

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 93-444

IN THE MATTER OF :
: DANIEL R. SIEGEL, :
: AN ATTORNEY AT LAW :

Decision and Recommendation
of the
Disciplinary Review Board

Argued: February 10, 1994

Decided: August 1, 1994

Richard J. Engelhardt appeared on behalf of the Office of Attorney Ethics.

Respondent waived his appearance for oral argument.

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

This matter was before the Board on a Motion for Reciprocal Discipline filed by the Office of Attorney Ethics (OAE), based upon respondent's suspension for three years in the State of New York for neglecting four legal matters.

Respondent was admitted to the practice of law in New Jersey in 1952 and in New York in 1950. The underlying facts were established by the Appellate Division of the Supreme Court of New York, First Judicial Department, in its October 7, 1993 decision. Respondent was charged with sixteen violations of the disciplinary rules with regard to four complainants: Alfred Milton, Alice Amodeo, Dorothy Godfrey, and Angela Carter. The New York Court found that the extensive evidence presented to the Special Referee

indicated that respondent had neglected four legal matters, thereby violating the Code of Professional Responsibility in fourteen instances.

Specifically, although thirteen years had elapsed since respondent had settled the Amodeo matter, at the time of the Court's decision the settlement still had not been distributed. Respondent had also settled the case without his client's authorization. In addition, more than seven years had elapsed since the Godfrey matter had been settled. Likewise, that settlement had not been distributed, nor was respondent authorized to settle the matter. In the Milton matter, respondent failed to serve a bill of particulars and did not perfect the appeal, causing the underlying case and the appeal to be dismissed. Respondent also misrepresented the status of the case to his client, and waited seven years before informing him of the dismissal. Finally, in the Carter matter, respondent failed to reply to the demand for a bill of particulars and waited eight years before reaching a settlement in that case.

Respondent contended that all four cases were of dubious merit and that the clients had not been prejudiced by his action. However, Amodeo, Godfrey, and Carter were denied use of their settlement funds, and Milton's complaint and appeal were dismissed, all as a result of respondent's actions. Moreover, respondent was well aware of what he later characterized as the "dubious merit" of the cases when he commenced the actions. The Court found that respondent had engaged in serious professional misconduct for a

substantial period of time, thereby prejudicing his clients. As a result, the Court suspended respondent for a period of three years, effective November 8, 1993 (Exhibit B to OAE's letter-brief).

On November 1, 1993, respondent notified the OAE of his New York suspension, in accordance with R. 1:20-7. The OAE requested that reciprocal discipline be imposed and that respondent receive a three-year suspension in New Jersey.

CONCLUSION AND RECOMMENDATION

Upon review of the full record, the Board recommends that the OAE's motion be granted and that respondent be reciprocally disciplined in New Jersey for a period equal to his suspension in New York. Respondent has not disputed the factual findings of the Supreme Court of New York, Appellate Division. Hence, the Board adopts those findings. In re Pavilonis, 98 N.J. 36, 40 (1984); In re Tumini, 952 N.J. 18, 21 (1979); In re Kaufman, 81 N.J. 300, 302 (1979). The New York Court found that respondent, inter alia, neglected four legal matters for substantial periods of time, misrepresented the status of a case, and settled two cases without authorization from his clients.

Reciprocal disciplinary proceedings in New Jersey are governed by R. 1:20-7(d), which directs that:

- (d) The Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record upon which the discipline in another jurisdiction was predicated that it clearly appears that:

- (1) the disciplinary order of the foreign jurisdiction was not entered;
- (2) the disciplinary order of the foreign jurisdiction does not apply to the respondent;
- (3) the disciplinary order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;
- (4) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
- (5) the misconduct established warrants substantially different discipline.

Respondent has not demonstrated that any of the exceptions contemplated in R. 1:20-7(d) (1) through (5) apply. The discipline accorded in New Jersey should, therefore, correspond to that imposed in New York. In re Pavilonis, supra, 98 N.J. at 41; In re Tumini, supra, 952 N.J. at 22; In re Kaufman, supra 81 N.J. at 303. Moreover, respondent has not advanced any mitigating factors that have not already been considered by the New York Court. In fact, in imposing a three-year suspension from the practice of law, the New York Court took into account respondent's outstanding record of community and professional service, as well as the debilitating episodes of depression he suffered from as a result of major family illnesses and the deaths of his wife and his father.

Respondent owed his clients in New York the duty to pursue their interest diligently. In re Smith, 101 N.J. 568, 571 (1986); In re Goldstaub, 90 N.J. 1, 5 (1982). Neglect of cases,

misrepresentation to clients, and settlement of matters without client authorization fly in the face of that duty. In New Jersey, matters involving similar misconduct normally result in lengthy suspensions from the practice. See, e.g., In re Kasdan, 132 N.J. 99 (1993); In re Foley, 132 N.J. 332 (1992); In re Beltre, 130 N.J. 437 (1992); In re Grabler, 127 N.J. 38 (1992).


The Board, therefore, unanimously recommends that respondent be suspended from the practice of law in New Jersey for a period of three years. In addition, the Board recommends that respondent's reinstatement in New Jersey be conditioned on his prior reinstatement in New York. One member did not participate.

The Board further recommends that respondent be required to reimburse the Ethics Financial Committee for administrative costs.

Dated: _____

7/1/94

By: _____


Raymond R. Trombadore
Chair
Disciplinary Review Board