

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

Angela M. Mazzairelli, David Friedman Joseph P. Sullivan James M. Catterson Bernard J. Malone, Jr.,	Justice Presiding, Justices.
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In the Matter of Berthold H. Hoeniger,
a suspended attorney:

Departmental Disciplinary Committee for the First Judicial Department, Petitioner,	M-4587
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Berthold H. Hoeniger,
Respondent.

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Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Berthold H. Hoeniger, 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
December 4, 1950.

Thomas J. Cahill, Chief Counsel, Departmental
Disciplinary Committee, New York
(Eileen J. Shields, of counsel), for petitioner.

No appearance for respondent.

M-4587 (October 1, 2007)

IN THE MATTER OF BERTHOLD H. HOENIGER, A SUSPENDED ATTORNEY

PER CURIAM

Respondent Berthold H. Hoeniger was admitted to the practice of law in the State of New York by the First Judicial Department on December 4, 1950. At all times relevant to this proceeding, respondent maintained an office for the practice of law within the First Judicial Department.

By order entered November 28, 2006 (*Matter of Hoeniger*, 36 AD3d 268 [2006]), this Court immediately suspended respondent from the practice of law pursuant to 22 NYCRR 603.4(e)(1)(iii) based upon uncontested evidence of professional misconduct. Specifically, the Committee presented evidence that respondent twice borrowed money from a client, that he failed to fully repay those loans and, subsequently, the loans were discharged in bankruptcy. Respondent also sold property which he pledged as security for one of the loans, and he may have lied on a title affidavit and a mortgage application.

The Committee now seeks an order disbarring respondent pursuant to 22 NYCRR 603.4(g), without further proceedings, on the ground that he has been suspended under 22 NYCRR 603.4(e)(1)(iii) and has not appeared or applied in writing to the Committee or this Court for a hearing or reinstatement for six months from the order of suspension.

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 disbarring respondent pursuant to 22 NYCRR 603.4(g) should be granted (*see Matter of Johnson*, 22 AD3d 106 [2005]).

All concur.

Order filed.