

Book

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 95-207

IN THE MATTER OF :
NEAL F. HEALY :
AN ATTORNEY AT LAW :
:

Decision of the
Disciplinary Review Board

Argued: September 20, 1995

Decided: December 4, 1995

Thomas S. Cosma appeared on behalf of the District VC Ethics Committee.

Respondent did not appear for oral argument, despite proper notice of the hearing.

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

This matter was before the Board based on a recommendation for public discipline filed by the District VC Ethics Committee ("DEC"). The formal ethics complaint charged respondent with violations of RPC 1.1(a) (gross neglect) and RPC 8.1(b) (failure to cooperate with the ethics authorities).

Respondent was admitted to the New Jersey bar in 1976. At the time of the DEC hearing, he was engaged in the practice of law in Livingston, New Jersey, at his home. According to the DEC, respondent was not listed in the 1994 or 1995 New Jersey Lawyers' Diary. Respondent did not appear at the DEC hearing, despite the

fact that he acknowledged receipt of the panel chair's correspondence on October 19, 1994 through his signature on the return receipt card. Service of notice of the Board hearing was made by regular and certified mail as well as via Airborne Express. Although the certified mail was returned as unclaimed, the regular mail was not. The delivery record for Airborne Express bears the signature "Healey."

The grievance was filed by James J. Kreig, Esq., counsel for UJB Financial Corp.

Respondent was the beneficiary of the will and executor of the estate of Robert L. Morris, who died on May 11, 1987. At the time of his death, Mr. Morris maintained a savings account at the United Jersey Bank (UJB).

On or about July 18, 1991, four years after Mr. Morris' death, respondent withdrew \$3,360.29, the entire balance in Mr. Morris' account, by presenting to the UJB a surrogate's certificate acknowledging his appointment as executor of the estate. Respondent did not present the UJB with an inheritance tax waiver covering the amount on deposit as of the date of death, as required by N.J.A.C. 18:26-11.16(a), which permits a bank to release only fifty percent of a decedent's funds on deposit before the submission of the inheritance tax waiver. In this case, as a result of an error by a new employee of UJB, respondent was able to withdraw the entire balance on deposit.

Approximately four weeks later, James Kreig, Assistant Counsel to UJB Financial Corp., sent a letter to respondent advising him of

the violation and requesting the production of the inheritance tax waiver. Respondent did not reply. On September 16, 1991, Mr. Kreig again wrote to respondent, but respondent once more ignored his letter. Accordingly, on October 21, 1991, Mr. Kreig wrote directly to the Transfer Inheritance Tax Bureau, informing that office of UJB's inadvertence as well as of UJB's unavailing efforts to obtain respondent's cooperation. The letter requested information on whether the inheritance taxes for the estate had been paid.

Armed with that information, on October 22, 1992, a supervising auditor of the Inheritance Tax Bureau sent a letter to respondent requesting the payment of \$1,104.03 for the transfer inheritance tax plus interest and, further, requesting payment before December 22, 1992, lest the Bureau file suit. In that letter, respondent was also advised that, as the personal representative of the estate, he was personally liable for the payment of the tax and interest. Respondent did not reply to that letter. This ethics grievance ensued.

On October 19, 1992, the DEC investigator forwarded the grievance to respondent, asking for information about the matter. He received no reply from respondent. On November 2, 1992, the investigator sent a follow-up letter, which respondent also ignored. On October 30, 1992, the investigator left a telephone message at respondent's office/home, requesting a return telephone call. He did not hear from respondent. In addition, respondent did not file an answer to the formal ethics complaint and, as noted

earlier, did not appear at the DEC and Board hearings, despite proper notice.

The DEC found that respondent violated RPC 1.1(a) (gross neglect) and RPC 8.1(b) (lack of cooperation with disciplinary authorities).

* * *

Following a de novo review of the record, the Board is satisfied that the DEC's findings that respondent violated RPC 1.1(a) and RPC 8.1(b) are fully supported by clear and convincing evidence. Conduct of this sort ordinarily merits an admonition or a reprimand. However, because of respondent's pattern of disregard for the requests from the UJB and the Transfer Inheritance Tax Bureau as well as his indifference toward the ethics system, the Board determined that a three-month suspension was warranted. See In re Smith, 101 N.J. 568 (1990) (three-month suspension for neglect in an estate matter, failure to communicate with the client and failure to cooperate with the DEC and the DRB). The Board's decision was unanimous. In addition, prior to reinstatement, respondent must show proof of completion of eight hours of professional responsibility courses.

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

Dated: 12/4/95



LEE M. HYMERLING, ESQ.
Chair
Disciplinary Review Board