

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

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A. GAIL PRUDENTI, P.J.  
WILLIAM F. MASTRO  
REINALDO E. RIVERA  
ROBERT A. SPOLZINO  
JOSEPH COVELLO, JJ.

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2007-02955

OPINION & ORDER

In the Matter of Robert Tavon, a suspended attorney.

Grievance Committee for the Ninth Judicial District,  
petitioner; Robert Tavon, respondent.

(Attorney Registration No. 3981453)

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DISCIPLINARY proceeding instituted by the Grievance Committee for the Ninth Judicial District. By decision and order on motion of this Court dated July 18, 2007, the respondent was suspended from the practice of law pursuant to 22 NYCRR 691.4(l)(1)(ii) and (iii), the Grievance Committee was authorized to institute and prosecute a disciplinary proceeding against him based on a petition dated March 22, 2007, and a supplemental petition dated May 4, 2007, and the issues raised were referred to the Honorable Fred L. Shapiro, as Special Referee to hear and report. By decision and order on motion of this Court dated November 14, 2007, the respondent's motion for an order "lifting the suspension" of his right to practice law was denied. By decision and order on motion of this Court dated November 21, 2007, the Grievance Committee was authorized to supplement the previously-authorized petitions with nine additional charges set forth in a second supplemental petition dated September 20, 2007, and the issues raised were referred to the Honorable Fred L. Shapiro, as Special Referee to hear and report, together with the charges previously referred to him.

August 4, 2009

MATTER OF TAVON, ROBERT

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Gary L. Casella, White Plains, N.Y. (Forrest Strauss of counsel), for petitioner.

PER CURIAM.

The respondent was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the First Judicial Department on June 26, 2001.

The Grievance Committee served the respondent with a verified petition dated March 22, 2007, a supplemental petition dated May 4, 2007, and a second supplemental petition dated November 21, 2007, containing all together 34 charges of professional misconduct. After a preliminary conference on November 13, 2007, and a hearing held on December 18, 2007, Special Referee Shapiro sustained Charges 1-5, 7-9, 11, 12, 14, 15, 19-22, 26, 30, and 32, and dismissed Charges 6, 10, 13, 16, 17, 25, 27-29, 31, 33, and 34. Charges 18, 23, and 24 were withdrawn. The Grievance Committee now moves to confirm the Special Referee's Report insofar as it sustained the various charges, to disaffirm the report insofar as it dismissed charges 6, 16, 17, 25, 27, 28, 31, 33, and 34, and to impose such discipline as the Court deems just and proper.

Charge one alleges that the respondent engaged in conduct prejudicial to the administration of justice, in violation of Code of Professional Responsibility DR 1-102(a)(5) (22 NYCRR 1200.3[a][5]), by failing to promptly comply with the lawful demands of the Grievance Committee during its investigation of four complaints of professional misconduct filed by Cheng Hua Yin, Ben Juan Wu, Lawrence Dworkin, and Susan Palmiro. It is alleged that the respondent failed to timely submit answers to the complaints, submitted illegible handwritten responses, arrived late for scheduled examinations under oath, walked out of an examination while the examination was still in progress, failed to appear for various scheduled examinations under oath, and gave evasive and/or non-responsive answers while testifying under oath.

Charge two alleges that the respondent failed to act competently, in violation of Code of Professional Responsibility DR 6-101(a)(2) and (3) (22 NYCRR 1200.30[a][2] and [3]), by engaging in inadequate preparations and/or neglecting a legal matter entrusted to him by Cheng Hua Yin. It is alleged that on or about September 8, 2004, the respondent signed a "Consent to Change Attorneys" form, making the respondent the attorney of record for the plaintiff in an action entitled *Cheng Hua Yin v Wang & Lee*, Index No. 78398, NY City Civil Court; that the respondent never communicated with Cheng Hua Yin either before or after signing the form; that the respondent was paid \$500 by Dennis Lan, the attorney who referred the case to the respondent, for services the respondent was to render; that the respondent thereafter filed a "Notice of Motion to Admit Late

Service” regarding one of the defendants in the action, which was returnable on October 13, 2004; that the respondent did not appear in court on October 13, 2004; and that as a result of the respondent’s failure to appear, the motion was denied.

