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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 96-227

IN THE MATTER OF
MARTIN C.X. DOLAN
AN ATTORNEY AT LAW

Decision
Default [R. 1:20-4(f)(1)]

Decided: March 25, 1997

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

Pursuant to R. 1:20-4(f)(1), the District VI Ethics Committee ("DEC") certified the record in this matter directly to the Board for the imposition of discipline, following respondent's failure to file an answer to the formal ethics complaint. Service of the complaint was attempted by both regular and certified mail sent to his two last known addresses. Thereafter, on March 14, 1996, the Office of Attorney Ethics ("OAE") sent a letter to both addresses advising respondent that he could be temporarily suspended if he did not file an answer within five days of the date of the letter. Although the record does not reflect whether service by certified mail was completed, on both occasions the regular mail sent to one of the addresses was not returned. The formal ethics complaint filed by the OAE charged respondent with violations of RPC 1.1(a) (gross neglect) and RPC 1.4(a) (lack of communication).

Respondent was admitted to the New Jersey bar in 1978. On June 7, 1993, respondent was publicly reprimanded for pattern of neglect, failure to act diligently, failure to communicate, failure to safeguard property, and failure to cooperate with disciplinary authorities in six matters. In re Dolan, 132 N.J. 272 (1993). In the current matter, Emery Z. Toth, Esq. sent a letter dated June 27, 1994 to the OAE notifying that office that respondent allegedly neglected an estate matter and failed to communicate with a beneficiary of the estate. Following a request from the OAE, respondent replied, acknowledging that he failed to communicate with the estate beneficiary and to cooperate adequately with Toth.

According to the complaint, respondent was the attorney and executor for the estate of Eleanor Heffron. On July 13, 1994, respondent wrote to Kim Wiest, a beneficiary of the estate, advising her that he would contact her by the end of the month to inform her of the size of the estate, inheritance taxes, and disbursement schedule. When respondent did not supply the promised information, Ms. Wiest retained Toth on March 20, 1995. Respondent had failed to return approximately fifteen telephone calls from Ms. Wiest between July 1994 and March 1995.

Upon being retained, Toth telephoned and wrote to respondent on numerous occasions, to no avail. Ultimately, respondent spoke to Toth's secretary, informing her that he had been away and that he would send out the requested information immediately. On April 24, 1995, respondent telefaxed to Toth a letter along with a handwritten, unexecuted and unfiled transfer and inheritance tax form. The letter stated that the remainder of the information would be sent by mail the next day. On May 30, 1995, Toth wrote to respondent complaining that he had not received the requested information and pointing out discrepancies in the inheritance tax form. When respondent did not reply to Toth's letter, Toth sent him another letter, dated May 31, 1995, warning him that the matter

would be referred to the OAE if the requested information was not submitted. Respondent neither replied to Toth's letter nor gave him the requested information.

* * *

Following a de novo review of the record, the Board deemed the allegations contained in the complaint admitted. The record contains sufficient evidence of respondent's unethical conduct.

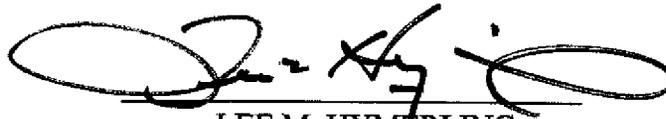
This leaves only the issue of appropriate discipline. In the past, conduct similar to that displayed by respondent has resulted in a reprimand. See In re Dreier, 120 N.J. 154 (1990) (public reprimand for lack of diligence while acting as trustee in an estate matter and failure to communicate with the trust beneficiary).

In light of the foregoing, the Board unanimously determined that respondent be reprimanded. In addition, respondent is to practice indefinitely under a proctorship until further order and must complete eight hours of professional responsibility courses.

The Board further determined to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: _____

3/25/97



LEE M. HYMERLING
Chair
Disciplinary Review Board