

DISCIPLINE FILE INFORMATION

Vergamini, Michael D MMH

Attorney: Bar # 045208
 Bar Number: Gibson, Gary M.
 Complainant: CT # 26262
 CT Number: 09/22/2008

Accused Counsel _____ Region # _____

Case No. _____ Master No. _____

New Matter Information

First Action Taken 10/06/08 ✓
 Response Due 10/27/08 ✓
 Dismissed By DC ✓
 Dismissal Date 03/17/09 ✓

Prosecution Information

Prosecution Approved _____
 Bar Counsel _____
 Bar Counsel Appointed _____
 Complaint Filed _____
 Service Complete _____
 Answer Due _____
 Answer Filed _____
 Trial Panel Requested _____
 Trial Panel Appointed _____
 Trial Panel (Chair) _____
 (2nd Lawyer) _____
 (Public Member) _____
 Hearing Date _____
 TPO Filed _____
 Petition for Review due _____
 Cost Bill Due _____

Docketed/LPRC Information

Referred to LPRC _____
 LPRC Report Due _____
 LPRC County _____
 LPRC Investigator _____
 LPRC Report Received _____
 Dismissed By _____
 Dismissal Date _____

Admonition Information

Notice Sent _____
 Response Due _____
 Admonition Rejected _____
 Admonition Sent _____

Supreme Court Information

SCt Case Number SC S _____
 Record Filed _____
 Record Acknowledged _____
 Accused Brief Due _____
 Bar Brief Due _____
 Reply Brief Due _____
 Oral Argument _____
 SCt Opinion Filed _____
 Cost Bill Due _____

Special Matters (BR 3.)

SCt Case Number SC S _____
 Petition/Notice Filed _____
 Response Due _____
 SCt Order Issued _____

Disposition

Sanction DSM ✓ (DSM/ADM/REP/SUSP/DSB/Form B)
 Source _____ (Stip/TPO/SCt Order/SCt Opinion)
 Effective Date _____
 Details _____
 Rules RPC 1.4(a), RPC 1.15-1(d), RPC 1.16(d) ✓✓

~~10-27-08~~ 12
~~11-10-08~~ 1
~~12-1-08~~ 1

CLOSED

Date	Activity
10/31/08	re Vergamini - left msg I rec'd his call
11/4/08	re - Vergamini - left msg to call back mh
11/4/08	re Gibson - wants to know status, told him not to wait on a PLF claim for our decision
11/4/08	re Vergamini - will send resp
3/17/09	<p>re Lynn Shepard - 485-3222 mh</p> <p>depo was scheduled 8/2/07. no ct reporter there - she would have taped it. as often happens they talk settlement. Shepard & Vergamini both told Gibson the \$40K was a cash pmt. G didn't want to divide his ^{wife service} pension. wh was divided by ct order. G also had the TSP wh is like a 401K, & G didn't want to split it up. she made it clear to G that the 40K to wife would not be taxable to her. when it came time to pay he started trying to "flim flam" her, wife & Vergamini. She ^{told G} said she didn't think taking the \$ out of TSP would not be taxable to wife, thought to do this had have to borrow from TSP</p>

Attorney

Complainant

MICHAEL D. VERGAMINI, ESQ.
 399 East 10th Avenue, Suite 205
 Eugene, OR 97401
 Telephone: (541) 302-1800

GARY M. GIBSON
 8557 Thurston Road #12
 Springfield, OR 97478
 Telephone: (541) 968-1342

LPRC Investigator _____

County: _____

Michael D. Vergamini P.C.
Attorney at Law

399 East 10th Ave., Suite 207
Eugene, OR 97401

Tel (541) 302-1800
Fax (541) 302-1801

January 2, 2009

RECEIVED

Ms. Martha M. Hicks
Oregon State Bar
16037 SW Upper Boones Ferry Road
PO Box 231935
Tigard, Oregon 97281-1935

JAN 05 2009

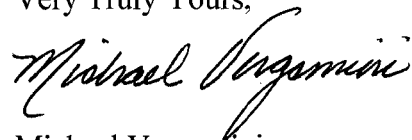
DISCIPLINARY
COUNSEL

RE: Gary Gibson

Dear Ms. Hicks,

I am in receipt of your letter dated December 20, 2008 in which you state that you assume I will not be providing further information to the file in the above referenced matter. Perhaps you did not recall a telephone conversation in mid-December in which you granted an extension of time to respond until January 16, 2009. I intend to file an additional response at that time.

