

36

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 99-234

IN THE MATTER OF
RICHARD J. CARROLL
AN ATTORNEY AT LAW

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

Decided: July 17, 2000

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

Pursuant to R. 1:20-4(f)(1), the Office of Attorney Ethics ("OAE") 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 December 15, 1998 a copy of the complaint was sent to respondent's last known office address by certified mail, return receipt requested. The certified mail receipt was returned signed by "R. Castillo," presumably an employee or agent of respondent.

On March 30, 1999 an amended complaint was sent by certified mail to that same address. The certified mail receipt was returned signed by "M. Coll," again, presumably an employee of respondent.

Respondent was admitted to the New Jersey bar in 1970. He currently maintains an office for the practice of law in Secaucus, New Jersey.

Respondent has been disciplined on four prior occasions. In December 1984, he was privately reprimanded for his failure to carry out a contract of employment. In the Matter of Richard J. Carroll, Docket No. DRB 83-323 (December 4, 1984). In June 1995, he was admonished for conduct that included lack of diligence, failure to communicate, failure to turn over a client's file to new counsel and failure to cooperate with the district ethics committee. In the Matter of Richard J. Carroll, Docket No. DRB 95-017 (June 25, 1995). In October 1997, respondent was again admonished by the Board for conduct that included lack of diligence and failure to adequately communicate with a client. In the Matter of Richard Carroll, Docket No. DRB 97-289 (October 27, 1997).

Finally, effective January 3, 2000, respondent was suspended for three months in a default matter that included violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence) and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

* * *

According to the original complaint, respondent was notified by letter dated February 20, 1997 that he had been selected for a random audit of his attorney trust and business account records, as part of the OAE's Random Audit Compliance Program. The letter

further informed respondent that the audit would take place on March 13, 1997, at his law office.

The audit showed nine recordkeeping deficiencies. By letter dated May 23, 1997, the OAE requested that respondent provide a detailed response indicating that he had corrected each deficiency. Additionally, respondent was directed to complete and return a certification form indicating that his two trust accounts were reconciled with current bank statements.

The complaint charged respondent with failure to provide the requested information to the OAE, in violation of RPC 8.1(b) (failure to cooperate with disciplinary authorities), despite four written requests and several additional telephone requests.

An amended complaint filed by the OAE incorporates all of the general allegations listed in the original complaint and retains the charge that respondent violated RPC 8.1(b). A second count was added, charging respondent with a violation of RPC 1.15(d) and R. 1:21-6(h), for his failure to submit to the OAE a certification about the correction of the recordkeeping deficiencies.

* * *

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).

The OAE's audit revealed numerous accounting improprieties in respondent's attorney records. In addition, respondent failed to correct the noted recordkeeping deficiencies, as requested by the OAE. Respondent's conduct in this regard violated R. 1:21-6 and RPC 1.15(d).

Also, respondent's failure to reply to the OAE's numerous requests for information and his failure to submit the certification regarding his trust accounts constituted a failure to cooperate with disciplinary authorities, in violation of RPC 8.1(b).

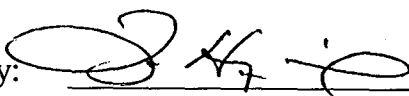
Ordinarily, for conduct of this nature in a default matter a reprimand would be the proper discipline. See, e.g., In re Schor, 154 N.J. 81 (1998) (reprimand for failure to cooperate with the OAE's Random Audit Program, failure to correct deficiencies cited by the program and failure to cooperate in the prosecution of the disciplinary matter). However, since a reprimand has also been imposed in non-default matters involving similar conduct, a suspension of three months would not be inappropriate in a default matter, where ordinarily the discipline is enhanced. See, e.g., In re Macias, 121 N.J. 243 (1990) (reprimand in non-default matter for failure to cooperate with the OAE in connection with a random audit, in violation of RPC 8.1(b)).

After taking into account respondent's extensive ethics history, we unanimously determined that a three-month suspension is the more appropriate discipline in this matter.

The suspension should start running from April 3, 2000, the expiration date of the three-month suspension imposed in In re Carroll, 162 N.J. 97 (1999).

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

Dated: 7/17/00

By: 

LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of Richard J. Carroll
Docket No. DRB 99-234**

Decided: July 17, 2000

Disposition: Three-month suspension

Members	Disbar	Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hyerling		x					
Cole		x					
Boylan		x					
Brody		x					
Lolla		x					
Maudsley		x					
Peterson		x					
Schwartz		x					
Wissinger		x					
Total:		9					

Robyn M. Hill 8/15/00
Robyn M. Hill
Chief Counsel