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Adoption Attorneys**

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In the Matter of a Grievance Filed Against an Academy Fellow

Attorney privately reprimanded.

We review a report and recommendations filed by an investigatory panel. Two of the panel members recommended that the American Academy of Adoption Attorneys (the "Academy") Board of Trustees privately reprimand the Attorney; and one panel member recommended a public reprimand in this matter. The Board finds that Misconduct occurred and privately reprimands the Attorney for the Misconduct described below.

The matter involves a complaint against a Fellow of the American Academy of Adoption Attorneys practicing in State A. The Complainants, who reside in State B, hired the Fellow on January 4, 2008 to assist them with the adoption of a baby to be born in mid-March, 2008 in State A. The Complainants retained another Fellow of the American Academy of Adoption Attorneys practicing in State B at the same time. They had anticipated that the adoption would be filed and finalized in State B.

At the time the Fellow from State A was retained, he advised the Complainants that a new statute would allow him to finalize the adoption in State A. The statute went into effect October 1, 2007, approximately three months prior to the Fellow being retained by the Complainants.

The baby was born March 19, 2008 and the ICPC cleared on March 27, 2008. From March 28, 2008 through August 25, 2008, the Fellow had no direct contact with the Complainants. He indicated that he relied on his staff to stay in contact. The Complainants attempted to communicate with the staff, but the communication coming the other way was inadequate. The Petition for Adoption was not sent out to the Complainants until June 3, 2008. The Complainants received no satisfactory reply to their questions about the processing of the Petition until August 25, 2008, when they contacted the Fellow directly. He responded immediately and did disclose that the court had rejected the Petition for Adoption.

The Complainants promptly contacted their State B attorney, as well as another Fellow from State A. With their assistance and with the first Fellow's efforts, the birth parents' rights were terminated in State A, the Petition for Adoption was filed in State B on September 9, 2008, and the adoption was finalized on January 30, 2009.

The Fellow's interpretation of the new statute in State A was clearly incorrect. The additional Fellow from State A indicated he could "...see how, four months after the effective date of the change, that it would be easy for an agency lawyer to mistakenly assume the change effected agency and independent adoption in the same way." That being said, however, the misinterpretation would not have been as significant a problem if the first Fellow had proceeded more promptly with the filing of the Petition for Adoption and had followed up on the processing of the Petition for Adoption in a much more timely fashion. We are concerned that more than two months passed between the approval of the ICPC and sending of the Petition for Adoption to the Complainants for later filing. Further, almost three additional months passed before the Complainants were told the Petition could not be finalized in State A.

We accept the investigatory panel's observation that the following facts lessen to some extent the Fellow's culpability:

1. He admitted that he was responsible for the acts of his staff. It did appear that it was the acts of his staff and not his direct acts that caused the problems of delay and lack of communication. The staff member who was most culpable is no longer in the Fellow's office.
2. The Fellow from State B confirmed that after discovering that the adoption had to be finalized in State B, the Fellow from State A "...diligently undertook the necessary corrective action in order to reach a successful adoption."
3. The Fellow promptly refunded a portion of the fee that he had collected in order to compensate the Fellow from State B.
4. The Fellow forthrightly acknowledged his failure to adequately communicate with the Complainants and reported that he has instituted new procedures that will guarantee that he has a "hands on" contact with the file at least every thirty days.

The Board agrees with the investigatory panel's conclusion. The Fellow from State A committed the following Misconduct, all in violation of the Grievance Procedures, Art. IV.A.5, and Code of Ethics ¶1:

1. Failed to maintain the highest standard of professional conduct by misinterpreting the statute of State A regarding finalization of adoptions in State A by non-residents.
2. Failed to keep his clients informed of the progress or status of their case. His staff failed to respond to requests for information and the Fellow was responsible for supervision of the staff so as to insure that requests for information were satisfied.
3. Neglected the adoption matter, including failing to file promptly the Petition for Adoption and to monitor its processing through the State A court system.

THEREFORE, the Board of Trustees imposes the following discipline, pursuant to Grievance Procedures, Art. VII.A.5:

The Fellow is admonished and directed in the future to cease and desist from the above-described Misconduct.

Dated: May 5, 2009.

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By: Kathleen Hogan Morrison
President