

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

Decided and Entered: June 20, 2019

PM-79-19

In the Matter of ALBERT HESSBERG
III, a Suspended Attorney.

(Attorney Registration No. 1792118)

MEMORANDUM AND ORDER
ON MOTION

Calendar Date: June 3, 2019

Before: Garry, P.J., Clark, Mulvey, Aarons and Rumsey, JJ.

Monica A. Duffy, Attorney Grievance Committee for the Third Judicial Department, Albany (Lauren S. Cousineau of counsel), for Attorney Grievance Committee for the Third Judicial Department.

Per Curiam.

Respondent was admitted to practice by this Court in 1982. Until March 2018, respondent was a partner in the City of Albany office of Barclay Damon LLP.

By order entered November 15, 2018, this Court suspended respondent from the practice of law due to his failure to cooperate with an investigation of, among other things, a complaint received by the Attorney Grievance Committee for the Third Judicial Department (hereinafter AGC) alleging that respondent, among other things, misappropriated client funds in connection with his representation of those clients in various estate and trust matters (166 AD3d 1283 [2018]). Said suspension remains in effect.

AGC now moves to disbar respondent pursuant to Rules for Attorney Disciplinary Matters (22 NYCRR) § 1240.9 (b) on the

basis that he has failed to respond or otherwise appear for further investigatory or disciplinary proceedings within six months from the date of entry of this Court's suspension order. We further note that respondent has failed to submit an affidavit of compliance with the suspension order in contravention of Rules for Attorney Disciplinary Matters (22 NYCRR) § 1240.15 (f). AGC has provided respondent with notice of its application despite having no obligation to do so (see Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.9 [b]; see also Matter of Jung, 148 AD3d 1, 3 [2017]). Nevertheless, respondent has made no effort to respond or appear, demonstrating a clear disregard for his fate as an attorney. Accordingly, we find that, under the circumstances, he should be disbarred (see Matter of Yu, 170 AD3d 1421 [2019]; Matter of Battaglia, 166 AD3d 1281, 1282 [2018]; Matter of DiStefano, 161 AD3d 1444, 1445 [2018]; Matter of Humphrey, 158 AD3d 933 [2018]; Matter of Croak, 156 AD3d 1111, 1112 [2017], appeal dismissed 31 NY3d 997 [2018]; Matter of Nichols, 152 AD3d 1044, 1045 [2017]).

Garry, P.J., Clark, Mulvey, Aarons and Rumsey, 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; 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