a private sanction. However, we need not reach that issue. Respondent's conduct in failing to respond to bar counsel's multiple requests for information over a 12 month period, coupled with his failure to respond to the client for an equally lengthy time, places this case squarely in the realm of a public sanction.

We find no justification for respondent's "head in the sand" response to bar counsel's investigation, particularly in light of the fact that respondent has himself served as special bar counsel in the past and understands how the disciplinary system works. It is essentially a system of self-regulation that requires the co-operation of all members of the bar if it is going to work fairly and efficiently. There are times when failure to co-operate - even when the underlying complaint turns out to be a minor violation - requires public discipline. See, e.g., *Matter of Grochowski*, R.I. , 687 A.2d 77 (1996) (lawyer who was exonerated of two allegations of neglect was suspended for three months for failing to comply promptly with bar counsel's request for information and for being dilatory in the closing of an estate); *In re Kove*, 103 A.D.2d 968, 478 N.Y.S.2d 191,103 (A.D. 3 Dept. 1984) (lawyer who neglected estate would have been privately disciplined but instead was publicly censured for failure to co-operate with disciplinary proceedings); see generally, Annotation, Failure to Cooperate with or Obey Disciplinary Authorities as Grounds for Disciplining Attorneys - Modern Cases (1985).

Our recommendation is also supported by applicable Standards 4.43 and 6.23 of the ABA Standards for Imposing Lawyer Discipline. Respondent acted knowingly in neglecting his duties to the disciplinary system; he acted negligently in not carrying out his duty to account to his client. There was injury to the lawyer disciplinary system in that time and resources were wasted trying to obtain respondent's co-operation, co-operation which should have been extended as a matter of course.

Since Mr. Preiss eventually received his refund, there was no actual injury, although he had to resort to a law suit in order to obtain satisfaction. To the extent that Mr. Preiss remains interested in learning how the hourly fees were earned, there is injury to him in that his request for that information remains unanswered.

In aggravation, we find that respondent has been disciplined on one prior occasion and that he has substantial experience in the practice of law. In mitigation, respondent enjoys an excellent reputation in the legal community for honesty and integrity. He is well respected by many of his colleagues. None of these factors, however, is sufficient to move the recommended sanction above or below those cited by the Standards.

Dated this 14th day of February, 1997.

PROFESSIONAL CONDUCT BOARD

/s/

Robert P. Keiner, Esq. Chair

/s/

/s/

Joseph F. Cahill, Jr., Esq.

Charles Cummings, Esq.

/s/

/s/

Paul S. Ferber, Esq.

Michael Filipiak

/s/

Nancy Foster

Rosalyn L. Hunneman

/s/

Karen Miller, Esq.

Robert F. O'Neill, Esq.

Alan S. Rome, Esq.

Mark L. Sperry, Esq.

/s/

Ruth Stokes

/s/

Jane Woodruff, Esq.

/usr3/wsc/blais.finaldec

STATE OF VERMONT

PROFESSIONAL CONDUCT BOARD

In re: PCB File No. 95.13
 Norman R. Blais, Esq. -- Respondent

STIPULATION OF FACTS

NOW COME Shelley A. Hill, Bar Counsel, and Norman R. Blais, Respondent, and hereby stipulate to the following facts:

1. Norman R. Blais was admitted to practice law in the State of Vermont on October 5, 1976 and is currently on active status.
2. Attorney Larry S. Pozner of Denver, Colorado represented Ozzie Preiss in an illegal drug matter. In early 1992, Mr. Pozner learned that Mr. Preiss was to be indicted in the District of Vermont. Mr. Pozner retained Mr. Blais as local counsel on behalf of Mr. Preiss.
3. In May, 1992 Mr. Pozner had transferred \$4,412.14 held in trust for Mr. Preiss to Mr. Blais. Mr. Blais was to work on an hourly basis. Mr. Pozner advanced another \$5,000 of Mr. Preiss' to Mr. Blais on October 23, 1992.
4. Mr. Preiss was represented in a competent manner. Mr Blais met all of Mr. Pozner's requests and followed all of his directives satisfactorily, except for Mr. Pozner's request for "an itemization or at least a check [for amounts owed to Mr. Pozner]" (paragraph 7, below). The case was ultimately transferred back to federal court in Colorado in January, 1993.
5. In March, 1993, Mr. Preiss called Mr. Blais, indicating that Mr. Pozner had told him he had paid Mr. Blais \$15,000 and demanded to know what Mr. Blais did for that amount of money. Mr. Preiss was very upset. Mr. Blais believed he had been paid less than \$10,000. However, the call startled him and he was concerned that he might have received an additional \$5,000 without having a record of it. He did not respond to Mr. Preiss' inquiry; Mr. Blais did not want to get caught in the middle of a dispute between Mr. Pozner and Mr. Preiss. Mr. Blais was very concerned that Mr. Pozner would be accused of wrongdoing by Mr. Preiss and that he (Mr. Blais) would be "caught in the middle" of this dispute.
6. Mr. Blais was still local counsel for Mr. Pozner and Mr. Preiss as of March, 1993 (see letter from Mr. Pozner dated March 16, 1993, Exhibit 1) and into late April, 1993, (see letter from Blais to Pozner dated April 21, 1993, Exhibit 2).

