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PROFESSIONAL RESPONSIBILITY BOARD

May 18, 2015

Mr. Thomas Joseph
PO Box 2111
Brattleboro, VT 05303

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

Dear Mr. Joseph:

As permitted by Administrative Order No. 9, "Permanent Rules Governing Establishment and Operation of the Professional Responsibility Program," Rule 10(d), "Complainant's Right to Independent Review," you have appealed Michael Kennedy's March 24, 2015 letter dismissing your complaint against Ms. Wohl. Board Chair Jan Eastman recused herself from this matter and on May 4, 2015 appointed me to provide the independent review of Mr. Kennedy's decision.

I have reviewed the file including your April 25, 2015 thirty-three page letter and attachments. I have also reviewed the Rules of Professional Conduct and Mr. Kennedy's March 24, 2015 letter with his rationale for closing this matter with no further action.

At the core of this matter is not whether the Brattleboro Retreat engaged in fraudulent activities. The issue for the Professional Responsibility Board is whether and to what extent Ms. Wohl's representations made during the course of litigation ending with dismissal of the Complaint in *United States ex. rel. Thomas Joseph v. The Brattleboro Retreat*, may have been misleading, deceptive, or in some other way unethical. That Ms. Wohl treated facts set forth in the Complaint "as true" is not, as a legal matter, at odds with her assertions regarding deficiencies of the Complaint. Taking facts as true does not mean a party agrees that they are true. Taking facts as true is equivalent to saying, "even if everything the Plaintiff says in its Complaint is true (which we do not admit), the complaint still does not allow the Plaintiff to prevail in the litigation."

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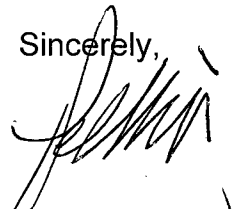
Ms. Wohl's representations to the Court represented the Defendant's view of Relator's Complaint and its view of the arguments made by Relator in opposition to Defendant's motions. In this case, as in all cases, the Court was obligated to perform its own review of the pleadings. To decide the pending motions, the Court was required to take as true the factual allegations in the complaint.

The Court's Order outlined pleading deficiencies as it saw them in the Complaint. The Court's Order allowed for the filing of an Amended Complaint. The Court permitted you and your counsel to correct infirmities it saw in the Complaint. I cannot conclude that because the Court reached some of the same conclusions that Ms. Wohl advocated, that she attempted to or actually deceived or misled the Court. Nor, in reviewing Ms. Wohl's pleadings do I see in the sections you highlight anything more than possible inconsistencies in response to a long, complicated document. My view is that those sections do not constitute lies, purposeful misrepresentations, or fraudulent misstatements. If anything, the Court's decision dismissing the case without prejudice found that Ms. Wohl's view of the Complaint's deficiencies was well-founded.

I find that Mr. Kennedy's rationale for closing the case to be sound. The facts as documented throughout the file do not show that Ms. Wohl misled or deceived the court, or acted unethically. Nor do they suggest that it is necessary to conduct further investigation to determine whether formal disciplinary proceedings should be pursued.

For these reasons, I conclude that PRB Docket No. 2015-159, Elizabeth Wohl, Esq. was properly closed.

Sincerely,



Larry S. Novins

cc: Elizabeth Wohl, Esq.
Deb Laferriere, Program Administrator
Michael Kennedy, Bar Counsel