

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 05-367  
District Docket No. XIV-04-558E

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IN THE MATTER OF  
BARBARA J. WYSKOWSKI  
AN ATTORNEY AT LAW

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

Decided: March 7, 2006

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

This matter was before us on a certification of default  
filed by the Office of Attorney Ethics ("OAE"), pursuant to R.  
1:20-4(f).

Respondent was admitted to the New Jersey bar in 1993. On  
July 20, 2004, she was temporarily suspended, effective August  
23, 2004, for failure to comply with a fee arbitration  
determination. Respondent remains suspended to date.

The July 20, 2005 temporary suspension order required  
respondent to satisfy a fee arbitration award and to pay a \$500  
sanction to the Disciplinary Oversight Committee. The order also

required respondent to comply with R. 1:20-20, which mandates that a suspended attorney "within 30 days after the date of the attorney's prohibition from practice file with the [OAE] Director a detailed affidavit specifying the correlatively numbered paragraphs how the disciplined attorney has complied with each of the provisions of this rule and the Supreme Court's order." Respondent failed to file the affidavit.

On November 23, 2004, the OAE sent respondent a letter by certified and regular mail to both her office and home addresses, advising her of her duty to file the affidavit by December 10, 2004. The certified mail to respondent's home address was returned marked "unclaimed." The certified mail receipt to her office address was returned indicating delivery on November 26, 2004. The signature is illegible. The regular mail to both addresses was not returned.

Respondent did not reply to the OAE or file the affidavit.

On March 16, 2005, OAE personnel visited respondent's office address and determined that she no longer had her office at that location.

Thereafter, the OAE called respondent's house and left a recorded message about the affidavit. On July 28, 2005, respondent called the OAE and was told that she had failed to comply with R. 1:20-20. During that conversation, respondent

advised the OAE that she did not receive its November 23, 2004 letter, although the address used by the OAE was correct. She asked that the OAE forward a copy of R. 1:20-20 by "email" to her web address, barbijd@yahoo.com. The OAE complied with that request on August 1, 2005. On the same date, the OAE sent another letter to respondent at her home address by certified and regular mail, requesting the affidavit by August 11, 2005. That certified mail was returned marked ("unclaimed"). The regular mail was not returned.

Respondent did not file the required affidavit.

The complaint alleged that respondent willfully violated the Supreme Court Order by failing to take the steps required of all suspended attorneys, including notifying clients and adversaries of the suspension and providing clients with their files. The complaint charged respondent with having violated RPC 8.1 (b) (failure to cooperate with ethics authorities) and RPC 8.4(d) (conduct prejudicial to the administration of justice).

On October 19, 2005, the OAE sent respondent a copy of the complaint, by both certified and regular mail, to respondent's last known home address listed in the records of the Lawyers' Fund for Client Protection ("CPF"), 105 New England Avenue, G4, Summit, New Jersey. The certified mail was returned marked "unclaimed." The regular mail was not returned.

On December 2, 2005, the OAE sent respondent a "five-day letter" to the same address, notifying her that, unless she filed an answer within five days, the record would be certified directly to us for the imposition of discipline. As of December 19, 2005, the date of the certification of default, the certified mail had not been returned. The regular mail was not returned.

Respondent did not file an answer to the complaint.

Service of process was properly made. Following a review of the record, we find that the facts recited in the complaint support the charges of unethical conduct. Because respondent failed to answer the complaint, the allegations are deemed admitted. R. 1:20-4(f).

R. 1:20-20 requires all suspended attorneys to file an affidavit showing that they have complied with each provision of the rule, such as notifying clients and adversaries of their suspension and providing clients with their files. Respondent failed to do so. We, therefore, find respondent guilty of failure to cooperate with ethics authorities, a violation of RPC 8.1(b). In addition, respondent violated RPC 8.4(d) by failing to comply with the Supreme Court Order temporarily suspending her.

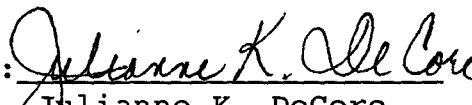
The only issue left for determination is the quantum of discipline. As to respondent's failure to file an affidavit in compliance with R. 1:20-20, a reprimand is the presumptive discipline. That sanction has been enhanced when an attorney has defaulted or has an extensive ethics history. Recent cases, most of which are defaults, have generally resulted in suspensions. See, e.g., In re Raines, 181 N.J. 537 (2004) (three-month suspension in a non-default matter, where the attorney's ethics history included a private reprimand, a three-month suspension, a six-month suspension, and a temporary suspension for failure to comply with a previous Court Order); In re Girdler, 179 N.J. 227 (2004) (three-month suspension in a default matter; ethics history included a private reprimand, a public reprimand, and a three-month suspension); In re McClure, 182 N.J. 312 (2005) (one-year suspension where the attorney's ethics history included an admonition and two concurrent six-month suspensions; the matter proceeded as a default); In re King, 181 N.J. 349 (2004) (one-year suspension where the attorney had an extensive ethics history, including a reprimand, a temporary suspension for failure to return an unearned retainer, a three-month suspension in a default matter, and a one-year suspension; the attorney remained suspended since 1998, the date of the temporary suspension; default matter); and In re Mandle, 180 N.J. 158 (2004) (one-year

suspension in a default case where the attorney's ethics history included three reprimands, a temporary suspension for failure to comply with an order requiring that he practice under a proctor's supervision, and two three-month suspensions; in three of the matters, the attorney failed to cooperate with disciplinary authorities). But see In re Moore, 181 N.J. 335 (2004) (reprimand in a default matter, where the attorney's disciplinary history included a one-year suspension).

Here, respondent has no prior final discipline, but allowed this matter to proceed to us as a default. Therefore, we determined to upgrade the presumptive reprimand to a three-month suspension, to be effective upon the termination of the temporary suspension already in place. Member Lolla did not participate.

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

Disciplinary Review Board  
Mary J. Maudsley, Chair

By:   
Julianne K. DeCore  
Chief Counsel

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**SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

In the Matter of Barbara J. Wykowski  
Docket No. DRB 05-367

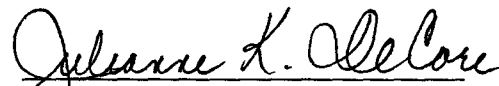
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Decided: March 7, 2006

Disposition: Three-month suspension

Members	Three-month Suspension	Reprimand	Admonition	Disqualified	Did not participate
Maudsley	X				
O'Shaughnessy	X				
Boylan	X				
Holmes	X				
Lolla					X
Neuwirth	X				
Pashman	X				
Stanton	X				
Wissinger	X				
<b>Total:</b>	8				1

  
Julianne K. DeCore  
Chief Counsel