

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 95-370

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IN THE MATTER OF :  
GEORGE J. MANDLE, JR. :  
AN ATTORNEY AT LAW :

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Decision of the  
Disciplinary Review Board

Argued: November 15, 1995

Decided: June 3, 1996

Michael Ventura appeared on behalf of the District XII Ethics Committee.

Respondent appeared pro se.

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

This matter is before the Board based upon a recommendation for discipline filed by the District XII Ethics Committee (DEC). In a four-count complaint, respondent was charged with identical violations in four separate matters: RPC 1.1(a) (gross negligence); RPC 1.3 (failure to act with reasonable diligence and promptness in representing a client); and RPC 8.1(b) (failure to respond to a lawful demand for information from a disciplinary authority).

Respondent was admitted to the New Jersey bar in 1970. He maintains an office in Linden, New Jersey. He has no history of discipline.

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Respondent failed to comply with the DEC's request for information in each of the four matters. On the day before the DEC hearing, however, he submitted an undated answer to the formal complaint, which simply stated: "Respondent admits the allegations contained in the First, Second, Third and Fourth Counts of the Complaint." Because of these admissions, the presenter streamlined the proceedings by presenting witnesses in only two of the matters: the Specht matter and the Matlaga matter. In the other two matters, Wright and Alcantara-Baxter, the presenter relied solely on respondent's admissions and documentary evidence.

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#### Wright Matter

Allen Wright retained respondent in the mid-1980s to represent him in connection with a worker's compensation claim for medical problems he developed as a result of exposure to chemicals and dust at his workplace. Respondent failed to reply to Wright's numerous requests for information regarding the status of the matter. Over the course of several years, respondent made repeated

representations to Wright that a worker's compensation claim had been filed and that the matter was proceeding through the system. Respondent also advised Wright that the matter would be settled out-of-court. Grievant later learned that those representations were false.

At the DEC hearing, respondent admitted that he was in "over his head" with respect to the matter. He believed that he had filed a claim in his client's behalf but was not certain. Respondent claimed that, years earlier, he had handled many worker's compensation claims, but apparently was no longer familiar with the law in that area and, therefore, lacked the expertise to pursue the matter. Respondent candidly admitted that he should have "gotten rid of the Wright case earlier", but failed to do so. T66.<sup>1</sup> Respondent further conceded that he did not know what to tell his client. He just "let the matter go, which was a stupid thing to do." T67.

Respondent admitted that his failure to take any action to protect his client's claim constituted gross negligence. He also admitted that he had failed to communicate with Wright about the status of his case and had failed to respond to Wright's numerous inquiries. In addition, respondent conceded that he had failed to cooperate with the DEC's investigation in this matter.

By letter dated December 21, 1992, the presenter forwarded to respondent a copy of Wright's grievance and requested a written response to the allegations within two weeks. Exhibit C-27.

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<sup>1</sup> "T" denotes the transcript of the June 27, 1995 DEC hearing.

Respondent failed to reply to the letter. The investigator forwarded a second letter to respondent dated March 1, 1993, requesting a reply to the earlier letter and also the entire file in the Wright matter. Exhibits C-28. Again, respondent failed to comply. By letter dated April 5, 1993, the presenter advised respondent that, if he failed to reply to the two earlier letters, a formal ethics complaint would be filed against him. Exhibit C-29. Respondent again ignored the DEC and also failed to reply to a subpoena duces tecum that the DEC served on him March 2, 1993.

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#### Matlaga Matter

Agnes Matlaga was the beneficiary of the estate of James E. Hynes. Matlaga testified at the DEC hearing that Hynes' mother was her cousin. After Hynes' death, respondent was appointed as administrator of Hynes' estate instead of Matlaga.

Apparently, the decedent's assets consisted of a house, which was ultimately condemned, several certificates of deposit and a checking account. The certificates of deposit were held jointly by Matlaga and the decedent.

Respondent had been appointed the administrator of the estate on or about April 3, 1987. For approximately seven years, respondent failed to complete the administration of the estate and also failed to obtain the necessary tax waivers to close out certain bank accounts held jointly by Matlaga and the decedent.

