

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 00-061

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

Decision

Argued: May 11, 2000

Decided: March 26, 2001

Gianfranco A. Pietrafesa 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 was before us based upon a recommendation for discipline filed by the District XII Ethics Committee ("DEC").

Respondent was admitted to the New Jersey bar in 1970 and maintains an office for the practice of law in the City of Linden, Union County.

The complaint alleged violations of RPC 1.1(a) (gross neglect), RPC 1.3(lack of diligence), RPC 1.4(a) (failure to communicate with client), RPC 1.15(b) (failure to promptly deliver funds to client) and RPC 8.1(b) (failure to cooperate with disciplinary authorities in a real estate matter).

* * *

On October 16, 1996 respondent received a reprimand for misconduct in four matters, which included gross neglect, pattern of neglect, lack of diligence and failure to cooperate with the ethics authorities. In re Mandle, 146 N.J. 520 (1996).

On January 26, 1999 respondent received a reprimand for gross neglect, lack of diligence and failure to communicate in an estate matter. In re Mandle, 157 N.J. 68 (1999).

* * *

In or about October 1998 Dr. Fred Rosencrantz retained respondent to represent him in the purchase of a parcel of land. The closing took place in West Orange on October 10, 1998.

Respondent testified that a series of last minute complications resulted in his loss of the original closing file. According to respondent, the site for the closing changed several times on the closing day. Respondent testified that he was confused when he finally arrived

for the closing in West Orange, an area unfamiliar to him. After the closing, respondent became lost in traffic and was late to his next appointment. Consequently, he misplaced the original closing file in his car and forgot about it.

Some four months later, on February 25, 1999, respondent was contacted by the purchasers' lender, Sovereign Bank (the grievant herein). It was then, respondent claimed, that he realized for the first time that he had failed to record the mortgage and deed.

Thereafter, respondent had telephone conversations and corresponded with the bank and bank counsel, McCarter and English. That law firm sent respondent letters on March 5 and March 10, 1999, requesting the closing documents. On March 11, 1999 respondent located the missing closing file and sent the original mortgage and deed to the appropriate recording offices for recording.

On March 26, 1999 McCarter and English requested that respondent disburse certain funds collected at the closing. On April 6, 1999 respondent forwarded checks from his trust account to cover bank escrows and title insurance. He also paid the cancellation fee charged by the title company and additional title search charges incurred as a result of his delay in recording the mortgage and deed.

Between April and June 1999 all other aspects of the matter were resolved. It is not clear from the record if respondent was accountable for any delay during this latter time period.

For his part, respondent admitted that he misplaced the file in his car, after the closing. Respondent also admitted that the delay in recording the mortgage and deed was his fault.

With respect to RPC 1.4(a), the complaint alleged that respondent failed to communicate with the grievant, Sovereign Bank. The record reveals that, once Sovereign Bank contacted respondent, he remained in contact with both the bank and its counsel, McCarter and English, as necessary. There is no allegation that respondent failed to communicate with his own client, Dr. Rosencranz.

As to the alleged violation of RPC 1.15(b), respondent admitted that he was obligated to disburse funds at closing and had not done so promptly.

Finally, with respect to the alleged violation of RPC 8.1(b), respondent conceded that he did not act promptly in complying with the DEC's request for information. Indeed, the DEC sent him letters on June 24 and July 8, 1999, requesting a reply to the grievance. On August 5, 1999 the DEC filed the complaint, which respondent did not answer until October 11, 1999. Thereafter, respondent failed to comply with the investigator's further requests for information.

Finally, respondent expressed deep remorse, both for allowing the case to "get away" from him and for not cooperating with the ethics authorities. Respondent assured the DEC that he had taken measures to prevent similar occurrences in the future. The record does not disclose the specific measures implemented by respondent. Of particular

concern to us is the fact that respondent's alleged misconduct occurred while he practiced law under the supervision of a proctor.

* * *

The DEC found violations of RPC 1.3, RPC 1.15(b) and RPC 8.1(b). The DEC dismissed the alleged violation of RPC 1.1(a), reasoning that the initial delay in recording the mortgage and deed was not excessive and that, once respondent was alerted to the problem, he promptly attended to the matter. Likewise, the DEC dismissed the alleged violation of RPC 1.4(a), reasoning that, since Sovereign Bank was not respondent's client, he had no duty to maintain communications with the bank. The DEC remarked that, after respondent became aware of problems with the case, he was in regular contact with both the bank and its counsel, as necessary, in order to complete the transaction.

