PCB 52

[13-Mar-1992]

ENTRY ORDER

SUPREME COURT DOCKET NO. 92-135

MARCH TERM, 1993

In re Thomas Pressley	}	APPEALED FROM:
	}	
	}	
	}	Professional Conduct Board
	}	
	}	
	}	DOCKET NO. 90.04

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

The decision of the Professional Conduct Board is affirmed and its recommendation for discipline is approved. Thomas Pressley is publicly reprimanded for violation of DR 4-101(B)(1) of the Code of Professional Responsibility by knowingly revealing a confidence of his client.

BY THE COURT:

/s/

_____
Frederic W. Allen, 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

No. 92-135

In re Thomas Pressley

Supreme Court

On Appeal from
Professional Conduct Board

March Term, 1993

A. Jeffrey Taylor, Rutland, for appellant

Wendy S. Collins, Special Bar Counsel, Montpelier, for appellee

PRESENT: Allen, C.J., Gibson, Dooley, Morse and Johnson, JJ.

PER CURIAM. Respondent Thomas Pressly appeals from a decision of the Professional Conduct Board recommending a public reprimand as discipline for his misconduct in violating Disciplinary Rule (DR) 4-101(B)(1) ("a lawyer shall not knowingly . . . [r]eveal a confidence or secret of his client"). DR 1-102(A)(1); A.O. 9, Rule 7.A.(4). We affirm and impose the recommended sanction.

In 1989, respondent, a member of the Vermont bar since 1975, represented complainant in connection with relief from abuse and divorce proceedings. Complainant informed respondent that her husband had a history of alcoholism, battering, and abuse. After a hearing at which she was represented by respondent, complainant was granted a temporary order requiring her husband to refrain from abusing her, and, by stipulation of the parties, temporary custody of the couple's two children with supervised visitation by the father. About a month later, respondent filed a divorce complaint on his client's behalf. The parties negotiated an agreement under which complainant would retain temporary custody of the children and her husband would be allowed unsupervised visitation. Complainant, on respondent's advice, reluctantly agreed to the visitation provision.

At that time, complainant told respondent that she was being harassed by her husband, that his alcoholism was a continuing problem, and that she wanted the children's visits with their father to be supervised. Respondent advised her, however, that there were insufficient legal grounds to require supervised visits. Complainant continued to press respondent to help her prevent her husband from continuing unsupervised visitation, but no motion was filed seeking supervised visitation.

Near the end of August 1989, complainant told respondent her suspicions, based on consultation with a counselor, that her nine-year old daughter had been sexually abused by the father. According to the counselor, a "yellow flag" went up when she observed several symptoms of abuse. Complainant told respondent her suspicions, the basis for them, and her plan to arrange for a doctor's appointment for the daughter, which she thought

might provide needed evidence against the father. She asked that respondent not discuss her suspicions or plans with her husband's lawyer.

In response to opposing counsel's question as to why the wife continued to request supervised visitation and whether sexual abuse was an issue in the case, respondent, notwithstanding his client's request, revealed to him the suspicions of sexual abuse. Respondent then asked the husband's lawyer not to communicate this information to the husband. The next day, opposing counsel wrote respondent stating, "I mentioned to [my client] the representation [your client] had made to you about their daughter making statements to her counselor about sexual abuse. . . . [They] are totally unfounded and he views them to be a blatant attempt on the part of [your client] to manufacture evidence to keep him away from his children."

Complainant confronted her attorney about the disclosure, and was told by respondent that he provided the information in response to questions from opposing counsel. Shortly thereafter, she discharged respondent, and retained new counsel. After the disclosure, complainant perceived that her husband became increasingly uncooperative, which heightened her sense of fear and anxiety and created emotional distress.

The report of the panel appointed to hear the wife's complaint was adopted verbatim by the Board, which agreed that respondent had violated disciplinary rule 4-101 of the Code of Professional Responsibility. In approving a public reprimand, the Board agreed that respondent, although he did not intend to harm his client, knew the disclosure he made was confidential.

