

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 08-136
District Docket No. XIV-2008-0149E

IN THE MATTER OF
DARREN J. BRENT
AN ATTORNEY AT LAW

:
:
:
:
:
:
:
:
:

Decision

Argued: June 19, 2008

Decided: July 31, 2008

Richard J. Engelhardt appeared on behalf of the Office of Attorney Ethics.

Respondent did not appear, despite proper notice.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

This matter came before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics ("OAE"), following respondent's disbarment in Florida. We determine that respondent should be suspended for two years and that he be

required to be reinstated in Florida before he may seek reinstatement in New Jersey.

Respondent was admitted to the New Jersey bar in 1994. Although he has no disciplinary history in New Jersey or Florida, he has been ineligible to practice law in New Jersey, since September 25, 2006, for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection. He had previously been ineligible from September 21, 1998 to March 3, 2003.

On March 22, 2007, the Florida Bar filed a four-count complaint against respondent, charging him with violating fourteen Florida Rules of Professional Conduct. Respondent did not file an answer to the complaint. The Florida Bar then filed a motion for default final judgment, which the referee granted on June 18, 2007. Respondent failed to attend the subsequent disciplinary hearing.

On September 10, 2007, the referee recommended that respondent be disbarred, with leave to apply for reinstatement in five years. She found the following aggravating factors: pattern of misconduct, multiple offenses, and bad faith obstruction of the disciplinary proceeding by intentionally

failing to comply with rules or orders of the disciplinary agency. The referee found no mitigating factors.

On December 6, 2007, the Supreme Court of Florida approved the referee's report and "disbarred respondent for five years," effective January 5, 2008. Respondent did not notify the OAE of the discipline imposed in Florida, as required by R. 1:20-14(a).

The Weiss Matter

Stephen A. Weiss retained respondent to represent him in a civil action in Broward County, Florida. Respondent failed to reply to Weiss's numerous attempts to contact him, failed to keep him advised of the status of the matter, failed to take any action on Weiss's behalf, effectively abandoned Weiss, failed to reply to Florida Bar counsel's and the Grievance Committee investigator's numerous attempts to contact him, and failed to appear at the disciplinary hearing.

The complaint charged respondent with violating the Florida counterparts to New Jersey RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(b) (failure to keep a client reasonably informed about the status of a matter and to comply with reasonable requests for information), RPC 1.4(c) (failure to explain a matter to the extent reasonably necessary to permit

the client to make informed decisions about the representation), RPC 1.16(d) (failure to protect a client's interests upon termination of the representation), RPC 8.1(b) (failure to cooperate with disciplinary authorities), RPC 8.4(a) (violate or attempt to violate the RPCs), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and RPC 8.4(d) (conduct prejudicial to the administration of justice).

The Johnson Matter

Joanne Johnson retained respondent to represent her in a bankruptcy proceeding, paying him a legal fee of \$1,000. Respondent failed to reply to Johnson's numerous attempts to contact him and failed to keep her informed about the status of her case.

In March 2006, when Johnson visited respondent's office, she learned that he had moved in February 2006, without leaving a forwarding address or any way of receiving contact. Although he appeared at one hearing in Johnson's case, he took no significant action on her behalf.

On May 11, 2006, the bankruptcy judge granted the trustee's motion and ordered respondent to refund his \$1,000 fee to Johnson. Respondent failed to do so. Respondent failed to reply

to two letters sent to him by Florida Bar counsel about the Johnson grievance.

The complaint charged respondent with violating the Florida counterparts to New Jersey RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.4(c), RPC 1.5(a) (unreasonable fee),¹ RPC 1.16(d), RPC 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal), RPC 8.1(b), RPC 8.4(a), RPC 8.4(c), and RPC 8.4(d).

The Witter Matter

Judith Witter retained respondent to represent her in a bankruptcy case. Although Witter paid respondent a legal fee, the complaint does not reveal that amount. Respondent failed to reply to Witter's attempts to contact him and failed to keep her informed about the status of her case.

