

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket Nos. DRB 06-018 and 06-019
District Docket Nos. VII-04-032E
and VII-03-052E

IN THE MATTER OF
NEAL SHARMA
AN ATTORNEY AT LAW

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

Decided: March 21, 2006

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

These matters were before us on certifications of default
filed by the District VII Ethics Committee (DEC) pursuant to R.
1:20-4(f).

Respondent was admitted to the New Jersey bar in 1992. At
the relevant times, he practiced law in Hamilton, New Jersey,
and Philadelphia, Pennsylvania. He has no disciplinary history.

Docket No. 06-018 (The Gupta Matter)

On December 23, 2004, the DEC sent a copy of the complaint to respondent at his offices in New Jersey and Pennsylvania, as well as his New Jersey residence, via regular and certified mail, return receipt requested. Although the certified record contains only a copy of the letter sent to respondent's New Jersey office, respondent received the letter sent to his home because he signed the return receipt card for that address on February 1, 2005. There is no indication in the record as to whether the complaints sent to respondent's office addresses via certified mail were delivered successfully. However, none of the regular mailings were returned.

On May 16, 2005, the DEC sent a letter to respondent at his Pennsylvania office address via regular and certified mail, return receipt requested. The letter directed respondent to file an answer within five days and informed him that, if he failed to do so, the DEC would certify the record directly to us for the imposition of sanction. Someone signed for the certified letter. The letter sent via regular mail was not returned.

On January 9, 2006, the DEC certified this matter to us as a default.

In the four-count complaint, the DEC charged respondent with having violated RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate), and RPC 8.1 (presumably (b)) (failure to cooperate with disciplinary authorities). The ethics charges arose out of respondent's retention by Shashi Gupta to institute a personal injury suit on her behalf against Federated Department Stores, Inc. (Federated) for injuries she sustained when glass shelving fell on her at the Quakerbridge Mall Macy's on February 25, 1988. Three days later, Gupta retained respondent.

From the outset, Gupta attempted to contact respondent numerous times to ask him questions. Respondent either ignored Gupta's inquiries and correspondence or gave her "vague, oblique, unclear and false answers to her questions." Nevertheless, respondent did tell Gupta that he had filed suit and that he had been prosecuting the case. As explained below, respondent's statements were false.

In January 2003, Gupta wrote to respondent and requested copies of documents that he had filed on her behalf. She also asked respondent to update her on the status of the matter. Gupta heard nothing from respondent for eight months. In

September 2003, she wrote to respondent again, but heard nothing from him.

Eventually, Gupta contacted Federated directly to determine whether a lawsuit had been filed or settled without her knowledge. It was at this time that Gupta learned that respondent had never filed a lawsuit. By then, the statute of limitations had expired.

On September 29, 2003, the DEC wrote to respondent and informed him that Gupta had filed a grievance against him. Respondent did not reply to the letter, claiming later that he had lost it.

When the DEC began its investigation of the matter, respondent communicated with the investigator and even "generally admitted" to having failed to communicate with Gupta. However, at some point, respondent stopped replying to the investigator's requests for certain documents (including the complaint that he allegedly filed) and did not return the investigator's telephone calls.

Service of process was properly made on February 1, 2005, when respondent signed for the certified letter sent to his home. Inasmuch as respondent failed to answer the complaint, the allegations are deemed admitted. R. 1:20-4(f). Moreover,

the allegations set forth in the complaint support a finding that respondent engaged in unethical conduct.

Respondent engaged in gross neglect and lack of diligence, violations of RPC 1.1(a) and RPC 1.3, when he failed to file a complaint on behalf of Gupta. He also engaged in conduct involving dishonesty, deceit, and misrepresentation (RPC 8.4(c)) when he told Gupta that he had filed a complaint and that the matter was proceeding in its ordinary course. While the formal ethics complaint did not charge respondent with having violated RPC 8.4(c), its allegations gave respondent sufficient notice of a potential finding of a violation of the rule and the conduct upon which the violation could be sustained.

In addition to these violations, respondent often failed to reply to Gupta's numerous attempts to communicate with him. He failed to return her telephone calls, answer her letters, and to comply with her specific requests for copies of documents and an update on the status of the matter. We find, thus, that respondent failed to keep Gupta reasonably informed about the status of her matter, a violation of RPC 1.4(a).

Finally, we find that respondent violated RPC 8.1(b) inasmuch as he failed to reply to the DEC's requests for certain documents and did not return the investigator's telephone calls.

