

Book

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 96-390

---

IN THE MATTER OF  
ALAN MARLOWE  
AN ATTORNEY AT LAW

---

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

Decided: September 2, 1997

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

Pursuant to R. 1:20-4(f)(1), the District IIB Ethics Committee ("DEC") 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 formal ethics complaint. Service of the complaint was made by certified mail. The return receipt card, dated April 26, 1996, bears an illegible signature.

Respondent was admitted to the New Jersey bar in 1971. He has a significant record of discipline, having been disciplined four times since 1990. He was first publicly reprimanded on January 10, 1990 for a misrepresentation to a trial judge that he had his adversary's consent to an adjournment. Thereafter, on September 17, 1990, he was suspended for three months for a pattern of neglect, failure to communicate and misrepresentations in two matters. That suspension was ordered continued unless and until respondent produced all financial records required by the Office

of Attorney Ethics ("OAE") in a separate matter. One of the factors leading to the three-month suspension was respondent's lack of cooperation with the DEC. In a third matter, respondent was again publicly reprimanded on December 10, 1991 for failure to cooperate and failure to file an answer to an ethics complaint. On the same date, and in a fourth matter, respondent was suspended for fourteen months, retroactive to the original September 1990 suspension (including the prior three-month suspension). The latest order resulted from respondent's repeated failure to cooperate with the disciplinary system. The Board noted in its decision that, absent respondent's past conduct, only a private reprimand would have been warranted.

The formal complaint charged respondent with violations of RPC 1.1(a) (gross neglect); RPC 1.2(a) (failure to abide by client's wishes); RPC 1.3 (failure to act with due diligence); RPC 1.4 (failure to keep client reasonably informed); RPC 1.15 (recordkeeping violation); RPC 8.4 (misconduct); and a violation of the OAE's Guideline No. 23 (failure to notify existing clients of suspension). The original complaint was also amended to include a violation of RPC 8.1(b) (failure to cooperate with the disciplinary authorities).

According to the complaint, in or about 1984, respondent was retained to settle the estates of Richard and Matilda Johnson. To date, respondent has failed to conclude or settle the estates. The complaint charged that respondent's misconduct included, among other violations, failure to conclude the administration of the estates in over ten years, failure to file necessary tax forms, failure to timely pay appropriate taxes, failure to martial the assets of the estates into a separate estate account, failure to maintain client files and failure to maintain adequate trust funds. Indeed, in a letter dated July 17, 1995, respondent admitted that he "[has] not been as diligent as necessary." Additionally, respondent failed to keep grievant, the administrator of Matilda Johnson's estate,

reasonably informed of the status of the matter. Likewise, respondent failed to return grievant's numerous telephone calls. Respondent also failed to comply with grievant's wishes regarding the handling of the estates. Finally, respondent failed to notify grievant of his suspension from the practice of law.

\* \* \*

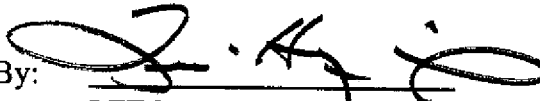
Following a de novo review of the record, the Board deemed the allegations contained in the complaint admitted. The record contains sufficient evidence of respondent's unethical conduct.

This leaves only the issue of appropriate discipline. Similar misconduct has resulted in a one-year suspension. See, e.g., In re Waters-Cato, 142 N.J. 472 (1995) (one-year suspension for pattern of neglect, gross neglect, misrepresentations and failure to cooperate with disciplinary authorities, with prior private reprimand and three-month suspension); In re Trueger, 140 N.J. 103 (1995) (one-year suspension for gross neglect, misrepresentations, failure to communicate and failure to cooperate with disciplinary authorities; prior private reprimand and public reprimand considered); In re Lesser, 140 N.J. 041 (1995) (one-year suspension for gross neglect, misrepresentations and failure to cooperate with disciplinary authorities, with prior private reprimand and three-month suspension).

In light of the foregoing, the Board unanimously determined to suspend respondent for one year. Upon reinstatement, respondent must submit proof of his fitness to practice law and must practice under a proctorship for two years. Two members did not participate.

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

Dated: 9/2/97

By:   
LEE M. HYMERLING  
Chair  
Disciplinary Review Board