Very Truly Yours,



Michael Vergamini,
Attorney at Law

December 30, 2008

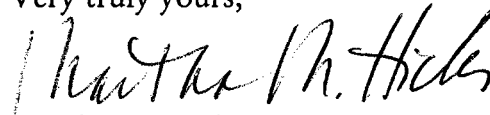
Michael D. Vergamini, Esq.
399 East 10th Avenue, Suite 205
Eugene, OR 97401

Re: Michael D. Vergamini (Gary M. Gibson)

Dear Mr. Vergamini:

Since I have not received a response to my letter of December 2, 2008, I am assuming that you have nothing further to add to my file in the above-referenced matter. In the near future, I will be analyzing this file to determine whether further review by the Bar is warranted. I will advise both you and Mr. Gibson of my decision.

Very truly yours,



Martha M. Hicks
Assistant Disciplinary Counsel
Extension 322

MMH:kld

cc: Gary M. Gibson

21-03

December 2, 2008

Michael D. Vergamini, Esq.
399 East 10th Avenue, Suite 205
Eugene, OR 97401

Re: Michael D. Vergamini (Gary M. Gibson)

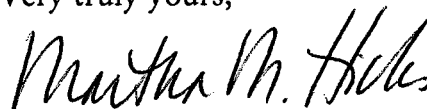
Dear Mr. Vergamini:

Enclosed is a further letter we received from Gary M. Gibson in connection with his concerns about your conduct.

Please review the enclosure and provide us with any additional information you wish to have us evaluate no later than December 16, 2008.

Thank you for your cooperation.

Very truly yours,



Martha M. Hicks
Assistant Disciplinary Counsel
Extension 322

MMH:kld
Enclosure
cc: Gary M. Gibson
18-03

November 26, 2008

Ms. Martha Hicks
Assistant Disciplinary Counsel
Oregon State Bar
16037 SW Upper Boones Ferry Road
Tigard, Oregon 97281-1935

RECEIVED

DEC 1 2008

DISCIPLINARY
COUNSEL

Dear Ms. Hicks,

Please review my response to Mr. Vergamini's letter dated Nov 7, 2008.

Mr. Vergamini would have you believe that the TSP issue did not come up until January or February of 2008. He would also have you believe that I said I would withdraw funds from TSP to satisfy the stipulated agreement. His statement that I insisted that the TSP account remain intact and not be divided is also untrue. All parties were fully aware of where and how much money I had, as revealed during disclosure (may I remind you that Mr. Vergamini failed to provide this information to the opposing party as of 8/2/07 and admitted to this fact).

The proceeds from the sale of the house (less \$5k) were given to Mrs. Gibson in hopes of protecting my Postal retirement. This is the ONLY issue that I insisted was non-negotiable. Again, I made it clear to Mr. Vergamini at the beginning of our relationship that I would go to court rather than give any portion of it to Mrs. Gibson. Mr. Vergamini states that he negotiated that my TSP remain intact yet insists that I told him I would take the money out of my TSP to pay the judgment. Irregardless of whether I borrowed the money from TSP or the opposing party garnished the money from TSP to satisfy the judgment, the fact remains that my TSP would not remain intact.

Mr. Vergamini states that he knew little about my TSP other than the amount and type of retirement account it was. Yet, in answering question 5 he makes reference to specific rules of TSP with regards to the distribution of marital property. He specifically says "at the time of settlement" indicating that he was well aware of TSP rules prior to 8/7/07. I can only hope that you see that Mr. Vergamini cannot keep his story straight within the context of his response, let alone over the course of a year while he was my counsel.

Mr. Vergamini places significant weight on what allegedly transpired at the deposition/settlement conference held on 8/2/07. ALL statements he has made referencing this date are absolute fabrications.

If Mr. Vergamini could supply a single piece of evidence of what he alleges was said and transpired on 8/2/07, e.g. perhaps the testimony as recorded by the nonexistent court reporter, any notes regarding discussion of settlement (aside from the \$400/mo. offered), have Ms. Shepard corroborate any of his statements (documentation), provide any documented issues of settlement whatsoever (that indicates my presence), I will immediately withdraw my complaint. Unfortunately,

Mr. Vergamini has perjured himself before this tribunal and my complaint against him is now of little consequence.

