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1-Jun-2000]

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY BOARD

In Re: PCB File No. 99.172

DECISION NO. 8

A Hearing on this matter was held before Hearing Panel No. 2, comprising Martha Smyrski, Michael Filipiak and Douglas Richards, on March 31, 2000.

Present were Respondent and her attorney. Michael Kennedy, Deputy Disciplinary Counsel was present for the office of Disciplinary Counsel. Before the Panel, for its consideration, was a Motion For Protective Order, Stipulation of Facts, Joint Recommendation as to Conclusions of Law, Recommended Sanctions, as filed by the parties.

The Panel, first, considered Deputy Disciplinary Counsel's Motion For Protective Order, After oral argument by both parties, the Motion was granted.

The Panel also considered the proposed Stipulation of Facts by the parties of the testimony of the Respondent and oral argument by Respondent's attorney and Deputy Disciplinary Counsel. Following those presentations, the Panel adopted as its Findings of Fact in this matter, the following:

At all times relevant to this case, the Respondent was an attorney licensed to practice law in the State of Vermont. She was admitted on June 13, 1994.

In 1995, the Complainant filed to divorce her husband.

The Respondent took the Complainant's case with her after opening her own practice.

On March 6, 1997, a Family Court entered a final Divorce Order that awarded the marital residence to the Complainant, free and clear of any interest of her ex-husband.

The marital residence was, and is, located in Vermont.

The Respondent, on behalf of the Complainant, was supposed to file a Quit Claim Deed with a Town Clerk's office reflecting the fact that the Complainant had been awarded the marital residence.

The Complainant phoned the Respondent several times between March of 1997 and October of 1998 to inquire whether she had filed the Quit Claim Deed.

In October of 1998, the Respondent told the Complainant that she had not filed the Quit Claim Deed but would do so.

In March of 1999, a wall at the Complainant's house collapsed.

The Complainant and her two children were forced to wear extra clothing and blankets just to stay warm.

The Complainant went to a bank to apply for a home improvement loan.

The Complainant's application for a loan was denied because her ex-husband's name was still listed as a record owner.

The Complainant called the Respondent to instruct her to file the Quit Claim Deed so that she could get her loan approved.

The Complainant telephoned the Respondent on March 2, 10 and 25 of

1999.

She telephoned the Respondent on April 7, 9, 12, 13, 14, 15, 16, 20, 21, 22, 26 and 27. She telephoned again on May 6 and June 3. The Complainant did not speak to the Respondent during any of these telephone calls but left messages for the Respondent.

The Respondent did not return the telephone calls.

On May 18, 1999, the Complainant filed a Complaint with the Office of Bar Counsel.

On June 17, 1999, the Respondent filed the Quit Claim Deed with the Town Clerk's office. The Deed was recorded on June 18, 1999.

The Respondent has expressed remorse.

The Respondent has cooperated fully with the Office of Disciplinary Counsel.

The Panel, next, considered the parties Joint Recommendation As To Conclusions of Law and arguments by both attorneys.

After consideration the Panel concludes that Respondent violated DR 6-101(A)(3) by neglecting a legal matter entrusted to her. Specifically,

Respondent failed to ensure that a Quit Claim Deed was filed in the Town Clerk's office that reflected the file and Divorce Order awarding her client the marital residence, free and clear of her ex-husband's interests. In addition, Respondent failed to return numerous telephone messages at her office from the Complainant.

On the matter of sanctions, the Panel considered the parties separate recommendations. It also heard oral argument by Deputy Disciplinary Counsel and the Respondent's attorney.

It is the Decision of this Panel that a private admonition with the following imposition of conditions be imposed on the Respondent:

Respondent shall, within six months of the date of this Decision, complete a continuing legal education seminar, or course, as prepared by the Vermont Bar Association, or an equivalent, on the law and practice of Family Law.

Respondent shall, within six months of the date of this Decision, complete a continuing legal education seminar, or course, as prepared by the Vermont Bar Association, or an equivalent, on the law and practice of Law Office Management.

Respondent shall, at the earliest practical date, apply for and attend what is promulgated and operated by the Vermont Bar Association for recent

admissions, and as identified as "Rookie Camp."

Respondent shall, forthwith, procure legal malpractice insurance with limits of not less than \$500,000.00.

Dated at Springfield, Vermont this 30th day of May, 2000.

HEARING PANEL NO. 2

/s/

Douglas Richards, Chairman

/s/

Martha Smyrski

/s/

Michael Filipiak