

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 00-099

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IN THE MATTER OF  
KARL R. LAWNICK  
AN ATTORNEY AT LAW

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Decision

Argued: June 15, 2000

Decided: November 28, 2000

Richard Galex, Esq. appeared on behalf of the District VIII Ethics Committee.

William T. Harth, Esq. appeared on behalf of respondent.

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

This matter was before us based on a recommendation for discipline filed by the District VIII Ethics Committee ("DEC"). The complaint alleged that respondent grossly neglected three matters.

Respondent was admitted to the New Jersey bar in 1988. During the relevant time, he maintained an office for the practice of law in Perth Amboy, Middlesex County.

On November 21, 1997 respondent executed an agreement in lieu of discipline for failure to maintain a proper trust account. In the Matter of Karl R. Lawnick, District Docket Nos. XIV-97-155E and XIV-97-200E.

By Order dated August 10, 1998 the Supreme Court temporarily suspended respondent for failure to explain overdrafts and failure to meet conditions of a prior diversionary matter involving trust overdrafts. In re Lawnick, 155 N.J. 117(1998).

On December 7, 1999 the Supreme Court suspended respondent for one year for misconduct in six matters, including gross neglect, pattern of neglect, lack of diligence, failure to communicate, failure to return unearned retainers, failure to return files on termination of representation, failure to cooperate with the ethics authorities and misrepresentation. In re Lawnick, 162 N.J. 113(1999). Also on December 7, 1999 the Supreme Court suspended respondent for three months for lack of diligence, failure to communicate with the client, failure to surrender documents and failure to cooperate with the disciplinary authorities in a client matter. In re Lawnick, 162 N.J. 115(1999). Both matters proceeded on a default basis.

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Respondent admitted the violations charged in the three-count complaint. In fact, respondent admitted several violations of RPC 8.4(c) (misrepresentation) that cannot be sustained by the record.

The first count of the complaint alleged that, in April 1996, Mona and Fouad Aziz retained respondent to represent them in a landlord/tenant dispute. Respondent was paid \$500 for the representation, but admittedly performed no work on his clients' behalf. During the representation, the Azizes made several telephone calls to respondent, seeking information about their case. Respondent did not return those calls. Sometime in 1998, respondent advised the Azizes that, subject to court approval, the matter had been settled for \$1,500 plus the return of counsel fees of \$500. Respondent never followed through on the settlement.

Apparently, the Azizes sought the return of their security deposit and the \$500, to no avail. Respondent admitted that his conduct in the Aziz matter violated RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence) and RPC 3.2 (failure to expedite litigation).

The second count of the complaint alleged that, in or about April 13, 1997, Jose Mazario retained respondent to represent him in a lawsuit filed against him by Garden State Restoration. Mazario paid respondent a \$750 retainer for the representation. Respondent admitted that he performed no services in Mazario's behalf and that, ultimately, a judgment was entered against Mazario. Furthermore, respondent conceded that he failed to keep Mazario informed about the representation, in violation of RPC 1.4(a). In total, respondent

admitted that his conduct in Mazario amounted to violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate with client), and RPC 1.4 (b) (failure to communicate with the client to the extent necessary for the client to make informed decisions about the representation) and RPC 8.4(c) (misrepresentation). As previously noted, with regard to this latter charge, respondent admitted the offense, even though the record contains no facts to support such a finding.

The third count of the complaint alleged that, on June 19, 1997, James DeFalco retained respondent to represent him in a municipal court matter in Brick Township, Ocean County. DeFalco paid respondent a \$1,250 retainer. Respondent admitted that he performed no work in DeFalco's behalf. In DeFalco, respondent admitted violations of RPC 1.1(a), RPC 1.4(a) and (b), RPC 1.5(a)(4) (unreasonable fee), RPC 8.1(b)(failure to cooperate with the disciplinary authorities) and RPC 8.4(c) (misrepresentation). Again, the record contains no evidence or even factual allegations of misrepresentation.

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The panel report in this matter is scanty. In recommending an unspecified term of suspension, the DEC made the following remarks:

The Panel has carefully considered and reviewed the testimony in evidence and has concluded that Respondent's conduct constituted ethical misconduct in that he violated RPC 1.1(a); 1.3; 1.4; 3.2 and 8.4(c).

As a result, the Panel recommends that Respondent be suspended from the practice of law. When imposing the term of suspension, the Panel asks that the DRB consider the following mitigating factors:

That these violations may be part of a series of transactions that arose from similar transgressions from the same period of time for which respondent may have already been disciplined.

That Respondent had substance abuse problems which he has recognized and sought assistance for.

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Upon a de novo review of the record, we were satisfied that the DEC's conclusion that respondent was guilty of unethical conduct is supported by clear and convincing evidence.