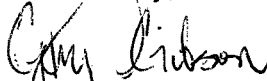
As of this writing, I have not filed a PLF claim although I have given it consideration. In all honesty, I doubt any malpractice attorney would take this case simply because of the little money involved unless of course they too would work Pro Bono. Mr. Vergamini's lack of due diligence, competent representation and atrocious communication regarding my case has caused considerable heartache and mental anguish, not to mention physical illness (documented). The matter of settlement is still unresolved; incredibly over 1 year after the stipulated agreement was entered. Both parties' lives have been put on hold. Mr. Vergamini's failures to abide by the Rules of Professional Conduct have prevented us from placing this unfortunate chapter of our lives in the past and moving on.

With regards to the retainer that I paid to Ms. Wilson, Mr. Vergamini states that he was unaware of how much I paid Ms. Wilson. Enclosed (part of my file) is the Attorney Fee Agreement I signed. Note: the date is wrong and should be 3/08/07. Also enclosed is a letter from Mr. Vergamini dated 5/7/07 indicating I would not be charged for the initial consultation. A letter dated 5/4/07 is also enclosed requesting a \$2000 retainer. At our initial meeting Mr. Vergamini did in fact waive the \$2000 retainer although he did indicate that he charged \$175/hr. I can only speculate as to what motivated Mr. Vergamini to act as my counsel for nearly a year without compensation.

I am not aware of the type of relationship Mr. Vergamini had with Ms. Wilson, but it would seem that all aspects of my case would be made available to him when the Substitution of Attorney was signed 4/23/07. Please take note of the letterhead of the enclosed letters from Mr. Vergamini. They were generated from Ms. Wilson's office. I find it rather odd that Mr. Vergamini now maintains an office at the very same address Ms. Wilson formerly practiced. This is just a personal observation.

Please let me know if I can further assist you with any additional information. Thank you for your time.

Yours truly,


Gary M. Gibson

Attachments (3)

ATTORNEY FEE AGREEMENT

Gary Gibson, Client, retains Linda J. Wilson & Associates, (Attorneys), to represent Client with regard to the following legal matter(s): DISSOLUTION. Client authorizes his or her Attorneys to act on Client's behalf in all matter relating to this case, to cooperate with Attorneys, and to advise Attorneys immediately of any change of address or telephone number. Compensation paid to Attorneys will be based on either a "Flat Fee" or on an "Hourly Fee" as described and acknowledged below:

A. FLAT FEE

Compensation of \$ _____ will be charged and paid as a prepaid attorney fee for the above mentioned representation. The fee, paid at or before the time this contract is signed, is considered by both the Client and Attorneys as non-refundable, and earned by Attorneys upon receipt. Client agrees that additional services requested, beyond those specified above, will be charged to Client at Attorneys' regular hourly rate unless a new separate fee agreement is executed to cover those services.

Acknowledgment _____
Client

B. HOURLY RATE

Client Agrees to pay hourly attorney fees at \$245.00 per hour, and paralegal fees at \$ 75.00 per hour. Client Agrees to make an initial payment of \$ 4,500.00 as a non-refundable retainer which is earned by Attorneys upon receipt. Under this hourly fee agreement, Client will be billed for fees on a other monthly basis. Payment on monthly bills is required within (20) day of the date of the bill unless other terms are agreed to between Attorneys and Client. Under this hourly fee agreement, attorneys retain the right to require payment of a trial fee deposit prior to the trial of any issue in the case. The size and timing of a trial fee payment will be agreed to between Client and Attorneys prior to trial. Failure to reach an agreement on a prepaid trial fee, or failure to pay an agreed to fee, may be cause for Attorneys withdrawing from the case.

Acknowledgment Gary Gibson
Client

COST (Applies to Both A and B above)

Costs incurred in prosecuting a case will be prepaid by all clients. Cost may include, but may not be limited to the following; court filing fees, arbitration fees, costs of service of Summons, subpoena, or other process, travel costs, court reporters fees, deposition costs, postage, copy costs, long distance charges, expert witnesses, investigative services, and any other administrative expenses. At or before signing of this contact, Client has paid \$ _____ as an advanced costs. If costs are advanced by Attorneys they will be billed to client. Payment will required within twenty (20) days after the date of billing.

INTEREST ON UNPAID BILLS AND ATTORNEY COLLECTION COSTS

Any bill from Attorneys to Client that is not paid as agreed will earn interest at the legal rate of nine percent (9%) from the date of default until the bill is paid. If Client's account is placed for collection Client agrees to pay Attorneys' collection costs, including reasonable attorney fees and costs as ordered by the court.

DATED AND AGREED to on the 5 day of March, 2006.