Upon visiting respondent's office, Witter learned that he had moved without leaving any contact information. Respondent

¹ Ordinarily, we would find that accepting a fee and failing to provide corresponding services violates RPC 1.16(d) (failure to return an unearned retainer), among other RPC infractions. However, because we heard this matter on a motion for reciprocal discipline, we defer to the findings of the Supreme Court of Florida, which determined that respondent violated RPC 1.5(a) in that jurisdiction.

took no significant action on Witter's behalf. He also failed to reply to two letters sent to him by Florida Bar counsel about the Witter grievance.

The complaint charged respondent with violating the Florida counterparts to New Jersey RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.4(c), RPC 1.5(a), RPC 1.16(d), RPC 8.1(b), RPC 8.4(a), RPC 8.4(c), and RPC 8.4(d).

The Lococco/Rivera Matter

On August 4, 2005, the Honorable A. Jay Cristol signed an order enjoining respondent from appearing before the United States Bankruptcy Court. Nevertheless, on October 14, 2005, respondent filed a bankruptcy petition on behalf of Charles C. Lococco and Sandra Rivera.

On July 7, 2006, the presiding judge in the Lococco/Rivera case signed an order holding respondent in contempt and imposing sanctions. Respondent was ordered to disgorge the fee in the Lococco/Rivera case and to fulfill his remaining obligations to them. He failed to comply with that order and failed to take any significant action on his clients' behalf. Essentially, he abandoned them. He also failed to reply to two letters sent to him by Florida Bar counsel about this matter.

The complaint charged respondent with violating the Florida counterparts to New Jersey RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.4(c), RPC 1.5(a), RPC 1.16(d), RPC 3.4(c), RPC 5.5(a) (unauthorized practice of law), RPC 8.1(b), RPC 8.4(a), RPC 8.4(c), and RPC 8.4(d).

The OAE recommended that respondent be suspended for two or three years and that he be required to be readmitted in Florida before he may apply for reinstatement in New Jersey.

Following a review of the record, we determine to grant the OAE's motion for reciprocal discipline.

Pursuant to R. 1:20-14(a)(5), another jurisdiction's finding of misconduct shall establish conclusively the facts on which it rests for purposes of a disciplinary proceeding in this state. We, therefore, adopt the findings of the Supreme Court of Florida.

Reciprocal disciplinary proceedings in New Jersey are governed by R. 1:20-14(a)(4), which states that

[t]he Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record on which the discipline in another jurisdiction was predicated that it clearly appears that:

(A) the disciplinary or disability order of the foreign jurisdiction was not entered;

(B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;

(C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;

(D) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(E) the unethical conduct established warrants substantially different discipline.

A review of the record does not reveal any conditions that would fall within the ambit of subparagraphs (A) through (D). With respect to subparagraph (E), attorneys in New Jersey who are guilty of the combination of violations presented here do not receive five-year suspensions.²

Here, in four matters, respondent was guilty of gross neglect, lack of diligence, failure to communicate with the client, failure to protect the client's interests upon

² Although respondent was disbarred in Florida, a disbarred Florida attorney may seek reinstatement five years after the effective date of disbarment, pursuant to R. Regulating Fla. Bar 3-5.1(f). In effect, thus, disbarment in Florida is equivalent to a five-year suspension.

termination of the representation, failure to cooperate with disciplinary authorities, violation or attempted violation of the RPCs, conduct involving dishonesty, fraud, deceit or misrepresentation, and conduct prejudicial to the administration of justice; in three of these matters, he was also guilty of charging an unreasonable fee; in two of these matters he disobeyed a court order; and, in one matter, he engaged in the unauthorized practice of law by filing a bankruptcy petition after the judge had ordered him not to appear in bankruptcy court.

