

SUPREME COURT OF NEW JERSEY
DISTRICT XIII ETHICS COMMITTEE

Robert J. Foley, Esquire, Presenter
1124 Route 202 South
Raritan, New Jersey 08869
(908) 722-5992

DISTRICT XIII ETHICS COMMITTEE,	:	
	:	DOCKET NO: XIII-01-038E
Complainant,	:	XIII-02-001E
	:	
vs.	:	DISCIPLINARY ACTION
	:	
FRANCIS X. GAVIN	:	COMPLAINT FOR MISCONDUCT
	:	
Respondent,	:	R. 1:20-4

District XIII Ethics Committee by way of complaint against respondent, says:

GENERAL ALLEGATIONS

1. Francis X. Gavin (Respondent) was admitted to the Bar of this State in 1981.
2. Respondent maintained law offices at 326 Washington Street, Hackettstown, Warren County, New Jersey.

FIRST COUNT
(Nancy J. Hummer)

1. On December 15, 1993 respondent was representing Nancy J. Hummer when she received a divorce awarding her 50% of her former husband's pension plan up to and including November 15, 1993.

2. Grievant alleges that respondent was to obtain appropriate documentation regarding her ex-husband's pension plan in order to protect her interest awarded in the final judgment of divorce.

3. Grievant alleges that Mr. Gavin failed to take her many telephone calls and also failed to answer her letters.

4. In his May 31st letter the respondent indicates he had to make revisions to the form of the Court Order to re-submit to the Division of Pensions and Benefits for their approval.

5. At the time the grievance was filed in October, 2001, respondent had failed to obtain the required documentation to perfect the grievant's interest in her ex-husband's pension plan.

6. Respondent failed to answer the form of grievance as required under R.P.C. 8.1(b).

7. Respondent's failure to keep his client adequately and accurately informed constituted a violation of R.P.C. 1.4(a).

SECOND COUNT
(Sandra L. Phillips)

1. Grievant was divorced on or about January 23, 1998.

2. Grievant alleges that the final judgment of divorce required her ex-husband to deed over the former marital premises to her within 30 days of the divorce.

3. Grievant alleges that a closing was scheduled to take place on June 24, 1999 but because grievant's ex-husband failed to supply a quit claim deed, the refinance closing never took place.

4. Respondent filed an Order to Show Cause returnable on July 16, 1999 requiring grievant's former husband to show cause why he should not provide a bargain sale deed with covenants against grantor's act to enable the grievant's refinance of the former marital premises to take place. Additional relief was also requested.

5. On July 11, 1999, the Court ordered a closing of the refinance to take place on or before July 23, 1999. The Court also ordered the grievant to provide the Court with a copy of her mortgage commitment and the proposed closing statement within two days of the date of the Order.

6. Finally, the Order provided that the closing statement must show there was sufficient money to pay off any existing mortgages as well as to pay the grievant's former husband for his share of the marital premises.

7. The refinance never took place by July 31, 1999 and on July 30, 1999 the Court issued another Order requiring the grievant to move out of the former marital residence no later than July 31, 1999 unless payment in full is made to the grievant's ex-husband for his interest in the former marital premises.

8. Grievant claims that respondent Gavin did not inform her of the Court's decision nor did he provide the grievant with copies of the Court's two orders from July, 1999.

9. As a result of grievant's failure to pay her ex-husband the amount ordered by the Court, she was removed from the marital premises by the Warren County Sheriff.

10. Respondent's failure to keep his client adequately and accurately informed constituted a violation of R.P.C. 1.4.

11. Respondent's failure to respond to the grievance filed in this matter constituted a violation of R.P.C. 8.1(b).

WHEREFORE, respondent should be disciplined.

DISTRICT XIII ETHICS COMMITTEE

By: /s/ Robert J. Foley, Esquire

DATED: June 14, 2002

SUPREME COURT OF NEW JERSEY
DISTRICT XIII ETHICS COMMITTEE

DISTRICT XIII ETHICS COMMITTEE,	:	
	:	DOCKET NO: XIII-01-038E
Complainant,	:	XIII-02-001E
	:	
vs.	:	DISCIPLINARY ACTION
	:	
FRANCIS X. GAVIN	:	CERTIFICATION OF THE RECORD
	:	PURSUANT TO R.1:20-4(f) AND
Respondent,	:	R.1:20-6(c)(1)

I, JULIE M. MARINO, Esquire, of full age, hereby certify as follows:

1. I am attorney-at-law of the State of New Jersey and the Secretary of District XIII Ethics Committee, Supreme Court of New Jersey, for Somerset, Hunterdon and Warren Counties.

2. On or about July 30, 2002, a copy of a Complaint against Respondent, Francis X. Gavin, Esq., was sent to him in accordance with R.1:20-7(h) (Exhibit A) at the address listed on the grievance as 326 Washington Street, Hackettstown, NJ 07840, by both certified mail, return receipt requested, and by regular mail.

3. The regular mail was not returned. The certified mail was returned as unclaimed, see copy attached as Exhibit B.

4. On or about September 4, 2002, a copy of a Complaint against Respondent, Francis X. Gavin, was again sent to him in accordance with R.1:20-7(h) (Exhibit C) at the address listed on the grievance as, 326 Washington Street, Hackettstown, NJ 07840, as well as his home address

of 33 Sandpiper, Hackettstown, NJ 07840, by both certified mail, return receipt requested, and by regular mail.

5. Both the certified and regular mail for the Washington Street address were returned as forwarding order expired, Exhibit D. However, the green card for the Sandpiper address was signed for on September 6, 2002 and the regular mail was not returned, Exhibit E.

6. As of this date, no answer has been filed by or on behalf of Respondent.

7. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

(undated)

/s/ Julie M. Marino

Secretary, District XIII
Ethics Committee