

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 03-342

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IN THE MATTER OF :  
DANIEL D. HEDIGER :  
AN ATTORNEY AT LAW :

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

Decided: January 9, 2004

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

Pursuant to R.1:20-4(f), the District IIA 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.

Respondent was admitted to the New Jersey bar in 1995. He maintains a law office in Edgewater, New Jersey. Respondent completed a diversionary program in November 1999 for violations of RPC 1.3 (lack of diligence), RPC 5.5(a) (unauthorized practice of law), and R.1:21-6 (recordkeeping violations).

On June 17, 2003, the DEC sent a copy of the complaint to respondent, by regular and certified mail, return receipt requested, to his Edgewater, New Jersey address. An exhibit to the certification of the record shows that the certified mail was delivered on June 18, 2003. The

record is silent about the regular mail. Respondent did not file an answer. The DEC, therefore, sent a second letter to respondent on July 22, 2003. The letter notified respondent that if he did not file an answer within five days of the date of the letter, the Office of Attorney Ethics (“OAE”) could seek his temporary suspension. The record is silent both as to the method of service, and about receipt of the notice. Respondent did not file an answer.

The four-count complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4, presumably (a) (failure to communicate with the client and to comply with reasonable requests for information), and RPC 8.1(b) (failure to reply to lawful requests for information from a disciplinary authority).

April Leonard (“Leonard”)<sup>1</sup> retained respondent in February 2000 in connection with a complaint filed against her by a past employer. Although the complaint stated that a dollar amount of \$400 was agreed upon as an adequate settlement, neither the complaint nor the grievance indicated whether respondent was responsible for bringing about the settlement. Respondent instructed Leonard to send the settlement amount directly to his law firm rather than to the plaintiff, and told her that he would forward the check to the plaintiff. She was told to send two separate money orders: \$400 for the settlement, and \$75 for his fee. Respondent received the money orders on April 8, 2000. He assured Leonard that he would immediately forward a check to the plaintiff so that it would be received before April 12, 2000, the scheduled court date in the matter. At some point thereafter, Leonard called respondent; he told her that everything was fine and that the case had been settled.

In May 2000, after Leonard moved to Florida, she received notice that on April 12, 2000, a \$1,200 judgment had been entered against her, representing the full amount listed in the

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<sup>1</sup> The complaint listed the grievant as April Leonard (Benson) and then referred to her as Benson throughout. Her grievance, however, is signed April R. Leonard with the name “Benson” listed in parentheses next to her last name. She is, therefore, referred to as Leonard in this decision.

complaint. Apparently respondent had not forwarded the money to settle the matter. Afterwards, Leonard received notice that there would be an "Execution Sale." Leonard contacted respondent, who assured her that he would resolve the matter. The execution sale did not take place.

In October 2001, Leonard was served with another document, indicating that a foreign judgment had been entered against her. She again contacted respondent for information about the matter. Respondent promised her that he would look into the matter. In a July 2002 telephone conversation, respondent informed Leonard that a court date had been scheduled for early September 2002, to resolve any details relating to her matter. Respondent also informed Leonard that he would contact her immediately after the proceedings, and would provide her with the documentation in the matter. Leonard had no further contact with respondent.

Subsequent to Leonard's May 2000 telephone conversation with respondent, she had difficulty communicating with him. Despite Leonard's repeated requests, respondent did not provide her with any written documentation or explanations about what had transpired. Leonard's last telephone conversation with respondent took place in July 2002. Thereafter, he failed to return any of her numerous telephone calls.

After Leonard filed a grievance against respondent, he failed to reply to the DEC's January 10 and February 11, 2003, letters requesting information about the matter. On February 27, 2003, respondent notified the DEC that he had changed office suites in the building, and had been out of the office due to an illness. The DEC, therefore, gave respondent an additional ten days in which to reply. When he failed to do so, by letter dated March 24, 2003, the DEC gave respondent a final opportunity to reply. Again he failed to reply, prompting a final telephone call by the DEC on April 8, 2003. Respondent did not return the telephone call.

On November 10, 2003, respondent filed a motion with us to vacate the default. In his certification, he stated that he submitted “a response to the grievance, albeit a quite limited one,” after having been given an extension of time to do so by the DEC investigator. He did not, however, file an answer to the complaint. His motion and certification failed to explain his reasons for not doing so.

Although respondent asserted that he had “substantial meritorious defenses,” his defenses amounted to little more than denials of the allegations. In his certification, respondent stated that his recollection of the matter was limited because he was unable to locate the file. He, however, denied that he had received any monies from Leonard to settle the matter, or as a legal fee, and that he had been retained to represent Leonard in any court action.

Based on the foregoing, we found that respondent failed to provide either an explanation for not filing an answer or a meritorious defense to the ethics charges. We, therefore, determined to deny respondent’s motion to vacate the default, and instead determined to impose discipline.

Service of process was properly made. Following a 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 answer the complaint, the allegations are deemed admitted. R.1:20-4(f).

After Leonard’s matter was settled, respondent instructed her to forward both the settlement amount and his fee directly to him. Although Leonard complied with respondent’s directions, he failed to take appropriate action in the matter, resulting in the entry of a \$1,200 judgment against her. After Leonard moved to Florida, she received a notice that there would be an execution sale based on that judgment. Respondent’s failure to properly resolve Leonard’s matter violated RPC 1.1(a) and RPC 1.3. His failure to return Leonard’s telephone calls or to

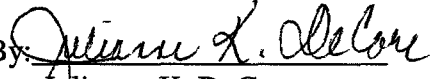
keep her informed about the status of her case violated RPC 1.4(a). Finally, respondent's failure to reply to the DEC's numerous requests for information violated RPC 8.1(b).

Generally, in default matters involving similar violations, reprimands have been imposed. See e.g., In re Nielsen, 167 N.J. 54 (2001) (attorney grossly neglected two client matters, despite being paid in full in at least one matter, and failed to communicate with the clients about the status of their matters, violating RPC 1.1(a), RPC 1.3, and RPC 1.4(a)); In re Handfuss, 165 N.J. 569 (2000) (attorney filed a complaint in his client's behalf, but took no further action in the matter, resulting in the complaint being dismissed, he also failed to communicate with the client, in breach of RPC 1.1(a), RPC 1.3 and RPC 1.4(a)); and In re Goodman, 165 N.J. 567 (2000) (attorney grossly neglected a personal injury matter for seven years by failing to file the complaint or otherwise prosecute the claim, the claim became time-barred, he also failed to communicate with his client and failed to cooperate with disciplinary authorities, resulting in violations of RPC 1.1(a), RPC 1.3, RPC 1.4(a), and RPC 8.1(b); attorney had a prior private reprimand).

Based on respondent's violations, we determined to impose a reprimand. Four members did not participate.

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

Disciplinary Review Board  
Mary J. Maudsley, Chair

By:   
Julianne K. DeCore  
Chief Counsel

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

In the Matter of Daniel D. Hediger  
Docket No. DRB 03-342

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Argued: November 20, 2003

Decided: January 9, 2004

Disposition: Reprimand

<i>Members</i>	<i>Disbar</i>	<i>Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Maudsley</i>			X				
<i>O'Shaughnessy</i>							X
<i>Boylan</i>							X
<i>Holmes</i>							X
<i>Lolla</i>			X				
<i>Pashman</i>			X				
<i>Schwartz</i>							X
<i>Stanton</i>			X				
<i>Wissinger</i>			X				
<i>Total:</i>			5				4

  
Julianne K. DeCore  
Chief Counsel