Charge three alleges that the respondent failed to act competently, in violation of Code of Professional Responsibility DR 6-101(a)(2) and (3) (22 NYCRR 1200.30[a][2] and [3]), by engaging in inadequate preparations and/or neglecting a legal matter entrusted to him by Cheng Hua Yin. It is alleged that on or about December 15, 2004, the respondent was unaware of the status of the motion he had filed and had conducted no discovery in the action; that the respondent filed a false “Notice of Trial Readiness” as a ploy to force the defendants to settle; that the respondent failed to appear on March 1, 2005, the adjourned date for the trial; and that as a result of the respondent’s failure to appear, the action was dismissed on default.

Charge four alleges the respondent permitted someone other than his client to improperly influence his independent professional judgment on behalf of his client, in violation of Code of Professional Responsibility DR 5-107(b) (22 NYCRR 1200.26[b]), by permitting the attorney who recommended the client to the respondent to direct or regulate the legal services rendered by the respondent without discussing the same with his client. It is alleged that the respondent, in the course of his representation of Cheng Hua Yin, never communicated directly with him, that the respondent routed all communications to and from Cheng Hua Yin through Dennis Lan; and that the respondent was paid by checks issued by Dennis Lan.

Charge five alleges that the respondent engaged in conduct prejudicial to the administration of justice and/or other conduct that adversely reflected on his fitness as lawyer, in violation of Code of Professional Responsibility DR 1-102(a)(5) (22 NYCRR 1200.3[a][5]), by failing to timely appear on one or more return dates, scheduled at the respondent’s request, in the Cheng Hua Yin matter, as set forth in charges two and three.

Charge seven alleges that the respondent failed to act competently, in violation of Code of Professional Responsibility DR 6-101(a)(3) (22 NYCRR 1200.30[a][3]), by engaging in inadequate preparations and/or neglecting a legal matter entrusted to him by Ben Juan Wu. It is alleged that in or about October 2004, Dennis Lan referred Ben Juan Wu to the respondent for representation regarding a custody and visitation matter; that the respondent met Ben Juan Wu and Dennis Lan to discuss the relief she sought and Ben Juan Wu provided the respondent with the

necessary paperwork for filing the appropriate application for relief; and that the respondent failed to file the application for relief sought by Ben Juan Wu until on or about March 31, 2005 – some five months later.

Charge eight alleges the respondent engaged in conduct adversely reflecting on his fitness as a lawyer, in violation of Code of Professional Responsibility DR 1-102(a)(7) (22 NYCRR 1200.3[a][7]), by failing to comply with the requirements of 22 NYCRR 1400.1, 1400.2, and/or 1400.3. It is alleged that the respondent failed to provide Ben Juan Wu with a “Statement of Client Rights and Responsibilities” or have her execute a “Retainer Agreement,” as required by 22 NYCRR 1400.1, 1400.2, and 1400.3, prior to undertaking his representation of Ben Juan Wu in the custody and visitation matter.

Charge nine alleges that the respondent failed to act competently, in violation of Code of Professional Responsibility DR 6-101(a)(2) and/or (3) (22 NYCRR 1200.30[a][2] and/or [3]), by engaging in inadequate preparations and/or neglecting a legal matter entrusted to him by Lawrence Dworkin on behalf of Dworkin Construction. It is alleged that between on or about October 15, 2002, and on or about June 17, 2003, Dworkin Construction (hereinafter DCC) retained the respondent to handle a construction dispute entitled *Dworkin Construction v Pirraglia*; that the respondent filed a summary judgment motion which resulted in the dismissal of the action; that DCC thereafter retained the respondent to file and perfect an appeal from the dismissal; and that the respondent failed to timely perfect the appeal.

Charge eleven alleges that the respondent engaged in conduct prejudicial to the administration of justice, in violation of Code of Professional Responsibility DR 1-102(a)(5) (22 NYCRR 1200.3[a][5]), by failing to pay a money judgment entered against him. It is alleged that in or about June 2005, DCC commenced an action against the respondent in Bronxville Village Justice Court to recover the money it had paid the respondent for legal services; that the respondent initially requested an adjournment but then failed to appear for the adjourned trial date; that in or about July 2005, a default judgment in the sum of \$1,191 was entered in favor of DCC and against the respondent; and that the respondent has not satisfied the judgment, successfully vacated the judgment, or appealed from the judgment.