Respondent raises numerous claims of error in the Board's determination and recommendation. He argues that the panel's findings that he acted "knowingly" and that complainant was injured by his conduct were not supported by the evidence; the Board's failure to find any additional mitigating factors was clearly erroneous; the sanction recommended is disproportionate when viewed in relation to other cases involving public reprimands; the Board's approval of the panel's findings, without issuing a separate written decision, violated Rule 8D of A.O. 9; and he was deprived of his due process rights because not all members of the Board received his brief prior to the issuance of the Board's decision. The basic premise of respondent's claim is that the discipline does not fit the infraction and that under the circumstances only a private admonition is warranted.

Findings of the Professional Conduct Board "shall not be set aside unless clearly erroneous." A.O. 9, Rule 8E. This Court also gives deference to the Board's recommendations on sanctions. In re Berk, 157 Vt. 524, 528, 602 A.2d 946, 948 (1991) (citing A.O. 9).

In recommending public reprimand, the Board looked to the American Bar Association's Standards for Imposing Lawyer Sanctions (ABA Standards). The standards are a model for imposing sanctions on attorneys based on the ethical duty involved, the party to whom the duty is owed, the lawyer's motives and intentions, and whatever injury is caused by the misconduct. Preface to ABA Standards. Section 4.2 of the ABA Standards provides guidance as to what sanctions are appropriate for failing to preserve a client's confidences. Absent aggravating or mitigating circumstances, Standard 4.22 generally recommends suspension when an attorney violates DR 1-104(B)(2) and the disclosure causes "injury or potential injury to a client." Standard 4.23 generally recommends a public reprimand when the lawyer negligently reveals a client confidence and "injury or potential

injury to a client" results. Standard 4.24 recommends a private admonition when the lawyer negligently reveals a client confidence and "little or no actual or potential injury to a client" results.

The Board found that respondent acted knowingly, not negligently. The Board, however, looked to Standards 4.23 and 4.24 for guidance in determining what sanction was appropriate even though those standards refer to a lawyer acting "negligently." The Board found the sanction of suspension, which it may have recommended for knowing disclosure, "too draconian" under the facts of this case. Respondent argues that his actions were in fact negligent and contends that the sanction should be reduced to a private admonition. The Board considered discipline to be a "close question" between a private or public reprimand.

Whatever mental state we ascribe to respondent's conduct, he should have known not to disclose his client's confidence. He testified before the panel that he knew the information was to be held in confidence, but felt that when pressured as to why his client wanted supervised visitation, informing opposing counsel was his best option. When asked whether he had thought of ending the conversation with counsel by stating that an attorney/client privilege precluded him from revealing anything further, he stated "If I say that, I think I'm letting the cat out of the bag also." He understood that he should not have revealed what his client had requested him to hold in confidence; therefore, his conduct satisfied the "knowingly" element of DR 1-102(A)(1).

"Knowingly" has two connotations, however. In addition to the knowledge respondent had that his conversations with his client were protected under the attorney/client privilege, the Board may consider in fashioning a sanction the degree and quality of the lawyer's knowledge in committing the violation; for example, whether respondent actually considered the repercussions of the violation on his client. That respondent did not actually understand the duty established by the Code is not the same as whether he committed the violation with knowledge of all probable consequences.

The Board gave respondent the benefit of the doubt on whether he knew that his disclosure to opposing counsel would cause his client anguish or jeopardize her case. If respondent did not actually know that his conduct would injure his client -- his conduct being negligent because of his good intention (good faith) in making the disclosure -- he still knew that his conduct violated a confidence. He nevertheless misunderstood his duty to disclose under the circumstances. If this is, for all practical purposes, negligence, we still fail to find error in the Board's determination that a public reprimand is the appropriate sanction.

Regardless of the Board's characterization of respondent's mental culpability, the Board's recommendation of reprimand is consistent with the prevailing standards for determining sanctions under such circumstances. The ABA standards advise public reprimand, even though the attorney may have acted in good faith and was merely negligent. That is as far as the Board went in its recommendation of discipline.

The Board found that complainant suffered "emotional distress" as a result of the disclosure, which "heightened her level of fear and anxiety." Respondent complaints that the Board did not sufficiently analyze the level of seriousness of the injury in light of the ABA Standard recommending at least a public reprimand when "injury or potential injury to a client" occurs. Further analysis, however, seems unnecessary in this case. As the Board discussed,

> Complainant was shocked by this news. She had relied upon respondent to protect the confidentiality of this information. She felt that Respondent had betrayed her trust.
>
> . . . .
>
> Respondent's conduct was injurious to his client to the extent that his actions caused her emotional distress. We do not find, however, that the disclosure had an adverse impact on the pending litigation although there was a potential for such injury.

