

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Edward N. Matisik

186 A.3d 117 (D.C. 2018) · No. 18-BG-98 · Decided June 7, 2018

SUMMARY

The District of Columbia Court of Appeals disbarred Edward N. Matisik after adopting the Board on Professional Responsibility's recommendation. The court concluded that the allegations were deemed admitted under default procedures and included intentional misappropriation of entrusted client funds, along with multiple violations of the District of Columbia Rules of Professional Conduct.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Per Curiam; Fisher; Beckwith; Farrell
JURISDICTION	District of Columbia
DECIDED	June 7, 2018
DOCKET	18-BG-98
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding before the District of Columbia Court of Appeals on the Board on Professional Responsibility's report and recommendation that respondent be disbarred. No exceptions were filed to the Board's report.
STANDARD OF REVIEW	The court applies a deferential standard of review to the Board's report and recommendation, with the standard becoming even more deferential when no exceptions are filed.
PRECEDENTIAL VALUE	published

TOPICS

appellate procedure

standard of review

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether the court should impose the disbarment recommended by the Board on Professional Responsibility when no exceptions were filed.
2. Whether intentional misappropriation of entrusted client funds warrants disbarment.
3. When the period of disbarment begins to run for purposes of reinstatement.

HOLDINGS

1. When no exceptions are filed to the Board's report and recommendation, the court will impose the discipline recommended by the Board after the period for filing exceptions expires.
2. Disbarment is the appropriate discipline for intentional misappropriation of entrusted client funds.
3. The period of respondent's disbarment does not begin to run until he files the affidavit required by D.C. Bar Rule XI § 14(g).

KEY QUOTATIONS

“When . . . there are no exceptions to the Board’s report and recommendation, our deferential standard of review becomes even more deferential.”

FACTUAL BACKGROUND

Respondent failed to competently and diligently represent a corporate client by failing to file necessary registration forms and then misrepresenting his actions to the client. He also used entrusted client funds as his own, which constituted intentional misappropriation. Because he failed to respond to the charges, those allegations were deemed admitted under the default procedures.

PROCEDURAL HISTORY

After Edward Matisik failed to respond to Disciplinary Counsel's specification of charges, the Hearing Committee proceeded under the default procedures of D.C. Bar Rule XI § 8(f), deemed the allegations admitted, and recommended disbarment. The Board on Professional Responsibility adopted that recommendation. Neither respondent nor Disciplinary Counsel filed exceptions, so the Court entered the recommended discipline under D.C. Bar Rule XI § 9(h)(2).

DISPOSITION

other

CASES CITED

- In re Matisik, 77 A.3d 1009 (D.C. 2013)
- In re Viehe, 762 A.2d 542, 543 (D.C. 2000)
- In re Addams, 579 A.2d 190, 191 (D.C. 1990) (en banc)

OPINION

PER CURIAM.

Notice: This opinion is subject to formal revision before publication in the Atlantic and Maryland Reporters. Users are requested to notify the Clerk of the Court of any formal errors so that corrections may be made before the bound volumes go to press. DISTRICT OF COLUMBIA COURT OF APPEALS No. 18-BG-98 IN RE EDWARD N. MATISIK, RESPONDENT. A Suspended Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 463786) On Report and Recommendation Of the Board on Professional Responsibility (Board Docket Number 13-BD-091) (BDN 193-11) (Decided June 7, 2018) Before FISHER and BECKWITH, Associate Judges, and FARRELL, Senior Judge.

PER CURIAM: In this case, the Board on Professional Responsibility has adopted the Ad Hoc Hearing Committee's report and recommendation that respondent be disbarred from the practice of law. Neither Mr. Matisik¹ nor 1 Mr. Matisik was previously suspended by this court for sixty days with a fitness and restitution requirement.

In re Matisik, 77 A.3d 1009 (D.C. 2013). The record in that case does not indicate that respondent has filed his required affidavit. 2 Disciplinary Counsel has filed an exception to the Board's Report and Recommendation.

The Committee issued its report pursuant to the default procedures established by D.C. Bar R. XI § 8 (f) after respondent Edward Matisik failed to respond to Disciplinary Counsel's specification of charges. Under this procedure Disciplinary Counsel filed a motion for default that proceeded unopposed. Pursuant to these procedures the allegations outlined in the petition are deemed admitted by respondent.

Therefore, based on the sworn statements of Disciplinary Counsel the Committee found that respondent failed to competently and diligently represent his corporate client when he failed to file the necessary registration forms and then misrepresented his actions to his client.

In addition, the Committee found that respondent used entrusted client funds as his own funds and that those actions constituted intentional misappropriation of client funds.² After finding intentional misappropriation of entrusted funds, the Hearing Committee recommended that respondent be disbarred. Neither respondent nor Disciplinary Counsel filed any exceptions to the Committee's report.

² Respondent was specifically found to have violated the Rules of Professional Conduct 1.1 (a), 1.1 (b), 1.3 (a), 1.3 (b)(1), 1.3 (c), 1.4 (a), 1.4 (b), 1.15 (a), 1.15 (e), 1.16 (d), 5.5 (a), and 8.4 (c). ³ Under D.C. Bar R. XI § 9 (h)(2), "if no exceptions are filed to the Board's report, the [c]ourt will enter an order imposing the discipline recommended by the Board upon the expiration of the time permitted for filing exceptions." See also In re Viehe, 762 A.2d 542, 543 (D.C.

2000) (“When... there are no exceptions to the Board’s report and recommendation, our deferential standard of review becomes even more deferential.”). In this case, respondent has failed to respond to any of the charges or participate during any stage in this proceeding, and we have previously held that disbarment is the appropriate discipline for intentional misappropriation.

See *In re Addams*, 579 A.2d 190, 191 (D.C. 1990) (en banc). Accordingly, it is ORDERED that Edward Matisik is hereby disbarred. For purposes of reinstatement the period of respondent’s disbarment will not begin to run until such time as he files a D.C. Bar R. XI § 14 (g) affidavit. So ordered.