Because respondent admitted all of the allegations contained in the complaint and did not contest any aspect of the record, there are no issues in dispute. Indeed, the only testimony in the record is that of respondent. He testified solely for the purposes of mitigation. He portrayed himself as a drug abuser and an alcoholic during the time that he represented these clients. Respondent also testified that he had intended to complete the work for each of the clients, but spent their retainers to pay outstanding bills and for his own use. At the DEC hearing, respondent appeared contrite about his problems. He discussed his addictions and the steps that he has taken to overcome them. Also, respondent recognized his wrongdoing in these matters, as well as in the prior default matters and the pending cases. Finally,

respondent testified that he has recently been trained as a financial advisor by a large insurance company and is seeking a license in that field.

With respect to the alleged violations of RPC 8.4(c), there is no evidence in the record to support those charges. Therefore, we dismissed those charges.

The panel report raises another issue that we must also address: whether or not respondent's misconduct in these matters was part and parcel of a pattern of misconduct already reviewed by us and for which discipline has already been imposed. In the past, we have been mindful that an attorney can suffer personal or financial setbacks that can lead to the neglect of his or her law practice during a particular time. In such cases, ethics matters arising out of that neglect may enter the disciplinary system at different times, giving the false appearance that the attorney is neglecting new matters. When faced with such cases, we generally have not imposed additional discipline when the new cases, if they had been heard together with the prior matters, would not have led to greater discipline. That is not the case here. Although respondent's misconduct in these matters is of the same type and apparently occurred at about the same time as the misconduct in several prior matters, respondent's personal problems were not confined to a short period of time. Rather, he has admitted to years of drug and alcohol abuse, which have led to years of mishandling client files. Misconduct stretching over such a lengthy period of time cannot be treated with indulgence or viewed as part and parcel of the same overall pattern of misconduct.

It is also troubling that respondent simply accepted these clients' retainers and performed no services in their behalf. Respondent claimed that he had the best intentions with respect to completing the work required in each of the matters. In reality, however, respondent virtually abandoned all three clients. Such conduct cannot be tolerated.

Finally, we considered, in mitigation, that respondent has taken steps to reform his ways and has taken strides to reimburse his former clients for their retainers.

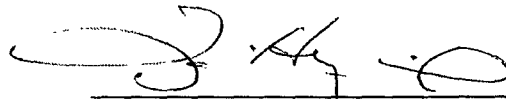
Matters involving the abandonment of clients have warranted suspensions of varying duration, depending on the other ethics violations involved and the number of clients abandoned. See, e.g., In re Mintz, 126 N.J. 484 (1992) (two-year suspension where attorney abandoned four clients and was found guilty of pattern of neglect, failure to maintain a bona fide office and failure to cooperate with ethics authorities); In re Bock, 128 N.J. 270 (1992) (six-month suspension where attorney, while serving as both a part-time municipal court judge and a lawyer, with approximately sixty to seventy pending cases, abandoned both positions by feigning his own death); In re West, 156 N.J. 451(1998) (six-month suspension where, in a default matter, the attorney demonstrated a pattern of accepting retainers, performing no services and failing to cooperate with ethics authorities); and In re Velazquez, 158 N.J. 253 (1999) (three-month suspension where the attorney abandoned seven clients and was found guilty of gross neglect and pattern of neglect, failure to communicate with the client and failure to protect the clients' interests upon the termination of the representation in all seven matters; the attorney also engaged in conduct prejudicial to the administration

of justice in three of the matters. The three-month suspension, considered while other matters were pending against respondent, was later subsumed in the attorney's disbarment case.)

For all of respondent's misconduct in these matters, we unanimously determined to impose a three-month suspension. In addition, respondent must demonstrate proof of fitness to practice law before he is reinstated. Upon reinstatement, respondent shall serve under the guidance of a proctor for one year. One member did not participate.

We also required respondent to reimburse the Disciplinary Oversight Committee for administrative expenses.

Dated: 11/29/00

  
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LEE M. HYMERLING  
Chair  
Disciplinary Review Board



**SUPREME COURT OF NEW JERSEY**

**DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

**In the Matter of Karl D. Lawnick  
Docket No. #**

**Argued: June 15, 2000**

**Decided: November 28, 2000**

**Disposition: Three-month suspension**

Members	Disbar	Three-month Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling		X					
Peterson		X					
Boylan							X
Brody		X					
Lolla		X					
Maudsley		X					
O'Shaughnessy		X					
Schwartz		X					
Wissinger		X					
<b>Total:</b>		8					1

*Robyn M. Hill* 4/5/01  
Robyn M. Hill  
Chief Counsel