REPORT

GRIEVANCE COMMISSION PROCEEDINGS

BOARD OF OVERSEERS OF THE BAR

VS.

STEPHEN W. DEVINE

NO. 86-46

DECEMBER 22, 1986

This is a report of the Grievance Commission proceedings, Panel B, in this matter held at Portland, Maine, on December 22, 1986.

Panel B members present were William K. Tyler, Esquire, Chairman, John W. Ballou, Esquire, (substituting for Peter B. Webster) and C. R. de Rochemont (substituting for Barbara E. Chesley). The Board of Overseers of the Bar was represented by J. Scott Davis, Esquire, and Stephen W. Devine represented himself. The hearing commenced with the Chairman reviewing the proposed Grievance Commission procedures, including a review of the burden of proof and the evidence admissible at the hearing under Rule 7(e)(3). Mr. Devine was given the oath as the only witness at the hearing which was recorded by a Court Reporter.

Summary Report of Hearing

This is a case where the Respondent was retained by one, David Aceto, through his uncle, William E. McLaughlin, to represent Aceto in defending a tax claim filed by the Bureau
of Taxation for the State of Maine. After evaluating the

case and investigating the State's position in its claim

against Mr. Aceto, the Respondent allowed the State to obtain

a Summary Judgment against Mr. Aceto. The main issues of

the complaint against the Respondent is that he failed to

notify and communicate with his client in connection with

this Summary Judgment. Mr. Devine admits that subsequent

to the Summary Judgment he failed to properly notify his

client. Specifically, he admits the Complainant's allega-

tions set forth in paragraphs 16, 17 and 18 of the Complaint

which, in effect, admitted a violation of paragraph 3.6(a)(3)

of the Code. Mr. Devine's rationale appeared to be based upon

a fear of a malpractice claim which he had discerned through

conversations with a subsequent attorney contacted by Mr.

Aceto.

Findings

The Panel has concluded that Mr. Devine's conduct during

representation of Mr. Aceto, by his own admission, failed

to meet the standards set forth in the Code and specifically

indicated that he had neglected a legal matter entrusted

to him.

Recommendation

The Panel concludes that the Respondent should be given

a reprimand and that Bar Counsel is directed to convey this

reprimand to Respondent.
DATED: December 31, 1986

Respectfully submitted,

[Signature]

John W. Ballou

[Signature]

C. N. de Rochemont

[Signature]

William K. Tyler, Chairman