

BK

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 99-377

IN THE MATTER OF :
 :
 :
ROBERT J. HANDFUSS :
 :
 :
AN ATTORNEY AT LAW :
 :

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 IX Ethics Committee 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 September 27, 1999 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, indicating delivery on September 27, 1999. The signature of the agent accepting delivery is illegible.

Upon respondent's failure to file an answer to the formal ethics complaint within the specified period, on October 18, 1999 the DEC sent a second letter by certified mail, return

receipt requested, notifying him 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 October 20, 1999. The signature of the agent accepting delivery is illegible.

Respondent was admitted to the New Jersey bar in 1984. At the relevant times he maintained a law office in Matawan, New Jersey. He has no prior ethics history.

According to the complaint, on March 14, 1996 respondent filed a complaint on behalf of his client Charles Sandora ("Sandora") in connection with a motor vehicle accident that occurred in 1994. After respondent filed the complaint, he took no further action on behalf of Sandora.

Beginning in August 1997, Sandora made several telephone calls to respondent, in order to learn the status of his case. Altogether, from August 1997 to January 1998 Sandora made seven calls, which respondent did not return. In February 1998 respondent called Sandora and advised him that he would look into the matter and get back to him shortly. He did not, however.

On July 27, 1998 Sandora learned that his case was not on the active trial list and that it had, in fact, been dismissed. When Sandora questioned respondent about this, respondent told him that he would file a motion to restore the complaint within thirty days.

Thereafter, respondent failed to do any additional work on behalf of Sandora and failed to communicate with him in any way.

The complaint charges that respondent's failure to prosecute this simple case constituted violations of RPC 1.1 (gross neglect) and RPC 1.3 (lack of diligence), his failure to keep Sandora reasonably informed violated RPC 1.4 (failure to communicate with client) and that his misrepresentation to Sandora about the status of the case violated RPC 8.4(c) (misrepresentation).

* * *

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 failure to prosecute the complaint in a timely fashion, which ultimately led to its dismissal, amounted to gross neglect and lack of diligence, in violation of RPC 1.1(a) and RPC 1.3, respectively. Also, respondent's failure to reply to Sandora's phone calls and to keep him informed about the status of the matter constituted failure to communicate with his client, in violation of RPC 1.4(a).

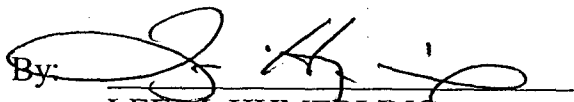
We dismissed, however, the charge that respondent violated RPC 8.4(c). Although respondent promised that he would file an application to reinstate the complaint and then

failed to do so, this does not, in and of itself, present clear and convincing evidence of misrepresentation.

Ordinarily, for misconduct of this nature, either an admonition or a reprimand would be imposed. See In the Matter of Raymond Aslaksen, Docket No. DRB 95-391 (1995) (admonition for attorney who allowed a complaint to be dismissed, failed to keep his client informed about the status of the matter and failed to inform the client about the dismissal); In re Skokos, 147 N.J. 556 (1997) (reprimand for gross neglect, lack of diligence and failure to communicate with the client). Because of the default nature of this matter, a reprimand is the more appropriate discipline. We, therefore, unanimously determined to reprimand respondent. Three members did not participate.

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 Robert J. Handfuss
Docket No. DRB 99-377**

Decided: May 22, 2000

Disposition: reprimand

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

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