Docket No. 06-019 (The Sirjoo Matter)

On May 4, 2005, the DEC sent a copy of the complaint to respondent at his Pennsylvania office via regular and certified mail, return receipt requested. The complaint was mailed to respondent's Pennsylvania office address because the New Jersey Lawyers Diary did not list an address for respondent's New Jersey office. Moreover, the DEC secretary had learned that respondent no longer maintained a New Jersey office, but that he had an office in Pennsylvania.

On May 9, 2005, someone signed for the certified letter. The letter sent via regular mail was not returned.

On September 6, 2005, the DEC sent a letter to respondent at his Pennsylvania office address via regular and certified mail, return receipt requested. The letter directed respondent to file an answer within five days and informed him that, if he failed to do so, the DEC would certify the record directly to us for the imposition of sanction. The letter sent certified mail was returned, marked "not deliverable as addressed unable to forward." The letter sent via regular mail was not returned.

On January 9, 2006, the DEC certified this matter to us as a default.

In the one-count complaint, respondent was charged with having violated RPC 8.1(b) as a result of his failure to cooperate in the DEC investigation prompted by his client's filing of a grievance against him.

At some unidentified time, Solomon Sirjoo retained respondent to file a petition for naturalization with the United States Government. Sirjoo paid respondent a \$1000 retainer.

Five months later, Sirjoo asked respondent to refund the \$1000 because respondent had not yet filed the petition. At first, respondent refused. At some point, however, he issued a refund check to Sirjoo, but the check bounced. Eventually, respondent issued another check to Sirjoo, who, although the check had cleared, filed a grievance against respondent.

On January 20, 2005, after many attempts, the DEC investigator communicated with respondent. Although respondent offered the investigator "a reasonable explanation for all of Mr. Sirjoo's complaints," he never replied to the grievance in writing, as requested by the investigator and the DEC secretary. Moreover, despite respondent's promises to do so, he never complied with the investigator's requests for a copy of the returned check and never replied in writing to the grievance.

On February 10, 2005, the investigator wrote to respondent and informed him that his failure to reply was a violation of RPC 8.1(b). Moreover, the investigator told respondent that, if he did not receive respondent's reply to the grievance within four days, the investigative report would be submitted to the DEC. Presumably, respondent never complied with the investigator's repeated requests.

Ultimately, the grievance was dismissed for lack of evidence. According to the investigative report, it was dismissed because neither respondent nor Mr. Sirjoo produced any documentation, and there was no clear and convincing evidence in support of either party's allegations.

Service of process was properly made on May 9, 2005, when someone signed for the certified letter sent to respondent's Pennsylvania office. Inasmuch as respondent failed to answer the complaint, the allegations are deemed admitted. R. 1:20-4(f). Moreover, the allegations set forth in the complaint support a finding that respondent engaged in unethical conduct.

Respondent's failure to reply to the DEC's inquiries regarding the grievance, including his failure to provide the DEC with a copy of the returned check, constituted a failure to cooperate with disciplinary authorities. This is so even in the

absence of a finding that respondent actually engaged in unethical conduct. See, e.g., In re Pierce, 181 N.J. 294 (2004), In re Wood, 175 N.J. 586 (2003), In re Medinets, 154 N.J. 255 (1998) (reprimands for violations of RPC 8.1(b) even though the balance of the complaint's charges or the underlying grievance were dismissed).

There remains the determination of the quantum of discipline to be imposed for the ethics violations in each of the cases before us. Separate discipline in each case is warranted because these are two separate matters filed under two separate docket numbers, the complaints were served upon respondent months apart, and the matters were not consolidated below. These matters, though separate, were before us at the same time because the record in each matter was certified to us on the same date.

In the Gupta matter, respondent committed gross neglect, lacked diligence, failed to communicate with his client, misrepresented the status of the matter to her, and failed to cooperate with disciplinary authorities. The Court "has consistently held that intentionally misrepresenting the status of lawsuits warrants public reprimand." In re Kasdan, 115 N.J. 472, 488 (1989). This is typically the discipline imposed even

where, in addition to the misrepresentation, the attorney has engaged in gross neglect and lack of diligence, has failed to communicate with the client, and has failed to cooperate with disciplinary authorities -- so long as the attorney has not defaulted and has no ethics history. See, e.g., In re Wiewiorka, 179 N.J. 225 (2004) (attorney reprimanded for gross neglect, lack of diligence, failure to communicate with the client, and conduct involving dishonesty, fraud, deceit or misrepresentation in one client matter where he was hired to investigate a personal injury claim for the purpose of a possible lawsuit but failed to return phone calls and told the client that he had filed suit when he had not, and the statute of limitations had expired); In re Porwich, 159 N.J. 511 (1999) (reprimand imposed upon attorney who admitted to gross neglect, pattern of neglect, lack of diligence, failure to communicate with the client, and failure to cooperate with ethics authorities in two client matters; we also found that the attorney engaged in conduct involving misrepresentation based on the attorney's representation to client that he had filed suit when he had not).

