<u>Private Admonition -- Board Case No. 25, 1996.</u> Date of Sanction: November 6, 1996. A panel of the Preliminary Review Committee of the Board on Professional Responsibility (the "Board") offered to the Respondent the sanction of a private admonition, with conditions, as a result of its finding that there was probable cause to support the attorney's violation of the Delaware Lawyers' Rules of Professional Conduct (the "DLRPC"). The attorney accepted the imposition of this sanction under Board Rules 8(a) (6) and 8(b).

After an investigation by the Office of Disciplinary Counsel (the "ODC"), it was found that the Respondent had entered into a 30% contingency fee agreement with a client in a workers' compensation case. The matter proceeded to a hearing before the Industrial Accident Board in 1992, and the attorney was granted three separate fee awards. At such time, there was a statutory limit on fees which could be received by attorneys in such circumstances. However, the Respondent then proceeded to collect from the client under the terms of the 30% contingency fee agreement, including 30% of the client's weekly benefit checks. Over the course of several months, the Respondent had collected approximately \$10,000 in excess of the statutory limit. When the client learned that this was improper on the attorney's part, he then filed a disciplinary complaint with the ODC.

Under Delaware law, the purpose of the statutory limit on legal fees in workers' compensation cases was to relieve successful claimants of the burden of such fees. The courts have also held that the statutory limits override the terms of any fee agreement between the attorney and the client. On such grounds, the PRC concluded that the attorney violated DLRPC 1.5 (a), which prohibits a lawyer from collecting unreasonable fees.

As a condition of the sanction, the Respondent agreed to return the amount of \$10,000 directly to the former client, and also to pay the ODC's costs of investigation. The attorney had been previously sanctioned in 1995 on an unrelated matter.