

Book

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 99-205

IN THE MATTER OF :
: STUART P. SCHLEM :
: AN ATTORNEY AT LAW :
:

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

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)(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 February 26, 1999 a copy of the complaint was sent to respondent's last known office address by regular and certified mail. The certified mail receipt was returned signed by someone presumed to be an employee or agent of respondent. Only the first name of the signature, "Maureen," is legible. The regular mail was not returned.

Upon respondent's failure to file an answer to the formal ethics complaint within the specified period, the OAE sent him a second letter by regular mail 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 regular mail was not returned.

Respondent was admitted to the New Jersey bar in 1983. He presently maintains an office in Manalapan, New Jersey.

In 1994 respondent was privately reprimanded for failure to keep a client reasonably informed about the status of a matter. In the Matter of Stuart P. Schlem, Docket No. DRB 93-434 (February 16, 1994).

By letter dated October 30, 1996 respondent was notified that he had been selected for an audit of his attorney trust and business account records as part of the OAE's Random Audit Compliance Program. The letter further informed him that the audit would be conducted on November 25, 1996 at his law office.

According to the general allegations of the complaint, the auditor concluded that respondent had nine recordkeeping deficiencies. By letter dated December 4, 1996 respondent was first notified of these deficiencies and was asked to provide a detailed response indicating that he had corrected each deficiency. Additionally, the letter directed respondent to complete and return a certification form indicating that his trust account had been reconciled with his most recent bank statement.

Upon respondent's failure to reply to the OAE's initial letter, three subsequent written requests for information were directed to him, the last of which was sent in May 1998.

These written requests, as well as several requests by telephone, were ignored. Respondent never provided the requested information.

The complaint charged that respondent has failed to comply with the recordkeeping provisions of R. 1:21-6 and that, as a result of such failure, respondent was “deemed to be in violation of RPC 1.15(d).” Also, the complaint charged that respondent’s failure to provide an adequate response to the OAE’s four written requests for information about the correction of the deficiencies, his failure to reply to telephone inquiries and his failure to submit certification forms demonstrating a reconciliation between his trust account and his current bank statement constituted a failure to cooperate with the OAE, in violation of RPC 8.1(b).

* * *

Service of the complaint 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).

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 written and telephonic requests for information and his failure to submit the certification form regarding the reconciliation of his trust accounts constituted a failure to cooperate with the disciplinary authorities, in violation of RPC 8.1(b).

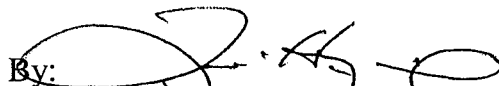
Ordinarily, default matters dealing with conduct of this nature result in a reprimand. See, e.g., In re Schor, 154 N.J. 81 (reprimand for failure to cooperate with the Random Audit Program, failure to correct deficiencies cited by the Program and failure to cooperate with the disciplinary authorities in the prosecution of this matter). Accordingly, after denying respondent's motion to vacate the default, we determined to reprimand him. One member voted for a three-month suspension.

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 Stuart P. Schlem
Docket No. DRB 99-205**

Decided: April 12, 2000

Disposition: Reprimand

Members	Disbar	Three-Month Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling			X				
Cole			X				
Brody			X				
Boylan		X					
Lolla			X				
Maudsley			X				
Peterson			X				
Schwartz			X				
Wissinger			X				
Total:		1	8				

By Robyn M. Hill 5/5/00
Robyn M. Hill
Chief Counsel