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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 90-233

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IN THE MATTER OF :  
MILLARD BLAKE, :  
AN ATTORNEY AT LAW :  
\_\_\_\_\_

Decision and Recommendation  
of the  
Disciplinary Review Board

Argued: January 16, 1991  
Decided: June 28, 1991

Charles H. Mandell appeared on behalf of the District IIIA Ethics Committee.

James J. McGuire, Sr. appeared on behalf of respondent.

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

This matter is before the Board based upon a recommendation for a private reprimand filed by the District IIIA Ethics Committee, which the Board determined to call on for hearing.

Respondent was admitted to the practice of law in New Jersey in 1974. He is currently not engaged in the practice of law. On or about March 21, 1985, respondent was retained by Valerie J. Wilson (then Valerie J. Hunt), to represent her in a matrimonial action. The agreed upon fee in the matter was \$875, of which respondent received \$800 in four payments. Respondent entered his appearance in the matter by filing a complaint, and continued to work on Wilson's matter, in that he prepared a case information statement, executed a consent order, received the answer to the

complaint, executed a case management order, and prepared answers to interrogatories. A tentative settlement was agreed upon by respondent and Wilson's spouse's counsel. There are no questions as to the quality of respondent's representation of Wilson during this time. However, without notice to his client, to his adversary, or to the court, respondent closed his law office and could not be located.

The committee found that Wilson had attempted to communicate with respondent about a court appearance scheduled for September 10, 1985, and was unable to locate him. On August 8, 1985, Wilson wrote to Superior Court Judge Rosalie B. Cooper, advising her that she was unable to locate respondent. Judge Cooper appointed Steven Zabarsky, Esquire, to represent Wilson in the pending matrimonial matter. Zabarsky, who testified before the committee, indicated that he believed there had been no further communication between respondent and Wilson, and that he himself had not attempted to communicate with respondent. To the best of Zabarsky's knowledge, respondent took no action to determine the status of Wilson's matter, even though he remained the attorney of record.

Respondent failed to appear before the committee. Evidence was presented of the numerous attempts to contact him, made by Robert J. Haas, an investigator with the Office of Attorney Ethics. Letters were sent to respondent at various addresses, all of which were returned as undeliverable. In addition, notices of the hearing before the committee were published in the Trenton Times and in the Atlantic City Press. The committee found that there had

been adequate notice of the hearing.

The committee found that respondent violated RPC 1.1(a), "by virtue of the fact that he left the client to her own devices with an impending court date with no notice to her or communication with her regarding the outcome of the matter for which he was retained" (Panel report at 7). The committee also found a violation of RPC 1.3, in that respondent displayed a lack of diligence and promptness in his representation, by his abandonment of his client. In addition, the committee found a violation of RPC 1.16, in that respondent wrongfully terminated his representation of Wilson.

The committee recommended that respondent receive only a private reprimand, based upon the adequacy of the service provided by respondent prior to his departure, and upon the lack of prejudice to Wilson.<sup>1</sup>

#### CONCLUSION AND RECOMMENDATION

Upon a de novo review of the full record, the Board is satisfied that the conclusions of the ethics committee in finding respondent guilty of unethical conduct are fully supported by clear and convincing evidence.

It is clear that respondent violated RPC 1.4(a), in that he failed to communicate with Wilson after he abandoned his practice,

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<sup>1</sup>Wilson was, in fact, required to pay an additional \$797 to have her matter completed (Board Transcript 1/16/91 3).

leaving her without counsel during her matrimonial matter. An attorney's failure to communicate with a client diminishes the confidence the public should have in members of the bar. In re Stein, 97 N.J. 550, 563 (1984).

Once retained, respondent owed his client a duty to protect her interests diligently. Matter of Smith, 101 N.J. 568, 571 (1986); Matter of Schwartz, 99 N.J. 510, 518 (1985); In re Goldstaub, 90 N.J. 115 (1982). Although respondent's services to Wilson, prior to his "departure", may have been of an acceptable quality, his actions in abandoning his client, particularly before an impending court appearance, are clearly unacceptable and violative of RPC 1.1(a) and RPC 1.3. The Board also agrees with the committee's finding that respondent violated RPC 1.16 by wrongfully terminating his representation of Wilson.

Given this clear and convincing evidence of unethical conduct, the remaining question is the appropriate quantum of discipline. In assessing the appropriate discipline, the Board remains mindful that its purpose is not punishment of the attorney, but "protection of the public against the attorney who cannot or will not measure up to the high standards of responsibility required of every member of the profession." In re Getchius, 88 N.J. 269, 276 (1982), citing In re Stout, 76 N.J. 308, 315 (1978). The severity of the discipline imposed must comport with the seriousness of the ethical infraction in light of all relevant circumstances. In re Nigohosian, 86 N.J. 308, 315 (1982). Mitigating factors are, therefore, relevant and may be considered. In re Hughes, 90 N.J.

32, 36 (1982).

In mitigation, the Board has considered respondent's certification to the Board, in which he stated that he suffers from alcoholism and explained the steps he has taken in the past to get help. In addition, respondent explained that he was unaware of the ethics proceedings against him until 1989. Respondent appeared before the Board and his counsel noted that respondent has not practiced law since 1985, due largely to his alcohol dependency, and that respondent is currently disabled and unable to practice law.<sup>2</sup> Respondent has provided a report from his counselor at a residential addiction treatment facility in Boca Raton, Florida, where he is currently a patient. That counselor's report notes that respondent is being treated for depression "trying to prevent a chronic relapse pattern" for respondent's alcoholism.

In spite of these mitigating factors, respondent's disregard of his ethical responsibilities to his client cannot be countenanced. In determining the quantum of discipline, Matter of Stewart, 118 N.J. 423 (1990) is relevant. The attorney in Stewart was publicly reprimanded for gross neglect in an estate matter and for failing to keep his client informed about its status. The attorney had received a private reprimand ten years earlier for personally paying monies toward the settlement of an insurance claim, and offering to do the same in a matrimonial matter.

The Board has taken into account respondent's prior private

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<sup>2</sup>Respondent has not paid the Clients' Security Fund's (now the New Jersey Lawyers Fund for Client Protection) annual assessment since 1985.


reprimand for filing false travel vouchers while employed by the Office of the Attorney General. The Board unanimously recommends that respondent be publicly reprimanded and placed on disability inactive status until he is able to prove that he is medically fit to practice law. The Board also recommends that, at such time as respondent does become fit to practice law, he practice under the guidance of a proctor for an indefinite period of time.

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

Dated: \_\_\_\_\_

6/28/91

By: \_\_\_\_\_



Raymond R. Trombadore  
Chair  
Disciplinary Review Board