

Book

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 96-396

IN THE MATTER OF :
:
RICHARD P. SCHUBACH :
:
AN ATTORNEY AT LAW :
:

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

Decided: July 14, 1997

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 XIII 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. Service of the complaint was made by certified and regular mail at respondent's last known office address. The return receipt card was signed by a Molly Lomile and dated March 8, 1996. A second copy of the complaint was served on respondent by certified mail and regular mail on April 4, 1996. The return receipt card was again signed by a Molly Lomile. In both cases, the regular mail was not returned.

Respondent was admitted to the New Jersey bar in 1983. He was suspended for three months on October 5, 1992 for numerous acts of unethical conduct in a personal real estate transaction.

The formal complaint charged respondent with violations of RPC 1.1(b) (pattern of neglect), RPC 1.4 (failure to keep client reasonably informed) and RPC 1.15(b) (failure to promptly forward client property).

According to the complaint, on or about April 25, 1994, Sharon Ann Weir retained respondent to represent her in connection with a civil action brought by the New Jersey Higher Education Assistance Association ("NJHEAA") against Weir to collect a debt. Respondent initially contacted the NJHEAA in an attempt to negotiate a settlement of the judgment previously rendered against Weir. At respondent's request, Weir provided respondent with information relating to her finances. However, respondent took no further action to reach a settlement agreement.

In addition, Weir gave \$50 to respondent on or about May 23, 1994, which was to be forwarded to NJHEAA. Respondent never forwarded the money to NJHEAA. Thereafter, in June 1994, Weir gave respondent \$100, also to be given to NJHEAA. Again, respondent did not send the money to NJHEAA. On or about May 19, 1994, Weir was served with a notice of motion for a wage execution, which she gave to respondent. After respondent failed to file an answer to the motion, an order to execute on Weir's wages was entered. After thirty unsuccessful attempts to reach respondent by telephone, Weir went to his office without an appointment on July 8, 1994, at which time respondent admitted that he had not forwarded the \$150 to NJHEAA.

* * *

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 unethical conduct.

Clear and convincing evidence exists that respondent violated RPC 1.3, RPC 1.4 and RPC 1.15(b). The Board was, however, unable to find support in the record for a finding of violation of RPC 1.1(b) (pattern of neglect).

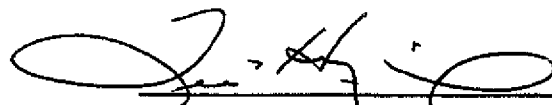
This leaves only the issue of appropriate discipline. Similar misconduct has resulted in reprimand. See, e.g., In re Gordon, 139 N.J. 606 (1995) (lack of diligence, failure to communicate, gross neglect and failure to return client file, with prior reprimand); In re Carmichael, 139 N.J. 390 (1995) (lack of diligence and failure to communicate, with prior reprimand), In re Wildstein, 138 N.J. 48 (1994) (failure to communicate, lack of diligence, and gross neglect). Although respondent's misconduct involved a violation of RPC 1.15(b), the amount involved was not substantial and there was insufficient evidence to indicate that respondent in fact converted the funds. A reprimand is, thus, the appropriate discipline in this case.

Accordingly, the Board unanimously determined to impose a reprimand. Two members did not participate.

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

Date: _____

7/14/87



LEE M. HYMERLING
CHAIR
DISCIPLINARY REVIEW BOARD