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NYS GRIEVANCE COMMITTEE
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BY HAND

July 24, 2015

Diana Maxfield Kearsse, Chief Counsel
State of New York Grievance Committee
for the Second, Eleventh and Thirteenth Judicial Districts
Renaissance Plaza
335 Adams Street -- Suite 2400
Brooklyn, New York 11201-3745

Re: Request for Clarification, Supervision, & Corrective Oversight,
Including Presentment of my May 18, 2015 Attorney Misconduct
Complaint to the Grievance Committee for Determination of its Facial
Sufficiency -- & Investigation Based Thereon
File No. K-629-15

Dear Chief Counsel Kearsse:

This is to request your clarification, supervision, and corrective oversight over the manner in which Assistant Counsel Kathryn Donnelly Gur-Arie, or someone signing her name to a June 17, 2015 letter,¹ disposed of the misconduct complaint I filed against Dawn Post, Esq. and her firm, the taxpayer-supported Children's Law Center, the court-appointed attorney for my child. For your convenience, a copy of Ms. Gur-Arie's June 17, 2015 letter is annexed.

Aside from the fact that my complaint is dated May 18, 2015, not May 19, 2015, no review of my serious and substantial complaint, let alone the "careful review"—as the letter purports — could lead any competent, honest evaluator to determine that the "complaint does not involve behavior constituting professional misconduct."

Did you review the June 17, 2015 letter before it was sent, comparing it with my complaint? Certainly, it would not have taken you more than a minute's time to recognize that the complaint not only "involve[s] behavior constituting professional misconduct", but furnishes substantiating proof. This, by a fact-specific 120-page affidavit, to which I have sworn, annotated by copious record references and legal authority, and additionally appending voluminous exhibits. These establish, *prima facie*, what my complaint expressly identifies, at the outset, by its one-page transmitting cover letter:

"18 counts of professional misconduct, and one count of criminal misconduct, by Ms. Post including: improper testifying; the mis-statement of eight witnesses; perjury; complicity in illegal wiretapping; an undeclared conflict of interest with a party in the case; negligence in protecting my daughter's interests, safety and

¹ It is unclear whether initials of someone else appear beneath Ms. Gur-Arie's signed name.

rights; harassment and cyberstalking; and interference in my relationship with my daughter's school and psycho-therapy. ...”

By reason thereof, my complaint states – overwhelmingly – a cause for complaint for which investigation was mandated. Yet based on the lie that the complaint “does not involve behavior constituting professional misconduct”, there was no investigation – not even to the limited extent of sending the complaint to the complained-against parties – Ms. Post and the Children’s Law Center – for response. Isn’t this true? – and the import of the boilerplate introductory paragraph of procedural information:

“Please be advised that the function of this Committee is to investigate and prosecute acts of professional misconduct by attorneys. When a complaint is received, we review it to determine if it involves behavior which could constitute professional misconduct by the attorney. An attorney may be found guilty of professional misconduct if it can be proven that an ethical rule or law was violated. If there is a sufficient basis to conduct an investigation, the Committee will do so. Otherwise, no action will be taken.” (underlining added).

And isn’t it true that not only was my complaint not investigated, but it was also not presented to the Committee? Isn’t this why Ms. Gur-Arie’s letter states – without any identifying noun –

“After careful review, it has been determined that your complaint does not involve behavior constituting professional misconduct.”

Who made the determination? Wasn’t it solely a staff attorney? Was ^{it} the staff attorney Ms. Gur-Arie?

As Ms. Gur-Arie’s letter conspicuously does not identify the “who” behind the determination, I turned to the Committee’s website for an answer about the Committee’s procedures. In a section entitled, “How Are Complaints Processed?”, it states:

“Upon receipt of a complaint, it is examined by a staff attorney at the grievance committee to evaluate whether or not it is a matter that the committee can or should investigate....

The staff attorney may conclude that a complaint describes conduct that, even if true, does not violate a provision of the Rules of Professional Conduct (22 NYCRR part 1200), and therefore does not involve professional misconduct. On occasion, an otherwise valid complaint may not be suitable for investigation due to other contributing factors. In such cases, the staff attorney will notify the complainant in writing and explain the reasons why the committee is unable to be of assistance.”

http://www.nycourts.gov/courts/ad2/attorneymatters_ComplaintAboutaLawyer.shtml#_How_Are_Complaints. (underlining added).

It appears that the staff attorney, without any oversight from you or the Committee, can independently block investigation of a complaint. Am I correct? And is this legally authorized? Where in the Appellate Division, Second Department's rules for attorney discipline – 22 CRR-NY §691 *et seq.* – is there a provision empowering a staff attorney to dispose of a complaint without presentment to the Committee?²

Perhaps the Second Department's three grievance committees have promulgated implementing rules, filling in the gaps and ambiguities in 22 CRR-NY §691 *et seq.* – notwithstanding 22 CRR-NY §691 *et seq.* does not delegate to them authority to do so. Do such committee-promulgated rules exist? – and do they contain any oversight provisions to protect complainants – and the public – from staff attorneys whose dispositions of complaints cannot be justified, as at bar? If there are committee-promulgated rules pertaining to determination and dismissal of complaints for facial insufficiency, please furnish me a copy.

