

IN RE: ALBERT C. BIELITZ, JR.

S.J.C. Judgment (18-month suspension) entered by Justice Spina on June 19, 2000.¹

SUMMARY²

In five separate cases, the respondent undertook to pursue matters on behalf of clients and then failed to do so.

The first case was a divorce matter for which the respondent was paid \$3000 by an incarcerated client whose wife had filed for divorce and obtained a temporary support order which the client wanted modified. The respondent and the client agreed to wait to take action until after the criminal case was resolved. However, even after the criminal case was concluded and despite the client's inquiries, the respondent took no action on the divorce matter and never refunded the \$3000 fee or any portion of it.

The second case was a personal injury matter on which the respondent first failed to appear for a pre-trial conference, such that the case was dismissed, and then failed to appear for the hearing on his motion to reinstate the case.

The third matter was a personal injury case in which the respondent filed suit just prior to the expiration of the statute of limitations, despite the fact that he had been retained almost three years earlier. He then failed to make service on the defendants and the court dismissed the case. The respondent did not inform the client either that he had filed suit or that it had been dismissed.

The fourth matter, a slip-and-fall case that had already been reinstated once, was again dismissed by the court when the respondent did not file a status report.

The final matter was a civil case in which the respondent was retained as successor counsel for the plaintiff. He decided that the case was not worth pursuing and therefore never entered an appearance. The case was dismissed when no one appeared for the plaintiff at a pre-trial conference.

The respondent's neglect and failure to represent the clients zealously in all these matters was prior to January 1998 and accordingly violated Canon Six, DR 6-101(A)(2), (3) and Canon Seven, DR 7-101(A)(1),(2),(3). In three of the cases, the respondent after being discharged also failed to promptly turn over the client's file to the client or successor counsel as requested, in violation of Canon Two, DR 2-110(A)(4). In the first case, the respondent's failure to refund an unearned retainer was also a violation of Canon Two, DR 2-110(A)(3), and in the last case, the respondent's improper withdrawal was a violation of Canon Two, DR 2-110(A)(2).

In addition, the respondent failed to cooperate with Bar Counsel's investigation of the above files and others, necessitating the issuance of a subpoena to compel his appearance on three occasions on a total of nine files. This conduct violated Supreme Judicial Court Rule 4:01, §3, as well as Canon One, DR 1-102(A)(5) and Mass. R. Prof. C. 8.4(d). Finally, the respondent failed to timely file an answer to the petition for discipline as required by Supreme Judicial Court Rule 4:01, §8(3) and the Rules of the Board of Bar Overseers §3.15(c), in violation of Supreme Judicial Court Rule 4:01, §3(1)(c) and Mass. R. Prof. C. 8.4(d),(g) and (h).

In aggravation, the respondent received a prior private reprimand for neglect of a criminal

appeal.

Bar Counsel filed a petition for discipline on June 29, 1999. Because the respondent failed to file an answer, the charges were deemed admitted pursuant to §3.15(e) of the Rules of the Board of Bar Overseers. The respondent did appear before a hearing committee to be heard on the issue of sanction. The hearing committee did not accept the respondent's argument that a sanction was unnecessary because he had voluntarily retired from the practice of law. The hearing committee issued a report recommending a suspension of eighteen months, which the Board on May 8, 2000, voted to adopt. On June 19, 2000, the Court so ordered.

¹ The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

² Compiled by the Board of Bar Overseers based on the record before the Court.

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