In our view, respondent's most serious violation was the abandonment of his clients. Such conduct almost invariably results in a suspension, the duration of which depends on the circumstances of the abandonment, the presence of other misconduct, and the attorney's disciplinary history. See e.g., In re Nwaka, 178 N.J. 483 (2004) (three-month suspension, on a motion for reciprocal discipline, for attorney who was disbarred in New York for abandoning one client and failing to cooperate with New York ethics authorities by not filing an answer to the complaint and not complying with their requests for information about the disciplinary matter; prior three-month suspension); In re Hoffman, 163 N.J. 4 (2000) (three-month suspension in a

default matter; the attorney closed his office without notifying four clients; the attorney was also guilty of gross neglect, lack of diligence, failure to communicate with clients, failure to protect clients' interests upon termination of the representation, and failure to cooperate with disciplinary authorities; the attorney had a prior reprimand and a three-month suspension); In re Jennings, 147 N.J. 276 (1997) (three-month suspension for abandonment of one client and failure to cooperate with ethics authorities; no disciplinary history); In re Bowman, 175 N.J. 108 (2003) (six-month suspension for abandonment of two clients, misrepresentations to disciplinary authorities, pattern of neglect, and misconduct in three client matters, including gross neglect, lack of diligence, failure to communicate with clients, failure to explain a matter to the extent reasonably necessary to permit the client to make an informed decision about the representation, failure to provide a written fee agreement, failure to protect a client's interests upon termination of the representation, and misrepresenting the status of a matter to a client; prior private reprimand); In re Bock, 128 N.J. 270 (1992) (six-month suspension for attorney, who, while serving as both a part-time municipal court judge and a lawyer, with approximately sixty to seventy pending cases,

abandoned both positions by feigning his own death); In re Diamond, 185 N.J. 171 (2005) (one-year suspension for attorney who, in three matters involving two clients, abandoned the clients and engaged in gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, failure to promptly deliver funds to a client or third person, failure to withdraw from the representation when the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client, failure to reply to requests for information from a disciplinary authority; and failure to appear at the continuation of the ethics hearing; he suffered from alcohol and drug abuse and had a prior admonition and reprimand); In re Bowman 178 N.J. 25 (2003) (one-year suspension, in a default matter, for attorney who abandoned four clients; other violations included gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, failure to protect clients' interests on unilateral termination of the representations, communicating about the subject of the representation with a person the lawyer knew or should have known to be represented by another lawyer in the matter, failure to adopt and maintain reasonable efforts to ensure that the conduct of non-lawyer employee is compatible with the

professional obligations of the attorney, failure to properly supervise non-lawyer employee, failure to cooperate with disciplinary authorities, and misrepresentation of the status of a matter; the attorney's ethics history included a private reprimand, a temporary suspension, and two six-month suspensions); In re Greenawalt, 171 N.J. 472 (2002) (one-year suspension, in a default matter, for attorney who grossly neglected three matters, abandoned his law practice, failed to notify clients of a prior suspension, and failed to cooperate with disciplinary authorities; the attorney had been temporarily suspended for failure to cooperate with the ethics investigator); In re Cruz, 177 N.J. 518 (2003) (two-year suspension, based on motion for reciprocal discipline, for attorney who moved out of state without notifying his clients, grossly neglected five matters, failed to communicate with clients, failed to protect his clients' interests upon termination of the representation, failed to cooperate with disciplinary authorities, engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, and engaged in conduct prejudicial to the administration of justice); In re Mintz, 126 N.J. 484 (1992) (two-year suspension for attorney who abandoned four clients and was found guilty of a pattern of

neglect, failure to maintain a bona fide office, and failure to cooperate with ethics authorities); In re Foushee, 149 N.J. 399 (1997) (three-year suspension for attorney who, in four matters, displayed a lack of diligence, failed to communicate with clients, failed to provide written fee agreements, made misrepresentations, and failed to cooperate with disciplinary authorities); and In re Terry, 137 N.J. 4 (1994) (three and one-half-year suspension for attorney who abandoned three clients, failed to deliver funds to a third person, and failed to cooperate with disciplinary authorities). But see In re Hughes, 183 N.J. 473 (2005) (reprimand for attorney who abandoned one client by closing his practice without informing the client or advising her to seek other counsel; altogether, the attorney mishandled three matters by exhibiting a lack of diligence, failure to communicate with clients, and failure to protect his clients' interests upon termination of the representation; strong mitigating factors considered).