That fairly sums up a finding of more than "little or no actual or potential injury," justifying more than a private admonition.

Respondent complains that the Board did not credit him with sufficient mitigating factors, including a failure to acknowledge his cooperative attitude, his good character and reputation, and the delay in the proceedings. The Board's decision, however, implicitly recognizes all of these factors to the extent they are warranted. The Board did not indicate a dim view of respondent's character or his cooperation. It spoke highly of him: "In mitigation we find an absence of a prior disciplinary record and the absence of a dishonest or selfish motive. Furthermore, it is clear from Respondent's testimony that he understands fully the nature of his misconduct and that he would not commit a like violation in the future." Respondent was himself responsible for some of the delay, and we fail to see how he was prejudiced by it.

Next, respondent argues that a public reprimand here would be disproportionate to other recent cases imposing the same sanction, citing four examples. Respondent's conclusory argument does not persuade us that the sanction imposed here demonstrates an inconsistent approach.

We adhere to the Board's recommendation. Respondent's infraction violated a core component of the attorney-client relationship, of which he, as an attorney in practice in this state for approximately sixteen years at the time of the infraction, should have been well aware. Respondent does not contend, nor does the record reflect, that his disclosure was intended or necessary to protect the child; rather, he claimed he felt compelled to inform opposing counsel because he was asked why complainant wanted supervised visitation. His hope that opposing counsel would not disclose the information to the husband demonstrates an acute naivete, rather than any intent to simply disregard his client's confidence. Consequently, we agree with the Board that a suspension would be too harsh. On the other hand, a private admonition would unduly depreciate the violation.

According to ABA Standard 1.2., it is "[o]nly in cases of minor misconduct, when there is little or no injury to a client, the public, the legal system, or the profession, and when there is little likelihood of repetition by the lawyer" that private discipline is appropriate. The Board found and we agree that respondent "will not make a similar error in the future," but complainant was obviously injured by the disclosure. Persons seek a lawyer's help not just for a favorable outcome or sage advice, but for the peace of mind that their interests are being taken into account and

protected. The Board's finding was not clearly erroneous. A sanction of public reprimand is appropriate under the circumstances.

Respondent's contention that the Board erred by not making separate findings is without merit. Administrative Order 9, Rule 8D, does not require the Board issue a separate written decision in a case where, as here, the Board agreed wholly with the findings, conclusions, and recommendations of the panel. Adoption of the hearing panel's decision is sufficient where the rationale for the outcome is apparent.

Last, we find no due process violation in the Board's issuance of its decision prior to the receipt of respondent's brief by all its members. Respondent was advised by a letter dated February 18, 1992, that his brief was to be submitted to each member of the Board "on or before March 9, 1992." Respondent concedes that his brief, dated March 9, was also mailed on that date; we must therefore conclude that it was not received by members of the Board by the deadline. Any injury that may have resulted was therefore self-inflicted.

The decision of the Professional Conduct Board is affirmed and its recommendation for discipline is approved. Thomas Pressly is publicly reprimanded for violation of DR 4-101(B)(1) of the Code of Professional Responsibility by knowingly revealing a confidence of his client.

BY THE COURT:

/s/
Frederic W. Allen, 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

NOTICE OF DECISION
PCB # 52

STATE OF VERMONT
PROFESSIONAL CONDUCT BOARD

IN RE: PCB File 90.04
Thomas Pressly, Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter was heard on November 26, 1991 before a hearing panel consisting of Christopher L. Davis, Esq., Chair, Hamilton Davis, and Joseph

F. Cahill, Jr., Esq. Present were Respondent, his counsel, A. Jeffrey Taylor, Esq. and Bar Counsel, Wendy S. Collins, Esq. The panel took testimony from Respondent, the Complainant and Jody Town. These proceedings continue to be governed by a protective order which prohibits disclosure of information which would identify the Complainant or her children.

