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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 97-494

IN THE MATTER OF
RICHARD S. YUSEM,
AN ATTORNEY AT LAW

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

Decided: June 29, 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 respondent's failure to file an answer to the formal ethics complaint. The certification filed by the DEC secretary indicates that a copy of the complaint and cover letter dated November 10, 1997 were sent by certified and regular mail to respondent's last known office address: 63 Grove Street, P.O. Box 696, Somerville, New Jersey 08876. The certified mail receipt

(green card) was returned on November 14, 1997, bearing an illegible signature. On December 5, 1997 a second letter was forwarded to respondent, advising him that failure to file an answer to the complaint within five days would result in treatment of the matter as a default. The certified mail return receipt (green card) was returned on December 9, 1997, also bearing an illegible signature. Respondent did not file an answer, prompting the certification of the record by the DEC and the request that the matter be treated as a default.

Respondent was admitted to the New Jersey bar in 1977. He was privately reprimanded on July 28, 1993 for failure to take required action for two and one-half years as an assignee and for failure to respond to requests for information from the grievants and the ethics investigator.

In the instant ethics case, respondent was retained on April 24, 1997 to represent Henry O. Smith in a collection matter. Although respondent contacted Smith's adversary on April 29, 1997, he took no further action in the matter. Smith's attempts to reach respondent between May 28, 1997 and July 29, 1997 were unsuccessful, except that, on July 15, 1997, respondent indicated that, after he retrieved the file, he would return Smith's call. Respondent failed to return the call, however. Finally, on July 31, 1997 Smith obtained new counsel, who settled the matter.

The DEC sent the grievance to respondent, requesting a reply within ten days. Upon respondent's failure to reply, the DEC sent another letter to him on September 12, 1997, requesting a reply by September 22, 1997. The DEC investigator left a telephone message

for respondent on September 23, 1997. Although respondent returned the telephone call on September 25, 1997, the investigator was not available. On September 26, 1997 and October 1, 1997 the investigator left messages for respondent. Respondent failed to return these telephone calls.

The ethics complaint charged respondent with violations of RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to keep client reasonably informed about the status of the matter and failure to communicate with client) and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

* * *

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

This leaves only the issue of appropriate discipline. Conduct similar to that displayed by respondent has generally resulted in an admonition or reprimand, See In the Matter of Dennis Joy, DRB 97-105 (1997) (admonition); In re Hamilton, 147 N.J. 459 (1997) (reprimand for lack of diligence, failure to communicate and failure to cooperate with disciplinary authorities); In re Gordon, 139 N.J. 606 (1995) (reprimand for lack of diligence and failure to communicate); In re Carmichael, 139 N.J. 390 (1995) (reprimand for lack of

diligence and failure to communicate).

Accordingly, the Board unanimously determined to reprimand respondent.

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

Dated: 6/29/98

By: 

LEE M. HYMERLING

Chair

Disciplinary Review Board