In addition, respondent failed to comply with court orders when he disobeyed an August 4, 2005 order entered by Judge A. Jay Cristol in the Lococco/Rivera matter enjoining him from appearing before the bankruptcy court, disobeyed a subsequent order requiring him to disgorge his fee in that case, and

disobeyed a May 11, 2006 order entered by another bankruptcy judge, requiring him to refund fees to his client, Joanne Johnson.

Generally, the discipline imposed on attorneys who have failed to comply with court orders has been a reprimand. See e.g., In re Kersey, 170 N.J. 409 (2002) (attorney failed to comply with court orders in his own divorce matter); In re Skripek, 156 N.J. 399 (1998) (attorney was held in contempt for failing to pay court-ordered spousal support and for failing to appear at the hearing); In re Hartman, 142 N.J. 587 (1995) (attorney repeatedly ignored court orders to pay opposing counsel a fee, resulting in a warrant for his arrest); and In re Haft, 98 N.J. 1 (1984) (attorney failed to file a brief for a death-row client, after the court held him in contempt three times for failing to do so).

In determining the level of discipline to recommend in this matter, the Florida referee remarked:

Neglect of clients is one of the most pervasive problems in the attorney discipline milieu. It is also one of the most damaging, as it betrays the public's trust in lawyers as well as its faith in the judicial process. When the court is determining discipline to be imposed, it is the totality of the respondent's misconduct and the severe harm it presents, not one

single act, that leads the Supreme Court to order the most severe sanction of disbarment. . . .

Respondent's misconduct is compounded and magnified by his complete failure to participate in the grievance process. . . . In the instant case, respondent's lack of fitness for the practice of law has been clearly and convincingly demonstrated by his continuing disregard for his client, his failure to respond to the bar, and his failure to respond to the duly appointed referee in this disciplinary process.

[OAEaEx.B11-12.]³

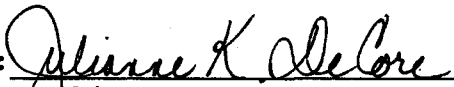
We conclude that respondent's conduct requires a lengthy suspension. As the Florida referee articulated, respondent not only performed a disservice to his clients, he showed a pattern of disregard to the disciplinary system. His conduct is similar to that of the attorney in Cruz, who was suspended for two years. We also consider, as an aggravating factor, respondent's failure to notify the OAE of the discipline imposed in Florida. We determine that a two-year suspension, the lower end of the OAE's recommendation, is the appropriate level of discipline for

³ OAEa refers to the appendix of the OAE's April 7, 2008 brief.

respondent's conduct. In addition, he must be reinstated in Florida before he may seek reinstatement in New Jersey.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Louis Pashman, Chair

By: 
Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

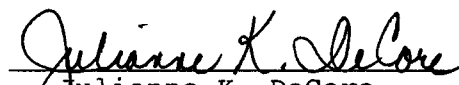
In the Matter of Darren J. Brent
Docket No. DRB 08-136

Argued: June 19, 2008

Decided: July 31, 2008

Disposition: Two-year suspension

Members	Disbar	Two-year Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Pashman		X				
Frost		X				
Baugh		X				
Boylan		X				
Clark		X				
Doremus		X				
Lolla		X				
Stanton		X				
Wissinger		X				
Total:		9				


Julianne K. DeCore
Chief Counsel