

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 13-412
District Docket No. IIIIB-2013-0012E

IN THE MATTER OF
ANNE P. CATALINE
AN ATTORNEY AT LAW

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Decision

Argued: March 20, 2014

Decided: June 13, 2014

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

This matter was before us on a certification of default filed by the District IIIB Ethics Committee (DEC), pursuant to R. 1:20-4(f). The complaint charged respondent with gross neglect (RPC 1.1(a)), lack of diligence (RPC 1.3), failure to communicate with the client (RPC 1.4(b)), failure to expedite litigation (RPC 3.2), and failure to cooperate with the investigation of an ethics grievance (RPC 8.1(b)). We determine to impose a reprimand.

Respondent was admitted to the New Jersey bar in 1994. She has no prior discipline. On September 30, 2013, she was placed on the New Jersey Lawyers' Fund for Client Protection list of ineligible attorneys for failure to pay the annual attorney assessment. She remains ineligible to date.

Service of process was proper in this matter. On September 27, 2013, the DEC sent copies of the complaint, by regular and certified mail, to respondent's last known home address, listed in the attorney registration records. The certified mail receipt was returned with an illegible signature. The regular mail was not returned.

On October 22, 2013, the DEC sent a second letter to the same address, by certified and regular mail, advising respondent that, if she did not file a verified answer within five days of the date of the letter, the allegations of the complaint would be deemed admitted and the record would be certified directly to us for the imposition of discipline. The certified mail receipt was returned, having been signed by "M.D. Cataline." The regular mail was not returned.

As of November 12, 2013, the date of the certification of the record, respondent had not filed an answer to the complaint.

On May 5, 2006, Daron Hough retained respondent to represent him in connection with injuries sustained during a May 5, 2006 "confrontation."

On October 16, 2011, some five years later, Hough sent respondent a letter complaining about her failure, year upon year, to advise him of the status of his case. He also requested monthly updates, a "timeline" regarding the litigation, and a possible date when the matter would be tried. Respondent never replied to that letter or to Hough's multiple telephone messages asking her to contact him.

On October 29, 2011, Hough terminated respondent's representation, in favor of another law firm. Only then did he learn that respondent had failed to file a lawsuit and that his claim had been foreclosed by the statute of limitations.

By letters dated November 1 and 10, 2011, Hough's new attorneys requested respondent to contact them to discuss the status of the case. They suggested that she consider contacting her malpractice carrier, in the event that she had not filed suit.

On November 23, 2011, Hough sent a final letter to respondent, requesting a reply to his prior correspondence and telephone messages left for her. Hearing nothing from

respondent, Hough filed a complaint for malpractice against respondent and her law firm. On January 18, 2013, judgment was entered against respondent and "Anne Cataline Law offices, LLC."

Finally, respondent failed to reply to "the telephone call and letters from the Committee, seeking a response" to the grievance.

The facts recited in the complaint support the charges of unethical conduct. Respondent's failure to file an answer is deemed an admission that the allegations of the complaint are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f).

In 2006, respondent was retained to file a suit for Hough's personal injuries, sustained during a "confrontation." For the next five years, respondent did nothing to press her client's claim. In 2011, Hough's subsequent attorneys discovered that respondent had never filed a complaint and that the statute of limitations had run on Hough's claim. Respondent's failure to act on her client's behalf constituted gross neglect (RPC 1.1(a)) and lack of diligence (RPC 1.3).

Respondent also failed to keep her client informed about the status of the case, failed to reply to his telephone messages and letters, as well as letters from subsequent

counsel, and failed to comply with the ethics investigator's requests for information about the grievance, violations of RPC 1.4(b) and RPC 8.1(b), respectively.

We dismissed the RPC 3.2 charge as inapplicable, inasmuch as respondent never initiated litigation.

Generally, in default matters, reprimands are imposed for similar violations. See, e.g., In re Rak, 203 N.J. 381 (2010) (attorney guilty of gross neglect, lack of diligence, failure to communicate with the client, and failure to cooperate with the investigation of the grievance); In re Swidler, 192 N.J. 80 (2007) (attorney grossly neglected one matter and failed to cooperate with the investigation of an ethics grievance); In re Van de Castle, 180 N.J. 117 (2004) (attorney grossly neglected an estate matter, failed to cooperate with disciplinary authorities, and failed to communicate with the client); In re Goodman, 165 N.J. 567 (2000) (attorney failed to cooperate with disciplinary authorities and grossly neglected a personal injury case for seven years by failing to file a complaint or to otherwise prosecute the client's claim; the attorney also failed to keep the client informed about the status of the matter; prior private reprimand (now an admonition)); and In re Lampidis, 153 N.J. 367 (1998) (attorney failed to pursue

discovery in a personal injury lawsuit or to otherwise protect his client's interests and failed to comply with the ethics investigator's requests for information about the grievance; the attorney also failed to communicate with the client).

The only mitigating factor here is that respondent's lack of prior discipline seems to indicate that her conduct was aberrational. But attorneys Rak, Swidler, Van de Castle, and Lampidis, too, had no ethics history. They received a reprimand. We determine that, like those attorneys, respondent must be reprimanded as well.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Bonnie C. Frost, Chair

By: Ellen A. Brodsky
Ellen A. Brodsky
Chief Counsel


SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Anne P. Cataline
Docket No. DRB 13-412

Decided: June 13, 2014

Disposition: Reprimand

<i>Members</i>	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Frost			X			
Baugh			X			
Clark			X			
Doremus			X			
Gallipoli			X			
Hoberman			X			
Singer			X			
Yamner			X			
Zmirich			X			
Total:			9			


Ellen A. Brodsky
Chief Counsel