

FILED

AUG 18 2010

BEFORE THE DISCIPLINARY COMMISSION OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A SUSPENDED MEMBER ) No. 10-4003
OF THE STATE BAR OF ARIZONA )
MICHAEL A. D'ONOFRIO, JR., )
Bar No. 017982 ) DISCIPLINARY COMMISSION
RESPONDENT. ) REPORT

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on August 14, 2010, pursuant to Rules 53(i) and 58, Ariz.R.Sup.Ct., for its consideration of whether to impose the reciprocal discipline of reprimand (censure in Arizona) upon Respondent as imposed by the Statewide Grievance Committee of the State of Connecticut on December 11, 2009. No claim of exception, as set forth in Rule 53(i)(3), was filed by Respondent or the State Bar of Arizona.

Decision

Having found no facts clearly erroneous, the five members 1 of the Disciplinary Commission unanimously recommend imposing reciprocal discipline of censure. The Disciplinary Commission further incorporates by reference the State of Connecticut's decision.2

RESPECTFULLY SUBMITTED this 18th day of August, 2010.

Pamela M. Katzenberg / mps
Pamela M. Katzenberg, Chair
Disciplinary Commission

1 Commissioners Belleau, Flores, Horsley and Osborne did not participate in these proceedings.

2 A copy of the decision is attached as Exhibit A.

Original filed with the Disciplinary Clerk  
this 18<sup>th</sup> day of August, 2010.

Copy of the foregoing mailed  
this 18 day of August, 2010, to:

Michael A. D'Onofrio, Jr.  
Respondent  
2 Sherman Court  
Fairfield, CT 06824-5826

Maret Vessella  
Chief Bar Counsel  
State Bar of Arizona  
4201 North 24th Street, Suite 200  
Phoenix, AZ 85016-6288

by: Deann Barber

/mps

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**EXHIBIT**  
**A**

STATE OF CONNECTICUT



Michael P. Bowler  
Statewide Bar Counsel

Frances Mickelson-Dera  
Christopher L. Slack  
First Assistant Bar Counsel

Tel: (860) 568-5157  
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STATEWIDE GRIEVANCE COMMITTEE

[www.jud.ct.gov/sgc/](http://www.jud.ct.gov/sgc/)  
Second Floor - Suite Two  
287 Main Street, East Hartford, Connecticut 06118-1885

12/11/2009

OFFICE OF CHIEF DISCIPLINARY C  
100 WASHINGTON STREET  
HARTFORD CT 06106

MICHAEL ANTHONY D ONOFRIO JR  
ATTORNEY AT LAW  
2 SHERMAN COURT  
FAIRFIELD CT 06824

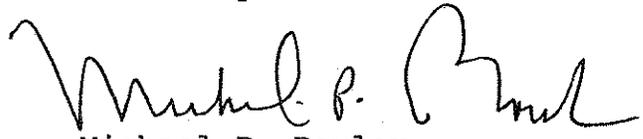
RE: GRIEVANCE COMPLAINT #09-0559  
LEWIS vs. D ONOFRIO

Dear Respondent and Disciplinary Counsel:

Enclosed herewith is the decision of the reviewing committee of the Statewide Grievance Committee concerning the above referenced matter. In accordance with the Practice Book Sections 2-35, 2-36 and 2-38(a), the Respondent may, within thirty (30) days of the date of this notice, submit to the Statewide Grievance Committee a request for review of the decision.

A request for review must be sent to the Statewide Grievance Committee at the address listed above.

Sincerely,



Michael P. Bowler

Encl.

cc: Attorney George J. Ferrio  
Joseph Lewis

STATEWIDE GRIEVANCE COMMITTEE

Joseph Lewis :  
Complainant

vs. : Grievance Complaint #09-0559

Michael D'Onofrio, Jr. :  
Respondent

DECISION

Pursuant to Practice Book §2-35, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, conducted a hearing at the Superior Court, One Court Street, Middletown, Connecticut on October 8, 2009. The hearing addressed the record of the complaint filed on June 12, 2009, and the probable cause determination filed by the Fairfield Judicial District Grievance Panel on August 5, 2009, finding that there existed probable cause that the Respondent violated Rule 8.4(4) of the Rules of Professional Conduct.

Notice of the hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on September 11, 2009. Pursuant to Practice Book §2-35(d), First Assistant Disciplinary Counsel Patricia King pursued the matter before this reviewing committee. The Complainant and the Respondent appeared at the hearing and testified. Attorney Brian Tims represented the Complainant at the hearing.

