

CINCINNATI BAR ASSOCIATION v. WOLOSIN.

[Cite as *Cincinnati Bar Assn. v. Wolosin*, 1999-Ohio-467.]

Attorneys at law—Misconduct—Permanent disbarment—Appropriation of client funds—Pattern of neglecting client interests—Failing to comply with Supreme Court’s April 1997 suspension order—Failing to cooperate in disciplinary investigation.

(No. 98-1742—Submitted September 29, 1998—Decided January 20, 1999.)

ON CERTIFIED REPORT by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 97-68.

{¶ 1} In March 1995, we suspended respondent, Gary E. Wolosin, a.k.a. Gary H. Ellison, of Cincinnati, Ohio, Attorney Registration No. 0008072, from the practice of law in Ohio for two years for neglecting five bankruptcy cases during the period from September 1992 through December 1992. *Cincinnati Bar Assn. v. Wolosin* (1995), 71 Ohio St.3d 611, 646 N.E.2d 455. We stayed the suspension and placed respondent on monitored probation with certain conditions. In April 1997, we revoked respondent’s probation and reinstated his two-year suspension from the practice of law in Ohio. *Cincinnati Bar Assn. v. Wolosin* (1997), 78 Ohio St.3d 1447, 677 N.E.2d 809.

{¶ 2} On January 9, 1998, relator, Cincinnati Bar Association, filed an amended complaint charging respondent with numerous violations of the Disciplinary Rules and the Rules for the Government of the Bar. After respondent filed an answer generally denying the allegations of the amended complaint, the matter was heard before a panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court (“board”). Although notice of the hearing was

sent to the same address that he listed in his answer, respondent did not attend the hearing, and no one appeared at the hearing on his behalf.

{¶ 3} The panel found that in eleven separate instances in 1996 and 1997, clients hired respondent to represent them in bankruptcy cases. Respondent neglected these cases and did not carry out his employment duties. In several of these cases, respondent received retainer fees that he never refunded, even after being dismissed by the clients. In some of the cases, respondent transferred his clients' files to another attorney without his clients' permission. In two of the cases, the bankruptcy court found respondent in contempt for failing to comply with court orders for him to refund attorney fees to his clients.

{¶ 4} Typical of respondent's neglect in these eleven cases is Count One, in which the panel found that in December 1996, Carole Brown paid respondent a \$775 retainer to file a bankruptcy petition on her behalf. Brown later learned that her bankruptcy petition was not filed, and she made repeated unsuccessful attempts to contact respondent. Respondent also failed to timely notify her that he had been suspended from the practice of law in April 1997. In April 1997, Brown sent a certified letter to respondent dismissing him as an attorney and requesting a refund of the \$775 retainer. The letter was returned unclaimed, and respondent never refunded the retainer to Brown. Respondent also never filed a bankruptcy petition on Brown's behalf.

{¶ 5} The panel concluded that in these eleven cases, respondent committed eleven violations of DR 6-101(A)(3) (neglecting a legal matter entrusted to him), eleven violations of DR 7-101(A)(2) (failing to carry out an employment contract), ten violations of DR 2-106(A) (charging a clearly excessive fee), seven violations of DR 9-102(B)(4) (failing to promptly pay or deliver to the clients funds or property in his possession which the client is entitled to receive), four violations of DR 4-101(B)(1) (knowingly revealing a confidence or secret of his client), two violations of DR 1-102(A)(5) (engaging in conduct prejudicial to the administration

of justice), and one violation of DR 1-102(A)(6) (engaging in conduct adversely reflecting on his fitness to practice law).

{¶ 6} The panel found that after being notified of the grievances referred to in Counts One through Four of the amended complaint, respondent failed to cooperate with the investigation in violation of Gov.Bar R. V(4)(G).

{¶ 7} In addition, the panel found that respondent failed to comply with this court's April 1997 suspension order because he did not surrender his certificate of admission to practice law in Ohio and his attorney registration card, and he did not notify all of his clients of his suspension and deliver to them their files and money by May 5, 1997. The panel concluded that respondent's conduct violated Gov.Bar R. V(6)(A)(1) (disobeying an order imposing a suspension from the practice of law), DR 6-101(A)(3) (neglecting a legal matter), 9-102(A) (failing to segregate client funds), and 9-102(B)(4) (failing to promptly pay or deliver to the client funds or property in his possession which the client is entitled to receive).

{¶ 8} The panel finally found that in December 1997, respondent had his name changed to "Gary H. Ellison" and failed to notify either the Clerk of the Supreme Court or the board of his name change. The panel found no mitigating circumstances. The panel recommended that respondent be permanently disbarred.

{¶ 9} The board adopted the findings, conclusions, and recommendation of the panel.

Thomas R. Smith, David C. Wagner and Edwin W. Patterson III, for relator.

Per Curiam.

{¶ 10} We adopt the findings, conclusions, and recommendation of the board. Absent any mitigating circumstances, appropriation of client funds and a pattern of neglecting client interests warrant disbarment. *Cleveland Bar Assn. v.*

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Armon (1997), 78 Ohio St.3d 497, 499-500, 678 N.E.2d 1371, 1373. Given the number of these incidents, the lack of any mitigating evidence, as well as respondent's failure to comply with our suspension order and cooperate in the disciplinary investigation, disbarment is the only appropriate sanction here. Respondent is hereby permanently disbarred from the practice of law in Ohio. Costs taxed to respondent.

Judgment accordingly.

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK and LUNDBERG STRATTON, JJ., concur.
