

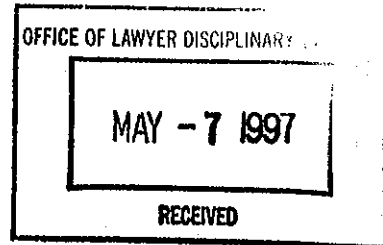
STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 24th day of April, 1997, the following order was made and entered:

Lawyer Disciplinary Board, Complainant

vs.) No. 23010

Harry R. Cronin, Jr., an active member of
The West Virginia State Bar, Respondent



On a former day, to-wit, March 17, 1997, came the Hearing Panel Subcommittee of the Lawyer Disciplinary Board, by Claudia W. Bentley, its chairperson, pursuant to Rule 3.10, Rules of Lawyer Disciplinary Procedure, and presented to the Court its written recommended disposition recommending that (1) the license to practice law in the State of West Virginia of the respondent, Harry R. Cronin, Jr., be suspended for a period of three months with automatic reinstatement at the end of that period of time; (2) respondent, upon reinstatement, be supervised for a period of eighteen months by an attorney licensed to practice law in the State of West Virginia and submit a plan of supervision, both to be approved by the Hearing Panel Subcommittee of the Lawyer Disciplinary Board prior to respondent's reinstatement; (3) respondent complete twelve hours of continuing legal education courses in the area of office practice/office management within one year following the commencement of his suspension and provide proof of same to his supervising attorney and to the Office of Disciplinary Counsel, all in addition to completing the requirements set forth in Paragraph 9, Chapter VII, Rules to Govern Mandatory Continuing Legal Education; and (4) respondent reimburse the Lawyer Disciplinary Board its costs and expenses incurred in the investigation of this matter.

No. 23010

BEFORE THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

At Charleston

In Re: Harry R. Cronin, Jr., an active member of
the West Virginia State Bar.

I.D. No. 92-03-120

FINDINGS OF FACT AND CONCLUSIONS OF LAW
AND
RECOMMENDED DISCIPLINE

Findings of Fact:

1. Harry R. Cronin, Jr. (hereinafter Respondent) is an active member of The West Virginia State Bar who practices in Marion County, West Virginia. As such, Respondent is subject to the disciplinary jurisdiction of the Supreme Court of Appeals of West Virginia and its properly constituted Lawyer Disciplinary Board of the West Virginia State Bar. Respondent was admitted to the West Virginia State Bar on June 14, 1949.

2. Charles J. Jarrett died September 8, 1984. Pursuant to Mr. Jarrett's will dated January 13, 1984 the Respondent served as executor of the estate which consisted mainly of stocks and bonds and was valued in the neighborhood of \$700,000.00. The will made specific bequests to several individuals with the remainder to Mr. Jarrett's grandsons, Matthew and Bradford Jarrett and their mother, Nancy W. Jarrett.

3. The will was probated on November 19, 1984. The appraisement of the estate was filed on July 5, 1985 in the Marion County Clerk's Office. The inheritance tax release was recorded on August 24, 1987 in the Marion County Clerk's Office.

4. Respondent did not file the first and partial settlement until on or about January 1990, or approximately five years after the decedent died, even though he was supposed to file a settlement every year pursuant to W.Va. Code §§ 44-1-14, 44-4-3, 44-4-6 and 44-4-7 (1982) and *Tabler v. Weller*, 176 W.Va. 267, 342 S.E.2d 234 (1986).

5. Respondent reported dividends and interest totalling \$104,241.42. The amount of dividends and interest reported for the estate on the first and partial settlement was anywhere from \$5,859.59 to \$17,159.73 less than the amount which should have been received by the Respondent as executor. The first and partial settlement also did not include \$6,322.98 remaining on deposit with the First National Bank in Fairmont.

6. The first and partial settlement did not identify the sources generating the majority of the dividend and interest income and does not identify the income received from any specific source as to date, amount, or any other verifiable or reviewable detail.

7. As late as September 1992, Respondent was still transferring stock certificates and other assets from the estate to the beneficiaries.

8. On or about October 1992, or almost eight years after the decedent died, Respondent filed the final settlement of the estate. Respondent reported dividends and interest totalling \$135,287.89, which amount far exceeded the total that should have been received by the estate. The final settlement also did not contain and had to be amended pursuant to Order of the Marion County Commission to reflect the amount of the escrow account at First Exchange Bank which was paid to the heirs' attorney and to show the \$6,561.52 paid to the heirs' attorney from the closing of the First National Bank account and to show \$340.00 in travelers' checks which were paid to the heirs' attorney. However, as a result of the excess amounts received and reported by the executor, the fiduciary commissioner found the issue of shortage to be mooted, in his final report on remand dated December 14, 1994.

9. Respondent also filed late and incorrect estate tax returns with the Internal Revenue Service. As a result of the late and incorrect returns, interest in the amount of \$21,307.82 was assessed against the estate.

