

IN RE: WILLIAM ALAN SNIDER

Order (Suspension) entered by the Superior Court of New Britain, Connecticut on January 27, 2005

Massachusetts reciprocal suspension entered by Justice Sosman on March 14, 2005.¹

SUMMARY²

On January 27, 2005, the Superior Court of New Britain, Connecticut, suspended the respondent for nine months commencing February 15, 2005. The memorandum of decision is incorporated in this summary.

On February 17, 2005, bar counsel filed a petition for reciprocal discipline in the Supreme Judicial Court for Suffolk County. On March 8, 2005, the parties waived hearing and assented to an order of reciprocal discipline. On March 14, 2005, the county court (Sosman, J.) entered an order suspending the respondent for nine months, effective immediately.

D.N. CV 04 0527192 S

STATEWIDE GRIEVANCE COMMITTEE v. WILLIAM SNIDER
SUPERIOR COURT J.D. OF NEW BRITAIN AT NEW BRITAIN
January 27, 2005

MEMORANDUM OF DECISION

The Statewide Grievance Committee has filed an Amended Presentment of Attorney Misconduct against the respondent William Snider pursuant to the provisions of §2-27(d) and §2-27(e) of the Connecticut Practice Book.

Facts:

An evidentiary hearing was held on October 25, 2004. During the hearing the parties submitted a pleading entitled Stipulation of Facts, signed by counsel for both parties and dated October 25, 2004.

The Stipulation of facts provides in pertinent part that:

As to Count One

1. Williams Snider was duly admitted as a member of the bar of the State of Connecticut on June 7, 1995.
2. The Respondent has not registered with the Statewide Grievance Committee since 2003, in violation of Practice Book §2-27(d) and (e).
3. On June 20, 2003, a reviewing committee of the Statewide Grievance Committee issued a reprimand to the Respondent in connection with Grievance Complaint #01-0885, Walkins v. Snider due to the Respondent's failure to communicate with his incarcerated client regarding the status of an appeal brought by the Respondent on

behalf of the client, in violation of Rule 1.4(a) of the Rules of Professional Conduct.

4. In and around January of 2003, the Respondent maintained a client's trust account at Fleet Bank (hereinafter "Fleet") account number #####.

5. On or around January 16, 2003, twelve (12) checks in the aggregate amount of \$142,577.38 were presented against the funds in the aforementioned Fleet account. The checks were honored by Fleet but caused the account to be overdrawn by \$44,358.00.

6. On January 27, 2003, Fleet notified the Petitioner of the overdraft in the Respondent's client's trust account in accordance with the provisions of §2-28 of the Connecticut Practice Book.

7. On January 31, 2003 and February 11, 2003, the Statewide Bar Counsel wrote the Respondent and requested a written explanation for the overdraft. The Respondent did not reply to either letter.

8. On February 27, 2003, the Statewide Bar Counsel filed a grievance complaint against the Respondent, #02-0846, Horwilch v. Snider, in accordance with Rule 9(B)(2) of the Statewide Grievance Committee's Rules of Procedure. The Complaint was referred to the New Britain Judicial District and Judicial District of Hartford for Geographical Area 12 and the towns of Avon, Bloomfield, Canton, Farmington and West Hartford Grievance Panel (hereinafter "the Grievance Panel") for investigation and to determine whether there was probable cause of misconduct.

9. The Respondent did not answer the grievance complaint.

10. On May 27, 2003, the Grievance Panel filed its written determination of probable cause with the Petitioner. The Grievance Panel concluded that there was probable cause that the Respondent violated Rules 1.15 and 8.4 of the Rules of Professional Conduct and Practice Book §§2-27 and 2-32(a)(l).

11. In light of the Grievance Panel's findings of probable cause, the grievance complaint was scheduled for a public hearing on September 2, 2003 at the Superior Court in Waterbury pursuant to Practice Book §2-35. Written notice of the hearing was mailed to the Respondent on July 31, 2003.

12. Prior to the hearing, the Respondent was served in hand with a subpoena duces tecum by State Marshal Francis T. Ragonese on August 20, 2003. The subpoena commanded the Respondent to appear at the September 2, 2003 hearing and to provide documentation regarding his client's trust account.