Attorney

Gary Gibson
Client

LAW OFFICES

ATTORNEYS AT LAW

CARTER A. DAUM - cadattorney@peak.org
MICHAEL VERGAMINI

Please direct all correspondence to:
P.O. BOX 10924
EUGENE, OREGON 97440

May 7, 2007

Mr. Gary Gibson
317 30th Street, Apt 127-A
Springfield, Oregon 97478

Re: Gibson Dissolution
Lane County Case No. 15-07-02036

Dear Gary:

Ms. Wilson will not be practicing law for the next six months and she has asked that I finish up her cases for her. Please call and make an appointment to come see me so that we might meet each other. You will not be charged for that appointment.

I am in receipt of your telephone message wherein you asked if you could use the savings account to buy a house. The answer is no. First of all, when the Petition for Dissolution was filed a Restraining Order was issued that restrained you from using marital funds for anything but very specific purposes. I have enclosed herewith a copy of the Restraining Order. Secondly, if you buy a house now, particularly with marital funds, your wife might claim an ownership claim in it at the time of the trial. All in all, it is best to wait until after the dissolution is finished.

I look forward to meeting with you.

Very Truly Yours,



MICHAEL D. VERGAMINI

MDV: st

LAW OFFICES

ATTORNEYS AT LAW

CARTER A. DAUM - cadattorney@peak.org
MICHAEL VERGAMINI

Please direct all correspondence to:
P.O. BOX 10924
EUGENE, OREGON 97440

May 4, 2007

Mr. Gary Gibson
317 30th Street, Apt 127-A
Springfield, Oregon 97478

Re: Gibson Dissolution
Lane County Case No. 15-07-02036

Dear Gary:

As you may know, Ms. Wilson will not be practicing law for the next six months and has asked that I take over her files.

Enclosed herewith please find copy of Notice I received from the court setting trial in your matter for June 29, 2007 at 9:30 a.m. I will, of course, be in touch with you prior to that time.

It is the policy of this firm that prior to trial \$2,000.00 be placed in your account for trial preparation and trial. I would appreciate your doing that as soon as possible.

Very Truly Yours,



MICHAEL D. VERGAMINI

MDV: smj
Enclosure

November 14, 2008

Gary M. Gibson
8557 Thurston Road #12
Springfield, OR 97478

Re: Michael D. Vergamini (Gary M. Gibson)

Dear Mr. Gibson:

In response to our letter of October 6, 2008, attorney Michael D. Vergamini has sent us the enclosed materials in answer to your concerns.

Please review the enclosure and provide us with any additional information you wish to have us evaluate no later than December 1, 2008.

Thank you for your cooperation.

Very truly yours,



Martha M. Hicks
Assistant Disciplinary Counsel
Extension 322

MMH:kld

Enclosure

cc: Michael D. Vergamini, Esq.

17-03

RECEIVED

NOV 14 2008

DISCIPLINARY
COUNSEL

November 7, 2008

Ms. Martha Hicks
Assistant Disciplinary Counsel
Oregon State Bar
16037 SW Upper Boones Ferry Road
PO Box 231935
Tigard, Oregon 97281-1935

RE: Gary Gibson

Dear Ms. Hicks,

I am in receipt of your letter dated October 6, 2008 requesting further information regarding the complaint by Mr. Gary Gibson. In your letter, you requested I answer 8 specific questions, which I will address below:

(1) Were you aware that Mr. Gibson's TSP Account was a retirement account?

Yes. However, I knew very little about the account other than the amount of money in it and generally what type of retirement account it was. I did not know what the provisions were regarding the premature withdrawal of funds and I relied solely on Mr. Gibson's representation that he could withdraw funds without penalty. Nevertheless, the only time this came up was during the settlement discussions on 8.2.07 when Mr. Gibson mentioned that he could withdraw funds from the TSP account to pay the equalizing judgment if he needed to do so. Not much discussion was spent on the TSP account since it was agreed early on that the account would remain intact and not be divided as part of the property distribution. Mr. Gibson insisted that the TSP account remain intact and not be divided, which I was able to negotiate successfully for him.

(2) What research did you do with regard to whether a garnishment of Mr. Gibson's TSP account was garnishable?

Prior to the settlement, none. Garnishment of the TSP account was not even a question until February of 2008, by which time the judgment had been entered for at least four months. I did not research whether the account was able to be garnished prior to the stipulated agreement as it did not occur to me that garnishment of the account would arise as an issue. Mr. Gibson assured me that he would be able to pay the equalizing judgment and that if necessary, he would withdraw funds from the TSP account.

