

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 01-428

IN THE MATTER OF
PATRICIA ADELLE
AN ATTORNEY AT LAW

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

Decided: June 7, 2002

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

Pursuant to R.1:20-4(f), the District XI 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 ethics complaint.

Respondent was admitted to the New Jersey bar in 1993. She maintains a law office in Pompton Plains, New Jersey. In February 2002, the Court reprimanded respondent in a default matter for lack of diligence, failure to communicate with clients and failure to reply to a lawful demand for information from a disciplinary authority. In re Adelle, 170 N.J. 601 (2002).

On September 13, 2001 the DEC mailed a copy of the complaint to respondent by certified and regular mail. The certified mail receipt indicated delivery on September 20, 2001 and was signed by an individual other than respondent. The regular mail was not returned. When respondent did not file an answer, a second letter was sent to her by certified and regular mail, on October 11, 2001. The certified mail receipt indicates delivery on October 13, 2001. The signature of the recipient appears to be that of respondent. The regular mail was not returned. Respondent did not file an answer.

* * *

The two-count complaint charged respondent with violations of RPC 4.4 (in representing a client, using means that have no substantial purpose other than to embarrass, delay or burden a third person), RPC 8.4, presumably (c), (conduct involving deceit or misrepresentation) (count one) and RPC 8.1(b) (cited in the complaint as R.1:20-3(g)(3) (failure to reply to a lawful demand for information from a disciplinary authority) (count two).

The complaint alleged that, on December 21, 2000, Robert Browne, the defendant in a lawsuit, received by certified mail a notice of motion and certification in the matter of Ocello v. Browne, with a return date of January 19, 2001. Respondent was Ocello's attorney. The certification stated that respondent, as the plaintiff's attorney, had written to Browne about the matter and that the letter was an exhibit to the certification. The letter, however, was not included in the documents sent to Browne.

Browne made a number of attempts to obtain a copy of that exhibit from respondent, to no avail. Despite the statement in the certification, Browne denied that he received any prior communication from respondent on behalf of the plaintiff. When Browne attempted to file opposition papers to the motion, he learned that respondent had never filed the papers with the court. The formal ethics complaint, thus, charged respondent with violations of RPC 4.4 and RPC 8.4(c).

The second count charged that respondent failed to cooperate with the investigation of this matter.

The investigator's report, which was incorporated into the record through the certification of the record, sheds more light on the allegations of misconduct. Robert Browne's grievance indicated that respondent was acting as the attorney for his ex-wife, Judith Ocello, in a legal proceeding to correct their daughter's birth certificate. Respondent forwarded to Browne a notice of motion demanding his signature on a certification of parentage and seeking counsel fees. The certification indicated that Browne had been contacted to voluntarily sign the certification, but had refused to cooperate. Browne and a friend made several unsuccessful attempts to contact respondent about the motion. He, therefore, filed pro se papers in opposition to the motion on January 12, 2001. Browne's certification stated that he never received the document mentioned in the notice of motion, never received any prior request to cooperate in having the birth certificate corrected and was unsuccessful in his attempts to discuss the motion with respondent, because of her limited responses and "non-responses." Browne also stated that the motion itself was in error because the state birth certificate was correct, although the municipal certificate was

not. After attempting to file the papers with the court, Browne learned that respondent had not filed the motion with the court.

The above conduct was aggravated by respondent's failure to reply to the grievance in response to the investigator's July 5 and July 25, 2001 letters.

* * *

Service of process was properly made. Following a de novo review of the record, we found that the facts recited in the complaint support a finding of unethical conduct. Because of respondent's failure to file an answer to the complaint, the allegations are deemed admitted. R.1:20-4(f).

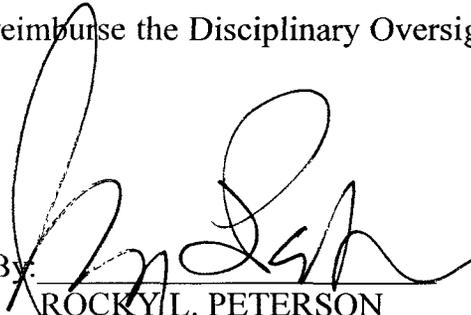
Respondent's failure to reply to the grievance violated RPC 8.1(b). Respondent's conduct in sending Browne a copy of a notice of motion that contained inaccurate statements and that was not filed with the court violated RPC 4.4 and RPC 8.4(c). Her conduct in this regard could have had no other purpose but to "burden" or harass Browne. The only logical conclusion is that respondent fabricated the motion in order to compel Browne to execute the certification of parentage.

Cases dealing with the fabrication of documents are fact-sensitive. For example, in In the Matter of Stanley M. Lewis, 138 N.J. 33 (1994), an admonition was imposed where the attorney attempted to deceive a municipal court judge by introducing into evidence a document falsely showing that a heating problem in an apartment owned by the attorney had been corrected prior to the issuance of a municipal summons to the attorney as the

landlord. In In re Sunberg, 156 N.J. 396 (1998), the attorney received a reprimand for violations of RPC 1.2(a) (failure to consult with client about the means to reach the objectives of the representation), RPC 8.1(a) (knowingly making a false statement of fact to a disciplinary authority) and 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). The attorney created a phony arbitration award to mislead his partner and also lied to the Office of Attorney Ethics during the investigation of the matter. As is the case here, neither of the matters involved misrepresentations to the client. See also In re Gilbert, 159 N.J. 505 (1999) (three-month suspension where attorney breached a commitment to a third party and rationalized his misconduct with an unreasonable interpretation of law and facts, claiming that funds did not belong to an individual; attorney violated RPC 1.15(b) (failure to promptly deliver funds to a third person) and RPC 4.4 (failure to respect the rights of a third person)).

Here, respondent's conduct included violations of RPC 4.4, RPC 8.4(c) and RPC 8.1(b). Browne was led to believe that a motion had been filed against him, causing him to file papers in reply. We have also considered that this is respondent's second default. Because of respondent's total disregard of her ethical obligations, we have unanimously determined to impose a three-month suspension. Two members did not participate.

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

By: 
ROCKY L. PETERSON
Chair
Disciplinary Review Board

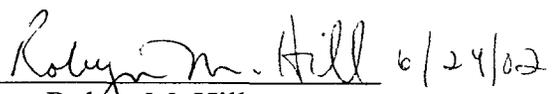
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Patricia Adelle
Docket No. DRB 01-428

Decided: June 7, 2002

Disposition: three-month suspension

<i>Members</i>	<i>Disbar</i>	<i>Three-month Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Peterson</i>		X					
<i>Maudsley</i>		X					
<i>Boylan</i>							X
<i>Brody</i>		X					
<i>Lolla</i>		X					
<i>O'Shaughnessy</i>		X					
<i>Pashman</i>		X					
<i>Schwartz</i>							X
<i>Wissinger</i>		X					
Total:		7					2


Robyn M. Hill
Chief Counsel