Insofar as Ms. Gur-Arie's June 17, 2015 letter additionally states:

“Moreover, the issues you raise are more appropriate for resolution by a court of law or through other available legal remedies,”

she does not explain why this is so – other than her falsehood that “the issues” do “not involve behavior constituting professional misconduct.” What is the explanation?

Is there any forum, other than the attorney disciplinary system, that can mete out disciplinary penalties, including the ultimate penalty of disbarment? And isn't disbarment the penalty warranted by the pattern of fraud and other depraved and malicious acts serially committed by Ms. Post, and particularized by my complaint?

Certainly, if Ms. Gur-Arie sincerely believed that a court was the “more appropriate” venue for resolution of “the issues”, her duty was to refer the complaint to the Family Court in which my litigation is pending, with notice to it to determine the “18 counts of professional misconduct, and one count of criminal misconduct” I had specified. Don't you agree?

And don't you agree that the particulars of the complaint relating to the inappropriate involvement of the taxpayer-supported Children's Legal Center and its churning of litigation, *via* an unscrupulous Ms. Post – potentially replicated in hundreds of other cases involving them – warranted referral to agencies and offices having specific oversight over the Second Department's “Family Court Attorneys for Children Plan” (22 CRR-NY 679 *et seq.*).

Based on the foregoing, I respectfully request that my May 18, 2015 complaint of attorney misconduct be furnished to the Committee so that it may rule upon its manifest facial sufficiency, entitling me to investigation. Needless to say, I look forward to the opportunity to

² By contrast, the Appellate Division, Third Department's rules for attorney discipline – 22 CRR-NY §806 *et seq.* – expressly confers power upon the chief attorney to determine a complaint's facial sufficiency: “Before initiating an investigation of a specific complaint against an attorney, the chief attorney shall determine whether the allegations, if true, are sufficient to establish a charge of professional misconduct.” (22 CRR-NY §806.4(b)).

reply to any answer that Ms. Post and the Children's Law Center may have to my record-referenced, law-supported complaint of their professional misconduct.

There is some urgency to your response to this letter as I am simultaneously supplying a copy of the May 18th complaint and Ms. Gur-Arie's June 17th disposition letter to the Commission on Statewide Attorney Discipline in support of my request to testify at its August 11, 2015 public hearing in Manhattan. As you assuredly know, the Commission, set up by New York Chief Judge Jonathan Lippman and chaired by Chief Administrative Judge A. Gail Prudenti, is charged with "a top-to-bottom review" of New York's attorney discipline system. Ms. Gur-Arie's shameful, indefensible June 17th letter makes evident that nothing less than "a top-to-bottom review" is in order.

As stated by my complaint, I am a journalist for the *Huffington Post* and *Independent*, and a documentary film-maker: https://en.wikipedia.org/wiki/Sebastian_Doggart. As a result of the judicial and litigation nightmare chronicled by my complaint, I have embarked upon a feature-story and documentary film about the "attorney for the child" enterprise. Based on my experience, and that of countless others, it appears that "attorneys for the child" may freely violate all rules of professional conduct and other fundamental law, in malicious disregard of the interests of the child, without any accountability, including by attorney grievance committees.

So that my testimony to the Commission on Statewide Attorney Discipline is properly informed, please furnish me with all reports from the past six years of the Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts, whether rendered annually, quarterly, or at some other interval, furnishing statistical information as to the number of attorney misconduct complaints received or initiated and summarizing their processing and dispositions.

Either before or after my testimony, I would be happy to interview you, on camera or off, to discuss the Committee's oversight work. Are you able to meet with me for such an interview?

I look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Sebastian Doggart', with a stylized, overlapping loop at the end.

SEBASTIAN DOGGART

Enclosure



JOHN P. CONNORS, JR., ESQ.
Chairman

State of New York
Grievance Committee
for the
Second, Eleventh and
Thirteenth Judicial Districts

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June 17, 2015

PERSONAL & CONFIDENTIAL

Sebastian Doggart
398 8th Street
Apt. 8
Brooklyn, New York 11215

Re: File No. K-629-15

Dear Mr. Doggart:

This will acknowledge receipt of your complaint dated May 19, 2015, regarding a Kings County attorney.

Please be advised that the function of this Committee is to investigate and prosecute acts of professional misconduct committed by attorneys. When a complaint is received, we review it to determine if it involves behavior which could constitute professional misconduct by the attorney. An attorney may be found guilty of professional misconduct if it can be proven that an ethical rule or law was violated. If there is a sufficient basis to conduct an investigation, the Committee will do so. Otherwise, no action will be taken.

After careful review, it has been determined that your complaint does not involve behavior constituting professional misconduct. Moreover, the issues you raise are more appropriate for resolution by a court of law or through other available legal remedies. If it is your feeling that your legal rights need protection, we recommend that you consult with an attorney of your own choosing. The Committee is not permitted to give you legal advice or act as your attorney.

Although we appreciate your efforts, we are unable to assist you.

Very truly yours,


Kathryn Donnelly Gur-Arie
Assistant Counsel

KDG/hd