(3) Did Mr. Gibson tell you he wanted to have his wife satisfy the equalizing judgment by having his wife garnish his TSP account?

My recollection is that it was not until February (although it could have been late January) that Mr. Gibson suggested his wife should just garnish his TSP account after it became clear that he could not come up with the equalizing judgment and was refusing to withdraw the money from the TSP account. I recall that there was some discussion about this with the opposing counsel and we were still looking into the possibility of dividing the Thrift Savings Plan or finding some other way to borrow without a penalty by modifying the judgment in March. A letter dated March 27, 2008 from attorney Vanessa Carter indicates that we were attempting to determine whether this was even a possibility at that point in time.

(4) Has Mr. Gibson made a PLF claim and if so, what has been the resolution of that claim?

I am not aware that Mr. Gibson has filed a PLF claim.

(5) Why did you opt for an equalizing judgment (cash) rather than a QDRO?

Mr. Gibson opted for an equalizing judgment in lieu of spousal support. The equalizing judgment was estimated by me to be significantly less than he would have had to pay in spousal support over 10 years, which I concluded could easily be double that amount. The opposing counsel was asking for one thousand a month, not entirely unrealistic, which would have been one hundred and twenty thousand dollars over ten years. I thought ninety thousand was more probable, which would have been \$750.00 per month over ten years.

Mr. Gibson was adamant that he did not want the TSP Account divided as part of the property settlement and that he should be left with the TSP account intact. He nevertheless indicated that he could come up with the cash for an equalizing judgment and was confident that he could withdraw the money himself from the TSP account *if he needed to do so*. At the settlement discussions on the day the deposition was scheduled, Mr. Gibson told me that one option he was considering was withdrawing money from the TSP account to pay the equalizing judgment. It was for this reason that I negotiated an additional 30 days in which to pay the equalizing judgment because Mr. Gibson believed it might take more time than 30 days. When I asked him if he was certain he could do this he said yes but that he might have to pay it back to the account, which he said he would be able to do. Mr. Gibson gave assurances to both me and the opposing counsel (through me at the deposition/settlement conference) that he could pay the forty thousand dollars. It was made very clear to Mr. Gibson that he would be writing a check for that amount to the opposing party.

As it stands, Mr. Gibson *is able to withdraw* money from the Thrift Savings but he is required to pay it back. This is something he does not want to do and there are some additional tax consequences if he were to do so. A QDRO only with precise

language in the judgment that specifies the Thrift Savings Plan would have allowed direct payment from the Thrift Savings Plan as a distribution of marital property. But Mr. Gibson did not want to do this at the time of settlement. Nor did the opposing party negotiate dividing the Thrift Savings Plan as a QDRO since, not only would there have been tax consequences to Mrs. Gibson, part of the deal was to keep that account intact. In retrospect, a QDRO dividing the Thrift Savings Plan would have been a better option. At the time, however, Mr. Gibson did not want to divide the Thrift Savings Account. I was left with the impression that he was considering more than one source to pay the equalizing judgment.

(6) Did you explain to Mr. Gibson that he would have to come up with cash and if you did please provide any corroborating documents or information you have?

It was made very clear to Mr. Gibson that he would be paying a forty thousand dollar equalizing judgment and I absolutely explained to Mr. Gibson, in no uncertain terms, that he would have to come up with the cash. In fact, we negotiated an extra 30 days (60 days total) in order to give him the time to come up with the cash, which he indicated on one occasion (8.2.07) might come from his TSP account. The equalizing judgment was the most important part of the settlement agreement for my client and we went over it several times when we were attempting to settle the case on 8.2.07, when I was negotiating a settlement with the opposing counsel on 8.7.07 (I phoned Mr. Gibson at home several times that evening) and before and after the stipulated agreement on 8.8.07. On 8.7.07, I specifically told him: "You understand you will have write her a check for forty thousand dollars in 60 days," which he acknowledged affirmatively.

On at least one occasion that I can specifically recall, immediately before putting the judgment on the record, Mr. Gibson asked me whether he should write the check directly to the opposing party or go through the attorneys. I explained it would be best at least to transfer the check through the attorneys so that the attorneys would record the transaction and the parties could sign a satisfaction of the judgment. I believe I answered the same question during the settlement discussions on 8.02.07 but I do not recall that with certainty.

(7) How much of Mr. Wilson's retainer did you receive from Ms. Wilson and what did you do with the money?

