

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 97-053

IN THE MATTER OF
HILDA BURNETT-BAKER
AN ATTORNEY AT LAW

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

Decided: July 14, 1997

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 VB 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. Service of the complaint was attempted by regular and certified mail, dated June 28, 1996, to respondent's last known address: 8500 Olde Station Drive, Apartment 102, Raleigh, North Carolina 27615-2871. The certified mail was returned as "unclaimed." The regular mail was not returned. Thereafter, on November 15, 1996, a second letter was forwarded to respondent. The certified mail was returned with a notation from the postal authorities of a new address, 1117 Bearglades Lane, Raleigh, North Carolina 27615. On December 13, 1996, a letter was sent by the DEC to the new address by certified and regular mail advising respondent that the matter would proceed as a default if she failed to answer the complaint within five days. Again, the certified mail was returned as "unclaimed," while the regular mail was not returned. Service of process, therefore, is presumed to have been made.

Respondent was admitted to the New Jersey bar in 1983. She has a prior ethics history. On February 2, 1993, she was privately reprimanded for gross negligence in two real property matters, including failure to communicate with the client and failure to surrender the file to a subsequent attorney.

The formal complaint charged respondent with two counts of violation of RPC 1.1(a) (gross neglect), two counts of violation of RPC 1.1(b) (pattern of neglect), two counts of violation of RPC 1.3 (lack of diligence) and one count of violation of RPC 1.4 (lack of communication). In addition, the complaint alleged that respondent's misrepresentation to grievant that she had filed a lawsuit constituted a violation of RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation). Although respondent was not specifically charged with a violation of RPC 8.4(c), the facts in the complaint gave her sufficient notice of the alleged improper conduct and of the potential violation of that RPC.

According to the facts alleged in the underlying complaint, respondent was retained in May 1984 to represent Margaret Calabrese Podzielny ("grievant") in two matters: a wrongful termination action and a workers' compensation claim. Respondent had informed grievant that the wrongful termination claim was being filed. At a meeting in 1987, respondent lied about filing the complaint to grievant and her husband. Subsequently, respondent notified grievant that she was moving to North Carolina and taking the case with her. She further indicated to grievant that depositions in the matter had been delayed by the attorneys representing grievant's former employer. Despite several attempts, grievant was not able to contact respondent.

Regarding the workers' compensation matter, apparently respondent did file a claim. In 1987, respondent informed grievant and her husband that, without their knowledge, she had rejected

a settlement offer of \$10,000, because she felt the claim was worth at least \$20,000. Grievant's subsequent efforts to contact respondent were largely unsuccessful. When grievant was able to reach her, respondent blamed others for delaying the case. Ultimately, on January 28, 1987, the workers' compensation claim was dismissed for lack of prosecution.

* * *


Following a de novo review of the record, the Board deemed the allegations contained in the complaint admitted. R. 1:20-4(f)(i). The record contains sufficient evidence of respondent's unethical conduct.

This leaves only the issue of appropriate discipline. Similar misconduct has resulted in a three-month suspension. See In re Bernstein, 144 N.J. 369 (1996) (where attorney was suspended for three months for gross neglect, failure to act with reasonable diligence, and failure to communicate with and making misrepresentations to a client); In re Ortopan, 143 N.J. 586 (1996) (where attorney was suspended for three months for grossly neglecting a workers' compensation matter, failing to communicate with the client, failing to deliver the file to the client or to a new attorney and failing to participate in any way in the disciplinary proceedings against him); and In re Moorman, 135 N.J. 1 (1994) (where attorney was suspended for three months for grossly neglecting a client matter, failing to act with reasonable diligence and failing to keep a client reasonably informed).

In light of the foregoing, the Board unanimously determined that a three-month suspension is the appropriate discipline for respondent's ethics offenses.

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

Dated: 7/14/97



LEE M. HYMERLING
Chair
Disciplinary Review Board