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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 99-256

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IN THE MATTER OF :  
CHARLES R. BREINGAN :  
AN ATTORNEY AT LAW :

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

Decided: May 22, 2000

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

Pursuant to R. 1:20-4(f), the District IIIB Ethics Committee ("DEC") certified the record directly to us for the imposition of discipline, following respondent's failure to file an answer to the formal ethics complaint.

On May 14, 1999 a copy of the complaint was sent to respondent's last known office address by regular and certified mail. The certified mail receipt was returned, indicating delivery on May 19, 1999. The signature is illegible. The regular mail was not returned.

Upon respondent's failure to file an answer to the formal ethics complaint within the specified period, the DEC sent him a second letter by regular and certified mail, dated June 24, 1999, notifying respondent that failure to file an answer within five days would

constitute an admission of all the charges and could result in his immediate temporary suspension. The certified mail receipt was returned, indicating delivery on June 26, 1999. That signature is illegible. The regular mail was not returned.

Respondent was admitted to the New Jersey bar in 1983. He has an extensive ethics history.

In December 1986, respondent was privately reprimanded for buying law books with a check that was twice returned by the bank due to insufficient funds and for misrepresenting to the payee that a replacement check had been issued. In the Matter of Charles R. Breingan, Docket No. DRB 85-251 (December 18, 1986). In July 1990, respondent was publicly reprimanded for unethical conduct in three matters, including failure to communicate with clients, lack of diligence, pattern of neglect and failure to cooperate with disciplinary authorities. In re Breingan, 121 N.J. 161 (1990). Effective May, 1, 1999, respondent was suspended from the practice of law for three months for conduct that included gross neglect, failure to keep a client reasonably informed and to comply with reasonable requests for information, failure to return an unearned retainer, failure to cooperate with disciplinary authorities and conduct involving dishonesty, deceit, fraud or misrepresentation. In re Breingan, 158 N.J. 23 (1999). Finally, by Order of the Supreme Court issued the same day as the preceding case, respondent was suspended for an additional three months, effective August 1, 1999, for similar misconduct in another matter. In re Breingan, 158 N.J. 25 (1999).

According to the complaint, respondent was paid a \$200 retainer in May 1997 for the defense of a municipal court traffic violation. The complaint does not specify who paid the retainer. The complaint then alleges that, on December 9, 1997, respondent was served by regular and certified mail with a grievance filed by James M. Williams. Respondent failed to reply to the DEC's request for information about the grievance. The complaint is silent as to the contents of the Williams grievance.

On March 2, 1998, respondent was again served with the Williams grievance by regular and certified mail. He acknowledged service of the certified mail. The complaint does not indicate what happened to the regular mail. Respondent again failed to reply to the DEC.

The DEC investigator again attempted contact with respondent by regular mail on April 28, 1998 and March 22, 1999. The second of these two letters warned respondent that his "lack of response would be deemed a violation of RPC 8.1(b)." Respondent did not reply to either of these letters.

The complaint charges that respondent's conduct constituted a failure to cooperate with disciplinary authorities, in violation of RPC 8.1(b).

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Service of process was proper in this matter. Following a review of the complaint, we find that the facts recited therein support a finding of unethical conduct. Because of

respondent's failure to file an answer, the allegations of the complaint are deemed admitted.

R. 1:20-4(f)(1).

Respondent's failure to reply to the DEC's numerous attempts to contact him in connection with the Williams grievance constitutes a failure to cooperate with the disciplinary authorities, in violation of RPC 8.1(b).

Ordinarily, for conduct of this nature either an admonition or a reprimand would be the proper discipline. See, e.g., In the Matter of Arnold Abramowitz, Docket No. DRB 97-150 (July 25, 1997) (admonition where attorney failed to cooperate with reasonable requests for information by the DEC); In the Matter of Mark D. Cubberly, Docket No. DRB 96-090 (April 19, 1996) (admonition where attorney failed to cooperate with disciplinary authorities during their investigation). In re Macias, 121 N.J. 243 (1990) (reprimand where respondent failed to cooperate with the Random Audit Compliance Program by correcting accounting deficiencies required to bring him into compliance with the record keeping rules and failed to file a formal answer to the ethics complaint) and In re Burnett-Baker, 153 N.J. 357 (1998) (reprimand for respondent who failed to cooperate with a district ethics committee during the investigation and processing of a grievance. Respondent had a prior reprimand and a three-month suspension). However, because of the default nature of this proceeding, respondent's extensive ethics history and his blatant pattern of disregard for the disciplinary system, enhanced discipline is required. After consideration of the relevant circumstances, a six-member majority was convinced that anything less than a six-month suspension would

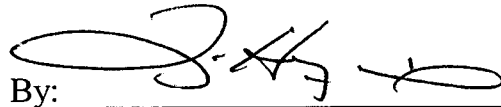
be ineffective to instill in this respondent the need to conform to the standards of the legal profession. Three members voted to suspend respondent for three months.

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

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

5/22/00

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



LEE M. HYMERLING  
Chair  
Disciplinary Review Board

**SUPREME COURT OF NEW JERSEY**

**DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

**In the Matter of Charles R. Breingan  
Docket No. DRB 99-256**

**Decided: May 22, 2000**

**Disposition: Six-Month Suspension**

Members	Disbar	Six-Month Suspension	Three- Month Suspension	Reprimand	Admonition	Disqualified	Did not Participate
Hyerling		x					
Cole		x					
Brody			x				
Boylan			x				
Lolla		x					
Maudsley			x				
Peterson		x					
Schwartz		x					
Wissinger		x					
<b>Total:</b>		6	3				

*Robyn M. Hill* 6/19/00  
Robyn M. Hill  
Chief Counsel