Here, if respondent had not defaulted, a reprimand would have been the appropriate discipline. However, in a default

matter, the discipline is enhanced to reflect a respondent's failure to cooperate with disciplinary authorities as an aggravating factor. In re Nemshick, 180 N.J. 304 (2004) (conduct meriting reprimand upgraded to three-month suspension due to default; no ethics history). Therefore, a censure is warranted in this case. See, e.g., In re Schlem, 175 N.J. 437 (2003) (three-month suspension imposed on defaulting attorney for gross neglect, lack of diligence, failure to communicate, and misrepresentation where he failed to inform his client that the client's appeal had been dismissed because of the attorney's failure to file a brief; ethics history included two reprimands, one of which was in a default matter).

In the Sirjoo matter, respondent's sole violation was of RPC 8.1(b). In matters where an attorney has violated only RPC 8.1(b), either an admonition or a reprimand has been imposed. In the absence of an ethics history or default, the discipline is limited to an admonition. In the Matter of Keith O. D. Moses, DRB 02-248 (October 23, 2002) (admonition for failure to reply to DEC's requests for information about two grievances); In the Matter of Jon Steiger, DRB 02-199 (July 22, 2002) (admonition for failure to reply to DEC's numerous communications regarding a grievance); In the Matter of Wesley

S. Rowniewski, DRB 01-335 (January 10, 2002) (admonition for failure to comply with OAE's letters seeking a reply to a grievance and failure to file a timely answer to the complaint); In the Matter of Robert P. Gorman, DRB 94-437 (February 8, 1995) (admonition for violation of RPC 8.1(b) after the attorney failed to submit a written response to the investigator's requests for information about a grievance that had been filed). If the attorney has an ethics history or has defaulted, a reprimand generally issues. In re Pierce, supra, 181 N.J. 294 (reprimand where ethics history included one reprimand for misconduct in three cases); In re Wood, supra, 175 N.J. 586 (reprimand where ethics history included an admonition for failure to cooperate with disciplinary authorities); In re Medinets, 154 N.J. 255 (1998) (despite lack of ethics history, reprimand ordered where the attorney had defaulted).

Respondent defaulted in the Sirjoo matter. Therefore, we determine that a reprimand is the appropriate form of discipline for his infraction in that case.

Member Lolla did not participate.

We further require respondent to reimburse the Disciplinary Oversight Committee for the costs incurred in connection with the prosecution of these matters.

Disciplinary Review Board
Mary J. Maudsley, Chair

By: Julianne K. DeCore
Julianne K. DeCore
Chief Counsel

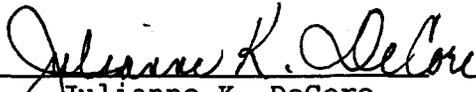
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matters of Neal Sharma
Docket No. DRB 06-018

Decided: March 21, 2006

Disposition: Censure

Members	Disbar	Suspension	Censure	Dismiss	Disqualified	Did not participate
Maudsley			X			
O'Shaughnessy			X			
Boylan			X			
Holmes			X			
Lolla						X
Neuwirth			X			
Pashman			X			
Stanton			X			
Wissinger			X			
Total:			8			1


Julianne K. DeCore
Chief Counsel

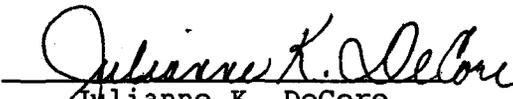
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matters of Neal Sharma
Docket No. DRB 06-019

Decided: March 21, 2006

Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Maudsley			X			
O'Shaughnessy			X			
Boylan			X			
Holmes			X			
Lolla						X
Neuwirth			X			
Pashman			X			
Stanton			X			
Wissinger			X			
Total:			8			1


Julianne K. DeCore
Chief Counsel