

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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A. GAIL PRUDENTI, P.J.
ROBERT W. SCHMIDT
WILLIAM F. MASTRO
REINALDO E. RIVERA
ROBERT A. SPOLZINO, JJ.

2006-03190

OPINION & ORDER

In the Matter of Cheryl Frankel,
admitted as Cheryl Barbara Greenbaum,
an attorney and counselor-at-law.

Grievance Committee for the Ninth
Judicial District, petitioner;
Frankel, respondent.

(Attorney Registration No. 1699131)

DISCIPLINARY proceeding instituted by the Grievance Committee for the Ninth Judicial District. The respondent was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the First Judicial Department on December 1, 1980, under the name Cheryl Barbara Greenbaum. By decision and order on motion of this court dated August 24, 2006, that branch of the Grievance Committee's motion which was for immediate suspension of the respondent was denied. In that order, the Grievance Committee was authorized to institute and prosecute a disciplinary proceeding against the respondent, and the issues raised were referred to the Honorable William D. Friedmann, as Special Referee to hear and report.

Gary L. Casella, White Plains, N.Y. (Antonia Cipollone of counsel), for petitioner.

September 11, 2007

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MATTER OF FRANKEL, CHERYL

PER CURIAM.

The Grievance Committee for the Ninth Judicial District (hereinafter the Grievance Committee) served the respondent with a petition dated April 20, 2006, containing two charges of professional misconduct. After a preliminary conference and a mitigation hearing, the Special Referee sustained both charges. The Grievance Committee now moves to confirm the Special Referee's report and to impose such discipline as the court deems appropriate. The respondent neither cross-moved nor submitted any papers in response to the Grievance Committee's motion.

Charge One alleges that the respondent engaged in conduct which was prejudicial to the administration of justice by failing to re-register with Office of Court Administration (hereinafter OCA) as an attorney and counselor-at-law, in violation of Code of Professional Responsibility DR 1-102(a)(5) (22 NYCRR 1200.3[a][5]).

Judiciary Law § 468-a(1) requires any attorney and counselor-at-law admitted to practice in this State to file a biennial registration statement with OCA to pay a fee, except if they are exempt. Judiciary Law § 468-a(5) states that noncompliance with the provisions of that section shall constitute conduct prejudicial to the administration of justice. Section 118.1 of the Rules of the Chief Administrator (22 NYCRR 118.1) has provisions similar to Judiciary Law § 468-a.

The respondent was required to file a biennial attorney registration statement and fee in or about January 1996 for the period 1996-1997. The respondent failed to file her biennial registration statement and any applicable fee for that period and all subsequent periods up to the date of the petition.

Charge Two alleges that the respondent engaged in conduct that reflects adversely on her fitness to practice law by failing to cooperate with the lawful demands of the Grievance Committee, in violation of Code of Professional Responsibility DR 1-102(a)(7) (22 NYCRR 1200.3[a][7]).

The Grievance Committee advised the respondent that she was the subject of a sua sponte complaint and directed her to comply with the attorney registration requirement and to provide proof of same. As of the date of the petition, she failed to do so.

Based on the respondent's testimony and the evidence adduced, the Special Referee properly sustained both charges of professional misconduct. Accordingly, the Grievance Committee's motion to confirm the Special Referee's report is granted.

In determining an appropriate measure of discipline to impose, the respondent offered in mitigation the allegedly unintentional nature of her noncompliance and her confusion with respect to her continuing legal education obligations. The respondent's sole disciplinary history consists of a conditional Letter of Admonition, dated October 1, 2003, emanating from this same underlying incident. In view of her expressed remorse, her cooperation with the Grievance Committee through the stipulation and hearing, and the fact that she eventually brought her attorney registration into compliance in May 2006, the respondent is publicly censured for her professional misconduct.

PRUDENTI, P.J., SCHMIDT, MASTRO, RIVERA and SPOLZINO, JJ., concur.

ORDERED that the petitioner's motion to confirm the Special Referee's report is granted; and it is further,

ORDERED that the respondent is publicly censured for professional misconduct.

ENTER:



James Edward Pelzer
Clerk of the Court