

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 97-170

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IN THE MATTER OF :  
MARIE C. CHEN :  
AN ATTORNEY AT LAW :

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

Decided: March 19, 1998

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 XIII Ethics Committee ("DEC") certified the record in this matter directly to the Board for the imposition of discipline, following respondents' failure to file an answer to the formal ethics complaint. On March 11, 1997 service of the complaint was made by both certified and regular mail. The return receipt signed by respondent indicated delivery on March 19, 1997 at respondent's address: 132 Lincoln Avenue, Bound Brook, New Jersey 08805. Subsequently, on April 14, 1997, a second letter was sent by certified and regular mail to respondent advising her that, if she did not file an answer to the complaint within five days, the allegations of the complaint would

be deemed admitted and the matter would be treated as a default. Neither the return receipt nor the regular mail was returned.

Respondent was admitted to the New Jersey bar in 1986. She has an extensive disciplinary history, beginning in 1995, when she was reprimanded for gross neglect, failure to communicate with clients, failure to maintain a bona fide office and failure to cooperate with the disciplinary authorities. In re Chen, 142 N.J. 479 (1995). On March 19, 1996 she was suspended for three months for gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, failure to cooperate with the disciplinary authorities and misrepresentation. In re Chen, 143 N.J. 416 (1996). On October 15, 1997 she was suspended for three months, retroactive to August 1, 1997, for neglect, failure to keep a client reasonably informed about the status of the matter and misrepresentation. In re Chen, 151 N.J. 477 (1997). There is currently another default matter pending against respondent.

The formal complaint charged respondent with improper termination of the representation of the client [RPC 1.16], gross neglect [erroneously cited as a violation of RPC 8.1(b)], pattern of neglect [RPC 1.1(b)] and failure to cooperate with the disciplinary system [RPC 8.1(b)].

According to the complaint, on February 2, 1996 respondent was retained to represent Barbara Beaton in various traffic charges in Raritan Borough Municipal Court. For a \$300 fee respondent agreed to appear in court, enter guilty pleas and make motions for dismissals and mergers of charges, as appropriate. Respondent adjourned the court date on several

occasions, first to March 18, 1996, then to June 10, 1996 and finally to July 15, 1996. Although Beaton appeared in court on July 15, 1996, respondent did not. On July 16, 1996, the day after the scheduled court date, respondent notified Beaton that "I have a lot of personal things going on with my life now, I can't handle the case." When Beaton asked about her retainer fee, respondent assured her that she would send her a refund check in the mail.

Indeed, Beaton received a \$300 check from respondent on or about July 31, 1996. After depositing the check, Beaton learned that there were insufficient funds in respondent's account. Shortly thereafter, respondent went to Beaton's home intending to leave the following note:

I am sorry for the inconvenience, but I just found out that my account was short due to the automatic bank fees taken out each month. Please redeposit the check and here is \$20 to reimburse you for any fees they may have charged you.

Apparently, Beaton was at home when respondent arrived, at which time she notified Beaton that she had resigned from the practice of law. Ultimately, there were sufficient funds to cover the check when Beaton redeposited it.

Beaton retained another attorney, who, for a \$350 fee, went to court and resolved the traffic matters on September 6, 1996. Beaton's driving privileges were ordered suspended for sixty days. However, because of the delay in having the matter heard in court from March 18, 1996 to September 9, 1996, Beaton's driving privileges were effectively suspended for more than six months.

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Following a de novo review of the record, the Board deemed the allegations contained in the complaint admitted. The record contains sufficient evidence of unethical conduct by respondent.

While the allegations of the complaint do not support a finding of violation of RPC 1.1(b), they do support a finding of RPC 1.1(a) [gross neglect, mistakenly cited in the complaint as RPC 8.1(b)], as well as RPC 1.16 (improper termination of representation) and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

This leaves only the issue of appropriate discipline. Similar misconduct has resulted in a six-month suspension. See In re Balsam, 142 N.J. 550 (1995) (where an attorney was suspended for six months for gross neglect, failure to communicate with a client, improper withdrawal from representation, failure to cooperate with the disciplinary authorities and failure to comply with a September 9, 1992 order imposing conditions on his practice of law).

In sum, respondent failed to answer the ethics complaint, failed to appear in court for the assigned court date and failed to protect her client's interests upon termination of representation. This is respondent's third contact with the disciplinary system. Obviously, she has not learned from her prior mistakes.

In light of the foregoing, the Board unanimously determined that a six-month suspension, consecutive to the prior three-month suspension, is the appropriate discipline.

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

Dated: 3/19/98



LEE M. HYMERLING  
Chair  
Disciplinary Review Board