

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 96-159

IN THE MATTER OF :
 :
JAY G. HELT :
 :
AN ATTORNEY AT LAW :

 :

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

Decided: December 4, 1996

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

This matter was before the Board based on a recommendation for discipline by the District IX Ethics Committee ("DEC"), following respondent's failure to file an answer to the formal complaint. Service of the complaint was made by regular mail and certified mail. The record reflects that the notice was accepted by M. Gerding, respondent's staff member. Pursuant to R. 1:20-4(f)(1), the DEC certified the record directly to the Board for the imposition of discipline.

The formal complaint charged respondent with failure to turn over files, in violation of RPC 1.16(d). The Board found that respondent also violated RPC 8.1(b).

Respondent was admitted to the New Jersey bar in 1983. Respondent was privately reprimanded on December 23, 1986, for unethical conduct arising out of his representation in a matrimonial action. Specifically, respondent failed to sign a retainer agreement, failed to keep

his client reasonably informed about the status of the case and failed to respond to the client's requests for copies of pertinent documents. Additionally, respondent failed to provide a detailed accounting of fees, despite repeated requests by the client and failed to communicate with his client, in writing, concerning his fees.

In the instant matter, respondent represented Dr. Joseph Perry after Dr. Perry's lawyer retired and respondent took over her clients and files. Dr. Perry delivered to respondent documents relating to his accounts payable, New Jersey payroll tax delinquencies, bank clearance negotiations, a dispute over Dr. Perry's lease with his landlord, and other personal and business records and papers.

On or about July 21, 1995, Dr. Perry retained a new attorney, Eric J. Goldring, Esq. Mr. Goldring requested respondent to deliver all of Dr. Perry's files and documents, on three occasions, emphasizing the need for pending and active files. Thereafter, respondent surrendered a collection file and a will on August 10, 1995, but no other files were sent to Goldring.

Finally, during a telephone conversation with the DEC investigator, respondent claimed that all of Dr. Perry's files had been delivered either to Dr. Perry or to Goldring. He also stated that he would confirm this statement in writing. No written communication was ever received nor was there any evidence to substantiate respondent's claim.

* * *

Following a de novo review of the record, the Board deemed the allegations contained in the complaint admitted. The record reflects clear and convincing evidence that respondent

engaged in unethical conduct by failing to turn over files requested by both his former client and new counsel.


The only remaining issue is the appropriate discipline to be imposed. In the past, conduct similar to that displayed by respondent has resulted in an admonition. See, e.g., In the Matter of Howard M. Dorian, Docket No. DRB 95-216 (August 1, 1995) and In the Matter of John J. Dudas, Jr., Docket No. DRB 95-383 (November 30, 1995).

Here, respondent ignored the numerous requests of both Dr. Perry and Mr. Goldring to turn over files. Additionally, respondent represented to the DEC that he had sent the files to either Dr. Perry or Mr. Goldring, when in fact he knew this not to be the case. Therefore, the Board found that respondent also failed to cooperate with disciplinary authorities, in violation of RPC 8.1(b). Moreover, as respondent was issued a private reprimand for similar behavior nearly ten years earlier, it is obvious that he did not learn from his past mistakes.

In light of the foregoing, the Board unanimously determined that respondent be reprimanded. Two members did not participate.

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

Dated: 12/4/96

By: 
Lee M. Hymerling
Chair
Disciplinary Review Board