



Respondent did not file an answer to the formal ethics complaint. The record was certified directly to the Board for the imposition of discipline, pursuant to R. 1:20-4(f).

Respondent was admitted to the New Jersey bar in 1987. She maintains an office for the practice of law in Newark, Essex County. Respondent has no history of discipline.

The complaint alleges four counts of misconduct, including gross neglect, misrepresentation, failure to maintain a bona fide office, failure to maintain attorney trust and business accounts and practicing law while ineligible.

Count one alleges that Robert Seaman retained Alberta Foster, Esq. to represent him in a personal injury matter arising from a November 21, 1995 incident. In or about early November 1997 respondent replaced Foster. Respondent did not provide Seaman with a written fee agreement. On November 4 and 18, 1997 respondent sent correspondence to USAA Casualty Insurance Company adjuster Robert K. Schueler about Seaman's case. On November 19, 1997 respondent filed suit on Seaman's behalf. Thereafter, Seaman left numerous telephone messages for respondent at a New York phone number she had given him. (It is not clear if it was a residential or office number.) His calls were not returned. On the few occasions Seaman spoke with respondent, she assured him that she was pursuing his claim. Respondent also told Seaman that she was attempting to have his unpaid medical bills paid through his PIP coverage.<sup>1</sup> In fact, respondent failed to serve the complaint, failed

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<sup>1</sup> The investigative report states that Seaman repeatedly reminded respondent that he did not have PIP coverage.

to conduct discovery, failed to conduct settlement negotiations and failed in all respects to prepare the case for trial.

Seaman's case was scheduled to be dismissed for lack of prosecution in August 1998. Respondent received notice of the scheduled dismissal, but did not file an opposing affidavit. On or about September 14, 1998 respondent received notice that the case had been dismissed without prejudice for lack of prosecution. Respondent did not tell Seaman that his case had been dismissed. Furthermore, respondent took no steps to have the case reinstated.

Subsequently, Seaman left twenty to thirty telephone messages for respondent seeking information about his case, to no avail. In November 1998 Seaman asked a friend, Marsha M. Shortell, an attorney admitted to practice in North Carolina, to inquire about the matter on his behalf. Shortell wrote to respondent on November 10, 1998. Respondent did not reply.

In December 1998 Seaman tried to retain new counsel and to that end met with Charles F. Harris, Esq. Harris gave Seaman a copy of the court's document list, which reflected respondent's filing of the complaint in November 1997 and its dismissal in August 1998. Harris also informed Seaman that respondent was ineligible to practice law for failure to pay the annual assessments to the New Jersey Lawyers' Fund for Client Protection ("CPF"). Respondent has been ineligible to practice since September 21, 1998.

On or about January 5, 1999 respondent wrote to Seaman, enclosing "supplemental interrogatories" for him to answer and return to her. Respondent's action was misleading and created the false impression that Seaman's case was continuing.

On an undisclosed date, Seaman retained new counsel. The new attorney requested Seaman's file from respondent, but the attorney's requests were ignored. As a result of respondent's neglect of Seaman's case, his credit history has been adversely affected and he has been sued for non-payment of medical bills stemming from the accident.

Respondent was charged with a violation of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate), RPC 1.5(b) (failure to provide a written fee agreement), RPC 1.16(d) (failure to protect a client's interests upon termination of representation) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

Count two of the complaint alleges that, during a telephone interview with the OAE's investigator, respondent represented that Seaman's case was "close to settlement." Respondent knew that her statement was untrue when she made it. As noted above, Seaman's case had been dismissed in August 1998 for lack of prosecution and there had been no settlement offer made by the defendant's insurance carrier. During a later interview, in reply to a question from the investigator about when she had last spoken to the adjuster about settlement of the claim, respondent stated "four months ago." In response to a question about whether settlement negotiations were ongoing, respondent answered "I believe so." Respondent then retracted her statement about having last spoken to the adjuster four months earlier and said it had been "toward the beginning of the year" (1999). Respondent added that she was not currently involved in any settlement negotiations. When reminded of her earlier representation that the case was "close to settlement," respondent stated that she

believed she had said she was “trying to settle the case” and “she really couldn’t say how close it was to settlement.”

The complaint charged respondent with a violation of RPC 8.4(c). This charge is, however, more appropriately a violation of RPC 8.1(a) (misrepresentation to a disciplinary authority). Since the facts alleged in the complaint gave respondent sufficient notice of the conduct in question, the complaint is deemed amended to allege the more appropriate violation. In re Logan, 70 N.J. 222 (1976).

Count three of the complaint alleges that on July 13, 1999 the OAE investigator visited respondent’s law office address at 38 Vassar Avenue, Newark, New Jersey, at approximately 10:30 a.m. The structure located at that address was “a run-down, two-story, white house.” There was no sign or other external indication that there was a law office at that location. The investigator knocked on both the front and back doors. Neither was answered. The investigator could not gain access to the premises.

During an interview with the investigator, respondent stated that she maintained her office in the basement of her father’s house at 38 Vassar Avenue. Respondent explained that she usually provides the Newark address and telephone number to her clients, along with her New York residence address and telephone number. Respondent stated that there is one telephone line at the Newark address with “different mailboxes on the one number.”

According to respondent, her mail is delivered to the Newark address. She maintains her files at the Newark office when they are not in New York. Respondent stated that she visits the Newark office at least twice a week to get her mail and that she checks her

telephone answering machine daily. Respondent conceded that, when she is not at the Newark office, there is no one available in person or by phone during normal business hours.

