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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 96-222 and 96-226

IN THE MATTER OF  
ARTHUR N. MARTIN  
AN ATTORNEY AT LAW

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

Decided: September 30, 1997

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 VA Ethics Committee ("DEC") certified the record in these matters directly to the Board for the imposition of discipline, following respondent's failure to file answers to the formal ethics complaints. Service of the complaint in the matter in Docket No. DRB 96-222 was made by certified mail and regular mail at his last known office address, 38 East Park Place, Newark, New Jersey 07102. The return receipt card, which was signed illegibly, indicated delivery on March 5, 1996. The regular mail was not returned. A second letter was sent to respondent at the same address, by both certified and regular mail, advising him of the consequences of his failure to file an answer to the complaint. The return receipt card was again signed illegibly and dated April 18, 1996. The regular mail was not returned.

Service of the complaint in the matter in Docket No. DRB 96-226 was made by certified mail and regular mail at the same address as above. The return receipt card was signed by respondent and dated October 16, 1995. A second letter was sent to respondent by both certified mail and

regular mail. The return receipt card was illegibly signed and dated March 6, 1996. In both cases, the regular mail was not returned.

Respondent was admitted to the New Jersey bar in 1973. He has an extensive history of discipline, which includes a six-month suspension on April 9, 1990 for gross neglect, pattern of neglect, negotiating a settlement without the client's authorization, advancing money to a client for personal expenses and displaying a gun during client meetings. In January 1991, respondent was suspended for three months for failure to return an unearned portion of a fee, failure to communicate and failure to cooperate in three matters. Finally, respondent received a reprimand for gross neglect, pattern of neglect and failure to communicate, imposed on May 25, 1993.

The complaints filed in the two matters now before the Board charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate), RPC 1.5 (charge of unreasonable fees), RPC 8.1(b) (failure to cooperate with disciplinary authorities) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation).

**Docket No. DRB 96-222**

Respondent was retained by Ned Sutton in 1992 to represent him in an age discrimination suit. A verbal fee agreement was reached, the terms of which included the payment of a \$10,000 retainer to respondent on the condition that the funds be returned to Sutton upon successful completion of the case. Respondent told Sutton that he would seek counsel fees from the defendant in the matter.

The matter was successfully completed on January 4, 1994. Sutton was awarded compensatory and punitive damages. Respondent was awarded counsel fees in the amount of \$20,000. Contrary to the verbal agreement, however, respondent returned only \$5,000 of the original \$10,000 retainer to Sutton. Sutton has contacted respondent on numerous occasions requesting the return of the remaining \$5,000. Although respondent admitted that he owes Sutton the money and represented that the funds were forthcoming, he has not refunded the balance to Sutton.

**Docket No. DRB 96-226**

**I. Abraham Matter (District Docket No. VA-90-27E)**

The OAE was unable to fully investigate the charges in this matter due to the failure to cooperate of both Aleyamma Abraham (grievant) and respondent. Consequently, the underlying grievance was apparently dismissed at the investigation level. The complaint, however, charged respondent with failure to cooperate with the investigation, in violation of RPC 8.1(b).

**II. Eliga Matter (District Docket No. VA-94-007E)**

Respondent was retained by Aretha W. Eliga to act as co-counsel in connection with an employment discrimination and harassment claim in 1985. In 1986, respondent's co-counsel, Louis E. Greenleaf, Esq., advised Eliga that he was unable to continue the representation, leaving respondent as sole counsel in the matter. Thereafter, respondent failed to file a complaint until April 3, 1990. On April 19, 1990, respondent was suspended for what was ultimately a total period of nine months. Respondent then assigned responsibility for Eliga's case to Carolyn Wright-Bing,

Esq., an associate in his office. Approximately one year later, on April 25, 1991, the case was dismissed without prejudice as an inactive case.

When respondent was reinstated to the practice of law in September 1991, he decided not to represent Eliga, but failed to so inform her. In October 1991, Wright-Bing left respondent's employ. Thereafter, Eliga attempted to contact respondent on numerous occasions to inquire about the status of the case, to no avail. Eliga was unaware of the dismissal or Wright-Bing's departure from respondent's office until August 1992, when Eliga saw respondent on the street. In response to Eliga's inquiries about the status of her case, respondent informed her that "he had no right or obligation to discuss her case with her since he no longer represented her."

As in all other matters, respondent failed to reply to the OAE's request for information.

### **III. Colley Matter (District Docket No. VA-94-76E)**

Respondent was retained by Thomas Colley in May 1993 to represent him in connection with a suit for wrongful termination of employment. Although respondent wrote to Colley's union and to Colley on two occasions, he failed to perform any further work in the matter. Thereafter, respondent failed to reply to Colley's numerous telephone calls and letters.

### **IV. Turner Matter (District Docket No. VA-95-18E)**

Respondent was retained by Demi Turner, M.D. in October 1992 to defend him in a civil action to collect on a mortgage loan obligation. In May 1993, respondent filed an answer and counterclaim in Turner's behalf. Thereafter, in June 1993, interrogatories were propounded upon Turner. As a result of respondent's failure to provide answers to the interrogatories, the court

ordered Turner's answer stricken and the counterclaim dismissed. Respondent failed to comply with Turner's requests for information. Turner did not learn of a default judgment against him until March 1994, when he received copies of a motion and certification, seeking a writ of execution against his bank account. Turner then began receiving calls from collection agencies on a regular basis. Also, a notice of levy was posted at both his home and office.

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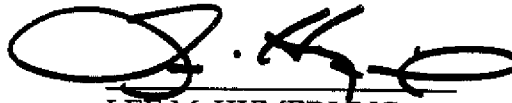
Following a de novo review of the record, the Board deemed the allegations contained in the complaint admitted. The record contains sufficient evidence of respondent's unethical conduct. Among the most egregious of respondent's numerous violations was the misconduct involved in Docket No. DRB 96-222 (the Sutton matter). There, respondent failed to refund monies to the client, despite his knowledge and admission that it was his duty to do so. The complaint did not charge, nor did the Board find, that respondent's actions amounted to knowing misappropriation. Nevertheless, respondent's actions in this matter, coupled with that of the other matters, were very serious and deserving of a term of suspension.

Similar misconduct has resulted in a one-year suspension. See, e.g., In re Herron, 140 N.J. 229 (1995) (one-year suspension for lack of diligence, failure to communicate, pattern of neglect, gross neglect, misrepresentation, failure to turn over client files, failure to notify client of receipt of funds and failure to cooperate with disciplinary authorities); In re Rosenthal, 118 N.J. 454 (1990) (one-year suspension for pattern of neglect, failure to refund retainer, failure to communicate, misrepresentations and failure to cooperate with disciplinary authorities).

In light of the foregoing, a six-member majority of the Board determined to suspend respondent for one year. Reinstatement is to be conditioned on the presentation of proof of restitution to Ned Sutton of an additional \$5,000 and on the conclusion of all pending matters against respondent. In addition, after reinstatement, respondent is to practice under the supervision of a proctor for a period of one year. Two members dissented, voting for disbarment. One member did not participate.

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

Dated: 9/30/97



LEE M. HYMERLING  
Chair  
Disciplinary Review Board