Matlaga claimed that she called respondent's office so frequently to determine the status of her case, that she could not even count the number of calls. T44. She began calling respondent a month or two after the decedent's death, then approximately every one to two weeks. Each time, respondent's secretary advised Matlaga that respondent was in conference or was not in. Matlaga claimed that this went on for seven years. On occasion, she did speak to respondent. At one point, respondent led Matlaga to believe that he had applied for the tax waivers and would receive them within a few weeks when, in fact, he had not done so.

Eventually, Matlaga retained a new attorney, Harold S. Simon. Simon testified at the DEC hearing that he first contacted respondent in the winter of 1992, but thereafter was never able to speak with him. Simon called respondent's office at least once a month to remind him to file the estate tax return and to obtain the necessary waivers. By the summer of 1992, Simon still had not obtained a response from respondent. Simon explained that he felt embarrassed by his inability to get anywhere with respondent on Matlaga's behalf. He felt that, after six months, it appeared as if he himself was being negligent. Simon testified that, each time he spoke with respondent's secretary, she was polite and informed him that she would give respondent the message. Simon eventually told respondent's secretary that he would have to take action against respondent if he failed to promptly conclude the administration of the estate. Ultimately, Simon contacted the

Division of Taxation for permission to file a partial estate tax return, in order to obtain the tax waivers. His request was denied. T55. Simon testified that, as a result of his call to the State, certified letters were sent to respondent, requesting that he file the estate tax return. According to Simon, respondent failed to file the return.

Thereafter, Simon contacted the DEC on an informal basis in order to try to persuade respondent to file the necessary returns. His efforts were to no avail. In July 1993, Simon applied to the Chancery Division of the Superior Court to have respondent removed as the administrator of the decedent's estate. As a result, respondent was in fact removed. The court directed respondent to turn over to Simon all of the estate assets, records and correspondence. Respondent complied with the court order. Thereafter, Simon conducted an audit of the estate and determined that no money was missing. Respondent was not paid for his services in the matter.

Respondent testified that, prior to the decedent's death, he had represented him in several matters. According to respondent, Hynes was an alcoholic. T68. On at least two occasions, respondent had represented Hynes in drunk-driving matters. Thereafter, respondent helped place Hynes in an in-patient alcohol-treatment program. During Hynes' treatment, Matlaga contacted respondent and advised him that Hynes wanted to execute a will leaving everything to her. Respondent contacted Hynes at the hospital to corroborate Matlaga's claim. However, Hynes advised

him that he had no intentions of leaving his estate to Matlaga. T68-69.

Respondent claimed that he saw Matlaga on a regular basis and Hynes on a "somewhat regular basis." Respondent somehow became responsible for paying Hynes' expenses. The record does not explain how this came about. Respondent contended that Matlaga would come to his office with receipts in order to be reimbursed for items she claimed to have purchased in Hynes's behalf. For example, respondent noted that grievant presented him with the receipt for a bottle of aspirin that she had sold Hynes. As a result of the foregoing experiences with Matlaga, respondent claimed that he became judgmental about Matlaga's and Hynes' relationship and began thinking that she was taking advantage of Hynes. He conceded that, when he was appointed as administrator of the decedent's estate, he should have declined the appointment. Respondent claimed that "I should not have handled that case or mishandled it . . . ." T69. Respondent admitted that the Hynes matter was not a priority to him at that time in light of his own personal problems.

Respondent was contacted by the DEC investigator for a reply to Matlaga's grievance as early as January 28, 1993. Despite subsequent requests for information by the investigator and numerous promises by respondent to reply, he failed to provide the requested information.

The presenter then served respondent with a subpoena duces tecum under cover of letter dated March 3, 1993. Respondent was to

produce the subpoenaed documents at the investigator's office on March 10, 1993. Exhibit C-17. Respondent failed to comply with the subpoena. Thereafter, the investigator forwarded a letter dated April 5, 1993 to respondent indicating that, if the subpoenaed documents were not produced by April 8, 1993, a formal ethics complaint would be filed against him. Exhibit C-18. Respondent forwarded a few of the requested documents (Exhibit C-19), but failed to comply fully with the presenter's request for information.

