

AA
L.E.P.
3/15/05



A. GAIL PRUDENTI
PRESIDING JUSTICE

JAMES EDWARD PELZER
CLERK OF THE COURT

Appellate Division
Supreme Court of the State of New York
Second Judicial Department
45 Monroe Place
Brooklyn, N.Y. 11201
(718) 875-1300

MEL E. HARRIS
SUSAN H. HARKAVY
MARY-ELLEN SKENYON
DEPUTY CLERKS

MATTHEW KIERNAN
APRILANNE AGOSTINO
ASSOCIATE DEPUTY CLERKS

April 15, 2005

Eliot I. Bernstein
Iviewit Holdings, Inc.
10158 Stonehenge Circle, Suite 801
Boynton Beach, Florida 33437-3546

Dear Mr. Bernstein:

On February 23, 2005, I wrote to you indicating that the Presiding Justice would review the dismissal of your complaint against Steven C. Krane by the Grievance Committee for the Second and Eleventh Judicial Districts, as well as your claims against Lawrence DiGiovanna and Diana Kearse, and that you would be apprised of the results of those reviews. I now write to inform you that the Presiding Justice has completed her review of each of those matters as well as of the Grievance Committee's more recent dismissal of the related complaints against Kenneth Rubenstein and Raymond A. Joao.

With respect to the Grievance Committee's dismissal of your complaint against Steven C. Krane, the Presiding Justice has concluded that based on the information you provided the Committee was correct in its determination. At the time Mr. Krane represented Mr. Rubenstein, he was neither a member of the Departmental Disciplinary Committee of the First Department nor a Special Referee. Mr. Joao was a patent attorney in Yonkers and was not even a member of the Proskauer law firm. Accordingly, your claim that some conflict existed at the time of the representation is baseless. Nor is there any inherent conflict of interest in a former Committee member's representation of a respondent before that committee after his or her service has ended.

The Presiding Justice has further concluded that your correspondence fails to set forth a prima facie case of professional misconduct with respect to the Chairperson and Chief Counsel of the Grievance Committee for the Second and Eleventh Judicial Districts. None of your allegations sets forth a violation of the disciplinary rules. In essence, you are dissatisfied with the failure of the Grievance Committee for the Second and Eleventh Judicial Districts to open the complaint against Steven C. Krane. There has been no violation of the First Department's order transferring that matter to the Second Department for investigation. As I informed you on the telephone, an "investigation" of allegations of professional misconduct involves first a determination of whether those allegations, if true, state a violation of a disciplinary rule of the Code of Professional Responsibility. Such an investigation was conducted with respect to your charges against Mr. Krane and, as stated above, the Committee properly concluded that they did not state a prima facie case of a violation of any provision of the code. The Second Department is not bound by your interpretation of language employed in the

CHAK
R-2
2/19/05

First Department order of transfer. Rather, the underlying purpose of the transfer was to allow for a de novo review of your complaint against Mr. Krane. This matter has most assuredly been afforded that review.

In anticipation of further correspondence from you, the Presiding Justice has taken the additional step of reviewing the Grievance Committee's dismissal of the complaints by you and Mr. Lamont against Kenneth Rubenstein and Raymond A. Joao as set forth in Ms. Kears's letter dated March 18, 2005. It appears that those complaints arose following a successful lawsuit brought by the Proskauer firm for substantial legal fees and essentially seek to attribute blame for the demise of Iviewit and its financial losses. Accordingly, they are more appropriately left for resolution by a court of law rather than through the disciplinary process.

Yours truly,



JAMES EDWARD PELZER
Clerk of the Court

JEP/mw

APPELLATE DIVISION, SUPREME COURT
SECOND JUDICIAL DEPARTMENT
STATE OF NEW YORK
45 MONROE PLACE
BROOKLYN, N.Y. 11201



3343743546 26

