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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 96-389

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IN THE MATTER OF :  
 :  
DOUGLAS R. SMITH :  
 :  
AN ATTORNEY AT LAW :  
\_\_\_\_\_ :

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

Decided: July 14, 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 IIA 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. Service of the complaint was made by certified mail, with an October 5, 1995 delivery date. The recipient's signature is clearly that of respondent, Douglas Smith.

Respondent was admitted to the New Jersey bar in 1974. He has a significant ethics history, having been disciplined on three separate occasions since 1993. On November 23, 1993, he was privately reprimanded for misconduct in two matters, which included lack of diligence and failure to cooperate with disciplinary authorities. On March 14, 1994 he was suspended for one year for gross neglect, misrepresentations and conflict of interest in a business relationship with a client.

Thereafter, by order dated May 18, 1995, respondent was again suspended, this time for six months, for lack of diligence and yet another instance of failure to cooperate with the disciplinary authorities.

The formal complaint charged respondent with violations of RPC 1.1 (gross neglect), RPC 1.1(b) (pattern of neglect), RPC 1.2 (failure to abide by client's decision), RPC 1.3 (lack of diligence), RPC 1.4 (failure to keep client adequately informed), and RPC 3.2 (failure to expedite litigation).

The formal complaint charged respondent with improper conduct with regard to his representation of Robert P. Hulbert. Hulbert had a claim against Amoco Transmission and retained respondent to represent him in that matter. Despite Hulbert's repeated attempts to obtain a status report on the file, respondent failed to communicate with Hulbert. He did advise Hulbert that he had filed suit in the matter. However, in spite of promises made to his client to complete the file, respondent did nothing. Hulbert has not recovered his automobile or received money damages.

Hulbert initially filed a grievance in 1992. The grievance was dismissed without prejudice, based upon respondent's promises that he would complete the work. When respondent failed to act as he had promised, Hulbert filed a second grievance in early 1995. Although a specific charge of violation of RPC 8.1(b) was not made, the complaint does note that respondent failed to cooperate with the investigator, in that he never replied to the investigator's inquiries.

The record indicates that grievant ultimately did obtain a copy of his file from respondent's former firm. There is no indication as to whether grievant received any relief in his action against Amoco Transmission.

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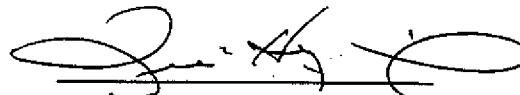
Following a de novo review of the record, the Board deemed the allegations contained in the complaint admitted. R. 1:20-4(f)(1). The record contains sufficient evidence of respondent's unethical conduct.

This leaves only the issue of appropriate discipline. In the past, similar misconduct has resulted in a reprimand. See In re Stewart, 118 N.J. 429 (1990) (where attorney was reprimanded for grossly neglecting an estate matter and failing to keep a client reasonably informed about the status of a case); In re Beck, 118 N.J. 561 (1990) (where attorney was reprimanded for engaging in a pattern of neglect in the handling of three matters, failing to adequately communicate with these clients and failing to expedite litigation). In imposing only a reprimand in this matter, the Board considered that respondent's ethics infractions were identical to, and occurred during the same time period as the misconduct for which he received a six-month suspension. Had the matters been consolidated, that measure of discipline would not have been elevated. Nevertheless, respondent's misconduct cannot be ignored and should be met with some form of discipline. In addition, he failed to cooperate with the ethics system by not filing an answer to the complaint.

In light of the foregoing, the Board unanimously determined that a reprimand is the appropriate discipline. Two members did not participate.

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

Dated: 7/14/97

  
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LEE M. HYMERLING  
Chair  
Disciplinary Review Board