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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 99-300

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IN THE MATTER OF :  
ALTHEAR LESTER :  
AN ATTORNEY AT LAW :

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

Decided: June 12, 2000

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 us for the imposition of discipline, following respondent's failure to file an answer to the formal ethics complaint.

On May 13, 1999 the DEC forwarded a copy of the formal ethics complaint to respondent's residence at 506 Longview Road, South Orange, New Jersey, by regular and certified mail. The certified mail receipt was returned as "unclaimed." The regular mail

was not returned. On May 20, 1999 notice of the filing of the formal ethics complaint was published in the *Star-Ledger*. On July 14, 1999 the DEC sent respondent a letter by regular and certified mail, advising him of the DEC's right to seek his temporary suspension through the Office of Attorney Ethics ("OAE"), if the DEC did not receive his answer within five days of the date of the letter. The certified mail return receipt (green card) indicates acceptance on July 19, 1999, although the signature is illegible. The regular mail was not returned.

Respondent was admitted to the New Jersey bar in 1969. Respondent does not maintain an office for the practice of law.

Respondent has an extensive ethics history. On July 13, 1989 he received a public reprimand for gross neglect in two client matters, at which time the Court also noted respondent's recalcitrant and cavalier attitude towards the ethics committee. In re Lester, 116 N.J. 774 (1989). On May 26, 1992 respondent was privately reprimanded for his failure to keep three clients reasonably informed of the status of their matters. In the Matter of Althear A. Lester, Docket No. DRB 92-110 (May 26, 1992). On January 3, 1996 respondent received a public reprimand for failure to communicate with a client, failure to adequately supervise office staff and failure to release a file to a client. In re Lester, 143 N.J. 130 (1996). Most recently, respondent was suspended for six months, effective April 15, 1997, for violations of RPC 1.1(a) and (b), RPC 1.3, RPC 1.4(a), RPC 1.16(d), RPC 4.1(a), RPC 8.1(b) and RPC 8.4(c). In re Lester, 148 N.J.86 (1997). Respondent has not applied for

reinstatement.

The first count of the complaint alleges that in or about April 1991 respondent was retained by Angela L. Britt to represent her in a claim for personal injuries sustained in an automobile accident on March 23, 1991, when Britt was driving a car owned by Barbra Copeland. The other vehicle was owned and driven by Margaret Cousar.

During 1991, after Britt's initial meeting with respondent, she made frequent telephone calls to his office about the status of her matter. In the following years, she telephoned respondent two or three times a year to inquire about the status of her case. Each time Britt telephoned respondent's office she asked to speak with him directly. However, respondent's paralegals always answered her telephone calls and advised her that work was being done on her case. Respondent never personally returned any of her telephone calls. The only written communications Britt received from respondent were copies of three letters respondent sent in her behalf, dated August 28, 1991, October 24, 1991 and May 4, 1992. Britt did not know if respondent had filed a lawsuit on her behalf.

Sometime thereafter, Britt was served with a complaint filed by Cousar against her and Copeland. Britt then forwarded these papers to respondent. Likewise, when Veronica Reid, a passenger in Cousar's vehicle, initiated suit against Britt and Copeland, Britt forwarded these papers to respondent. Copeland's insurance company, the Joint Underwriting Association (JUA), referred these civil suits to their defense attorney, Richard Livingston, who wrote to Britt. Again, Britt sent this letter to respondent's attention.

Respondent did not acknowledge receipt of any of these papers and did not advise Britt as to their status.

At some point, Britt telephoned respondent's office and discovered that his telephone had been disconnected.

On December 22, 1997 Britt was involved in another automobile accident and retained Seamus Boyle to represent her. She asked Boyle to contact respondent to ascertain the status of her 1991 accident case. Britt signed a letter, prepared by Boyle, directing respondent to release her file to Boyle. On February 3, 1998 Boyle forwarded the letter to respondent via a messenger service. The letter was returned marked "location closed on dates indicated on [the messenger's service's] slip." On February 11, 1998 Boyle re-sent the letter to respondent's home address. The letter was not returned. When respondent again did not reply to the correspondence, Boyle contacted the DEC and was informed that respondent had been suspended from the practice of law. Until then, Britt was unaware of respondent's suspension.