I received none of Mr. Gibson's retainer from Ms. Wilson. I attempted to have her transfer the retainer on several occasions without success and then later, Ms. Wilson was to give both me and Mr. Gibson an accounting from which I could deduct my billable hours and Mr. Gibson would presumably be reimbursed the remainder. This never took place, as Ms. Wilson was unavailable, and I lost complete contact with Ms. Wilson by late September.

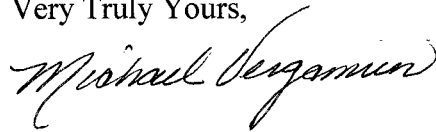
(8) Did you enter into a new fee agreement with Mr. Gibson?

I did not enter into a new fee agreement with Mr. Gibson. I was under the impression that I would be receiving the retainer from Ms. Wilson in due course but by September, after several requests, it became apparent to me that I would not. Since the case had settled, I decided not to pursue the matter of payment with Mr. Gibson in large part because I felt there might arise a fee dispute with Ms. Wilson and quite honestly, I wanted to stay out of it. Also, we had no separate fee agreement and so I did not think it was either fair or ethical to start charging him in mid-course.

Finally, I should add that I was unaware of how much Mr. Gibson paid Ms. Wilson or what the outstanding balance was in her trust account. I informed Mr. Gibson early on that I would not be charging him, that Mr. Gibson and I did not have a separate fee agreement and that as far as I was concerned whatever he paid Mrs. Wilson covered my expenses. I made it clear that the matter of my payment would be something that I could address with Ms. Wilson and that Mr. Gibson would not be responsible for my fees. However, Ms. Wilson all but disappeared by the end of the summer and I let the matter drop. After November 2007, I stopped keeping track of my billable hours.

I hope these answers address your concerns, please let me know if you need me to provide additional information or address further inquiries into this matter.

Very Truly Yours,



Michael Vergamini, OSB 04520
Attorney at Law

October 6, 2008

Michael D. Vergamini, Esq.
399 East 10th Avenue, Suite 205
Eugene, OR 97401

Re: Michael D. Vergamini (Gary M. Gibson)

Dear Mr. Vergamini:

Disciplinary Counsel has received from the Bar's Client Assistance Office correspondence from Gary M. Gibson, who has expressed concern about your conduct. Mr. Gibson's concerns may implicate the provisions of RPC 1.1, RPC 1.4(b), RPC 1.15-1(d), and RPC 1.16(d).

It is my responsibility to investigate this matter to determine whether your conduct complies with the provisions of ORS Chapter 9 and the Oregon Rules of Professional Conduct. In order to permit me to make a fair and informed analysis, I request your account of the matter on or before October 27, 2008, as required by BR 2.6(a)(1). In your account, please include the answers to the following questions: (1) Were you aware that Mr. Gibson's TSP account was a retirement account? (2) What research did you do with regard to whether a garnishment of Mr. Gibson's TSP account was possible? (3) Did Mr. Gibson tell you that he wanted to satisfy the equalizing judgment by having his wife garnish his TSP account? (4) Has Mr. Gibson made a PLF claim and, if so, what has been the resolution of that claim? (5) Why did you opt for an equalizing judgment (cash) rather than a QDRO? (6) Did you explain to Mr. Gibson that he would have to come up with cash for the equalizing judgment and, if you did, please provide any corroborating documents or information you have? (7) How much of Mr. Gibson's retainer did you receive from Ms. Wilson and what did you do with this money? (8) Did you enter into a new fee agreement with Mr. Gibson? If you did was it oral or written? If you did not, why not?

With your response to me, please include any file notes you have made, your time and billing records, Mr. Gibson's trust account ledger, any fee agreement you entered into with Mr. Gibson, and any accounting you have rendered to him of his retainer. If you have not rendered an accounting, please explain why you have not.

Letter to Michael D. Vergamini, Esq.
October 6, 2008
Page 2

When I receive your response, I will send a copy of it to Mr. Gibson. I will, if appropriate, request that he comment upon your response. All material submitted in the course of this investigation by the parties is considered public record, and both parties will receive copies. If, after I review all documentation and information gathered in this matter, I feel that further consideration of the matter is warranted, it will be submitted either to a Local Professional Responsibility Committee for investigation or to the State Professional Responsibility Board, with notice to you and Mr. Gibson. You and Mr. Gibson also will be notified of any final action taken by this office or the SPRB in the matter.

