

03-144

FILED  
AUG 05 2004

*Signature*  
CLERK

SUPREME COURT OF NEW JERSEY  
D-44 September Term 2003

IN THE MATTER OF :  
FRANCIS X. HALLIGAN, JR., : ORDER  
An Attorney at Law :

This matter having come before the Disciplinary Review Board on a stipulated record, with the Office of Attorney Ethics recommending that FRANCIS X. HALLIGAN, JR., of TOMS RIVER, who was admitted to the Bar of this State in 1973, be suspended for violations of RPC 1.7(a) and (b) (conflicts of interest), RPC 1.5(a) (charging unreasonable attorney and trustee fees), and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation),

And respondent having argued that his actions were, in all respects, in accordance with the wishes of his client and that he did not violate any of the Rules of Professional Conduct as alleged by the Office of Attorney Ethics,

And a five-member majority of the Disciplinary Review Board having determined that respondent's conduct did

not amount to ethics violations and, accordingly, that all charges should be dismissed and no discipline imposed. . . . [and having] found no evidence that respondent unduly influenced [his client] or took advantage of her, or that she had become incompetent . . . ,

And the majority having also taken into consideration "respondent's return to the estate of \$50,000 of his legal fee,"

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And three members of the Disciplinary Review Board having filed a separate dissenting decision in which they concluded that respondent should be reprimanded for overreaching in his fees, and further concluded that "respondent abused his close relationship with [his client] and unfairly profited from her unconditional trust in him,"

And the Court having issued an Order to Show Cause and having heard the argument of counsel and having carefully reviewed the record and the briefs of the parties,

And the Court having determined that there is no clear and convincing evidence in the record that respondent acted other than in good faith, whereas there is evidence that he acted with the full consent of his client and to her satisfaction in respect of the work he performed as her attorney and trustee,

And the Court having further determined that there is no clear and convincing evidence in the record that

respondent coerced his client into acting contrary to her wishes or that his client was not aware of the fees respondent charged,

And the Court having further determined that in electing to adjust his legal fees by paying \$50,000 to the client's estate, respondent implicitly acknowledged that had the client or her family sought fee arbitration, there would have been an adjustment to the charges respondent had billed,

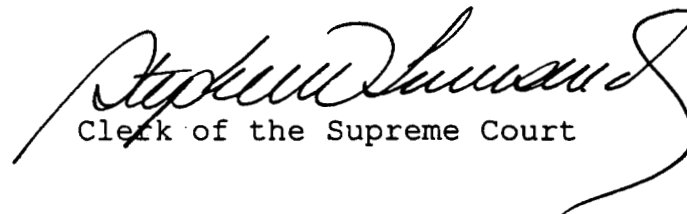
And good cause appearing;

IT IS ORDERED that the Court adopts the decision of the majority of the Disciplinary Review Board and accordingly dismisses the within matter in its entirety; and it is further

ORDERED that although the Court has concluded, on the record before it, that no discipline should be imposed in the within matter, in future cases the Disciplinary Review Board and the Court will apply an objective conduct standard to evaluate and determine whether the actions of attorneys who deal with elderly and infirm clients have been consistent with the requirements and obligations of the Rules of Professional Conduct, including, but not limited to, RPC 1.5 (fees), RPCs 1.7 and 1.8 (conflicts of interest), and RPC 8.4 (misconduct); and is further

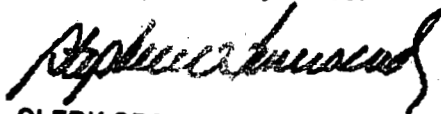
ORDERED that the Court will subject attorneys to the imposition of significant discipline when, after application of the objective standard, they are found to have violated the Rules of Professional Conduct.

WITNESS, the Honorable Deborah T. Poritz, Chief Justice, at Trenton, this 5th day of August, 2004.

  
Clerk of the Supreme Court

CHIEF JUSTICE PORITZ and ASSOCIATE JUSTICES VERNIERO, LaVECCHIA, ZAZZALI, and WALLACE join in the Court's Order. JUSTICES LONG and ALBIN did not participate.

The foregoing is a true copy of the original on file in my office.

  
CLERK OF THE SUPREME COURT  
OF NEW JERSEY