The second count of the complaint alleges that on October 9, 1998 the OAE sent a letter to respondent's last known office address, requesting a written response to the grievance by October 30, 1998. The OAE also sent a copy of the letter to respondent's home address. Respondent did not submit a response to the grievance. On December 2, 1998 a second letter was sent to respondent at both addresses, requesting a response by December 16, 1998. Neither letter was returned.

On December 17, 1998 the OAE investigator attempted to telephone respondent at his last known office telephone number, but that number had been disconnected. Respondent's home telephone number was not listed in the OAE's attorney registration records or in the telephone directory.

The OAE subpoenaed respondent to appear at its offices and produce the Britt file. A subpoena was mailed to respondent by certified and regular mail to his home and his office. The certified mail from both addresses was returned marked "unclaimed." The copies sent by regular mail to both addresses were not returned. Respondent did not comply with the subpoena.

The first count of the complaint charges respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.4(a) (failure to keep client reasonably informed), RPC 1.16(d) (failure to protect client's interest upon termination of representation) and R. 1-20-20(b)(1) (failure to notify client of suspension). The second count of the complaint charges respondent with a violation of RPC 8.1(b) (failure to respond to lawful demands of information from a disciplinary authority).

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Service of process was properly made in this matter. Following a review of the complaint, we find that the facts recited therein support a finding of unethical conduct.

Because of respondent's failure to file an answer, the allegations of the complaint are deemed admitted. R. 1:20-4(f)(1).

Respondent was retained to represent Britt and failed to attend to her matters for approximately eight years. The three letters sent on her behalf are the only work he did on the file and the only communication he had with Britt over those eight years, despite her efforts to reach him. In addition, respondent failed to surrender Britt's file to her new counsel, failed to reply to the OAE's requests for information and failed to appear at the OAE's offices pursuant to a subpoena. The foregoing conduct constituted violations of RPC 1.1(a), RPC 1.4(a), RPC 1.16(d) and RPC 8.1(b).

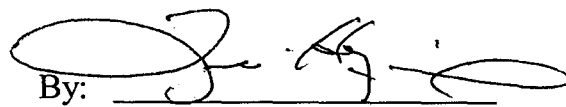
Lastly, respondent failed to notify Britt of his six-month suspension, effective April 15, 1997, and allowed her to believe that he was eligible to act as her counsel. This last conduct violated R. 1:20-20(b)(1).

Ordinarily, misconduct of this sort results in a short-term suspension. In In re West, 156 N.J. 451 (1998), we imposed a six-month suspension in a default proceeding where the attorney had no prior ethics history and violated RPC 1.1(a), RPC 1.1(b), RPC 1.4(a), RPC 1.16(d) and RPC 8.1(b). Here, however, because of the default nature of this matter, respondent's extensive ethics history and the egregious length of time that he allowed to pass without taking any action in his client's behalf, the level of discipline must be increased. Accordingly, we unanimously determined to impose a prospective one-year suspension. In addition, prior to reinstatement, respondent must demonstrate proof of his fitness to practice

law and proof of completion of ICLE Skills and Methods core courses. Upon reinstatement, respondent must be monitored for two years by a proctor approved by the Office of Attorney Ethics .

We further directed that respondent reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: 6/2/00

By: 

LEE M. HYMERLING  
Chair  
Disciplinary Review Board

**SUPREME COURT OF NEW JERSEY**


**DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

**In the Matter of Althea Lester  
Docket No. DRB 99-300**

**Decided: June 12, 2000**

**Disposition: One-year suspension**

| Members       | Disbar | Suspension | Reprimand | Admonition | Dismiss | Disqualified | Did not Participate |
|---------------|--------|------------|-----------|------------|---------|--------------|---------------------|
| Hyerling      |        | x          |           |            |         |              |                     |
| Cole          |        | x          |           |            |         |              |                     |
| Boylan        |        | x          |           |            |         |              |                     |
| Brody         |        | x          |           |            |         |              |                     |
| Lolla         |        | x          |           |            |         |              |                     |
| Maudsley      |        | x          |           |            |         |              |                     |
| Peterson      |        | x          |           |            |         |              |                     |
| Schwartz      |        | x          |           |            |         |              |                     |
| Wissinger     |        | x          |           |            |         |              |                     |
| <b>Total:</b> |        | 9          |           |            |         |              |                     |

  
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Robyn M. Hill  
Chief Counsel