

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 99-044

IN THE MATTER OF
HOWARD HOFFMAN
AN ATTORNEY AT LAW

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

Decided: July 7, 1999

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 VI 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 November 9, 1998, the DEC sent a copy of the complaint to respondent's last known address by certified and regular mail. The certified mail was returned indicating that the letter was either refused or unclaimed. The regular mail was not returned. On January 4, 1999, a second letter was sent to the same address by certified and regular mail. The certified mail was returned as unclaimed. The regular mail was not returned. Respondent did not file an answer to the

complaint.

Respondent was admitted to the New Jersey bar in 1976. On January 12, 1999, he was suspended for three months for failure to communicate, failure to cooperate with disciplinary authorities and misrepresentation. Also, on May 20, 1998 respondent was reprimanded for lack of diligence, failure to communicate, failure to cooperate and misrepresentation.

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I. The Lynch Matter -- District Docket No. VI-98-2E

According to the first count of the complaint, respondent was retained by Robert Lynch in 1984 for representation in a workers' compensation matter. On July 7, 1998, respondent failed to appear at the workers' compensation court, even though Lynch was present and prepared to proceed. Soon thereafter, Lynch retained a new attorney and attempted to contact respondent to request that he turn over his file to his new attorney. Respondent failed to reply to Lynch's communications and failed to return Lynch's file. Lynch later learned that respondent had closed his office in late 1997. Respondent never informed Lynch of this development.

The first count of the complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate with the client), RPC 1.4(b) (failure to inform the client to the extent necessary to permit him to make an informed decision regarding the representation) and RPC 1.16(d) (failure to protect the client's interests

upon termination of representation).

II. The Sanchez and Mayta Matters -- District Docket Nos. VI-98-22E, 23E, and 24E

According to the second, third and fourth counts of the complaint, on July 2, 1992, Giovanni Sanchez, Guadalupe Sanchez and Clelia Mayta were involved in an automobile accident. Later that year, all three of the parties, who are members of the same family, contacted respondent to initiate a lawsuit on their behalf.

Sometime in 1997, respondent ceased all communications with the Sanchezes and Mayta. Respondent failed to inform the parties that he had closed his office and had never filed a lawsuit on their behalf.

According to the fifth count of the complaint, the DEC secretary, after receiving several grievances against respondent, sent him a letter by certified mail. Although respondent himself signed the receipt for the certified letter, he failed to reply to the letter within ten days, as required.

In total, the second, third, and fourth counts of the complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.3 (failure to act with reasonable diligence), RPC 1.4(a) (failure to communicate with the client), RPC 1.4(b) (failure to inform clients to the extent reasonably necessary to permit them to make informed decisions regarding the representation) and RPC 1.16(d) (failure to protect the client's interests upon termination of representation). Lastly, the fifth count charged respondent with a violation of RPC 8.1(b) (failure to cooperate with disciplinary authorities).

* * *

Service was properly made in this matter, as the regular mail sent to respondent's last known address was not returned. Therefore, pursuant to R. 1:20-4(f), the allegations of the complaint are deemed admitted. The Board found that the facts recited in the complaint support a finding of unethical conduct.

Respondent's failure to take any action on behalf of the four clients constituted gross neglect and a lack of diligence, in violation of RPC 1.1(a) and RPC 1.3, respectively. In addition, respondent's failure to inform his clients that he was closing his practice and that they would have to find new representation constituted a failure to communicate with his clients, in violation of RPC 1.4(a) and (b), and a failure to protect his client's interests upon termination of representation, in violation of RPC 1.16(d). In fact, respondent's conduct rose to the level of abandonment of his clients. Finally, respondent's failure to reply to the letters sent to him by the DEC constituted a failure to cooperate with disciplinary authorities, in violation of RPC 8.1(b).

Typically, for conduct of this nature, absent abandonment of clients, either an admonition or a reprimand would be appropriate discipline. See, e.g., In the Matter of Howard M. Dorian, Docket No. DRB 95-216 (admonition for gross neglect, failure to communicate with client, failure to return client's files and failure to cooperate with disciplinary authorities). Cases involving abandonment of clients, however, generally warrant more severe discipline. See, e.g., In re Bock, 128 N.J. 270 (1972) (six-month suspension imposed on attorney who, while serving as both a part-time municipal court judge and a lawyer, with sixty to seventy pending cases, abandoned both

positions by feigning his death). See also In re Mintz, 126 N.J. 484 (1992) (two-year suspension for abandonment of four clients, pattern of neglect, failure to maintain a bona fide office and failure to cooperate with disciplinary authorities).

Here, respondent abandoned two matters involving four clients. Based on this misconduct, which was not as severe as that of attorneys Bock or Mintz, the Board determined that a short-term suspension is appropriate, after considering in aggravation the default nature of this matter and respondent's prior disciplinary history.

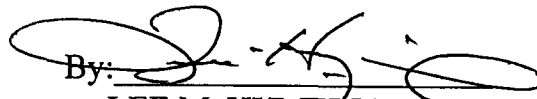
The Board unanimously voted to impose a three-month suspension. One member did not participate.

The Board further determined that respondent be required to reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: _____

7/7/99

By: _____



LEE M. HYMERLING

Chair

Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of Howard Hoffman
Docket No. DRB 99-044**

Decided: July 7, 1999

Disposition: Three-Month Suspension

Members	Disbar	Three-Month Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hyerling		x					
Boylan		x					
Brody		x					
Cole		x					
Lolla		x					
Maudsley		x					
Peterson		x					
Schwartz							x
Wissinger		x					
Total:		8					1

Robyn M. Hill 7/14/99
Robyn M. Hill
Chief Counsel