

Office of Bar Counsel
Michael Kennedy, Esq.
Bar Counsel

Brandy Sickles
Administrative Assistant

32 Cherry Street, Suite 213
Burlington, VT 05401
(802) 859-3000



Professional Responsibility Board

Deb Laferriere
Program Administrator
109 State Street
Montpelier, VT 05609-0703
(802) 828-3204

Professional Responsibility Program

www.vermontjudiciary.org/LC/attydiscipline.aspx

March 24, 2015

Thomas Joseph
PO Box 2111
Brattleboro, VT 05303

RE: PRB Docket No. 2015-159; Elizabeth Wohl, Esq., Respondent

Dear Mr. Joseph:

I have completed my review of the complaint that you filed against Ms. Wohl. For the reasons stated below, I am closing my file without taking further action in response to your complaint.

In Vermont, lawyers must comply with the Vermont Rules of Professional Conduct. The rules are often referred to as "the ethics rules." My job includes reviewing each complaint that alleges that an attorney violated the rules. I am authorized to resolve or close complaints that do not appear to require formal investigation or intervention by the Professional Responsibility Program or its disciplinary prosecutors. In general, I close complaints when the uncontested facts do not suggest that it might be appropriate to impose a sanction against the lawyer's law license or when the complaint is of a nature that lends itself to a relatively quick resolution.

Your complaint refers to a federal civil case *United States, Ex rel. Thomas Joseph v. The Brattleboro Retreat*, 2:13-cv-15. I reviewed all of the material that you submitted with your complaint.

The federal case was one in which you alleged that the Brattleboro Retreat submitted fraudulent claims to the government and kept the overpayments. After conducting an investigation, the federal government declined to intervene in the lawsuit. The Retreat was represented by Attorney Matthew Curley and Attorney Elizabeth Wohl. You were represented by Attorney Richard Cassidy.

Attorney Curley is admitted to practice law in Tennessee, but not in Vermont. Attorney Wohl is admitted to practice in Vermont. On behalf of the Retreat, Attorneys Curley and Wohl filed a motion to dismiss. The motion argued that the complaint was barred by the statute of limitations and that the complaint failed to state a claim upon which relief could be granted. The court, per Judge Sessions, granted the motion to dismiss.

Your complaint alleges that Attorney Wohl misled the court in the motion to dismiss. Specifically, you allege that Attorney Wohl misrepresented the facts as alleged in your complaint and that she failed to inform the court of the *Wartime Suspension of Limitations Act* ("WSLA"). As I understand it, the WSLA suspends certain statutes of limitation during wartime. You allege that, under the act, the statute of limitations should have been suspended by the War on Terror.

Again, I reviewed everything that you submitted. In short, there is no basis to conclude that Attorney Wohl might have acted unethically. The fact that the court granted the Retreat's motion to dismiss is not evidence that Attorney Wohl misled or deceived the court. Moreover, the arguments that she and Attorney Curley raised were permissible. Contrary to the allegations in your complaint, they did not have an ethical duty to inform the court of the WSLA or to treat your complaint as not being susceptible to a motion to dismiss.

I am dismissing your complaint. You may request review of my decision. To do so, you must file a written request with the Chair of the Professional Responsibility Board: Jan Eastman, Esq., c/o Court Administrator's Office, 109 State Street, Montpelier, VT 05601. A request for review must be postmarked by April 27, 2015.

Respectfully,


Michael Kennedy
Bar Counsel

C: Elizabeth Wohl, Esq. (electronically)