13. The Respondent failed to appear at the September 2, 2003 hearing.

14. The Respondent failed to offer any explanation for the overdraft notwithstanding the two written requests for explanation sent to him by the Statewide Bar Counsel in violation of Rule 8.1(2) of the Rules of Professional Conduct.

15. The Respondent failed to answer the grievance complaint in violation of Rule 8.1(2) of the Rules of Professional Conduct and Practice Book §2-32(a)(l)

16. The Respondent failed to appear at the September 2, 2003 hearing despite being provided written notice of it and being served in hand with a subpoena, and failed to produce the subpoenaed documents in violation of Rules 8.1(2) and 8.4(4) of the Rules of Professional Conduct.

As to Count Two

1. On June 15, 2001 the Respondent was appointed to represent Terrance Watkins in the appeal of Mr. Watkins' criminal conviction. The Respondent filed an appeal on behalf of Mr. Watkins.
2. On or around April 12, 2002, Mr. Watkins filed a grievance complaint against the Respondent, #01-0885, Watkins v. Snider, arising out of the representation in the criminal appeal.
3. Notwithstanding the pending grievance against him, the Respondent continued to represent Mr. Watkins in the criminal appeal. The Appellate Court affirmed the conviction on October 8, 2002.
4. Mr. Watkins thereafter expected the Respondent to file a petition for certification to the Connecticut Supreme Court.
5. On December 2, 2002, a reviewing committee of the Statewide Grievance Committee conducted a hearing on the Watkins grievance complaint.
6. At the grievance hearing, the Respondent, while under oath, testified that a petition for certification had been filed prior to the grievance hearing.
7. In fact, the Respondent had not filed a petition for certification and did not file a petition for certification until April of 2003.
8. Mr. Watkins learned from the Appellate Court that no petition for certification existed as of March 24, 2003 and thereafter filed another grievance complaint against the Respondent on April 14, 2003, #02-0985, Watkins v. Snider.
9. The Respondent did not file an answer to grievance complaint #02-0985.
10. Thereafter, grievance complaint #02-0985 was scheduled for a January 6, 2004 hearing before a reviewing committee of the Statewide Grievance Committee. On December 10, 2003, a subpoena duces tecum that was issued on behalf of the reviewing committee was served on the Respondent to compel his attendance at the hearing.
11. Despite being served in hand with the subpoena, the Respondent failed to appear at the January 6, 2004 hearing.
12. The Respondent failed to appear at the January 6, 2004 reviewing committee hearing despite being served in hand with a subpoena, in violation of Rule 8.1(2) and 8.4(4) of the Rules of Professional Conduct.
13. The Respondent failed to file an answer to the grievance complaint in #02-0985, Watkins v. Snider, in violation of Practice Book §2-32(a)(1).

Legal Standards

A "presentment proceeding is neither a civil action nor a criminal proceeding, but is a proceeding sui generis, the object of which is not the punishment of the offender, but the protection of the court." *Statewide Grievance Committee v. Rozbicki*, 219 Conn. 473, 483 (1991), cert. denied, 502 U.S. 1094, 112 S.Ct. 1170 (1992). The presentment proceeding serves as a "comprehensive disciplinary scheme [that] has been established to safeguard the administration of justice, and [was] designed to preserve public confidence in the system and to protect the public and the court from unfit practitioners . . . [The General Statutes and rules of practice] authorize the grievance committee to act as an arm of the court in fulfilling

this responsibility." (Citation omitted, internal quotation marks omitted.) *Massameno v. Statewide Grievance Committee*, 234 Conn. 539, 554, 663 A.2d 317 (1995); see also *Sobocinski v. Statewide Grievance Committee*, 215 Conn. 517, 525-26, 576 A.2d 532 (1990) (grievance committee is not an administrative agency but an arm of the court). "As officers and commissioners of the court, attorneys are in a special relationship with the judiciary and are subject to the court's discipline." (Internal quotation marks omitted.) *Statewide Grievance Committee v. Egbarin*, 61 Conn. App. 445, 450-51, 767 A.2d 732 (2001).