The complaint charged respondent with a violation of RPC 5.5(a) (lack of a bona fide office in New Jersey).

The last count of the complaint alleges that respondent was ineligible to practice law from September 1992 through October 16, 1997 for failure to pay the annual assessments to the CPF. On October 16, 1997 respondent paid \$300 to the CPF and was restored to practice. Thereafter, she failed to pay her 1998 annual assessment and again became ineligible to practice law, effective September 21, 1998.

During an interview with the OAE investigator, respondent stated that she "overlooked" the 1998 assessment because she was focusing on a career move. She asserted that she had not intended to practice law while ineligible. During a June 4, 1999<sup>2</sup> telephone conversation with the investigator, respondent admitted that she had practiced law during her current ineligibility and had handled approximately three cases, which were pending as of the date of the formal ethics complaint, August 1999. During a separate interview, respondent stated that she had five pending matters in New Jersey; four of these were personal injury cases referred to her by Alberta Foster, when she closed her practice; the fifth matter was a breach of contract action in which she had been retained in or about early 1999. Furthermore, in approximately July 1998, respondent began doing per diem work for an

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<sup>2</sup>The complaint mistakenly cites the date as June 4, 1998.

attorney. Respondent estimated that she had assisted that attorney on approximately fifteen cases in the past year. On occasion respondent utilized the attorney's conference room for depositions in her own cases.

Finally, respondent admitted that she did not maintain the required New Jersey trust and business accounts, although she was aware that she was required to do so.

The complaint charged respondent with a violation of RPC 5.5(a) (unauthorized practice of law) and RPC 1.15(d) (failure to comply with recordkeeping requirements).

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Following a de novo review of the record, we find that the record contains sufficient evidence of respondent's unethical conduct.

Respondent compiled quite a laundry list of violations: gross neglect, lack of diligence, failure to communicate, failure to provide a written fee agreement, failure to protect a client's interests, failure to maintain a bona fide office, failure to maintain attorney trust and business accounts, misrepresentation to a client, misrepresentation to the disciplinary authorities and practicing law while ineligible.

Respondent is not the first attorney to have acted in this fashion. A six-month suspension was imposed in another default proceeding where the attorney exhibited gross neglect, a pattern of neglect, lack of diligence, failure to communicate, failure to return a client's funds and documents and failure to cooperate. In re West, 156 N.J. 451 (1998). In three matters West took retainers, took no action in the matters, did not return the clients'

calls and failed to return their retainers. West's ethics history (admonition and three-month suspension) was taken into consideration as an aggravating factor.

A six-month suspension was also imposed where an attorney, in four matters, engaged in gross neglect, failed to act with due diligence, failed to communicate, charged an unreasonable fee, failed to have a written retainer agreement, failed to promptly deliver client funds, failed to maintain a bona fide office and failed to cooperate with the district ethics committee. In re Thomas, 149 N.J. 648 (1997).

Respondent's misconduct was as serious as that of West and Thomas. True, this respondent's ethics infractions encompassed only one client matter and she has no history of discipline. However, in addition to her egregious neglect of Seaman's claim, misrepresentations and failure to turn over his file, respondent failed to comply with the recordkeeping rules, failed to pay the annual assessments to the CPF and failed to maintain a bona fide office. She also practiced law while ineligible, lied to the disciplinary authorities and ignored the formal ethics complaint. We, therefore, unanimously determined that all of the foregoing improprieties require discipline in the form of a six-month suspension.

Prior to reinstatement, respondent is required to complete twelve hours of ethics courses approved by the OAE. Furthermore, for a period of two years she should submit to the OAE quarterly reconciliations of her attorney trust and business accounts, to be prepared by an accountant approved by the OAE. Respondent's demonstrated inability or refusal to comply with the mandates of the Court compels us to require these conditions on

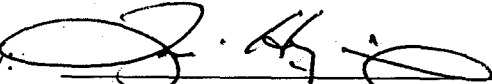


respondent's practice, in order to ensure that future clients of respondent are protected.

One member did not participate.

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

Dated: 5/22/00

By:   
LEE M. HYMERLING  
Chair  
Disciplinary Review Board

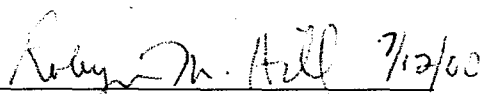
**SUPREME COURT OF NEW JERSEY**  
**DISCIPLINARY REVIEW BOARD**  
**VOTING RECORD**

**In the Matter of Patience R. Clemmons**  
**Docket No. DRB 99-445**

**Decided: May 22, 2000**

**Disposition: Six-month Suspension**

| Members       | Disbar | Six-month Suspension | Reprimand | Admonition | Dismiss | Disqualified | Did not Participate |
|---------------|--------|----------------------|-----------|------------|---------|--------------|---------------------|
| Hyerling      |        | x                    |           |            |         |              |                     |
| Peterson      |        | x                    |           |            |         |              |                     |
| Boylan        |        | x                    |           |            |         |              |                     |
| Brody         |        | x                    |           |            |         |              |                     |
| Lolla         |        | x                    |           |            |         |              |                     |
| Maudsley      |        | x                    |           |            |         |              |                     |
| O'Shaughnessy |        |                      |           |            |         |              | x                   |
| Schwartz      |        | x                    |           |            |         |              |                     |
| Wissinger     |        | x                    |           |            |         |              |                     |
| <b>Total:</b> |        | <b>8</b>             |           |            |         |              | <b>1</b>            |

  
Robyn M. Hill  
Chief Counsel