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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 92-361

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IN THE MATTER OF :  
DAVID P. HURWITZ :  
AN ATTORNEY AT LAW :

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Decision and Recommendation  
of the  
Disciplinary Review Board

Argued: November 18, 1992

Decided: April 19, 1993

Richard J. Engelhardt appeared on behalf of the Office of Attorney Ethics.

Respondent did not appear for oral argument.<sup>1</sup>

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

This matter is before the Board on a Motion for Reciprocal Discipline filed by the Office of Attorney Ethics ("OAE"). R.1:20-7. The motion was based on respondent's temporary suspension from the practice of law in the State of New York for failure to cooperate with the New York Committee on Professional Standards, Third Judicial Department.

Respondent was admitted to the New Jersey and New York bars in 1986 and 1988, respectively. His suspension originated from a grievance filed with the New York disciplinary authorities, in January 1992, by a former client, June Kawai Higdon. In response

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<sup>1</sup> Notice of the hearing was sent by certified mail to respondent's office and home addresses. Signed certified receipts were received from both.

to the grievance, on January 23, 1992, staff attorney Rita K. Pickett of the Committee on Professional Standards requested a reply from respondent within twenty days. Respondent did not respond to that request or to any of the follow-up letters sent to him. On March 27, 1992, the Supreme Court of New York, Appellate Division, Third Department, issued an order to show cause why respondent should not appear before the Committee, accompanied by all documents related to the Higdon matter.

On April 14, 1992, attorney Pickett's motion was granted by default. Soon thereafter, on April 21, 1992, respondent was ordered to appear before the Committee, with his records, on May 13, 1992. He disregarded that order as well and made no appearance. Hence, on June 1, 1992, the Third Department entered an order to show cause on June 22, 1992 why respondent should not be suspended from the practice of law in New York, pending his compliance with the April 21, 1992 order. Respondent neither appeared at the hearing, nor replied to a subsequent warning letter sent by the Clerk of the Third Department, dated June 24, 1992, requesting his response to the motion for his suspension by July 3, 1992.

Consequently, on July 24, 1992, finding respondent's indifference for his "fate" as an attorney and disrespect for the Court's disciplinary authority inexcusable, a Memorandum and Order was entered suspending him until such time as he complied with the April 21, 1992 order.

The OAE requests that reciprocal discipline issue and that

respondent be suspended from the practice of law in New Jersey and be ineligible for reinstatement until readmitted to the practice of law in New York.

CONCLUSION AND RECOMMENDATION

Upon a review of the full record, the Board recommends that the OAE's motion be granted. Respondent has not disputed the factual findings of the New York Supreme Court. Hence, the Board adopts those findings. In re Pavilonis, 98 N.J. 36, 40 (1984); In re Tumini, 95 N.J. 18, 21 (1979); In re Kaufman, 81 N.J. 300, 302 (1979).

Reciprocal disciplinary proceedings in New Jersey are governed by R.1:20-7(d), which directs that;

- (d) The Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record upon which the discipline in another jurisdiction was predicated that it clearly appears that:
- (1) the disciplinary order of the foreign jurisdiction was not entered;
  - (2) the disciplinary order of the foreign jurisdiction does not apply to the respondent;
  - (3) the disciplinary order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;
  - (4) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
  - (5) the misconduct established warrants substantially different discipline [Emphasis added.]

In this instance, the record does not demonstrate any of the conditions set forth above to recommend a measure of discipline different from that imposed in New York. Unless good reason to the


contrary exists, the disciplinary actions of New Jersey will customarily comport with that imposed in the other jurisdiction. In re Kaufman, supra, 81 N.J. at 303.

Indeed, in New Jersey, an attorney's disregard for attorney disciplinary authorities and failure to cooperate in ethics investigations has led to the imposition of suspension of a period of three months, In re Beck, 127 N.J. 391 (1992), as well as a temporary suspension, In re Lucid, N.J. (1992).

Accordingly, the Board unanimously recommends that respondent be suspended from the practice of law in New Jersey and that he be ineligible to apply for restoration to the practice until such time as he has been reinstated in New York. One member did not participate.

The Board further recommends that respondent be required to reimburse the Ethics Financial Committee for administrative costs.

Dated: 4/19/93

By:   
Raymond R. Trombadoro  
Chair  
Disciplinary Review Board