7. On July 20, 1993, Mr. Pozner wrote to Mr. Blais on behalf of Mr. Preiss. Mr. Pozner stated, "Please draw up an itemization for him or at least get him a check for any moneys you have left in trust." (A copy of the letter is attached as Exhibit 33). Mr. Blais had already drafted a check on June 9, 1993 for \$837.14, the amounts owed to Mr. Preiss. Mr. Blais did not send the check because of the uncertainty about the total amount paid to Mr. Blais. The uncertainty was resolved in March, 1994. The check was sent to Mr. Pozner on March 23, 1994.

8. On November 17, 1993, Mr. Preiss wrote to Mr. Blais requesting an opportunity by November 30, 1993. Mr. Blais still was not certain about the \$5,000 claim by Mr. Preiss. Mr. Blais did not respond. (A copy of the letter is attached as Exhibit 4).

9. On December 14, 1993, Mr. Preiss wrote to Mr. Blais again, extending his deadline for the requested accounting no later than December 28, 1993. Mr. Blais did not respond. Mr. Blais still was not certain about the \$5,000 claim by Mr. Preiss. (A copy of Mr. Preiss' letter is attached as Exhibit 5).

10. On February 3, 1994, Mr. Pozner wrote out an affidavit indicating that he had forwarded a total of \$14,412.14 in fees to Mr. Blais on behalf of Mr. Preiss and that he had requested on "numerous occasions...an itemization of his bill and an accounting of the money sent to him. In return, I have received neither phone calls nor letters from Mr. Blais." A copy of this affidavit was sent to Mr. Blais.

11. Some time during the winter of 1994, Mr. Pozner acknowledged that he had made a mistake and that Mr. Blais had actually only been paid \$9,412.14. Thereafter, on March 23, 1994, Mr. Blais, through his counsel, sent to Mr. Pozner a copy of his ledger sheet on Mr. Preiss. The ledger showed an unused balance of \$837.14, a check for which had been prepared to send to Mr. Pozner on June 9, 1993, two months after Mr. Preiss' first telephone demand to Mr. Blais. (Attached is the ledger sheet as Exhibit 6).

12. It has been determined that Mr. Pozner was incorrect that he had paid to Mr. Blais just under \$15,000 - the total forwarded to Mr. Blais was \$9,412.14.

13. Mr. Blais has provided no accounting of the funds transferred to him, as requested by his client, other than a ledger sheet (Exhibit 6). Mr. Blais is not now in a position to provide any further financial statement. In lieu of an accounting, Mr. Blais has available to refund to Mr. Preiss an additional \$1,000 out of his fee.

14. Bar Counsel received the complaint from Mr. Preiss on November 10, 1993. On November 15, 1993, Bar Counsel forwarded to Mr. Blais a copy of the complaint and asked for a response. Mr. Blais did not respond.

15. On February 16, 1994, Bar Counsel again forwarded a copy of the complaint to Mr. Blais and reminded him of the need for a response. On March 7, 1994, Mr. Blais forwarded to Bar Counsel copies of letters he sent to Mr. Pozner and to Mr. Preiss attempting to clear up the confusion about the extra \$5,000 payment that Mr. Pozner thought he had made to Mr. Blais. He said he would contact Bar Counsel as soon as he heard back from Mr. Pozner.

16. On April 13, 1994, Bar Counsel wrote to Mr. Blais asking about the status of his inquiry to Mr. Pozner and told him that a decision on the complaint needed to be made in the near future. Mr. Blais did not respond.

17. On July 28, 1994, Bar Counsel again wrote to Mr. Blais requesting a response by August 19, 1994. Mr. Blais did not respond.