Upon consideration of the relevant credible evident, the panel makes the following findings, conclusions and recommendations to the Professional Conduct Board:

Findings of Fact

1. Respondent was admitted to the Vermont Bar in 1975 and is currently practicing law in Rutland, Vermont.

2. The Complainant retained Respondent in 1989 to represent her in her divorce.

3. In April of 1989, Complainant obtained an ex parte temporary emergency relief from abuse order from a district court. The court as part of the relief from abuse proceeding awarded Complainant temporary custody of the two minor children of Complainant's marriage.

4. The follow-up relief from abuse hearing was heard on May 4, 1989. The Complainant appeared represented by the Respondent. Complainant's husband also appeared and was represented by an attorney. Based upon a stipulation entered into by the parties, the Court entered a final relief from abuse order which awarded to Complainant custody of the parties' two minor children and awarded the father the right to supervised visitation. This Order was to expire on July 4, 1989.

5. On June 22, 1989, Respondent filed a divorce petition on Complainant's behalf. A stipulation was subsequently negotiated whereby the Complainant would have temporary custody of the children and the father would have the right of unsupervised visitations with the children outside the marital residence. Complainant was unhappy with this resolution but, upon the advice of Respondent, agreed to it. A Temporary Order based upon this agreement was entered on July 31, 1989.

6. At the end of July and again in August 1989, the Complainant told Respondent that her husband was harassing her and that her husband's alcoholism was a continuing problem. Complainant told Respondent that she wanted a court order requiring that her husband's visits-with the children be supervised.

7. Respondent advised Complainant that there was insufficient legal grounds to obtain supervised visitation at that time. Complainant was distressed by this information.

8. After the execution of the Temporary Separation Agreement, Respondent telephoned opposing counsel on at least five to six occasion to discuss the issue of visitation and requested. Opposing counsel stated that his client would not accept supervised visits. Respondent did not file any motions with the Court seeking either a modification of the temporary order or any other assistance from the Court in order to obtain supervised visits.

9. During mid or late August 1989, Complainant told Respondent that Jody Town, a counsellor with the Women's Network, had concerns that Complainant's nine year old daughter might have been sexually abused by her father. The counsellor's suspicion was based upon a number of factors: the daughters history of unexplained urinary tract infections which had occurred several years before when the mother was working nights and the father was taking care of the children; the father having the daughter massage his nude buttocks; the father exposing his genitals to his son when the father was inebriated; the marital history which included alcoholism and battering; and the daughter's reaction to viewing a film called "Good Touch", Bad Touch." According to Ms. Town, these factors "raised a yellow flag regarding child abuse." Up until this point in time, the Complainant had no suspicion or concerns that her daughter had been sexually abused by her father or by anyone else for that matter.

10. Complainant was alarmed by the possibility that this suspicion could be true. She believed that she could do nothing to protect her daughter unless she had some physical evidence of sexual abuse or unless her daughter disclosed the sexual abuse to her or her daughter's counsellor.

11. The Complaint told Respondent about what Jody Town had informed her and that Respondent was concerned that her husband might be abusing her daughter. Complainant further told Respondent that she was going to arrange a "doctor's appointment" for her daughter immediately after the next scheduled visit between her husband and the daughter. Complainant did not identify the "doctor" or explain to Respondent whether she was referring to a medical physician, a psychologist, a psychiatrist or other health care professional. Respondent was also not informed by Complainant whether the "doctor's appointment" involved a physical examination of daughter. Respondent assumed that Complainant meant by "doctor's appointment" a psychological or psychiatric examination only.

12. Complainant asked Respondent not to discuss with her husband's attorney Complainant's concerns about possible abuse of her daughter and specifically Complainant's plans to have the daughter examined by a doctor.

13. On August 31, 1991 Respondent spoke by telephone with opposing counsel. Respondent told opposing counsel that the mother wanted the father's visits with the children to be supervised. Opposing counsel inquired why Respondent was continuing to make such a request. Opposing counsel then asked whether, among other things , the issue of sexual abuse was going to be raised in the case. Respondent stated that his client, the Complainant, had advised him of her many concerns about her husband's behavior including the possibility that he had sexually abused his daughter.

14. Respondent asked opposing counsel not to disclose this information to his client. Respondent expected that opposing counsel would abide by this request. Opposing counsel did not do so. At the hearing, Respondent acknowledged that opposing counsel had a duty to disclose such information to his client and that, were he in a similar situation, he would have felt obligated to do the same.

