

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 03-156

IN THE MATTER OF
RICHARD L. ROSENTHAL
AN ATTORNEY AT LAW

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

Decided: August 20, 2003

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

Pursuant to R.1:20-4(f), the District X 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.

Respondent was admitted to the New Jersey bar in 1965. At different times, he maintained law offices in Totowa, Patterson, and Morris Plains, New Jersey.

In 1982, respondent was publicly reprimanded for prejudicing his client's interests, failing to advise the client that her suit was about to be dismissed and, later, that it was dismissed, and failing to represent her zealously. In re Rosenthal, 90 N.J. 12 (1982). In 1990, he was suspended for one year for gross neglect, pattern of neglect,

failure to seek the lawful objectives of his clients, failure to carry out contracts of employment, failure to adequately communicate with his clients, misrepresentations to his clients, failure to refund a retainer, and failure to cooperate with the ethics proceedings. In re Rosenthal, 118 N.J. 454 (1990).

On January 9, 2003, the DEC sent a copy of the complaint by regular and certified mail, return receipt requested, to respondent's last known office address in Morris Plains, New Jersey. The certified mail receipt was returned indicating delivery on January 17, 2003. The signature on the receipt card appears to be that of respondent. The certification makes no mention of the regular mail. When respondent did not file an answer, the DEC sent a second letter to him, on March 28, 2003, by regular and certified mail, return receipt requested. The letter notified respondent that, if he did not file an answer to the complaint within five days, the matter would be certified to us for the imposition of discipline. The certified mail receipt was returned indicating delivery on March 31, 2003. No mention was made of the regular mail. Respondent did not file an answer.

* * *

The six-count complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate with client), RPC 1.16, presumably (d), (failure to turn over client's file upon termination of representation), RPC 7.1(a)(1) (making false or misleading communications about the lawyer, the lawyers' services, or any matter in which the lawyer has or seeks a

professional involvement), and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

In January 1999, Jose Estrella retained respondent to represent him in a personal injury matter arising from an October 11, 1998, automobile accident. Although respondent initially took steps to investigate the matter, he failed to prosecute the claim and, for a period of one and one-half years, failed to communicate with Estrella. As a result, Estrella contacted another attorney, Edgar Navarette, to represent him. Estrella asked respondent to cease the representation and to forward his file to Navarette. Although respondent promised to deliver the file to Navarette, he did not do so.

The complaint also stated that respondent failed to reply to Estrella's telephone calls, failed to act with reasonable diligence and promptness, failed to keep Estrella reasonably informed about the status of his case, falsely told Estrella he had filed a complaint on his behalf, gave him a false docket number for the case, and allowed the statute of limitations to expire.

* * *

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

Respondent's failure to take action in the personal injury matter, after his initial investigation, and failure to file a lawsuit prior to the expiration of the statute of limitations violated RPC 1.1(a) and RPC 1.3; his failure to return Estrella's telephone calls and to otherwise keep him informed about the status of his matter violated RPC 1.4(a); respondent's failure to turn over Estrella's file after representation was terminated violated RPC 1.16(d); and his misrepresentation to Estrella that respondent had filed a complaint and his supplying Estrella with a false docket number violated RPC 8.4(c). RPC 7.1(a)(1) is inapplicable here because it relates more specifically to advertisement situations. More properly, RPC 8.4(c) applies to respondent's misrepresentation to Estrella.

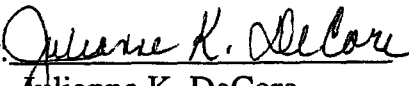
Generally, in default matters involving similar violations, three-month suspensions have been imposed. See In re Ross, 166 N.J. 7 (2001) (in two client matters, the attorney was found guilty of gross neglect, failure to communicate with clients, failure to cooperate with disciplinary authorities and misrepresentations to client); In re Uzodike, 165 N.J. 478 (2000) (gross neglect, pattern of neglect, failure to communicate with clients, failure to cooperate with disciplinary authorities and misrepresentation to client); and In re Daly, 156 N.J. 541 (1999) (gross neglect, lack of diligence, failure to communicate with client, failure to promptly deliver funds to client and misrepresentation).

Here, however, we determined that respondent's conduct was more serious, because in addition to misrepresenting to his client that he filed a complaint in his behalf, he also supplied his client with a false docket number to reinforce his fabrication.

Notwithstanding his prior reprimand and one-year suspension, respondent is unable or unwilling to learn from his prior mistakes. We, therefore, unanimously determined to impose a six-month suspension.

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

Disciplinary Review Board
Mary J. Maudsley, Chair

By: 
Julianne K. DeCore
Acting Chief Counsel

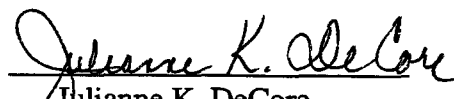
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Richard L. Rosenthal
Docket No. DRB 03-156

Decided: June 19, 2003

Disposition: Six-month suspension

<i>Members</i>	<i>Disbar</i>	<i>Six-month Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Maudsley</i>		X					
<i>O'Shaughnessy</i>		X					
<i>Boylan</i>		X					
<i>Holmes</i>		X					
<i>Lolla</i>		X					
<i>Pashman</i>		X					
<i>Schwartz</i>		X					
<i>Stanton</i>		X					
<i>Wissinger</i>		X					
Total:		9					


Julianne K. DeCore
Acting Chief Counsel