Finally, the DEC noted respondent's two prior reprimands and recommended the imposition of a reprimand, together with respondent's attendance at twenty-four hours of ethics seminars over a two-year period and the requirement that respondent attend twenty-four hours of ethics courses or seminars, over a two-year period.

* * *

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

Like the DEC, we find that respondent violated RPC 1.3 (lack of diligence) by not recording the deed and the mortgage for five months after the closing and RPC 1.15(b) by not properly disbursing the closing funds and allowing them to remain stagnant in his attorney trust account. By respondent's own admission, he also violated RPC 8.1(b) by hampering the DEC's investigation of what should have been a very simple case.

Unlike the DEC, however, we also find a violation of the RPC 1.1(a). From the date of closing on October 10, 1998 until late February 1999, respondent did nothing to complete the post-closing steps. Furthermore, he had no office procedures to detect mistakes or ensure follow-ups. There is no telling how long this matter would have gone unattended, if not for the bank's watchful eye. For these reasons, we found a violation of RPC 1.1(a).

Lastly, although we concur with the DEC's conclusion that respondent did not violate RPC 1.4(a), we are unable to agree with the DEC's basis for the dismissal of that charge. Indeed, in some instances, failure to communicate with a non-client could be considered a breach of that rule. Had respondent not communicated with Sovereign Bank and counsel once he was aware of his mistake, a finding of failure to communicate might be appropriate.

Either an admonition or a reprimand is generally appropriate when an attorney is guilty of gross neglect, lack of diligence or failure to communicate in one or a few matters. See, e.g., In the Matter of Paul Paskey, DRB 98-244 (1998) (admonition imposed where the attorney exhibited gross neglect, lack of diligence and failure to communicate with the client by twice allowing a complaint to be dismissed and failing, over a four-year period, to apprise the client of the dismissals or to reply to the client's numerous requests for information.); In the Matter of Ben W. Payton, DRB 97-247 (1998) (admonition imposed where the attorney exhibited gross neglect, lack of diligence and failure to communicate with the client. After filing a complaint four days after the expiration of the statute of limitations, the attorney allowed it to be dismissed for lack of prosecution and never informed his client of the dismissal); In re Carmichael, 139 N.J. 390 (1995) (reprimand imposed where the attorney showed lack of diligence and failed to communicate in two matters. The attorney had a prior private reprimand); In re Wildstein, 138 N.J. 48 (1994) (reprimand imposed where the attorney showed gross neglect and lack of diligence in two matters and a failed to communicate in a third matter); and In re Gordon, 121 N.J. 400 (1990) (reprimand imposed where the attorney was found guilty of gross neglect and a failure to communicate in two matters).

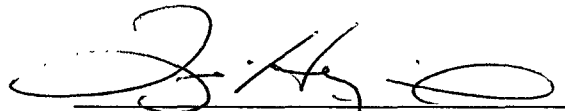
Recently, the Court has reiterated its position that discipline no harsher than a reprimand is appropriate when, as here, an attorney exhibits gross neglect and lack of diligence in a single matter. In re Riva, 157 N.J. 34 (1999).

We were, however, concerned that respondent has had two prior reprimands for virtually identical misconduct and that he committed the within acts of misconduct while under the supervision of a Court-ordered proctor. Therefore, in addition to our unanimous determination to impose a reprimand, we required respondent to hold monthly meetings with his proctor, in an effort to ensure strict compliance with the practices and standards required of the legal profession. These meetings are to be monitored by the OAE, via monthly reports from the proctor, and are to continue for a period of one year. One member recused himself. One member did not participate.

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

Dated:

3/26/81



LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of George J. Mandle, Jr.
Docket No. DRB-00-061**

Argued: May 11, 2000

Decided: March 26, 2001

Disposition: Reprimand

Members	Disbar	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				
Total:			7			1	1

Robyn M. Hill 4/10/01
Robyn M. Hill
Chief Counsel