

BOARD OF BAR OVERSEERS

of the Supreme Judicial Court

75 FEDERAL STREET
BOSTON, MASSACHUSETTS 02110

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Dear Complainant:

As indicated by the enclosed letter, your grievance has been closed after investigation by the Office of Bar Counsel. This letter is written to inform you of your right, under the Rules of the Board of Bar Overseers, to request review of that decision by a member of the Board. The Board has a staff of its own and functions independently of the Office of Bar Counsel.

If you are dissatisfied with Bar Counsel's decision regarding your grievance, you may request that an independent review be made of the decision by a member of the Board. In that event, Bar Counsel will transmit your file to the office of the Board. Upon concluding his or her review, the Board member may conclude that Bar Counsel was correct in closing the file. If so, that will end the matter, since the Supreme Judicial Court has held that there is no appeal from a decision by the Board not to bring disciplinary charges against an attorney. Binns v. Board of Bar Overseers, 1 Mass. Att'y Disc. R. 27, 28 (1976). Alternatively, the reviewing Board member may direct Bar Counsel to bring disciplinary charges or to reopen the file for further investigation.

If you wish the Board to review your complaint, you must file a written request no later than fourteen (14) days after the date of the enclosed letter from the Office of Bar Counsel. Your request for Board review should be sent to Office of Bar Counsel, Review Department, 75 Federal Street, Boston, Massachusetts 02110.

Very truly yours,



M. Ellen Carpenter
Chair

OFFICE OF THE BAR COUNSEL
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DANIEL C. CRANE
BAR COUNSEL

October 30, 2003

Mr. David L. Higgs
1269 Pleasant Street
Weymouth, MA 02189-2701

RE: BBO File No(s). B1-03-0258 (Mark W. Batten, Esq.)

Dear Mr. Higgs:

Your request for investigation of the conduct of Attorney Mark W. Batten has been assigned to me for review.

Without making any judgment as to the merits of this matter, the same or closely related issues have also been raised in a currently pending court case. The court is, in the first instance, a more appropriate forum for resolution of these issues. Accordingly, this file has been closed without disciplinary action.

In the event a subsequent decision by any court suggests misconduct by an attorney, you may bring this matter to our attention again and we will reconsider this decision at that time.

Enclosed please find a copy of a letter from the Chair of the Board of Bar Overseers advising you of your right to have this decision reviewed by a member of the Board.

Very truly yours,



Daniel C. Crane
Bar Counsel

DCC/sp

Enclosure

cc: Mark W. Batten, Esq.