

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 97-406

IN THE MATTER OF
ROBERT D. MEENEN
AN ATTORNEY AT LAW

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

Decided: June 29, 1998

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

Pursuant to R.1:20-4(f)(1), the Office of Attorney Ethics (OAE) 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 ethics complaint. Respondent's failure to cooperate during the underlying investigation of this matter resulted in his temporary suspension from the practice of law on June 11, 1997. That suspension remains in effect to date. Respondent has not been otherwise disciplined since his admission to the bar in 1965. There are no other cases pending against him.

The certification filed in this matter indicates that service of the complaint was attempted by both regular and certified mail. The certified mail was returned as unclaimed. The regular mail was not returned. Both items were sent to respondent's home address, which was also his former office address, at 131 North Watchung Drive, Hawthorne, New Jersey. As the documents filed in this matter indicate, respondent was fully aware of the existence of this ethics complaint, having been involved in the underlying audit for cause on May 6, 1997 and thereafter.

The complaint, filed by the OAE on September 3, 1997, charged respondent with improprieties as the appointed administrator for the estate of Francis Shane.

Shane's only beneficiary, his brother Garrett Shane, was confined to a nursing home and died sometime in 1994. According to the complaint, from the time of his appointment as administrator in 1988, and continuing into 1997, respondent "misappropriated and wasted" more than \$308,000 in estate funds. As administrator of the estate, respondent made improper loans, improperly invested estate funds and improperly advanced fees to himself from the estate.

The complaint charged that Respondent made a series of improper loans from the estate, as follows:

a.) Respondent loaned a total of \$8,500 from the estate to his ex-wife, Sherrill Meenen, without any security or documentation. The loan was never repaid and respondent did not attempt to collect the funds due.

b.) Respondent loaned \$5,000 to his then-paramour, Barbara Begamy. Again, he failed to obtain security for the loan or to prepare any documentation. The loan was never repaid. Respondent did not take any action to collect the loan from Begamy.

c.) In early 1992 respondent loaned \$5,000 to Marsha Kakoullis, an employee of respondent's accountant. While these loans were secured by a mortgage, even after foreclosure the estate recovered only \$10,000, since this was the third mortgage on the property.

As charged in the complaint, over a seven-year period, respondent made a series of improper investments using estate funds. From July 25, 1990 until March 7, 1997 respondent invested a total of \$205,580 from the estate on the advice of Marsha Kakoullis. These investments included limited partnerships and speculative companies that were either defunct at the time the funds were invested or went out of business shortly thereafter. The estate received a total return of \$50 from these investments.

Finally, the complaint charged that respondent improperly advanced fees to himself from estate funds. From November 28, 1988 through November 27, 1997 respondent took fees for himself in excess of \$39,000. The estate itself consisted of only cash and bank

accounts, which required minimal effort for respondent to administer. Respondent admitted that he was unable to substantiate his entitlement to the fees taken prior to his removal as administrator.

In addition to the mishandling of the funds, as detailed above, respondent did not file a New Jersey transfer inheritance tax return until March 1996, during a tax amnesty period established by the State of New Jersey. The filing occurred nearly eight years after respondent was appointed administrator.

According to the complaint, respondent admitted all of the above charges during the OAE's demand audit.

Respondent was also charged with failure to maintain the required attorney trust and business account records [RPC 1.15(d)] and with failure to cooperate with the disciplinary investigation [RPC 8.1(b)].

The third count of the complaint charged respondent with misappropriation of client trust funds. Although the complaint is unclear, it appears that in January 1997 respondent transferred more than \$4,000 in unidentified client funds (belonging to both active and inactive clients) from his trust account to his business account, which he maintained at a different bank. At the time of respondent's temporary suspension in June 1997, \$3,584.03 remained in his business account. The complaint charged respondent with misappropriation of \$1,129.58 of the funds transferred from Fidelity Bank.

* * *

In light of the fact that the regular mail was not returned, service of the complaint was presumed. Under the circumstances, and pursuant to R. 1:20-4(f), the charges in the complaint are deemed admitted. In addition, the facts articulated in the complaint support the violations alleged. Thus, the Board found respondent guilty of violations of RPC 1.1(a), RPC 1.3, RPC 1.5, RPC 1.15, RPC 8.1(b) and RPC 8.4(c). Included in these violations is a finding of knowing misappropriation of funds, consisting of the funds belonging to the unidentified clients referenced in count three of the complaint.

As to the Shane funds, respondent was acting as administrator, rather than attorney. Nonetheless, the appropriate discipline for his misconduct in Shane alone would be disbarment. This case bears some similarities to In re Silvia, 152 N.J. 243 (1998). There, the attorney acted as trustee and attorney for his wife's cousin. Without approval or justification he took fees in excess of \$300,000 over a period of years. Unlike this respondent, Silvia contended that he had been authorized by the decedent to take \$500 per week as his fee. Finding this claim to be specious, the Court disbarred Silvia.

This respondent, too, must be disbarred. His theft from the Shane estate and from additional unknown clients compels that resolution. Accordingly, the Board unanimously determined to recommend that respondent be disbarred.

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

Dated: 6/29/98

By: 

Lee M. Hymerling
Chair
Disciplinary Review Board