18. On September 7, 1994, the Chair of the Professional Conduct Board wrote to Mr. Blais indicating that the case had been opened up for full investigation and requested a response to Bar Counsel within 20 days. The Chair noted that Bar Counsel had requested on four occasions a response from Mr. Blais, to no avail. The Chair informed Mr. Blais that failure to respond to requests from Bar counsel may constitute a separate violation. Mr. Blais did not respond.

19. On January 20, 1995, Bar Counsel sent a certified return receipt letter to Mr. Blais, demanding a response to later than February 6, 1995. Mr. Blais did not respond.

20. On February 15, 1995, Bar Counsel sent a certified return receipt letter to Mr. Blais, informing him that the process to solicit suspension of his license to practice law would be begun on February 27, 1995. Mr. Blais cooperated from that date (February 27, 1995) through May, 1995. Since then the following has occurred:

A. In June, 1995, Bar Counsel telephoned Respondent, who stated he had decided to retain the services of an attorney. On July 7, 1995, Bar Counsel wrote to Respondent and inquired about his attorney. Respondent did not respond.

B. On July 19, 1995, Bar Counsel wrote Respondent asking him if he was or was not going to retain an attorney. Respondent did not respond.

C. On September 6, 1995, Bar Counsel telephoned Respondent, who stated that he had retained a specifically-named attorney and he would have him contact Bar Counsel. Neither attorneys did so.

D. On September 19, 1995, Bar Counsel called Respondent and left a message for him to have his attorney contact her. Neither attorney did so.

E. On September 21, 1995, Bar Counsel called Respondent and left a message for him to have his attorney contact her. Neither Respondent nor his attorney did so.

21. Mr. Blais had no reasonable grounds for neglecting to respond to Bar Counsel's inquiries after April, 1994, until he responded in February, 1995. Bar counsel and Respondent do not concur about the "reasonableness" of Respondent's non-responsiveness from June, 1995 forward.

22. Mr. Blais knew that Bar Counsel had made the requests set out in paragraphs 14-20, above and knew that he had not responded except as above.

23. Mr. Blais has received one prior sanction, a private admonition for violation of DR 6-101(A) (3) in PCB File No. 91.10 on February 14, 1990.

24. Mr. Blais has substantial experience in the practice of law.

DATED at Burlington, Vermont this 29th day of May, 1996.

/s/
Norman R. Blais, Esq.
Respondent

/s/
Shelley Hill, Bar Counsel

/s/
Stephen S. Blodgett,
Attorney for Respondent

EXHIBIT 1

March 16, 1993

Norman R. Blais, Esq.
289 College Street
Burlington, VT 05401

Dear Norm:

Enclosed are recent pleadings in Ozzie's case. As you can see, the case is wide open and Vermont is doing everything possible to get us back there and prosecute us without the benefit of a plea bargain. I will keep you informed, but the case is still open and you are still on it.

Sincerely,

Larry S. Pozner

LSP/jab

Enclosures

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EXHIBIT 2

NORMAN R. BLAIS
Attorney
289 College Street
Burlington, Vermont 05401

April 21, 1993

Jeffrey Jarvis
United States District Court
P.O. Box 945
Burlington, Vermont 05402

RE: United States v. Ozzie Preiss
Docket No. 5:92cr32-3

Dear Jeff:

On September 17, 1992, a hearing was conducted before Magistrate Niedermeier with respect to the various motions pending before him with respect to this case. Evidence was not taken at that hearing, but argument of counsel was presented.

Mr. Preiss's case has been transferred for resolution to the District Court in Colorado, but counsel out there needs a copy of the transcript of that hearing as it pertains to the arguments of the government and defense counsel on the motion to sever.

If it is possible for the court reporter to segregate that portion of the argument, and prepare a transcript for me, I would be most appreciative. Otherwise, I need a transcript of the hearing as it pertained to Mr. Preiss.

If pre-payment of all or a portion of the transcript is required, please notify me and I will get that to the reporter immediately.

Thank you for your kind attention to this matter.

Sincerely,

/s/

Norman R. Blais, Esq.

NRB:kl
cc: Larry Pozner, Esq.

EXHIBIT 3

July 20, 1993

PERSONAL AND CONFIDENTIAL

Norman R. Blais, Esq.
289 College Street
Burlington, VT 05401

RE: USA v. Preiss

Dear Norm:

Ozzie has gone to prison, but his memory runneth until time remembers naught--or some such words. Every time I speak to him, he presses to get from you an accounting of legal fees, as he still owes money to another law firm in Colorado and hopes that a partial refund from you will equal a partial payment to them.