10. Between November 1984 and 1990, beneficiary Nancy Jarrett made numerous inquiries to Respondent concerning the status of the estate. Respondent would either not return her telephone calls or when he did so would refuse to provide her with the requested information. In 1990, Ms. Jarrett retained an attorney to represent her in an action against Respondent before the Marion County Commission. The matter was styled In the Matter of the Estate of Charles J. Jarrett, Deceased.

11. On April 28, 1995, the Marion County Commission issued an Order finding in favor of Ms. Jarrett and against the Respondent. The Order provided in pertinent part:

4. The efficiency of the services provided is clearly not adequate. It took over five years after qualification of the Executor for him to file a first and partial settlement and a final settlement was made nearly eight years after qualification and only after legal proceeding by the beneficiaries. The estate tax return prepared by the Executor was prepared improperly and tax assessments were paid

untimely resulting in interest assessments against the Estate. While certain of the services rendered by the Executor were beneficial to the Estate, the untimeliness of many of the required actions of the Executor serve to the overall detriment of the beneficiaries and has caused a loss to the Estate. The Estate is relatively large and requires diligence and attention to detail in accounting for receipt and disbursement of numerous dividends and interests and interest payments. There is, however, nothing extraordinary required of the Executor in handling this Estate and it is of a more or less routine and ordinary nature.

Conclusions of Law:

1. By not filing any annual settlements from 1984 through 1988, by filing late estate tax returns, and by not keeping Ms. Jarrett, a beneficiary, properly informed about the status of the estate from 1984 through 1988, Respondent violated DR 6-101(a)(3) of the Code of Professional Responsibility which provides that "[a] lawyer shall not neglect a legal matter entrusted to him."

2. By filing incorrect tax returns, Respondent violated DR 6-101(a)(1) and (2) which provided:

A lawyer shall not: (1) Handle a legal matter which he knows or should know that he is not competent to handle, without associating with him a lawyer who is competent to handle it. (2) Handle a legal matter without preparation adequate in the circumstances.

3. By filing incorrect annual settlements in 1990 and 1992, Respondent violated Rule 1.1 of the Rules of Professional Conduct which provides that "[a] lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill thoroughness and preparation reasonably necessary for the representation."

4. By not filing an annual settlement for 1989, Respondent violated Rule 1.3 of the Rules of Professional Conduct which provides that "[a] lawyer shall act with reasonable diligence and promptness in representing a client."

5. By not keeping Ms. Jarrett, a beneficiary, properly informed about the status of the estate from 1989 onward, Respondent violated Rule 1.4(a) of the Rules of Professional Conduct which provides that "[a] lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information."

Recommended Discipline:

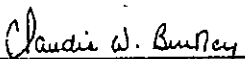
1. The Respondent shall be suspended by Order of the Supreme Court of Appeals of West Virginia for a period of three (3) months. Respondent shall have the right to automatic reinstatement.

2. Upon Respondent's reinstatement to the practice of law, he shall be supervised for a period of eighteen (18) months by another attorney who is licensed to practice law in West Virginia. The supervising attorney must be approved by the Subcommittee Hearing Panel of the Lawyer Disciplinary Board after consultation with the parties' attorneys. Respondent is further required to submit a plan of supervision to the Subcommittee Hearing Panel. Upon approval by the Subcommittee Hearing Panel, Respondent shall implement the plan. The plan of supervision must be submitted to and approved by the Subcommittee Hearing Panel prior to Respondent's reinstatement.

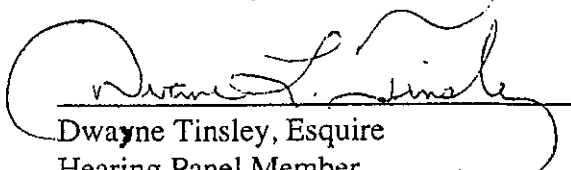
3. In addition to completing the requirements set forth in Paragraph 9 of Chapter VII, Rules to Govern Mandatory Continuing Legal Education, the Respondent shall complete twelve (12) additional hours of continuing legal education courses in the area of office practice/office management within one year following the commencement of his suspension and shall submit proof of completion of such courses to the supervising attorney and Disciplinary Counsel. These courses are in addition to any requirements of the Mandatory Continuing Legal Education Commission (MCLE) which are applicable to Respondent.

4. Respondent shall pay all costs associated with the investigation and litigation of this proceeding by a reasonable payment schedule agreed upon by both parties.

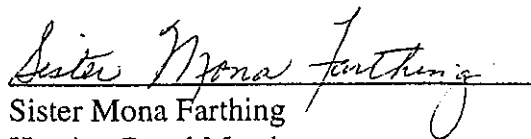
Dated this the 5th day of February, 1997.



Claudia W. Bentley, Esquire
Hearing Panel Chairperson



Dwayne Tinsley, Esquire
Hearing Panel Member



Sister Mona Farthing
Hearing Panel Member