

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

M246971
E/afa

ALAN D. SCHEINKMAN, P.J.
WILLIAM F. MASTRO
REINALDO E. RIVERA
MARK C. DILLON
RUTH C. BALKIN, JJ.

2010-07365

DECISION & ORDER ON MOTION

In the Matter of Alan Ross, admitted as
Arkady Dynin, an attorney and counselor-at-law.

Grievance Committee for the Second, Eleventh,
and Thirteenth Judicial Districts, petitioner;
Alan Ross, respondent.

(Attorney Registration No. 2687952)

Motion by the Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts (1) to immediately suspend the respondent from the practice of law, pursuant to 22 NYCRR 1240.9(a)(3) and (5), upon a finding that he is guilty of professional misconduct immediately threatening the public interest based upon his failure to comply with the lawful demands of the Grievance Committee and other uncontroverted evidence of professional misconduct, (2) to provide notice to the respondent, pursuant to 22 NYCRR 1240.9(b), that he may be disbarred by the Court without further notice in the event that he fails to respond to or appear for further investigatory or disciplinary proceedings within six months, and (3) to refer the issues raised to a Special Referee, to hear and report. Pursuant to Judiciary Law § 90(6), the Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts was authorized by an order to show cause of this Court dated October 23, 2017, to serve the respondent with the motion and any future papers in this matter, using substituted service. On October 23, 2017, the Grievance Committee served the motion upon the respondent, by email, and duly filed an affidavit of service with this Court. The respondent was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on July 19, 1995, under the name Arkady Dynin.

Upon the papers filed in support of the motion and no papers having been filed in opposition or in relation thereto, it is

ORDERED that the motion is granted; and it is further,

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MATTER OF ROSS, ALAN

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ORDERED that pursuant to 22 NYCRR 1240.9(a)(3) and (5), the respondent, Alan Ross, admitted as Arkady Dynin, is immediately suspended from the practice of law in the State of New York, pending further order of the Court; and it is further,

ORDERED that the respondent, Alan Ross, admitted as Arkady Dynin, shall promptly comply with this Court's rules governing the conduct of disbarred or suspended attorneys (*see* 22 NYCRR 1240.15); and it is further,

ORDERED that pursuant to Judiciary Law § 90, during the period of suspension and until further order of this Court, the respondent, Alan Ross, admitted as Arkady Dynin, is commanded 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, Alan Ross, admitted as Arkady Dynin, 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 1240.15(f); and it is further,

ORDERED that on the Court's own motion the Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts is directed to institute and prosecute a disciplinary proceeding in this Court pursuant to 22 NYCRR 1240.8 based upon the allegations of professional misconduct set forth in the affirmation of Kathryn Donnelly Gur-Arie dated October 18, 2017; and it is further,

ORDERED that within 30 days of the date of this decision and order on motion, the Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts shall serve a notice of petition and verified petition pursuant to 22 NYCRR 1240.8(a)(1), upon the respondent, Alan Ross, admitted as Arkady Dynin, as authorized by the order to show cause of this Court dated October 23, 2017, using substituted service, file the notice of petition and verified petition, as well as proof of service, with this Court, and serve copies of the notice of petition and the verified petition upon the Special Referee, appointed herein; and it is further,

ORDERED that the issues raised are referred to Roger Bennet Adler, Esq., c/o Roger Bennet Adler, P.C., 223 Broadway, Ste. 1800, New York, NY 10279, as Special Referee, to hear and report, with the hearing to be completed within 90 days of the date of this decision and order on motion, or as soon as practicable, and to submit a report, which contains his findings on the issues and charges, within 60 days after the conclusion of the hearing or the submission of post-hearing memoranda; and it is further,

ORDERED that pursuant to 22 NYCRR 1240.9(b), in the event the respondent, Alan Ross, admitted as Arkady Dynin, fails to respond to or appear for further investigatory or disciplinary proceedings within six months of this decision and order on motion, he may be disbarred by the

Court without further notice.