The grievance committee has the burden of proving the allegations of the complaint by clear and convincing evidence. *Statewide Grievance Committee v. Whitney*, 227 Conn. 829, 838, 633 A.2d 296 (1993). When misconduct is found, the court is authorized to impose "reprimand, suspension for a period of time, disbarment or such other discipline as the court deems appropriate." Practice Book § 2-47(a). Further, "[t]he trial court conducts the presentment proceeding de novo ... In determining whether an attorney violated the Rules of Professional Conduct and the appropriate sanction to impose, the trial court possesses a great deal of discretion." (Citation omitted; internal quotation marks omitted.) *Statewide Grievance Committee v. Timbers*, 70 Conn. App. 1, 3, 796 A.2d 565 (2002).

Statewide Grievance Committee v. Sheri Paige, (Hilier, J.) 2004 Ct. Sup. 11199, 11202.

Discussion:

Although the parties have stipulated as to many of the facts concerning this matter, the Respondent has denied the allegations contained in paragraphs 15-16 of Count Two of the Amended Presentment. These counts provide as follows:

15. At the December 2, 2002 reviewing committee hearing, the Respondent, while under oath misrepresented that he had filed a petition for certification on behalf of Mr. Watkins, in violation of Rules 3.3(a)(I) and 8.4(3) of the Rules of Professional Conduct.ⁱ

16. The Respondent misrepresented to Mr. Watkins that he had filed the petition for certification, in violation of Rule 8.4(3) of the Rules of Professional Conduct.ⁱⁱ

As to paragraph Count Two Paragraph 15 the evidence presented at the hearing proves that in June of 2001 the Respondent was appointed as a Special Public Defendant to represent Mr. Terrance Watkins (hereinafter "Watkins"). The Respondent was to bring an appeal of a criminal conviction on Watkins behalf.

In April of 2002, Watkins filed a grievance against the Respondent alleging that the Respondent did not appropriately handle the appeal and post appeal matters.

A local grievance panel found probable cause of misconduct and scheduled a hearing. Said hearing took place in December of 2002.

During the aforementioned hearing the Respondent was asked questions concerning the status of a Petition for Certification to the Connecticut Supreme Court following the denial of Watkins' appeal that had been filed by the Respondent. It is undisputed that during the hearing the Respondent had stated that he had filed the Petition. It is also undisputed that a Petition for Certification had not been filed by the time of the December 2002 hearing. What is disputed is whether or not the Respondent's statement concerning the filing of the Petition was "intentional" or "negligent." This Court notes that the subject Practice Book section does not speak in terms of negligently making a false statement of material fact to a tribunal, but "knowingly" making a false statement to a tribunal. The "Terminology" section of the Rules of Professional Conduct defines knowingly as follows:

"Knowingly," "known," or "knows" denotes actual knowledge of the fact in question. A person's

knowledge may be inferred from circumstances.

In order for this Court to find the Respondent in violation of Rule 3.3(a)(I) it would have to find that he had actual knowledge that he was making a false statement to the tribunal. Upon weighing all of the evidence presented at the hearing this Court concludes that the Petitioner has not met its burden of proof by clear and convincing evidence that the Respondent had "actual knowledge" that the statement he made before the tribunal was false at the time that it was made. The Court notes however that the Respondent made no effort after ascertaining that his statement was not accurate to inform the tribunal.

Findings

After considering and weighing the evidence presented at the hearing this Court concludes that the Statewide Grievance Committee has met its burden of proving by clear and convincing evidence that the respondent violated all of the rules of conduct and Connecticut Practice Book provisions cited in Count One of the Amended Presentment. This Court further finds that with the exception of paragraphs fifteen (15) and sixteen (16) concerning misrepresentations to the Committee, the Statewide Grievance Committee has met its burden of proof by clear and convincing evidence that the Respondent has violated the various rules of conduct and Connecticut Practice Book provisions cited in Count Two of the Amended Presentment.

Whereas this Court has found that the respondent has violated the subject provisions of the Rule of Professional Conduct and the Connecticut Practice Book, it must also determine the appropriate disciplinary action.