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#### Alcantara-Baxter Matter

Respondent was retained by grievant, Angela Alcantara-Baxter in July 1990, to represent her in connection with personal injury and worker's compensation claims arising from her work related injury, on July 13, 1990, while she was attempting to apprehend a shoplifter. It is not clear from the record whether respondent took any action in the matter by filing the appropriate action or claim. Alcantara-Baxter attempted to contact respondent on numerous occasions about the status of her claims. She repeatedly called respondent from April 19, 1991 through July 19, 1993, but received no information from respondent. Thereafter, she retained new counsel.

Alcantara-Baxter forwarded a letter to respondent dated April 14, 1993, in which she advised him that she would be forced to



report the matter to the bar association unless he replied within ten days. The letter informed respondent that she had attempted to contact him several times about her case and that, notwithstanding the fact that messages were being taken by his office, he either did not seem to get the messages or was purposely ignoring her requests "for a phone call." Alcantara-Baxter also requested a complete copy of her file so that she could review what had been accomplished to date. Respondent ignored her requests. Exhibit C-21.

As with the other cases, respondent failed to cooperate with the presenter's requests for information. Respondent also failed to turn over Alcantara-Baxter's file to her new attorney, as she requested in an April 14, 1993 letter, until August 2, 1993.

Respondent's excuse with regard to this matter was that he had "lost grasp of the file." T72. Respondent explained that, unlike the other ethics matters he could have used his expertise in this matter, instead, he failed to take any action.

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#### Specht Matter

In February or March 1991, respondent was retained by Justina Specht to represent the interests of her husband, as the executor and beneficiary of the estate of Emilia A. Sweeney, who died on February 19, 1991. Specht had assumed the responsibilities of retaining respondent because her husband had had an aneurism two

years earlier and was apparently incapable of handling such matters. Specht did not have any prior experience with the administration of an estate and relied upon respondent's expertise in the matter.

The only beneficiaries of the estate were Specht's husband and his brother. The decedent's estate consisted of a two-family house and two bank accounts. Specht testified that during the course of respondent's representation, he forwarded two letters to her attention. The first, dated April 10, 1991, enclosed three surrogate certificates. Respondent informed her in that letter that the certificates would allow her and her husband to withdraw one-half of the money in the decedent's bank accounts and then they were to deposit the money into an estate checking account to pay the "various bills." Exhibit C-7. The second letter, dated May 28, 1991, requested Specht to provide him with a complete list of all of the decedent's bank accounts, including the addresses and the names in which the accounts were held. Respondent also advised Specht to secure an appraisal of the decedent's property and gave her the name of an appraiser.

Between May 1991 and Spring 1992, Specht did not hear from respondent. She believed that everything had been done to complete the administration of the estate. However, in the spring of 1992, Specht learned that she could not withdraw the other half of the money from the decedent's bank accounts without a tax waiver. At that time, she attempted to contact respondent. Beginning in the spring of 1992, Specht called respondent's office on a number of

occasions and each time was informed that he was in court or otherwise unavailable. Respondent never returned her telephone calls. At some point, Specht advised respondent's secretary that she only needed a tax waiver and did not need to talk to respondent directly. Respondent, however, did not forward the requested waiver.

Eventually respondent forwarded a letter to Specht requesting her to set up an appointment with him. When she finally met with him several months later, in the fall, he assured her that he would take care of everything. Notwithstanding respondent's assurances, he never obtained the tax waiver.

After meeting with respondent, Specht stopped calling him for several months. Thereafter, she began calling respondent, first on a monthly basis, then a couple of times a week, and thereafter almost daily. Respondent's secretary always informed Specht that he was unavailable, in court or some place else. Finally, near the end of 1994, Specht filed a grievance with the DEC.

In February 1995, Specht sent a certified letter to respondent, noting that it had been four years since the decedent had passed away and that the estate had not yet been settled. She informed respondent that she was retaining another lawyer to handle the matter. Specht also requested that respondent forward the decedent's complete file to her attention with an itemized bill for his services. Exhibit C-6. Respondent failed to comply with her requests. Thereafter, Specht retained a new attorney.

Specht believed that, as of the date of the DEC hearing, the estate had not yet been concluded. Her new attorney had requested a copy of the decedent's file from respondent but, as of the time of the hearing, the file had not been forwarded and respondent had not contacted the new attorney.