Charge twelve alleges that the respondent engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation and/or conduct prejudicial to the administration of justice, in

violation of Code of Professional Responsibility DR 1-102(a)(4) and (5) (22 NYCRR 1200.3[a][4] and [5]), by submitting misleading documents to the Bronxville Village Justice Court. It is alleged that in or about July 2006, the respondent filed two motions to vacate the default judgment in the Bronxville Village Justice Court; and that in an order dated August 15, 2006, the Bronxville Village Justice Court denied the motions, finding that the respondent had misled the court in his two submissions and had failed to articulate a meritorious defense to the claim.

Charge fourteen alleges that the respondent failed to act competently, in violation of Code of Professional Responsibility DR 6-101(a)(2) and (3) (22 NYCRR 1200.30[a][2] and/or [3]), by engaging in inadequate preparations and/or neglecting a legal matter entrusted to him by Susan Palmiro. It is alleged that in or about August 2004, Susan Palmiro and her spouse hired the respondent to represent them in a medical malpractice action; that the respondent knew or should have known the Palmiros did not have a second doctor's opinion confirming their ostensible theory of liability; that the respondent filed a malpractice action against a physician without the required Certificate of Merit; that the respondent was given numerous adjournments up to and including on or about April 24, 2006, to obtain and file the required Certificate of Merit; and that as a result of the respondent's failure to act, the action by the Palmiros was ultimately dismissed.

Charge fifteen alleges that the respondent engaged in conduct adversely reflecting on his fitness as a lawyer, in violation of Code of Professional Responsibility DR 1-102(a)(7) (22 NYCRR 1200.3[a][7]), by failing to comply with 22 NYCRR 691.20 *et seq.* It is alleged that the respondent failed to file either a Retainer Statement or Closing Statement for the Palmiros' medical malpractice action with the New York State Office of Court Administration (hereinafter OCA).

Charge nineteen alleges that the respondent engaged in conduct prejudicial to the administration of justice, in violation of Code of Professional Responsibility DR 1-102(a)(5) (22 NYCRR 1200.3[a][5]), by failing to comply with his obligation under Judiciary Law § 468-a and 22 NYCRR 118.1 to re-register as an attorney and counselor-at-law with the OCA. Specifically, it is alleged that the respondent failed to timely re-register as an attorney with OCA for the 2007-2008 period.

Charge twenty alleges that the respondent engaged in conduct prejudicial to the administration of justice, in violation of Code of Professional Responsibility DR 1-102(a)(5) (22 NYCRR 1200.3[a][5]), by repeatedly failing to timely appear in an action entitled *People v Donoso*,

Index No. 2915/06, in Supreme Court, New York County. It is alleged that prior to September 8, 2006, the respondent was retained to represent Jean Paul Donoso; that the respondent either arrived late for court appearances, failed to appear in court when proceedings were scheduled and/or in progress on at least five different dates, or failed to timely advise the court that he would be unavailable on the dates in question; and that as a result of the respondent's failure to appear, the court was forced to declare a mistrial.

Charge twenty-one alleges that the respondent neglected a legal matter entrusted to him, in violation of Code of Professional Responsibility DR 6-101(a)(3) (22 NYCRR 1200.30[a][3]), by repeatedly failing to appear in court on behalf of Donoso in the aforementioned case. Charge twenty-one is based on specifications alleged in charge twenty.

Charge twenty-two alleges that the respondent engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation, in violation of Code of Professional Responsibility DR 1-102(a)(4) (22 NYCRR 1200.3[a][4]), by making false and misleading statements on a background questionnaire submitted to the Grievance Committee in connection with its investigation of a complaint of professional misconduct. It is alleged that in an order dated January 25, 2007, Supreme Court Justice Gregory Carro sanctioned the respondent in the amount of \$1,000 for failing to appear on four different dates in the matter *People v Donoso*; that the order resulted in a sua sponte investigation by the Grievance Committee; that the respondent was forwarded a background questionnaire to fill out under a March 2, 2007, cover letter requesting the respondent to respond to the complaint and the questionnaire; and that on or about April 18, 2007, the respondent submitted a response, answering "No" to question No. 9 which asked him whether he had ever been directed to pay sanctions or costs.

