

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