

Matter of Becker
Del. Supr. No. 235, 2001(7/31/01)
Board Case Nos. 27, 31, 32 & 33, 2000

Disciplinary Rules: 1.2(a), 1.4(a), 1.5(f), 3.2, and 8.1(b)

Sanctions Imposed: Public Reprimand and Three-Year Public Probation

The Delaware Supreme Court approved the findings and recommendations of a panel of the Board on Professional Responsibility (the "Board") approving a public reprimand of the Respondent, followed by a three-year public probationary period, subject to certain conditions. The record before the Board was based upon a Pre-Hearing Stipulation and Recommendation of Sanctions presented jointly by the Office of Disciplinary Counsel ("ODC") and Respondent's counsel.

In Board Case No. 27, 2000, while representing a creditor in bankruptcy, the Respondent violated Rule 1.4(a) of the Delaware Lawyers' Rules of Professional Conduct (the "Rules") by failing to respond to a client's telephone calls, letters and faxes, and failing to respond to the telephone calls of business associates of the client. The Respondent's failure to provide the client with a written explanation of how an advance retainer was to be deemed earned, was in violation of Rule 1.5(f). The Respondent also violated Rule 8.1(b) by failing to promptly and fully respond to letters from the ODC and by failing to contact the client as requested by the ODC.

In Board Case No. 31, 2000, the Respondent failed to file an under-insured motorist claim on behalf of a client, in violation of Rule 1.2(a). The Respondent failed for six years to keep the client reasonably informed about the litigation generally, and specifically failed to notify the client of the dismissal of a "No-Fault" lawsuit, as required by Rule 1.4(a). The Respondent's failure to respond to a Court of Common Pleas' notice of dismissal of the "No-Fault" case was in violation of Rule 3.2. The Respondent also violated Rule 8.1(b) by failing to promptly and fully respond to letters from the ODC.

In Board Case No. 32, 2000, an estate matter, the Respondent failed to respond to requests for information from family members and other parties in violation of Rule 1.4(a). Additionally, the Respondent violated Rule 8.1(b) by failing to promptly and fully respond to a letter from the ODC.

In Board Case No. 33, 2000, an estate matter, the Respondent failed to respond to

requests for information from family members in violation of Rule 1.4(a). The Respondent also violated Rule 8.1(b) by failing to promptly and fully respond to a letter from the ODC.

As aggravating factors, the Board considered that in 1998, the Respondent had agreed to the imposition of a private admonition and one-year private probation for violations of Rules 1.1, 1.2(a), 1.3, 1.4(a), 1.4(b), 1.4(d), 1.16(d), 3.2, 8.1(b), and 8.4(d). Thereafter, because the Respondent had failed to fully comply with the terms of his probation, the Supreme Court had considered and discharged a rule to show cause. In 1999, the Court approved a conditional admission by the Respondent to a private admonition with a one-year period of private probation subject to certain conditions in three consolidated cases. In Board Case No. 115, 1997, the Respondent admitted to violating: Rule 1.1 by failing to maintain law office books and records in a competent manner as required by the Delaware Supreme Court's rules and guidelines; Rule 1.3 by failing to diligently maintain law office books and records on a current basis and by failing to promptly implement proper recordkeeping procedures; Rule 1.15(b) by failing to maintain control over certain client funds and other funds being held in a fiduciary capacity, resulting in such funds being unidentifiable and therefore unreturnable to their owners; and Rule 1.15(d) by failing for several years to properly maintain law office's books and records with respect to the specific regulations and guidelines for doing so promulgated by the Delaware Supreme Court. In Board Case No. 128, 1997, the Respondent conditionally admitted to violating Rule 1.4(a) by failing to respond to client requests for information regarding the representation. In

Board Case No. 70, 1998, the Respondent conditionally admitted to violating Rule 1.15(b) by failing to promptly deliver to the administrator of the law firm's pension plan funds which had been deducted from the weekly gross pay of employees of the law firm. The final aggravating factors considered by the Court were the Respondent's substantial experience in the practice of law and his commission of multiple violations of the Rules.

In mitigation, the Court considered that the Respondent's misconduct did not reflect any dishonest or selfish motive. Further, the Respondent has made good faith efforts to rectify the financial and other consequences of the misconduct.

Conditions of the probation include cooperation with the Office of Disciplinary Counsel, enforcement through a petition filed directly with the Delaware Supreme Court requesting that the Court suspend the Respondent, and the payment of costs. The Respondent's future practice areas will be limited to cases involving bankruptcy, mortgage foreclosure and insurance defense. The Respondent's future clients will be limited to corporate banking or other institutional parties. The Supreme Court also required that during the three-year probationary period, the Respondent must have all present and future clients sign a written acknowledgment that they have been advised of the Respondent's probationary status and practice limitations. Charles J. Durante, Esquire, of the law firm of Connolly Bove Lodge & Hutz, LLP, has been appointed as the Respondent's practice monitor.