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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 99-299

IN THE MATTER OF :
HARDGE DAVIS, JR. :
AN ATTORNEY AT LAW :

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

Decided: March 27, 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 District VA Ethics Committee ("DEC") certified the record in this matter directly to us for the imposition of discipline, following respondent's failure to file an answer to the formal ethics complaint.

On April 28, 1999 the DEC forwarded a copy of the formal ethics complaint to respondent's law office by regular and certified mail. The certified mail receipt indicates acceptance on April 29, 1999. The signature of the accepting agent is illegible. The regular

mail was not returned. On July 21, 1999 the DEC sent a letter to respondent, advising him of the DEC's right to seek his temporary suspension through the Office of Attorney Ethics ("OAE") if the DEC did not receive his answer within five days of the date of the letter. The certified mail receipt indicates acceptance on July 23, 1999. The signature of the accepting agent was illegible. The regular mail was not returned.

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 1977. Until recently, he maintained a law office at 69 Lincoln Park, Newark, New Jersey.

By letter dated April 22, 1998, respondent was admonished for ignoring ethics authorities' requests for information. In the Matter of Hardge Davis, Jr., Docket No. DRB 98-126 (April 22, 1998). On October 8, 1999 the Supreme Court suspended respondent for three months for gross neglect, lack of diligence, knowingly disobeying the rules of a tribunal and failure to file a timely answer to the formal ethics complaint. In re Davis, 162 N.J. 7 (1999).

The first count of the complaint alleges that, in or about August 1995, Helen Richardson retained respondent to represent her in a dispute with her condominium

association regarding the association's failure to maintain common areas. At some point, Richardson paid respondent \$450 to represent her. Respondent advised Richardson to cease payment of her condominium maintenance fees until the matter was legally addressed. Accordingly, Richardson began withholding the maintenance fees.

On or about February 13, 1998 the condominium association filed suit against Richardson in the Superior Court of New Jersey, Law Division, Union County, seeking \$3,826.36 in unpaid maintenance fees. Respondent filed a timely answer on Richardson's behalf. The condominium association filed a motion for summary judgment, which respondent failed to oppose. On July 1, 1998 the unopposed motion was granted.

Respondent failed to notify Richardson that the condominium association had filed a motion for summary judgment, that he had not opposed it and that a judgment had been entered against her.

Respondent was charged with violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence) and RPC 1.4(a) (failure to keep client reasonably informed).

The second count of the complaint alleges that respondent failed to cooperate with the disciplinary authorities.

On September 22, 1998 the OAE wrote to respondent and sent him a copy of Richardson's grievance, requesting a reply within ten days. Respondent failed to reply. On October 19, 1998 the OAE wrote a second letter to respondent and again requested his reply to the grievance. The letter further reminded him that failure to reply could be deemed a

violation of RPC 8.1(b) (failure to cooperate). Respondent again failed to reply.

On December 1, 1998 the OAE investigator assigned to this matter spoke to respondent via telephone, at which time respondent agreed to provide a written response to the grievance by December 4, 1998. Respondent did not, however. On December 15, 1998 the OAE investigator again spoke with respondent and requested that he reply to the grievance. Respondent did not comply with the investigator's request. On January 13, 1999 the OAE investigator wrote to respondent for the last time and requested that he reply to the grievance. Once again, respondent sent no reply.

* * *

Service of process was properly made 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 advice to Richardson that she should withhold payment of the condominium maintenance fee led to legal action and, ultimately, a judgment of \$3,826.36 against her. In failing to properly represent Richardson's interests, respondent violated RPC 1.1(a) (gross neglect) and RPC 1.3 (lack of diligence). In addition, respondent failed to keep her client reasonably informed of the status of her case, in violation of RPC 1.4(a). Finally,

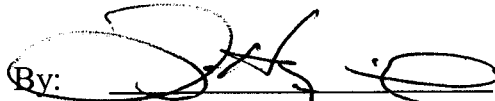
respondent failed to reply to the OAE's multiple requests for information, in violation of RPC 8.1(b).

Ordinarily, when only one matter is involved, misconduct of this sort leads to either an admonition or a reprimand. See, e.g., In the Matter of Ronald Sampson, Docket No. DRB 98-026 (April 27, 1998) (admonition where attorney violated RPC 1.1(a), RPC 1.4(a) and RPC 8.1(b)); In the Matter of Gerald Nunan, Docket No. DRB 98-263 (October 20, 1998) (admonition where attorney violated RPC 1.1(a), RPC 1.3, RPC 1.4(a), RPC 8.1(b) and RPC 8.4(a)); In re Gruber, 152 N.J. 451 (1998) (reprimand where attorney violated RPC 1.1(a), RPC 1.3, RPC 1.4(a) and RPC 8.1(b)).

In light of respondent's prior ethics infractions, however — particularly his admonition for a violation of RPC 8.1(b) — and in light of the default nature of this proceeding, we unanimously determined that a three-month suspension is the appropriate discipline. The suspension is to begin on February 2, 2000, the expiration date of the prior three-month suspension in In re Davis, 162 N.J. 7 (1999).

We further direct that respondent reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: 3/22/00

By: 
LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Hardge Davis, Jr.
Docket No. DRB 99-299

Decided: March 27, 2000

Disposition: Three-Month Suspension

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

By Robyn M. Hill 3/31/00
Robyn M. Hill
Chief Counsel