

IN THE SUPREME COURT OF FLORIDA
(Before a Grievance Committee)

In Re: The Matter of
Michael Vincent Laurato

TFB No.: 2011-11,020 (13D)
Complaint of: Susan Demichelle

LETTER REPORT OF NO PROBABLE CAUSE

On October 13, 2011, the Grievance Committee found no probable cause in the above-referenced matter. The vote in favor of this finding was unanimous (7 in favor, 0 opposed).

Complainant is a court reporter who performed services for Respondent in 2007. Respondent has refused to pay Complainant for her services. The civil dispute between Complainant and Respondent is the subject of ongoing litigation. To the extent that the matter involves issues related to the civil dispute, it is outside the appropriate purview of the committee. The attorney disciplinary process is not a substitute for a civil forum.

Two issues related to the matter warranted Bar investigation. First, the Bar investigated whether Respondent received payment from his client or as part of a settlement for the payment of Complainant's services. In such event, Respondent would be required to hold those funds in trust and promptly make payment from trust to Complainant. Failure to do so would be a violation of the trust accounting rules. The evidence available to the committee showed no payments made by Respondent's client. Respondent did receive payment for his fees and costs from the opposing party as part of the settlement; the evidence related to that settlement available to the committee did not show any specific breakdown of costs and no specific identification of payment for Complainant's services. Rather, Respondent received a lump sum intended to pay for all fees and costs, undifferentiated. Therefore, based on that evidence, there was no basis for further proceedings as to a possible trust account violation.

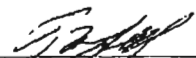
The second issue, which was the primary focus of the grievance committee's investigation, was whether Respondent made a false statement to the Bar in response to the grievance. Specifically, Respondent claimed that he could not have made Complainant's bill a specific part of the settlement because he was not aware of the bill at the time of the settlement. In support of that claim, Respondent provided a copy of the August 29 invoice from Complainant, alleging that the settlement was finalized on August 24. Complainant claimed that Respondent's statement was false because the August 29 invoice was not the first invoice sent; the original invoice has been sent on August 22, prior to the settlement. While Respondent's statement appears to be clearly false, in order to prosecute Respondent, The Florida Bar would need to prove that Respondent intentionally made a false statement. In this instance, the committee concluded that the evidence

was insufficient to support further proceedings. The committee had insufficient evidence of when Respondent personally became aware of the outstanding invoice (rather than the invoice being known to someone else within Respondent's office) to support formal disciplinary proceedings. As a result, the committee made its finding of no probable cause.


Pursuant to the provisions of Rule 3-7.4(k), Rules Regulating The Florida Bar, the undersigned signify a finding of no probable cause by the grievance committee as to the referenced complaint. No right to appeal this decision exists (Rule 3-7.4(i)). The designated reviewer has authority to seek review of the grievance committee's decision within thirty (30) days of this date by referral to the disciplinary review committee. A decision by the designated reviewer not to seek review or expiration of the time in which to do so shall preclude further proceedings in this matter. According to our file retention policy, the records regarding this matter will be disposed of one (1) year from the date of the committee's action.

Date: 25 OCT 2011

Date: 10/20/11



Troy Matthew Lovell
Bar Counsel



Brian T. McElpatrick, Chair
Thirteenth Judicial Circuit
Grievance Committee "D"

Copies to: William J. Schifino, Jr., Designated Reviewer
Steven S. Oscher, Investigating Member
Susan Demichelle, Complainant