15. In his August 31, 1989 conversation with opposing counsel, Respondent also discussed other matters related to supervised

visitation including the appointment of an attorney to represent the children and family counselling.

16. Opposing counsel wrote a letter to Respondent the next day in which he told Respondent that he had discussed with his client the issues of supervised visits and the allegation of sexual abuse as raised by Respondent during their telephone conversation. Opposing counsel wrote, "I mentioned to [the father] the representation [that the Complainant] had made to you about their daughter making statements to her counsellor about sexual abuse."

17. During early September 1989, Complainant telephoned Respondent and told him that she had arranged a physical examination for her daughter to follow immediately the daughter's next scheduled visit with her father. Respondent then informed Complainant that he had already notified opposing counsel about Complainant's concern about possible sexual abuse.

Complaint was shocked by this news. She had relied upon Respondent to protect the confidentiality of this information. She felt that Respondent had betrayed her trust.

19. Complainant contacted her counsellor, Jody Town, and asked her to go with Complainant to a meeting with the Respondent. Complainant intended to confront Respondent about his unauthorized disclosure and wanted Ms. Town present for moral support.

20. Respondent met with Complainant and Ms. Town at his office. During the meeting, Respondent admitted that he had told opposing counsel about Complainant's suspicions that her husband was sexually abusing their daughter. He indicated that he had provided this information in response to opposing counsel's questions concerning why Complainant was still pursuing supervised visitation.

21. Shortly after the meeting, Complainant discharged Respondent as her attorney and requested that her file be turned over to another attorney.

22. Complainant believes that her husband became increasingly uncooperative during the remaining divorce proceedings once he learned about her suspicions of sexual abuse. Complainant testified that it was her job to protect her daughter and Respondent's actions prevented her from doing so. There is insufficient evidence for the panel to draw any conclusions as to whether or not Respondent's disclosure of her suspicions obstructed Complainant's efforts to protect her daughter. However, the panel does find by clear and convincing evidence that Respondent's disclosure of confidential information caused distress to Complainant and heightened her level of fear and anxiety.

23. The panel finds that Respondent did not intend to harm his client but that he did know that the information he revealed was confidential when he disclosed it. The panel also finds that at no time did Complainant consent to the disclosure.

Discussion and Conclusions of Law

Respondent is charged with violating DR 4-101 which prohibits an attorney from knowingly revealing a confidence or secret of his or her

client. There are four exceptions to this rule of prohibition.

A lawyer may knowingly disclose a secret or confidence if (1) the client consents after full disclosure, (2) the disclosure is required by law or court order, (3) disclosure is necessary to prevent the client from committing a crime, or (4) disclosure is necessary to collect a fee or to defend oneself against an accusation of wrongful conduct. None of these four exceptions apply here. DR 4-101(C).

Respondent does not dispute that-the disclosed information was a confidence within the meaning of DR 4-101(A). Respondent argues, however, that his disclosure was permissible because his client impliedly consented to it. He argues that when a client retains a lawyer, the client impliedly consents to the lawyer's using. confidential information in order to advance the interests of the client. Otherwise, according to the Respondent, a lawyer cannot zealously represent the interest of her or her client.

Respondent also claims that the disclosure was permissible because he was merely identifying potential issues in the case and thereby conveying information which was discoverable. He claims he tried to prevent disclosure to the opposing party by asking opposing counsel to keep the information secret.

The panel agrees with the position of Bar Counsel regarding Respondent's arguments. "[U]nder the Code there is no apparent provision for implied client consent to a lawyer's revelation of confidential information." Wolfram, Modern Legal Ethics, 306. Disclosure is only permissible upon explicit and informed consent of the client. Clearly no such consent existed here.

Even though Respondent was pressed by opposing counsel for a further explanation for Respondent's request for supervised visitation, Respondent should have indicated to the effect that he could not respond to that question. While such a response might have had the effect of alerting opposing counsel to the fact that sexual abuse (or a like matter) was a potential issue in the divorce, the decision whether to disclose that information belonged solely to the Complainant and not to the Respondent.

It should be emphasized that DR 4-101 prohibits revealing a client confidence or secret regardless of whether or not the attorney has been directed to not disclose. Here the violation is clear as Respondent was specifically directed by his-client not to reveal the confidence regarding her fears that her husband had sexually abused their daughter.