We find, prima facie, that the respondent is guilty of professional misconduct immediately threatening the public interest based on his failure to comply with the lawful demands of the Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts and the uncontroverted evidence that he misappropriated client settlement funds.

On May 22, 2017, the Grievance Committee received a complaint of professional conduct against the respondent from Nadezda Evgach. According to the complaint, in August 2016, the respondent settled Ms. Evgach's personal injury case for \$125,000. Ms. Evgach claimed that she had not received her settlement funds, and that the respondent had stopped answering her phone calls and emails in May 2017. The Grievance Committee forwarded the Evgach complaint to the respondent by letter dated June 1, 2017, and requested his written response within 10 days of receipt.

Michael S. Ross notified the Grievance Committee that he was representing the respondent in this matter, and he requested an extension, and was granted until July 5, 2017, to submit an answer to the Evgach complaint. On July 12, 2017, Mr. Ross advised the Grievance Committee that the respondent was sick and unable to sign the answer. The following day Mr. Ross advised the Grievance Committee that the respondent had left the country with no intention of returning, based upon conversations with two reliable sources. Stuart Gechlik, the respondent's associate, confirmed this information to the Grievance Committee on July 17, 2017, and by letter dated July 18, 2017, Mr. Gechlik advised this Court that the respondent had disappeared and abandoned his law practice. In an email dated July 28, 2017, Mr. Ross notified the Grievance Committee that he was no longer representing the respondent.

By decision and order on motion dated August 4, 2017, this Court, on its own motion, appointed an inventory attorney, pursuant to 22 NYCRR 1240.21(a), to, among other things, take custody of and inventory the respondent's files, and to take such action as is deemed proper and advisable to protect the interests of the clients.

Thereafter, the Grievance Committee made a second request for the respondent's answer to the Evgach complaint by letter dated August 17, 2017, sent by regular and certified mail return receipt requested to the home address given by the respondent with his attorney registration, and his last known home address as provided by his paralegal. Although the letter sent to the respondent's registered home address by certified mail was not returned, the letter sent by regular mail was returned by the U.S. Postal Service with a notation "Return to Sender Not Deliverable as Addressed Unable to Forward." Also, the letter sent to the respondent's last known home address by regular mail was not returned, while the letter sent by certified mail was returned to the Grievance Committee with a notation "Return to Sender Unable to Forward." No response was received from the respondent and he has not contacted the Grievance Committee in any manner.

On August 17, 2017, August 30, 2017, and September 26, 2017, staff counsel sent emails to the respondent's known email addresses, namely, brooklynadvocate@gmail.com; alanrossnylaw@gmail.com; and alanrosspc@gmail.com, requesting him to call staff counsel and to provide his current address and telephone number. The respondent still failed to provide an answer

or contact the Grievance Committee in any manner.

Since receipt of the Evgach complaint, the Committee has received an additional 27 complaints of professional misconduct against the respondent, 21 alleging a failure to deliver settlement funds, and the remainder alleging neglect and abandonment of legal matters. Staff counsel states that the total amount of funds alleged to have been misappropriated by the respondent is approximately \$700,000.

Based on the foregoing, the Grievance Committee's motion is granted, the respondent is immediately suspended from the practice of law pursuant to 22 NYCRR 1240.9(a)(3) and (5), pending further order of this Court, and the respondent is notified pursuant to 22 NYCRR 1240.9(b) that in the event he hereafter fails to respond to or appear for further investigatory or disciplinary proceedings within six months of the date of this decision and order on motion, the Court may, without further notice, disbar him. Additionally, the Grievance Committee is directed, pursuant to 22 NYCRR 1240.8, to serve the respondent with a notice of petition and verified petition and file the original notice of petition and petition with the Court, together with proof of service, and serve copies of the notice of petition and petition upon the Special Referee appointed herein, and the matter is referred the Special Referee, to hear and report.

SCHEINKMAN, P.J., MASTRO, RIVERA, DILLON and BALKIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court