I am confident that I will receive your full cooperation in this investigation. You should be aware, however, that failure to respond to this matter constitutes a violation of RPC 8.1(a)(2). Should I not receive your response on or before the date specified above, this matter may be referred to a Local Professional Responsibility Committee for formal investigation. I am able to grant an extension of time to respond for good cause if requested before the deadline.

Thank you in advance for your cooperation. I look forward to a fair and expeditious review of this matter.

Very truly yours,

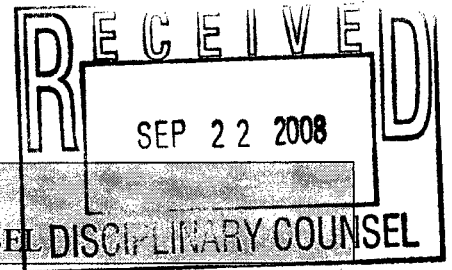


Martha M. Hicks
Assistant Disciplinary Counsel
Extension 322

MMH:mh

cc: Gary M. Gibson

1dr-03



**CLIENT ASSISTANCE OFFICE
REFERRAL TO DISCIPLINARY COUNSEL**

<u>ATTORNEY:</u>	<u>BAR #:</u>	<u>STATUS:</u>
Michael D. Vergamini	045208	M
<u>COMPLAINANT(s):</u>	<u>IDENTITY OF COMPLAINANT:</u>	
Gary M. Gibson	Client	
<u>SUBJECT MATTER:</u>	<u>DATE RECEIVED BY CAO:</u>	
Domestic Relations	June 12, 2008	
<u>CAO ATTORNEY:</u>	<u>DATE REFERRED TO DCO:</u>	
Scott A. Morrill	September 22, 2008	

NATURE OF COMPLAINT / CAO ACTION

Mr. Gibson (Gibson) complained that Mr. Vergamini (Vergamini) neglected his matter, failed to communicate adequately and was not adequately prepared to handle the matter. Gibson is also dissatisfied with the quality of Vergamini's services.

Vergamini took over Gibson's divorce case from attorney Linda Wilson who was suspended. Vergamini made some effort to ascertain Gibson's goals and worked toward resolving the matter short of trial. A deposition was set for August 2007 that turned into a settlement negotiation. Gibson was mostly concerned about protecting his retirement and not being responsible for spousal support. He apparently agreed to pay a lump sum in lieu of spousal support. However, the source of the lump sum and the tax consequences became a problem for him post judgment.

Gibson feels Vergamini was not diligent about evaluating his case, failed to advise him about the tax consequences of taking money from a retirement account to pay spousal support, and was generally not well prepared.

Vergamini notes that when he took the case from Linda Wilson, he thought discovery was complete. He later realized that it was not, but took care of that right away. He contends it was Gibson who proposed the lump sum, that Gibson was fully on board with the proposed settlement (put on the record), and that it was only later that Gibson realized that taking money from the account would have tax implications. Vergamini worked post judgment to try and resolve this issue until the opposing party lost patience and garnished the account.

CONFIDENTIAL
CAO ANALYSIS AND RECOMMENDATION
(Pursuant to ORS 192.502(1))

This may be malpractice at worst. However, Gibson sent his entire file, which appears to be Vergamini's client file. I assume Vergamini kept a copy as he never responded to my letter suggesting that we could send him one if he had not kept a copy. It just strikes me as being a bit light, especially on the discovery materials. There is no financial information in it and I suspect that Vergamini tried to take the easy way out by working out a settlement without having benefit of the financial information which he would have needed to give Gibson good advice. He did try to fix the mess after, but understandably the opposing party was not interested in solving Gibson's tax problems.

I feel it is appropriate for DCO to decide if Vergamini was adequately prepared (and competent) to have settled the divorce without having obtained all the financial information or having thought through the effects it would have on his client.

Inquiry View

Inquiry Id: 08-01398

Complainant Information

Complainant Id:	Name:	Address:
26-615-18	Gibson, Gary M.	8557 Thurston Road, #12 Springfield OR, 97478

Accused Information

Accused Id:	045208
Name:	Vergamini, Michael
Firm Size:	0
Related Cases:	

Inquiry Information

File Type:	Investigation	Source:	Mail
Issue:	Neglect of legal matter	OSB Attorney:	Scott Morrill
Type of Matter:	Domestic Relations	Recipient:	Karen Graham
Contact Type:	Client		
Notes:			

6/12/08, malpractice, neglect, communication and competency issues. Inquiry drafted.

6/16/08, letter sent.

6/30/08, spoke to A. Granted 2 week extension. E-mailed staff to prepare confirmation.