In conclusion, the panel finds that Respondent violated DR 4-101 in that he knowingly revealed a confidence of his client.

Sanctions

In determining the appropriate sanction we are guided by the ABA Standards for Imposing Lawyer Sanction, 1986. A lawyer's primary responsibilities are owed to his or her client. A crucial component of an attorney/client relationship is the confidentiality that exists and the duty of an attorney to protect a client's confidences and secrets disclosed to that attorney.

In the instant case, Respondent knew that the information that he disclosed (that his client had concerns that her daughter had been sexually abused by her husband) was confidential. Yet he knowingly disclosed this information. Respondent believed that he was obliged to disclose such information as it would eventually be discoverable. Assuming, without deciding, that it would eventually be discoverable, it, it was not discoverable at the time of the disclosure. As stated earlier, the right to reveal this information belonged solely to the Complainant and not to the Respondent.

Respondent's conduct was injurious to his client to the extent that his actions caused her emotional distress. We do not find, however, that the disclosure had an adverse impact on the pending litigation although there was a potential for such injury. A further aggravating factor is the fact that Respondent has sixteen years of experience in the practice of law.

In mitigation we find an absence of a prior disciplinary record and the absence of a dishonest or selfish motive. Furthermore, it is clear from Respondent's testimony that he understands fully the nature of his misconduct and that he would not commit a like violation in the future.

We have examined Standard 4.22 of the ABA Standards and the commentary thereto. That Standard suggests that suspension is generally appropriate when a lawyer knowingly reveals information relating to the representation of a client not otherwise lawfully permitted to be disclosed and the disclosure causes injury or potential injury to a client.

Standard 4.23 suggests that reprimand is generally appropriate when a lawyer negligently reveals such information and the disclosure causes injury or potential injury to a client. The commentary to Standard 4.23 states in pertinent as follows:

> Reprimand should be imposed when a lawyer negligently breaches a client's confidence. Even when the client is not actually harmed, the potential for harm to the client and damage to the professional relationship is so significant that a public sanction should be imposed.

Standard 4.24 suggests a private admonition where the disclosure was made negligently and with little or no injury to the client. Here the wrongful disclosure was not made negligently so Standards 4.23 and 4.24 are not directly applicable but are insightful when considering the relative degree of impropriety involved here.

Bar counsel concedes and we so hold that suspension from practice is too draconian under the circumstances of this case. On the other hand, this case presents a troubling situation in that Respondent violated a core component of the attorney/client relationship, the duty to protect the confidences of his client. Respondent acted in a good-faith, but incorrect, belief that such information had to be disclosed under the circumstances. Under these circumstances and placing great reliance upon the ABA standards, we believe that the appropriate sanction is imposition of a public reprimand. In reaching this conclusion we feel confident that Respondent will not make a similar error in the future. We are also cognizant of his lack of any prior misconduct. On the other hand, his violation was not a minor one, nor done negligently. Rather, it was

done knowingly based upon an incorrect understanding of his responsibilities to his client. For these reasons (although it is a close question because of the aforementioned strong mitigating factors), a private admonition would be an inadequate sanction.

The panel requests that the Board adopt these findings, conclusions and recommendations.

Dated at Barre, Vermont this 13th day of March, 1992.

/s/
_____
Christopher L. Davis, Esq.

/s/
_____
Joseph F. Cahill, Jr., Esq.

The sanction of public reprimand is approved and the findings are adopted. March 13, 1992.

PROFESSIONAL CONDUCT BOARD
/s/
_____
J. Eric Anderson, Chairman

/s/
_____
Rosalyn Hunneman

/s/
_____
Nancy Foster

/s/
_____
Anne K. Batten

/s/
_____
Joseph F. Cahill, Jr., Esq.

/s/
_____
Richard Brock, Esq.

/s/
_____
Shelley A. Hill, Esq.

/s/
_____
Christopher L. Davis, Esq.

/s/
_____
Karen Miller, Esq.

/s/
_____
Donald Marsh

/s/
_____
Leslie G. Black, Esq.

/s/
_____
Edward Zuccaro, Esq.

DISSENT:

/s/
_____
Deborah S. Banse, Esq.

/s/
_____
Nancy Corsones, Esq.