

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: February 27, 2020

PM-34-20

In the Matter of JAMES ALBERT
CRACOLICI, a Suspended Attorney.

(Attorney Registration No. 4195806)

MEMORANDUM AND ORDER
ON MOTION

Calendar Date: February 18, 2020

Before: Egan Jr., J.P., Clark, Mulvey, Devine and
Colangelo, JJ.

Monica A. Duffy, Attorney Grievance Committee for the
Third Judicial Department, Albany (Michael K. Creaser of
counsel), for Attorney Grievance Committee for the Third
Judicial Department.

Per Curiam.

Respondent was admitted to practice by this Court in 2004 and lists a business address in Eatontown, New Jersey. Based upon six separate complaints and three other complaints arising from dishonored check notices, the Attorney Grievance Committee for the Third Judicial Department (hereinafter AGC) commenced multiple investigations into alleged misconduct on the part of respondent. Alleging his failure to cooperate with its investigations, AGC moved to suspend respondent from the practice of law during the pendency of its investigation pursuant to Rules for Attorney Disciplinary Matters (22 NYCRR) § 1240.9 (a) (1) and (3) and Rules of the Appellate Division, Third Department (22 NYCRR) § 806.9. Respondent did not respond to the motion and this Court granted same and suspended

respondent by June 13, 2019 order (173 AD3d 1430 [2019]). Said suspension remains in effect.¹

AGC now applies, pursuant to Rules for Attorney Disciplinary Matters (22 NYCRR) § 1240.9 (b), to disbar respondent and strike his name from the roll of attorneys due to his failure to respond or appear for further investigatory or disciplinary proceedings for a period of more than six months since the date of his interim suspension (see Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.9 [b]). Although AGC was not required to provide notice to respondent of the instant motion, it nonetheless did so and respondent has nevertheless failed to respond, indicating his lack of interest in his fate as an attorney in this state. Accordingly, we find that, under these circumstances, he should be disbarred (see Matter of Fritzsch, 170 AD3d 1422, 1422 [2019], lv dismissed 34 NY3d 943 [2019]; Matter of Battaglia, 166 AD3d 1281, 1282 [2018]; Matter of DiStefano, 161 AD3d 1444, 1445 [2018]; Matter of Croak, 156 AD3d 1111, 1112 [2017], appeal dismissed 31 NY3d 997 [2018]; Matter of Nichols, 152 AD3d 1044, 1045 [2017]).

Egan Jr., J.P., Clark, Mulvey, Devine and Colangelo, JJ., concur.

ORDERED that the motion of the Attorney Grievance Committee for the Third Judicial Department is granted; and it is further

ORDERED that respondent is disbarred and his name is stricken from the roll of attorneys and counselors-at-law of the State of New York, effective immediately; and it is further

ORDERED that respondent is commanded to desist and refrain from the practice of law in any form in the State of New York, either as principal or as agent, clerk or employee of another;

¹ We note respondent's failure to submit an affidavit of compliance with that order in contravention of Rules for Attorney Disciplinary Matters (22 NYCRR) § 1240.15 (f).

and respondent is hereby forbidden to appear as an attorney or counselor-at-law before any court, judge, justice, board, commission or other public authority, or to give to another an opinion as to the law or its application, or any advice in relation thereto, or to hold himself out in any way as an attorney and counselor-at-law in this State; and it is further

ORDERED that respondent shall comply with the provisions of the Rules for Attorney Disciplinary Matters regulating the conduct of disbarred attorneys and shall duly certify to the same in his affidavit of compliance (see Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.15).

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court