7/1/08, confirmation sent.

7/30/08, reviewed A's response. Negotiated settlement. Client noted he could come up with equalizing amount by tapping a retirement account. When found out there were tax issues, A tried to negotiate a resolution with opposing, but no luck. Opposing eventually garnished. Transmittal drafted.

8/5/08, letter sent.

8/19/08, reviewed C's response and drafted transmittal.

9/9/08, analyze letter drafted.

9/10/08, letter sent. Analyze.

9/18/08, DCO memo drafted.

CLIENT ASSISTANCE OFFICE

REFERRAL TO DISCIPLINARY COUNSEL

NATURE OF COMPLAINT / CAO ACTION

Mr. Gibson (Gibson) complained that Mr. Vergamini (Vergamini) neglected his matter, failed to communicate adequately and was not adequately prepared to handle the matter. Gibson is also dissatisfied with the quality of Vergamini's services.

Vergamini took over Gibson's divorce case from attorney Linda Wilson who was suspended. Vergamini made some effort to ascertain Gibson's goals and worked toward resolving the matter short of trial. A deposition was set for August 2007 that turned into a settlement negotiation. Gibson was mostly concerned about protecting his retirement and not being responsible for spousal support. He apparently agreed to pay a lump sum in lieu of spousal support. However, the source of the lump sum and the tax consequences became a problem for him post judgment.

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Disposition Information

Disposition: DCO
Disposition Summary: SE
Disposition Date: 09/22/2008

Appeal Date:
Sent to GC Date:
GC Decision Date:
GC Decision:

Re-Open Date:
Re-Close Date
Re-Disposition:
Disposition Notes:

9-22-08 File to DCO. See general notes.

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September 22, 2008

Michael D. Vergamini
Attorney at Law
399 E 10th Ave Ste 205
Eugene, OR 97401

Re: Michael D. Vergamini (Gary M. Gibson)

Dear Mr. Vergamini:

We have reviewed all of the material submitted in the above-referenced matter. Pursuant to BR 2.5(b)(2), we are referring this matter to Disciplinary Counsel's Office for further consideration.

This referral to Disciplinary Counsel is not, and should not be construed in any way as, a determination that any improper conduct has occurred in this case. Under Bar Rule of Procedure 2.5, CAO determines whether there is sufficient evidence to support a reasonable belief that misconduct may have occurred warranting a referral to Disciplinary Counsel's Office for further investigation. Misconduct means a violation of the rules of professional conduct and applicable statutes that govern lawyer conduct in Oregon.

Disciplinary Counsel's Office will conduct a further inquiry to determine whether there is probable cause that a disciplinary violation occurred. You should hear from Disciplinary Counsel's Office within 14 days and all further correspondence should be directed there. Thank you for your cooperation.

Sincerely,

/s/ Scott A. Morrill

Scott A. Morrill
Assistant General Counsel
Ext. 344

SAM/emr

cc: Gary M. Gibson
0801398
04a

September 10, 2008

Michael D. Vergamini
Attorney at Law
399 E. 10th Avenue, Suite 205
Eugene, OR 97401

Re: Michael D. Vergamini (Gary M. Gibson)

Dear Mr. Vergamini:

Since I have not received a response to my letter of August 25, 2008, I am assuming that you have nothing further to add to my file in the above-referenced matter. In the near future, I will analyze this file to determine whether further review by the Oregon State Bar is warranted. I will advise both you and Gary Gibson of my decision.

Very truly yours,

/s/ Scott A. Morrill

Scott A. Morrill
Assistant General Counsel
Extension 344

SAM/jmm

cc: Gary M. Gibson
0801398
019

August 25, 2008

Michael D. Vergamini
Attorney at Law
399 E 10th Ave Ste 205
Eugene, OR 97401

Re: Michael D. Vergamini (Gary M. Gibson)

Dear Mr. Vergamini:

Enclosed is a further letter we received from Mr. Gibson in connection with his concerns about your conduct. Mr. Gibson also provided a complete copy of the file you apparently provided him. We have not enclosed a copy of the file as we suspect you already have your own. However, if you need a copy please advise.

Please review the enclosure and provide us with any additional information you wish to have us evaluate no later than September 8, 2008.

Thank you for your cooperation.

Sincerely,

/s/ Chris L. Mullmann

Scott A. Morrill
Assistant General Counsel
Ext. 344

SAM/emr
Enclosure

cc: Gary M. Gibson
0801398
02m

