

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

Decided and Entered: April 4, 2019

PM-36-19

In the Matter of JAMES FRANCIS
DONOHUE JR., an Attorney.

MEMORANDUM AND ORDER
ON MOTION

(Attorney Registration No. 2390300)

Calendar Date: March 11, 2019

Before: Lynch, J.P., Clark, Devine, Rumsey and Pritzker, JJ.

Monica A. Duffy, Attorney Grievance Committee for the
Third Judicial Department, Albany (Sarah A. Richards of
counsel), for Attorney Grievance Committee for the Third
Judicial Department.

Law Offices of Richard E. Grayson, White Plains (Richard E.
Grayson of counsel), for respondent.

Per Curiam.

Respondent was admitted to practice by this Court in 1991,
after having been previously admitted in both Pennsylvania and
Connecticut. By July 2015 consent order, the Supreme Court of
Pennsylvania suspended respondent from the practice of law for a
period of three years based upon stipulated findings that he
had, among other things, commingled the funds of four clients
and mismanaged his attorney trust account in violation of five
separate provisions of the Pennsylvania Rules of Professional
Conduct.¹ Respondent timely advised this Court of his discipline

¹ It is not disputed that the conduct for which respondent
was disciplined in Pennsylvania constitutes professional

(see Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.13 [d]). Upon also being advised of that discipline, the Connecticut Superior Court of the Judicial District of Hartford imposed an identical sanction upon respondent in September 2015 based upon the Pennsylvania misconduct. Now, the Attorney Grievance Committee for the Third Judicial Department (hereinafter AGC), by order to show cause marked returnable March 11, 2019, moves this Court to impose discipline upon respondent pursuant to Rules for Attorney Disciplinary Matters (22 NYCRR) § 1240.13 (a) and Rules of the Appellate Division, Third Department (22 NYCRR) § 806.13 based upon the findings of misconduct in Pennsylvania and Connecticut. Respondent's papers in opposition present matters in mitigation, but do not contest any of the findings of misconduct or raise any of the available defenses (see Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.13 [b]); therefore, we grant the motion (see Matter of Tan, 149 AD3d 1344, 1345 [2017]).

Turning to the issue of the appropriate disciplinary sanction, we take note of the nature of respondent's misconduct in Pennsylvania, as well as the aggravating and mitigating circumstances presented by the parties, and find that a sanction consistent with the discipline imposed in Pennsylvania and Connecticut is appropriate (see Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.8 [b] [2]). Consequently, in order to protect the public, maintain the honor and integrity of the profession and deter others from committing similar misconduct, we conclude that respondent should be suspended from the practice of law for a period of three years in this state, effective nunc pro tunc to August 6, 2015, the date his Pennsylvania suspension commenced. We further condition any future application by respondent for reinstatement in this state upon proof that he has been reinstated to the practice of law in Pennsylvania (see Matter of Njogu, ___ AD3d ___, 2019 NY Slip Op 01704 [2019]; Matter of McCoy-Jacien, 167 AD3d 1414, 1415 [2018]; Matter of Ezeala, 163 AD3d 1348, 1349 [2018]; see also

misconduct in New York, inasmuch as the rules found to have been violated by respondent are substantially similar to Rules of Professional Conduct (22 NYCRR) rules 1.15 (a), (b) (3); (c) (3) and (4); (d) (1) and 1.16 (e).

Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16 [b]; appendix C).

Lynch, J.P., Clark, Devine, Rumsey and Pritzker, JJ., concur.

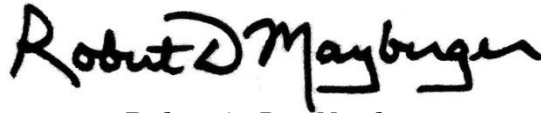
ORDERED that the motion of the Attorney Grievance Committee for the Third Judicial Department is granted; and it is further

ORDERED that respondent is suspended from the practice of law for a period of three years, effective nunc pro tunc to August 6, 2015, and until further order of this Court (see generally Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16); and it is further

ORDERED that, for the period of suspension, 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; 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 suspended 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