

**SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
THIRD DEPARTMENT**

In re Olivarius

94 A.D.3d 1224, 941 N.Y.S.2d 763 (N.Y. App. Div. 2012) · Decided April 5, 2012

SUMMARY

The New York Appellate Division reviewed findings that an attorney made materially false or misleading statements and failed to disclose requested information in her application for admission to the New York bar. The court found violations of the former Code of Professional Responsibility, revoked her admission, struck her name from the roll, and barred her from practicing law, without prejudice to a renewed application.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Lahtinen, J.E.; Malone Jr., J.; Kavanagh, J.; Stein, J.; McCarthy, J.
JURISDICTION	New York
DECIDED	April 5, 2012
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding concerning respondent's application for admission to the New York bar. After a hearing, petitioner moved to confirm the Referee's report, and respondent moved to confirm it in part and disaffirm it in part.
PRECEDENTIAL VALUE	published
PARTIES	Petitioner v. Respondent

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PRACTICE AREAS

[attorney discipline](#) [bar admission](#) [professional responsibility](#) [administrative law](#) [appellate procedure](#)

QUESTIONS PRESENTED

1. Whether the Referee's findings that respondent made materially false statements and failed to disclose material facts in her bar-admission application should be confirmed.
2. Whether respondent's conduct violated former Code of Professional Responsibility DR 1-101(a) and DR 1-102(a)(4), (5), and (7).
3. What sanction was appropriate for respondent's misconduct in connection with her application for admission to the New York bar.

HOLDINGS

1. The Referee's report was confirmed with respect to all nine specifications of the single charge, and respondent was found guilty of professional misconduct under specifications 2, 3, 5, 6, 7, 8, and 9.
2. Based on the Referee's findings, respondent violated former Code of Professional Responsibility DR 1-101(a) and DR 1-102(a)(5) and (7), and additionally violated DR 1-102(a)(4) with respect to suppressing information about the reason for her termination by the foundation.
3. Respondent's admission to the New York bar was revoked, her name was stricken from the roll of attorneys and counselors-at-law, and she was prohibited from practicing law, without prejudice to renewal of her admission application based on the existing record and any additional information requested by the Committee on Character and Fitness.

KEY QUOTATIONS

"candor and the voluntary revelation of negative information by an applicant are the cornerstones upon which is built the character and fitness investigation of an applicant for admission to the New York State bar"
(1225)

FACTUAL BACKGROUND

Respondent submitted an application for admission to the New York bar that included an employment affidavit completed by her husband rather than by her employer, without demonstrating that obtaining an employer affidavit was infeasible. She gave misleading explanations concerning the termination of two subsequent employments and submitted an affidavit from outside special counsel rather than an employee of one former employer. She also answered "no" to three application questions requiring disclosure of prior litigation.

PROCEDURAL HISTORY

A Referee conducted a hearing on petitioner's charge that respondent made materially false statements and failed to disclose material facts in her bar-admission application. The Referee sustained the charge and found misconduct in specifications 2, 3, 5, 6, 7, 8, and 9. The Appellate Division granted and denied the parties' motions in accordance with its findings, confirmed the relevant portions of the Referee's report, revoked respondent's admission, and struck her name from the roll of attorneys.

DISPOSITION

other

REMAND INSTRUCTIONS

Any renewed application for admission must be investigated by the Committee on Character and Fitness, which must make a recommendation in accordance with the court's rules.

CASES CITED

- Matter of Mendoza, 167 A.D.2d 658, 659 (1990)
- Matter of Wood, 1 A.D.3d 791 (2003)
- Matter of Steinberg, 137 A.D.2d 110, 115 (1988), lv denied, 72 N.Y.2d 807 (1988)
- Matter of Rosenberg, 227 App. Div. 527, 531 (1930)
- Matter of Uchenna, 69 A.D.3d 1220 (2010)
- Matter of Spinner, 19 A.D.3d 803 (2005), lv denied, 5 N.Y.3d 708 (2005)

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