This reviewing committee finds the following facts by clear and convincing evidence:

In late 2005, the Complainant brought a legal malpractice action against the Respondent. On March 30, 2007, a default judgment was entered against the Respondent. The court awarded the Complainant \$90,000, plus costs. Following the judgment, the Complainant conducted an examination of judgment debtor and pursued two executions, which were unsuccessful in satisfying the judgment.

On October 15, 2007, the Respondent sent a letter to the Complainant's counsel proposing a payment plan to satisfy the judgment. The Respondent offered to pay the Complainant \$2,000 a month for twenty-four months, followed by \$3,000 a month for twenty-four months, plus interest. Under the payment plan, the Complainant was to receive a total of \$120,000. On November 16, 2007, the Complainant sent a letter to the Respondent accepting the payment plan. After entering into this agreement, the Respondent made the \$2,000 monthly payments for twelve months from December, 2007 to November, 2008 for a total of \$24,000. Thereafter, the Respondent only made a partial payment of \$1,000 in December, 2008. The Respondent has failed to make any payments since December, 2008.

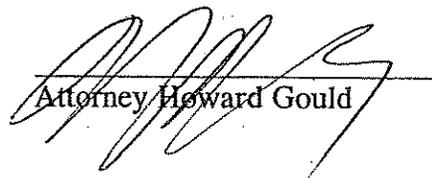
On February 6, 2009, a financial institution execution was issued by the court. The Complainant received \$815, less fees of \$122.25. On April 20, 2009, an examination of judgment debtor was conducted on the Respondent. Since that time, Attorney Tims' office has contacted the Respondent by telephone and left voicemail messages regarding the outstanding judgment. The Respondent has failed to return these telephone calls. The Respondent currently owes the Complainant \$64,185 under the judgment and \$94,185 under the payment plan, excluding interest.

This reviewing committee also considered the following:

The Respondent testified that his primary source of employment is as a special public defender in criminal and juvenile matters for the State of Connecticut (hereinafter "the State"). The Respondent maintained that from November, 2008 to March, 2009, the State stopped paying his invoices due to budget problems. The Respondent testified that he is presently owed \$27,000 from the State. The Respondent maintained that the four month period he went without payment from the State caused him significant financial difficulties, which he has been unable to resolve. The Respondent acknowledged his obligation to make payments to the Complainant and advised that he wants to work out an agreement with the Complainant when he receives the money he is owed from the State.

This reviewing committee concludes by clear and convincing evidence that the Respondent's failure to satisfy the judgment entered against him in March of 2007 constitutes a violation of Rule 8.4(4) of the Rules of Professional Conduct. The evidence indicates that the Respondent proposed a payment plan to satisfy the judgment which the Complainant accepted. Although the Respondent made payments pursuant to the plan for approximately one year, he thereafter stopped making any payments to the Complainant, contending that he was financially unable to do so. The only evidence presented by the Respondent to support this claim, however, is the failure of the State to pay his special public defender invoices for a four month period. The Respondent acknowledged, however, that in March of 2009, the State resumed payment of his invoices. The Respondent provided no other evidence to support his claim that he was financially unable to make any payments to the Complainant during this four month period or thereafter. Furthermore, the Respondent has made no attempts to modify the payment plan with the Complainant or make some good faith payments towards the amount owed to the Complainant since December of 2008. In fact, the Respondent failed to respond to the Complainant's attorney's telephone calls regarding the outstanding judgment. We conclude that the Respondent's actions constitute conduct prejudicial to the administration of justice in violation of Rule 8.4(4) of the Rules of Professional Conduct. Accordingly, we reprimand the Respondent.

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Decision  
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Attorney Howard Gould

Grievance Complaint #09-0559

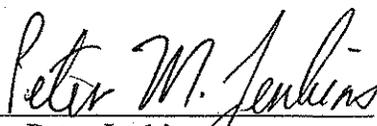
Decision

Page 4

A handwritten signature in black ink, appearing to read 'M. Moore', is written over a horizontal line.

Attorney Margarita Moore

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Mr. Peter Jenkins

I hereby certify that the foregoing is a true copy of the original document on file

Date: May 4, 2010

Statewide Grievance Committee

By:   
First Statewide/Assistant Bar Counsel