

SUPREME COURT, APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT

Angela M. Mazzarelli, Justice Presiding,  
Richard T. Andrias  
John W. Sweeny, Jr.  
Karla Moskowitz  
Dianne T. Renwick, Justices.

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In the Matter of Thomas P. Burke,  
(admitted as Thomas Patrick Burke),  
an attorney and counselor-at-law:

Departmental Disciplinary Committee  
for the First Judicial Department,  
Petitioner,

M-281

Thomas P. Burke,  
Respondent.

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Disciplinary proceedings instituted by the Departmental  
Disciplinary Committee for the First Judicial Department.  
Respondent, Thomas P. Burke, was admitted to the Bar of the  
State of New York at a Term of the Appellate Division of  
the Supreme Court for the First Judicial Department on  
November 12, 1968.

Alan W. Friedberg, Chief Counsel, Departmental  
Disciplinary Committee, New York  
(Vitaly Lipkansky, of counsel), for petitioner.

No appearance for respondent.

M-281 - February 17, 2009

**IN THE MATTER OF THOMAS P. BURKE**

**PER CURIAM**

Respondent was admitted to the practice of law in the State of New York by the First Judicial Department on November 12, 1968. At all times relevant to this proceeding, he has maintained an office for the practice of law within the First Judicial Department.

By order entered July 8, 2008, this Court suspended respondent from the practice of law on an interim basis, pursuant to 22 NYCRR 603.4(e)(1)(i) of the Rules of this Court, based upon his failure to cooperate with the Departmental Disciplinary Committee's investigation into allegations of professional misconduct against him. Specifically, the Committee presented evidence that respondent neglected his duties as the attorney for an estate by failing to disburse the estate's assets, worth approximately \$100,000, and by failing to wind up the estate as required by law.

On July 9, 2008, this Court's July 8, 2008 order of suspension was sent to respondent by first class mail at his last known address. The notice of entry mailed first class was not returned and the Committee received a signed receipt for the copy mailed by certified mail bearing the signature "Thomas P. Burke."

By notice of motion dated January 15, 2009, the Committee

now seeks an order disbaring respondent pursuant to 22 NYCRR 603.4(g), on the ground that he has been suspended under 22 NYCRR 603.4(e)(1)(i) and has not appeared or applied in writing to the Committee or this Court for a hearing or reinstatement for six months from the suspension date, which was July 8, 2008.

Section 603.4(g) (22 NYCRR 603.4[g]) provides, in pertinent part, that where an application for suspension pursuant to section 603.4(e)(1) states that an attorney who is suspended and who has not appeared or applied in writing to the Committee or the Court for a hearing or reinstatement for six months from the date of the order of suspension may be disbarred, and the respondent does not appear or apply in writing for a hearing or reinstatement within such time, he may be disbarred without further notice.

Although respondent was served with the instant motion by first class and certified mail at his last known home address, he has not submitted a response.

Accordingly, inasmuch as more than six months have elapsed since the date of this Court's suspension order, and respondent has neither appeared nor applied in writing to the Committee or this Court for a hearing or reinstatement, the Committee's motion for an order disbaring respondent pursuant to 22 NYCRR 603.4(g) should be granted (*Matter of Kennedy*, 55 AD3d 169 [2008]; *Matter of Benzing*, 51 AD3d 236 [2008]; *Matter of Ryans*, 46 AD3d 71

[2007]), and respondent's name stricken from the roll of attorneys in the State of New York.

Respondent disbarred and his name stricken from the roll of attorneys and counselors-at-law in the State of New York, effective the date hereof.

All concur.

Order filed March 19, 2009.