I know how this kind of message drafts to the bottom of a lawyer's stack of things to do, but I really think you would be better off getting this done with so that Ozzie is out of your life and the case can be closed, so please draw up an itemization for him or at least get him a check for any monies you have left in trust.

By the way, did Greg Waples every talk to you about the results in Colorado? I certainly hope our victory here has done nothing to hurt your relationship with him there; but don't worry -- you can always blame it on me.

Sincerely,

Larry S. Pozner

LSP/jab

-

EXHIBIT 4

Ozzie Preiss
23840-013
Federal Prison Camp
9595 West Quincy
Littleton, Colorado 80123

17 November 1993

Mr. Norm Blaise
Attorney at Law
289 College Street
Burlington, Vermont 05401

Dearest Norm:

As you know, I am quite concerned about the relationship that we have, or did have.

I have asked you, through Larry Pozner, Esq, of the law firm of Pozner, Hutt & Kaplan, P.C. for a detailed account of hours and expenses that may have occurred when you allegedly represented me in certain criminal matters.

It is my understanding that the law firm of Pozner, Hutt & Kaplan, P.C. in Denver, Colorado, transferred \$15,000.00 to your trust account. Is that true?

If so, and at this time I have no reason to doubt that this in fact did occur, then as we have asked so many times, where did my money go?

I want answers to the following questions....and I am sure that you understand that the problems simply will not go away.

Please give me answers to the following questions and/or requests.

- a. A complete financial statement of where and to who my money was spent and why.
- b. Billing hours: A complete statement.
- c. Explain the relationship that existed or does exist between your law firm and the law firm of Pozner, Hutt & Kaplan, P.C. in Denver, Colorado.

By your refusal to answer these questions, which we have posed to in the past, certainly creates a doubt in my mind of your fiduciary responsibility.

By the way, and I'm sure you understand, that the problems that you have created will not just "go away."

I need answers, let's say by November 30, 1993, don't you agree?

At that time, maybe you could also explain to me in better detail than that of my limited understanding the following;

- a. The purpose of the Bar Counsel?
- b. The purpose of the Professional Conduct Board?
- c. The purpose of the Disciplinary Counsel, Supreme Court?
- d. Fiduciary Duty?

I am sure that this must be some what of a misunderstand on your part, and the amount of money that is due back to me is substantial.

Once you have answered by request's, I will provide you with the name and address of the person in which you could send my money to.

I look forward to hearing from you by November 30, 1993.

Your Obedient Servant,

/s/

Ozzie Preiss

cc: Larry Pozner, Esq.

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EXHIBIT 5

Ozzie Preiss
23840-013
Federal Prison Camp
9595 West Quincy
Littleton, Colorado 80123

14 December 1993

Mr. Norm Blaise
Attorney at Law
289 College Street
Burlington, Vermont 05401

Dear Mr. Blaise:

You are in receipt of my certified letter dated 17 November 1993. It appears that one Kara Lanphear signed for it on November 22, 1993.

It would appear that you have chosen not to answer my inquiries, and now I am truly concerned.

In my letter of November 17, 1993, I suggested that I needed answers to my request by November 30, 1993. Well, the deadline has come and gone, with no answer from you.

You, unfortunately, leave me no alternative but to take legal action against you under Rule 3 and 4 of the Rules of Civil Procedure, and advise the Professional Conduct Board of your actions.

I know how unpleasant these actions can be, so once again before I commence these actions, I am going to give you one more opportunity to answer my letter of November 17, 1993.

I expect you reply by December 28, 1993.

Very truly yours,

/s/

Ozzie Preiss

cc: Larry Pozner
One copy sent to Norm Blaise Certified Mail

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ENTRY ORDER

SUPREME COURT DOCKET NO. 97-061

MAY TERM, 1997

In re Norman R. Blais, Esq.	}	Original Jurisdiction
	}	
	}	
	}	Professional Conduct Board
	}	
	}	
	}	DOCKET NO. 95.13

In the above-entitled cause, the Clerk will enter:

Pursuant to the recommendation of the Professional Conduct Board filed February 18, 1997, and approval thereof, it is hereby ordered that Norman R. Blais, Esq. be publicly reprimanded for the reasons set forth on pages 3-10 of the board's Final Report attached hereto for publication as part of the order of this Court. A.O. 9, Rule 8E.

BY THE COURT:

/s/

Jeffrey L. Amestoy, Chief Justice

/s/

Ernest W. Gibson III, Associate Justice

/s/

John A. Dooley, Associate Justice

/s/

James L. Morse, Associate Justice

/s/

Denise R. Johnson, Associate Justice