

EUGENE ALPERN
P.O. Box 672
Morton Grove, IL 60053

October 8, 1997

Ms. Mary Robinson, Administrator
Attorney Registration and
Disciplinary Commission
130 E. Randolph Dr. - #1500
Chicago, IL 60601-6219

Dear Ms. Robinson:

Re: Theresa M. Gronkiewicz
Collins & Bargione
One N. LaSalle St.
Chicago, IL 60602

The following charges of attorney misconduct are being filed against attorney Theresa M. Gronkiewicz and Collins & Bargione for the multiple ethical violations stated below.

Our Supreme Court has established a Rule that an attorney has an affirmative duty to make a full, complete, separate, and independent serious inquiry into the facts of a case before filing any pleading, and may not rely on the allegations made by their client. Supreme Court Rule ("SCR") 137. An attorney does not have to be sanctioned to be engaged in conduct in violation of SCR 137.

As an attorney, Theresa M. Gronkiewicz knew, or reasonably should have known, that SCR 137 applies to all oral misrepresentations as well as all written representations. **Fremarek v. John Hancock Mut. Life. Ins.**, 272 Ill.App.3d 1067 (1995) and other citations referred to therein.

Our Supreme Court has also made it a mandatory requirement that attorneys must not make any misrepresentation to the court or to this tribunal. **Illinois Rules of Professional Conduct ("IRPC") Rules 1.2(f), 3.1 and 3.3.** Courts have ruled that misrepresentation, on the part of an officer of the court, includes the commission, omission, silence, and concealment of any facts to the court or this tribunal.

Courts have held that failure to fully comply with the requirements of SCR 137 is a "fraud upon the court".

The Illinois Rules of Professional Conduct apply to all licensed Illinois attorneys, including defense disciplinary attorneys.

The following charges of unethical conduct relate to a letter from Theresa M. Gronkiewicz, dated July 1, 1997, to the Attorney Registration and Disciplinary Commission relative to Caryl Jacobs Gabe, 97-CI-2901. [Exhibit A].

Charge 1

As an attorney, Theresa M. Gronkiewicz ("Gronkiewicz") knew, or reasonably should have known, that she could not rely on the statements of her client, but must make a full, complete,

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separate and independent investigation into all of the facts underlying the charges of misconduct of her client.

As only one example of her conscious, deliberate, knowing, and intentional misrepresentation to this Commission in an attempt to mislead this Commission, Gronkiewicz stated, in her letter dated July 1, 1997 [Example A], "Caryl Gabe did not represent Eugene Alpern or his wife, Phyllis Alpern."

As an attorney, Gronkiewicz knew, or reasonably should have known, applicable Illinois Rules of Professional Conduct ("IRPC") and Illinois law. She should have known, that when a client employs an attorney, the client actually employs each and every attorney in the firm. While one attorney may undertake the major representation of a specific client, any attorney in the firm may appear in court on behalf of the client.

As an attorney, Gronkiewicz knew, or reasonably should have known, that in her investigation into the underlying facts in her representation, she would have found that Phyllis Alpern had signed an agreement with Gabe, Gabe & Associates, P.C., an agreement which covered all attorneys in the firm. Failure of Gronkiewicz to disclose this fact to the Commission is another misrepresentation to the Commission.

As an attorney, Gronkiewicz knew, or reasonably should have known, that she had consciously, deliberately, intentionally, and knowingly engaged in conduct in making a misrepresentation to the ARDC in an attempt to mislead this Commission.

As an attorney, Gronkiewicz knew, or reasonably should have known, that she had consciously, deliberately, intentionally, and knowingly engaged in a "fraud upon the court/commission", and had engaged in conduct in violation of IRPC Rule 3.3

Charge 2

As an attorney, Gronkiewicz knew, or reasonably should have known, that, under Illinois law, knowledge imputed to one member of a law firm is imputed to all of its members. Any information imputed to any attorney in Gabe, Gabe & Associates, P.C. was also imputed to Caryl Jacobs Gabe.

As an attorney, Gronkiewicz knew, or reasonably should have known, that her response to the ARDC was an attempt to deceive the Commission.

As an attorney, Gronkiewicz knew, or reasonably should have known, that she had consciously, deliberately, intentionally, and knowingly engaged in violation of Rule 3.3.

Charge 3

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As an attorney, Gronkiewicz knew, or reasonably should have known, that, under Illinois law, an attorney is responsible for the negligence of all other attorneys in the firm. Caryl Jacobs Gabe is, and was, responsible for any and all actions of any and all attorneys in Gabe, Gabe & Associates, P.C.

As an attorney, Gronkiewicz knew, or reasonably should have known, that her response to the ARDC was an additional attempt to deceive the Commission.

As an attorney, Gronkiewicz knew, or reasonably should have known, that she had consciously, deliberately, intentionally, and knowingly engaged in violation of Rule 3.3.

Charge 4

As an attorney, Gronkiewicz knew, or reasonably should have known, that, under Rule 8.4(a)(2), she could not give assistance to another attorney's misconduct, when the lawyer knows or reasonably should have known, that such conduct would violate these Rules.

As an attorney, Gronkiewicz knew, or reasonably should have known, that she had a legal and fiduciary duty to make a full, complete, separate and independent investigation of the facts underlying the charges of misconduct of her client. Gronkiewicz consciously, deliberately, intentionally, and knowingly failed to report her client to the ARDC for her misconduct.

As an attorney, Gronkiewicz knew, or reasonably should have known, that she had consciously, deliberately, intentionally, and knowingly engaged in conduct in violation of Rule 8.4.

Charge 5

As an attorney, Gronkiewicz knew, or reasonably should have known, that, after making the required full, complete, separate, and independent investigation behind her client's conduct, she would have come to the only lawful conclusion that her client had engaged in unethical conduct in case no. 91-D-5122, and that there was no legal basis for her client or her client's law firm in charging any fees in case no. 91-D-5122.

As an attorney, Gronkiewicz knew, or reasonably should have known, that, by not reporting the unethical conduct of her client to the ARDC, she had consciously, deliberately, intentionally, and knowingly engaged in acts in violation of Rules 3.3(a)(1), 3.3(a)(2), 4.1(a)(1), 4.1(a)(2), 8.4(a)(1), 8.4(a)(2), 8.4(a)(4), 8.4(a)(5).

CONCLUSION

Your investigation will result in a finding that attorney Theresa M. Gronkiewicz and Collins & Bargione knew, or reasonably should have known, that they had consciously, deliberately,

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intentionally, and knowingly entered into a course of conduct which was in violation of the Illinois Rules of Professional Conduct, including but not limited to, IRPC Rules 1.2(f)(2), 3.1, 3.3(a)(1), 3.3(a)(2), 8.4(a)(1), 8.4(a)(2), 8.4(a)(4), and 8.4(a)(5), in violation of the public policy of the State of Illinois, and in violation of the law.

Gronkiewicz knew, or should have known, that her actions were consciously, deliberately, intentionally, and knowingly creating a "fraud upon the court/commission".

I would appreciate your conducting an investigation into the above charges of unethical misconduct.

Yours truly,

Eugene Alpern