

## **DISCIPLINARY ACTION**

### **Private Admonition - Board Case No. 35, 2001. Date of Sanction: October 12, 2001.**

A panel of the Preliminary Review Committee ("PRC") offered the sanction of a private admonition to an attorney in Board Case No. 35, 2001, for certain violations of the Delaware Lawyers' Rules of Professional Conduct (the "Rules"). The attorney consented to the imposition of the private admonition. This disciplinary matter arose in connection with the attorney's representation of a client in a property dispute with an estate.

(1) **Rule 1.4(a)** states that "[a] lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information." The attorney violated Rule 1.4(a) by failing to inform the client that he regarded the attorney-client relationship as having been terminated, following the client's offensive statements on the telephone to the attorney's legal assistant; failing to respond to the client's telephone message that day requesting a return call from the attorney, or to respond to the telephone messages that the client left several months later requesting a return call from the attorney; and failing to inform the client about correspondence from the attorney for the estate regarding certain real property that was being made available for purchase by the client.

(2) **Rule 1.16(d)** states, in part, that "[u]pon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests," including by "surrendering papers and property to which the client is entitled." The attorney violated Rule 1.16(d) by failing to respond to correspondence received from the lawyer for the estate, and to inform that lawyer of the status of the attorney's relationship with the client; failing to inform the client about the correspondence from the lawyer for the estate; destroying a \$1,000.00 check which had previously been signed by the client, without prior notice to the client that the attorney was planning to do so; and failing to provide the client with documents from the file for several months after receiving the client's disciplinary complaint, which had included a request that the

attorney do so.

In making its determination to offer the attorney the sanction of a private admonition, the PRC considered the apparent absence of actual injury to the client's interests resulting from the misconduct, including the fact that the client learned of the availability of the real property from a source involved with the estate with whom she had been in contact. The PRC also considered, as an aggravating factor, the attorney's substantial experience in the practice of law, as well as the following mitigating factors: the absence of any prior disciplinary record; the absence of a dishonest or selfish motive; the attorney's payment of restitution to the client for fees paid by her during the course of the representation; the attorney's expressed remorse for the misconduct; and the attorney's reputation for service in the legal community.

The PRC offer that was accepted by the attorney included the condition that the attorney reimburse the ODC for the costs of its investigation, pursuant to Procedural Rule 27.