

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 97-097

IN THE MATTER OF
ROBERT H. GOLDEN
AN ATTORNEY AT LAW

Decision
Default [R. 1:20-4(f)(1)]

Decided: March 19, 1998

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

Pursuant to R. 1:20-4(f)(1), the District VA Ethics Committee ("DEC") certified the record in this matter directly to the Board for the imposition of discipline, following respondent's failure to file an answer to the formal ethics complaint. On December 7, 1995 the DEC sent a copy of the complaint by certified mail to respondent's address listed in the New Jersey Lawyers' Diary and Manual. Thereafter, on December 5, 1996 a second letter was sent by regular and certified mail to respondent's Trenton offices, advising him that, if his answer was not received within five days, the DEC would seek his temporary suspension. The envelopes were returned unopened and marked "moved." Respondent did not leave a

forwarding address. Accordingly, notice of these proceedings was published in the New Jersey Lawyer on February 3, 1997.

Respondent was admitted to the New Jersey bar in 1984. He was temporarily suspended on January 8, 1993 for failure to cooperate with the DEC investigation and abandonment of his law practice.

On October 15, 1997 respondent was indefinitely suspended from the practice of law until the completion of the within seven matters, which were then pending. In the two default matters that led to the indefinite suspension, respondent abandoned one client in one instance and failed to return an earned retainer in the other. In re Golden, 151 N.J. 487 (1997).

The formal complaint in these seven matters charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate) and RPC 1.16(d) (failure to take reasonable steps upon termination of representation). In all seven matters, respondent abandoned his clients.

Count One -The Steven Lewis Matter (District Docket No. VA-92-067E)

According to the complaint, respondent was retained by Steven Lewis in 1991 to represent him in a personal injury case arising from his false arrest and illegal detention in 1990. Thereafter, respondent failed to keep Lewis informed about the status of the matter, despite his repeated requests for information. Moreover, respondent did not file suit or

attempt to negotiate a settlement or otherwise take any action in connection with the Lewis matter. As a result of respondent's inaction, Lewis was required to retain another attorney, who filed suit in November 1991.

Count Two - The Sanford H. Hochman Matter (District Docket No. VA-92-080)

Hochman retained respondent in March 1992 to represent him in connection with an appeal of his DWI conviction in Piscataway Township Municipal Court. Although there was no written retainer agreement, Hochman paid respondent \$1,500. In August 1992 respondent filed a notice of appeal in Hochman's behalf. Thereafter, respondent failed to keep Hochman informed about the progress of the matter, despite his repeated requests for information. Furthermore, respondent failed to file additional papers with the Appellate Division within the time required by the court rules. As a result, Hochman's appeal was dismissed in October 1992.

According to the complaint, respondent disappeared and abandoned his client. Thereafter, Hochman filed a pro se motion to reinstate his appeal. The motion was granted in February 1993.

Count Three - The of Lisa A. Debilio Matter (District Docket No. VA-92-081)

Debilio retained respondent in 1992 to prosecute a charge of harassment against her ex-boyfriend. Respondent did not prepare a written retainer agreement. Even though Debilio could not recall the amount, she recalled paying respondent for his services.

A trial date was scheduled for February 20, 1992. When respondent failed to appear, the matter was adjourned. Thereafter, Debilio unsuccessfully attempted to contact respondent to determine why he had failed to appear and to retrieve her file from him. Respondent disappeared in October 1992, abandoning his client.

Debilio was required to retain another attorney to represent her in the matter. The attorney was unable to secure the return of Debilio's papers for almost one year. Eventually Debilio lost interest in the matter and allowed it to be dismissed.

Count Four - The Verdin S. Gillese Matter (District Docket No. VA-93-003E)

Gillese retained respondent in June 1992 to represent him in a potential civil lawsuit against a car dealership for injuries sustained in a fight with a car salesman. There was no written fee agreement. Gillese did not pay respondent a retainer.

Respondent referred Gillese to a chiropractor for treatment. Afterwards, respondent failed to keep his client informed about the status of the matter, despite his repeated requests for information. Moreover, respondent failed to take any action in Gillese's behalf. In October 1992 respondent disappeared and abandoned his client.

Count Five - The Frances Gregg Matter (District Docket No. VA-93-011E)

In June 1992, Gregg retained respondent to represent her in a potential civil lawsuit against the Essex County Prosecutor's Office for property damage to her home, sustained during a narcotics raid. Although Gregg signed a retainer agreement providing for periodic payments, she did not pay respondent any money.

During Gregg's initial meeting with respondent, she gave him a copy of the search warrant and photographs of her home. During the next several months she also gave respondent additional documentation to substantiate her claim. Thereafter, respondent failed to keep his client informed about the status of her matter, despite her repeated requests for information. Respondent also failed to file a lawsuit or take any other action in Gregg's behalf. Respondent disappeared and abandoned his client in October 1992.

Count Six - The Richard Farrow Matter (District Docket No. VA-93-027E)

Farrow retained respondent in September 1992 to assist him in having his driver's license restored after its suspension in 1991 for failure to maintain insurance. Although there was no written retainer agreement, Farrow paid respondent \$500.

Respondent failed to keep his client informed about the status of the matter, despite Farrow's repeated requests for information. Also, respondent did not take any action in Farrow's behalf. In October 1992 respondent disappeared and abandoned his client.

Count Seven - The David B. Harlow Matter (District Docket No. VA-93-036E)

Harlow retained respondent in July 1990 to represent him in a contract action. Respondent drafted a complaint, which was filed in September 1990. In October 1992 respondent disappeared and abandoned his client.

The attorney who subsequently represented Harlow asserted that Harlow was not harmed by respondent's abandonment of the case.

* * *

Following a de novo review of the record, the Board deemed the allegations contained in the complaint admitted. The record contains sufficient evidence of respondent's violations of RPC 1.1(a), RPC 1.3, RPC 1.4(a) and RPC 1.16(d).

This leaves only the issue of appropriate discipline. Similar misconduct where an attorney has abandoned his clients has resulted in a long-term suspension or disbarment. See In re Terry, 137 N.J. 4 (1994) (where an attorney was suspended for three and one-half years for abandonment in three cases, failure to deliver funds to a third party and failure to cooperate with the disciplinary authorities); In re Hurwitz, 135 N.J. 181 (1994) (where an attorney was suspended for three years for abandonment of five clients and failure to cooperate with the disciplinary authorities); In re Clark, 134 N.J. 522 (1993) (where an attorney was disbarred for abandonment, pattern of neglect, lack of diligence and failure to

communicate in six matters, conduct prejudicial to the administration of justice and failure to cooperate with the disciplinary authorities). Here, because of the number of clients involved-- seven-- and of respondent's wilful disregard for the ethics system, as evidenced by his lie to the OAE and his failure to answer the complaint, the Board unanimously determined to recommend his disbarment.

The Board further determined to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: 3/19/98



LEE M. HYMERLING
Chair
Disciplinary Review Board