

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND DEPARTMENT

In re Alarcon

115 A.D.3d 109, 978 N.Y.S.2d 853 (2d Dep't 2014) · Decided January 22, 2014

SUMMARY

The court accepts Rory M. Alarcon’s voluntary resignation as an attorney after he acknowledged that he could not successfully defend against allegations involving mortgage modification businesses and professional misconduct. The resignation is effective immediately, and Alarcon is disbarred, removed from the roll of attorneys, and ordered to comply with restrictions governing disbarred attorneys.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Department
WRITING FOR THE COURT	Per Curiam; Eng, E.J.; Mastro, J.; Rivera, J.; Skelos, J.; Hall, J.
JURISDICTION	New York
DECIDED	January 22, 2014
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding in which Rory M. Alarcon tendered his resignation while acknowledging pending misconduct investigations and waiving the opportunity to oppose potential restitution and Lawyers' Fund reimbursement.
PRECEDENTIAL VALUE	published

TOPICS

appellate procedure

PRACTICE AREAS

attorney discipline legal ethics professional responsibility

QUESTIONS PRESENTED

- Whether Alarcon's resignation complied with the requirements of 22 NYCRR 691.9.
- Whether the Appellate Division should accept the resignation and immediately disbar Alarcon.

HOLDINGS

1. Alarcon's resignation complied with the requirements of 22 NYCRR 691.9 and therefore was accepted by the court.
2. Upon accepting the resignation, the court immediately disbarred Alarcon and struck his name from the roll of attorneys and counselors-at-law.
3. The resignation remained subject to any application by the Grievance Committee for restitution and reimbursement to the Lawyers' Fund for Client Protection, and Alarcon waived opposition to such an application.

KEY QUOTATIONS

“Inasmuch as the proffered resignation complies with the requirements of 22 NYCRR 691.9, it is accepted, and, effective immediately, Mr. Alarcon is disbarred, and his name is stricken from the roll of attorneys and counselors-at-law.” (115 A.D.3d at 110)

“Ordered that pursuant to Judiciary Law § 90, effective immediately, Rory M. Alarcon is disbarred, and his name is stricken from the roll of attorneys and counselors-at-law” (115 A.D.3d at 111)

FACTUAL BACKGROUND

The Grievance Committee was investigating 74 complaints against Alarcon arising from mortgage-modification businesses of which he was a principal proprietor or corporate officer. The complaints alleged fraud, improper retainer and fee agreements, practice under trade names, inadequate supervision, and fee sharing with nonlawyers. Alarcon swore that his resignation was voluntary and free of coercion, acknowledged that he could not successfully defend against charges based on those allegations, and accepted continuing jurisdiction concerning restitution and reimbursement.

PROCEDURAL HISTORY

The Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts was investigating 74 complaints of professional misconduct against Alarcon. Alarcon submitted an affidavit resigning from the bar and acknowledging that he could not successfully defend against charges based on the alleged misconduct. The Grievance Committee recommended acceptance, and the Appellate Division accepted the resignation and immediately disbarred him.

DISPOSITION

other

OPINION

PER CURIAM.

*110OPINION OF THE COURT Per Curiam. Rory M. Alarcon has submitted an affidavit sworn to on July 29, 2013, wherein he tenders his resignation as an attorney and counselor-at-law (see 22

NYCRR 691.9). Mr. Alarcon acknowledges in his affidavit that his resignation is freely and voluntarily tendered, that he is not being subjected to coercion or duress by anyone, and that he is fully aware of the implications of its submission.

Mr. Alarcon acknowledges that the Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts is currently investigating 74 complaints of professional misconduct against him, from individuals living in 30 states throughout the country.

The complaints allege, inter alia, that: (1) the complainants were defrauded by one of the mortgage modification business entities of which Mr. Alarcon was the principal proprietor or corporate officer, namely, RMA Legal Network, Alarcon Law Group, Alarcon & Associates, Alarcon Law Firm, or R.A. Legal Group; (2) Mr. Alarcon entered into improper retainer and fee agreements with these individuals through the aforementioned business entities; (3) Mr. Alarcon improperly practiced law under trade names; (4) Mr. Alarcon failed to adequately supervise employees at the aforementioned business entities; and (5) Mr. Alarcon shared legal fees with nonlawyers.

Mr. Alarcon acknowledges that if charges were predicated on the aforementioned allegations, he could not successfully defend himself on the merits against such charges. Mr. Alarcon's resignation is submitted subject to any application by the Grievance Committee for an order directing that he make restitution and that he reimburse the Lawyers' Fund for Client Protection pursuant to Judiciary Law § 90 (6-a) (a).

He acknowledges the continuing jurisdiction of this Court to make such an order, which could be entered as a civil judgment against him pursuant to Judiciary Law § 90 (6-a) (d). He specifically waives the opportunity afforded him by Judiciary Law § 90 (6-a) (f) to be heard in opposition thereto.

The Grievance Committee recommends that the Court accept Mr. Alarcon's proffered resignation. Inasmuch as the proffered resignation complies with the requirements of 22 NYCRR 691.9, it is accepted, and, effective immediately, Mr. Alarcon is disbarred, and his name is stricken from the roll of attorneys and counselors-at-law. Eng, EJ., Mastro, Rivera, Skelos and Hall, JJ., concur. *111 Ordered that the resignation of Rory M. Alarcon is accepted and directed to be filed; and it is further, Ordered that pursuant to Judiciary Law § 90, effective immediately, Rory M. Alarcon is disbarred, and his name is stricken from the roll of attorneys and counselors-at-law; and it is further, Ordered that Rory M. Alarcon shall comply with this Court's rules governing the conduct of disbarred, suspended, and resigned attorneys (see 22 NYCRR 691.10); and it is further, Ordered that pursuant to Judiciary Law § 90, effective immediately, Rory M. Alarcon shall desist and refrain from (1) practicing law in any form, either as principal or as agent, clerk, or employee of another, (2) appearing as an attorney or counselor-at-law before any court, judge, justice, board, commission, or other public authority, (3) giving to another an opinion as to the law or its application or any advice in relation thereto, and (4) holding himself out in any way as an attorney

and counselor-at-law; and it is further, Ordered that if Rory M. Alarcon has been issued a secure pass by the Office of Court Administration, it shall be returned forthwith to the issuing agency and he shall certify to the same in his affidavit of compliance pursuant to 22 NYCRR 691.10 (f).

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