

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 99-423

IN THE MATTER OF :
:
JAMES S. DEBOSH :
:
AN ATTORNEY AT LAW :
:
:

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

Decided: April 12, 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 XIII 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 August 3, 1999 the DEC sent a complaint to respondent's office by regular and certified mail. The certified mail was returned stamped "unclaimed." The complaint sent by regular mail was not returned. On August 20, 1999 the DEC sent a second letter to respondent by regular and certified mail, advising him that the

failure to file an answer would constitute an admission of the allegations contained in the complaint and could result in his temporary suspension. Both the copy sent by regular mail and certified mail were not returned. Respondent did not file an answer to the complaint.

Respondent was admitted to the New Jersey bar in 1992. He currently maintains an office in Phillipsburg, Warren County, New Jersey.

The complaint charged that, in February or March 1998, grievant Frederick Schmitz retained respondent to represent him in a landlord/tenant matter and in a matter in which Schmitz had received traffic tickets. Although Schmitz paid respondent a fee of \$750, respondent did not prepare a written fee agreement. On March 2, 1998 respondent and Schmitz appeared in court and settled the landlord/tenant matter. The settlement provided that Schmitz would be permitted to remain on the premises until April 15, 1998, so long as he paid rent by a date certain. Notwithstanding that Schmitz paid the rent by the date prescribed in the settlement agreement, on March 11, 1998 the landlord applied for a warrant of removal. Respondent did not enter an appearance. On March 22, 1998 Schmitz's belongings were removed and sold.

Between March 2 and March 11, 1998 Schmitz was involved in a serious automobile accident resulting in his hospitalization for three weeks. Although he attempted to contact respondent on several occasions, respondent took no action until

April 20, 1998, when he requested adjournments in both the traffic and landlord/tenant matters. Schmitz later discovered, however, that bench warrants for his arrest had been issued in the traffic matters because respondent had informed the courts that he no longer represented Schmitz. Moreover, Schmitz's daughter-in-law had tried to contact respondent in Schmitz's behalf and had given papers to respondent's office staff, while Schmitz was in the hospital. Her attempts to contact respondent were unsuccessful until after the warrant for removal had already been issued.

Respondent failed to reply to correspondence from the DEC investigator about the ethics grievance.

The complaint charged that respondent violated *RPC* 1.1(a) (gross neglect) *RPC* 1.3 (lack of diligence), *RPC* 1.4(a) (failure to comply with reasonable requests for information), *RPC* 1.5(b) (failure to prepare written fee agreement) and *R.* 1:20-3(g)(3), [more properly *RPC* 8.1(b)] (failure to cooperate with disciplinary authorities).

After the record was certified directly to us, respondent filed a motion to vacate the default. We denied that motion, finding that respondent failed to explain why he had not filed an answer to the ethics complaint.

* * *

Service of process was properly made in this matter. Following a review of the record, we found that the facts recited support a finding of unethical conduct. Because of respondent's failure to file an answer, the allegations of the complaint were deemed admitted. *R. 1:20-4(f)(1)*.

Respondent violated *RPC 1.1(a)* and *RPC 1.3* by failing to protect his client's interests, resulting in the issuance of bench warrants against Schmitz and in the removal and sale of his belongings. Respondent also failed to return telephone calls made by both Schmitz and his daughter-in-law while Schmitz was hospitalized, in violation of *RPC 1.4(a)*. After agreeing to represent Schmitz in landlord/tenant and traffic matters, respondent failed to prepare a fee agreement, in violation of *RPC 1.5(b)*. By failing to reply to the DEC investigator's request for information, respondent violated *RPC 8.1(b)*.

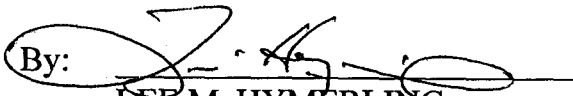
After consideration of the relevant circumstances, we unanimously determined that respondent's violations warrant a reprimand. *See, e.g., In re Mandle*, 157 N.J. 68 (1999) (attorney reprimanded for gross neglect, lack of diligence and failure to communicate after he took action in a matter only so far as required to take his fee; attorney had prior reprimand); *In re Manns*, 157 N.J. 532 (1999) (attorney reprimanded for pattern of neglect, lack of diligence and failure to communicate when attorney's poor legal skills resulted in entry of summary judgment in one matter and

entry of default judgment in a second matter, while, in a third matter, the attorney left the client without representation).

Three members did not participate.

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

Dated: 4/12/00

By: 
LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of James S. DeBosh
Docket No. DRB 99-423**

Argued: February 3, 2000

Decided: April 12, 2000

Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hyerling			x				
Boylan			x				
Brody			x				
Lolla							x
Maudsley							x
Peterson			x				
Schwartz							x
Wissinger			x				
Total:			5				3

By Robyn M. Hill 4/25/00
Robyn M. Hill
Chief Counsel