Charge twenty-six alleges that the respondent engaged in the unauthorized practice of law, in violation of Code of Professional Responsibility DR 3-101(b) (22 NYCRR 1200.16[b]), by initiating a legal action at a time when he knew or should have known that his license to practice law had been suspended. It is alleged that by decision and order on motion of this Court dated July 18, 2007, the respondent was suspended from the practice of law; that the respondent was aware of his suspension by or before July 23, 2007; and that on July 24, 2007, the respondent initiated the matter of *Grundman v Righi & Houlihan*, under Westchester County Index No. 13314-07, as attorney for Mr. and Mrs. George Grundman, by serving and filing a summons and notice of

pendency in the Supreme Court, Westchester County.

Charge thirty alleges that the respondent engaged in dishonesty, fraud, deceit, and misrepresentation, in violation of Code of Professional Responsibility DR 1-102(a)(4) (22 NYCRR 1200.3[a][4]), by holding himself out as a licensed attorney to a bank official in order to open a bank account, at a time when he knew or should have known that his license to practice law had been suspended.

Charge thirty-two alleges that the respondent engaged in conduct that adversely reflects on his fitness as a lawyer, in violation of Code of Professional Responsibility DR 1-102(a)(3) (22 NYCRR 1200.3[a][3]), based on his conviction on or about August 27, 2007, in the Village of Bronxville, New York, for the crime of aggravated unlicensed operation of a motor vehicle, in violation of Vehicle and Traffic Law § 511, an unclassified misdemeanor.

At the hearing, the Grievance Committee did not call any witnesses. Its case consisted entirely of documentary evidence, much of which was admitted into evidence by stipulation without objection. The documentary evidence consisted of, inter alia, the individual complaints filed with the Grievance Committee, correspondence and answers in response thereto, transcripts of testimony by the respondent at investigative appearances before the Grievance Committee, and other various court filings and orders. The evidence, which numbered one through seventy-five, in many instances included multiple attachments.

The respondent appeared pro se at the hearing. He was the sole witness for his case. At the outset, the respondent admitted that he had been convicted of aggravated unlicensed operation of a motor vehicle. He stated that he was “prepared to respond no contest to the vast majority of the factual allegations,” by which he meant he was admitting to the vast majority of the factual allegations.

Based on the respondent’s admissions and the evidence adduced at the hearing, we find that charges 1-5, 7-9, 11, 12, 14, 15, 19-22, 26, 30, and 32 were properly sustained. Accordingly, the Grievance Committee’s motion to confirm and disaffirm is granted to the extent that charges 1-5, 7-9, 11, 12, 14, 15, 19-22, 26, 30, and 32 are sustained, and the motion is otherwise denied.

In determining the appropriate measure of discipline to impose, the danger posed by the respondent to the public cannot be overstated. Upon being retained by various clients, the

respondent demonstrated clear incompetence or neglect in his handling of their individual cases. Most serious of all, the respondent is unaware of his own failings and their consequences to his clients.

Although afforded an opportunity to do so at the hearing, the respondent declined to offer any evidence to mitigate his behavior by way of a medical or mental condition. The respondent stated explicitly that he accepted full responsibility for his actions.

Under the totality of the circumstances, the respondent is disbarred, effective immediately.

PRUDENTI, P.J., MASTRO, RIVERA, SPOLZINO and COVELLO, JJ., concur.

ORDERED that the petitioner's motion to confirm in part and disaffirm in part the Special Referee's report is granted to the extent that charges 1-5, 7-9, 11, 12, 14, 15, 19-22, 26, 30, and 32 are sustained, and the motion is otherwise denied; and it is further,

ORDERED that pursuant to Judiciary Law § 90, effective immediately, the respondent, Robert Tavon, is disbarred, and his name is stricken from the roll of attorneys and counselors-at-law; and it is further,

ORDERED that the respondent, Robert Tavon, shall continue to 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, Robert Tavon is commanded to continue to desist and refrain from (1) practicing law in any form, either as principal or 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 the respondent, Robert Tavon, has been issued a secure pass by the Office of Court Administration, it shall be returned forthwith to the issuing agency and the respondent shall certify to the same in his affidavit of compliance pursuant to 22 NYCRR 691.10(f).

ENTER:



James Edward Pelzer  
Clerk of the Court