Specht testified that she assumed that the estate should have been concluded within nine months of the decedent's death. As a result of respondent's failure to timely conclude the estate, Specht feared that she would be responsible for penalties and interest, even though she had not yet received an official notification to that effect. T21.

By letter dated December 19, 1994, the investigator forwarded a copy of the grievance to respondent, requesting that he provide a reply to the allegations within two weeks. Exhibit C-9. In a letter dated January 11, 1995, respondent advised the presenter that he had misplaced the file in the Sweeney matter and was searching for it. He also indicated that he would forward a response to the grievance within two weeks. Thereafter, despite written inquiry from the investigator, and notice that a complaint would be filed in the absence of his response, respondent failed to reply.

Respondent testified that he knew the Spechts from church and it was more than just a lawyer/client relationship. He admitted that he should have withdrawn from this matter.

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As noted above, respondent admitted the allegations contained in the complaint. He was a member of a district fee arbitration committee, but resigned from that committee once these ethics matters surfaced. T64. Respondent attributed his ethics difficulties to problems he was experiencing at home with his younger son and also with his wife. Respondent admitted that there was no excuse for his neglect. His practice had deteriorated from 1990 to 1994 because of personal problems. As a result, he was also experiencing financial difficulties.

At the DEC hearing, respondent claimed that he was trying to rebuild his practice. He stated, "what I did in this period of time is inexcusable and stupid. It happened. I wish to God I could do it over but I can't." T77. Respondent admitted that a malpractice case had been filed against him in the Alcantara-Baxter matter and that it was his belief that the matter would be settled.

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The DEC found respondent's conduct to be puzzling, particularly in light of the fact that at least two of the matters could have been resolved easily. The DEC expressed its concern as to whether respondent's personal problems had actually been resolved, since he claimed they were at the root of his professional problems. The DEC also questioned respondent's competence and felt that he did not comprehend the need to adequately and timely respond to his clients' requests and needs.

Moreover, the DEC felt that respondent's dilatory response to the disciplinary process was appalling. The DEC concluded that respondent had violated RPC 1.1, RPC 1.3 and RPC 8.1(b). The DEC, therefore, recommended that a reprimand be imposed and that respondent practice law under the supervision of a proctor.

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Upon a de novo review of the record, the Board is satisfied that the DEC's finding that respondent was guilty of unethical conduct is clearly and convincingly supported by the evidence. The DEC properly found that respondent had violated RPC 1.1(a), RPC 1.3 and RPC 8.1(b). In each of the four counts of the complaint, respondent was charged with gross negligence and exhibiting a pattern of neglect. While the DEC did not make specific findings with regard to a pattern of neglect, the record clearly and convincingly supports such a finding: the four cases before the Board all involve neglect of clients and, cumulatively, demonstrate a pattern of neglect in violation of RPC 1.1(b).

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The Court has imposed discipline ranging from a reprimand to a term of suspension where ethics violations have included mixed combinations of gross neglect, pattern of neglect, failure to communicate and misrepresentation. See In re Stewart, 118 N.J.

423(1990) (public reprimand for gross neglect in an estate matter and failure to keep client informed of status; attorney had a prior private reprimand); In re Bosies, 138 N.J. 169 (1994) (six-month suspension for pattern of neglect in four matters — gross neglect in three of four the matters, lack of diligence in three matters, misrepresentations and conduct prejudicial to the administration of justice in two of four matters and failure to communicate in one of four matters); and In re Rosenthal 118 N.J. 454(1990) (one-year suspension for pattern of neglect in four matters, failure to refund a retainer, failure to communicate with clients, misrepresentations to clients and failure to cooperate with disciplinary authorities; attorney had received a prior public reprimand).

Respondent appeared contrite for his conduct in the four matters. He also confessed that he had experienced great fear as a result of the impending disciplinary proceedings. The Board recognized that respondent maintained an unblemished record for twenty-five years. However, while his explanation for his misconduct in the four matters — that he was in "over his head" in one of the matters — may mitigate the disciplinary action, but do not excuse his misconduct, particularly misconduct over such extensive periods of time.

In light of the foregoing, the Board has unanimously determined to reprimand respondent and to require him to practice

under the supervision of a proctor approved by the Office of Attorney Ethics for a period of two years.

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

Dated: 6/2/96



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LEE M. HYMERLING  
Chair  
Disciplinary Review Board