The regulation of attorney disciplinary matters exists within the broader framework of the relationship between attorneys and the judiciary. *Statewide Grievance Committee v. Rozbicki*, 211 Conn. 232, 237, 558 A.2d 986 (1989). An attorney, as an officer of the court, is continually accountable to the court for the manner in which the privilege to practice law is exercised and is subject to the court's discipline. *Id.*, 237-38. Because the image of a dishonest lawyer is very difficult to erase from the public mind-set, attorneys are expected to be leading citizens who act with candor and honesty at all times. *Statewide Grievance Committee v. Presnick*, 18 Conn. App. 316, 324, 559 A.2d 220 (1989). An attorney is admitted to the practice of law on the implied condition that the continuation of this right depends on remaining a fit and safe person to exercise it. *In re Peck*, 88 Conn. 447, 450, 91 A. 274 (1914). When an attorney, by misconduct in any capacity, becomes unfit or unsafe to be entrusted with the responsibilities and obligations of the profession, the right to continue in the enjoyment of the profession may be suspended. *Id.*, 451. It is paramount that an attorney be upright and trustworthy and "resolve to be honest at all events; and if [he or she] cannot be an honest lawyer, [he or she should] resolve to be honest without being a lawyer." 2 A. Lincoln, *Collected Works of Abraham Lincoln* (R. Easier Ed. 1953), p. 82.

A court disciplining an attorney does so not to punish the attorney, but rather to safeguard the administration of justice and to protect the public from the misconduct or unfitness of those who are members of the legal profession. *In re Durant*, 80 Conn. 140, 147, 67 A. 497 (1907).

Section 9.1 of the ABA Standards for Imposing Lawyer Sanctions states that "[a]fter misconduct has been established, aggravating and mitigating circumstances may be considered in deciding what sanction to impose."

The duties violated by the respondent are substantial and the harm to Mr. Watkins was significant.² As this Court has stated before, a client's loss of confidence and trust in his or her legal counsel because of his counsel's improper actions not only eviscerates the attorney/client relationship between the subject individuals; it has collateral consequences that damage the legal profession as a whole. (See *Statewide Grievance v. Walsh*, Superior

Court, judicial district of New Britain, at New Britain (R. Robinson, J) D.N. CV 04 4000771 S.

As was previously stated herein, this Court has found that the Commission did not meet its burden of proof to show that the respondent "knowingly" making a false statement before a tribunal, the Court notes however that despite the fact that the respondent subsequently discovered that his statement before the Commission was inaccurate he did not take any steps to supplement his response with the additional information. The Court also notes that the respondent has already received a previous reprimand as a result of Grievance Complaint #01-0885 filed by Mr. Watkins.

The credible evidence indicates that the respondent has taken action to address some of the systemic problems in his practice that may have been causally related to the violations found in this matter.

In light of the foregoing this Court finds that the appropriate disciplinary action is for the respondent to be suspended from the practice of law for a period of nine (9) months commencing February 15, 2005. The court further orders that the respondent attend and participate in a course in legal ethics within 180 (one hundred eighty) days from the date of this order. The respondent may take any such course sponsored by a local or state bar association and shall attend in person. The respondent is further ordered to provide proof of compliance to the assistant bar counsel. The court will retain jurisdiction of this matter pending compliance by the respondent. Pursuant to the provisions of §2-64(a) of the Connecticut Practice Book this Court appoints Attorney Danielle Toce to inventory Attorney Snider's files and to take such action as is necessary to protect his clients' interests. So ordered.

Richard A. Robinson, J.
January 27, 2005

ENDNOTES:

ⁱ Rule 3.3(a)(1) of the Rules of Professional Conduct provides that:

- A lawyer shall not knowingly: (l) Make a false statement of material fact or law to a tribunal.
- Rule 8.4(3) of the Rules of Professional Conduct provides that::
- It is professional misconduct for a lawyer to. . .(3) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

ⁱⁱ See endnote one above.

¹ The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

² Compiled by the Board of Bar Overseers based on the record before the Court.