

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 01-067

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IN THE MATTER OF :  
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JOEL B. RUBINSTEIN :  
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: |  
AN ATTORNEY AT LAW :  
: |

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

Decided: October 9, 2001

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

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

On August 8, 2000, the DEC mailed a copy of the complaint by regular and certified mail to respondent's last known address listed in the New Jersey Lawyers' Diary. The certified mail receipt was returned with an illegible signature. The regular mail was not returned. Respondent did not file an answer. On September 8, 2000, the DEC sent

respondent a second letter, informing him that if he did not reply within five days, the matter would be certified to us for the imposition of sanctions and the allegations of the complaint would be deemed admitted. This letter was sent to respondent's home address in Penn Valley, Pennsylvania, by certified and regular mail. The certified mail envelope was returned as unclaimed and notified the sender of a new address: 1011 Colorado Avenue, Palo Alto, CA 94303-3806. The regular mail was not returned.

On September 29, 2000, the DEC contacted respondent via telephone. Respondent agreed to accept service of the complaint at his new home address by regular mail. Respondent was told that he would have twenty-one days to answer the complaint. The DEC sent a copy of the complaint to respondent's new home address by regular mail on September 29 and, again, on October 27, 2000. Neither letter was returned, nor was an answer filed.

On November 27, 2000, the DEC sent respondent yet another letter, by both certified and regular mail, informing him that, if he did not reply within five days, the allegations of the complaint would be deemed admitted and the matter would be certified to us for the imposition of sanctions. The certified mail envelope was returned as unclaimed, while the regular mail was not returned. Respondent never filed an answer to the complaint.

Respondent was admitted to the New Jersey bar in 1990. During the relevant times, he maintained an office in Narberth, Pennsylvania, and had a New Jersey office address

listed in the Office of Attorney Ethic's records as One Greentree Center, Suite 201, Marlton, NJ 08053. Respondent has no ethics history.

The complaint charged respondent with violations of RPC 1.2(a) (failure to abide by a client's decision concerning the objectives of the representation), RPC 1.3 (lack of diligence), RPC 1.7(b) (conflict of interest - a lawyer shall not represent a client if the lawyer may be materially limited by his/her responsibilities to another client, third person, or to the lawyer's own interests) and 5.5(a) (failure to maintain a bona fide office).

According to the complaint, in November 1997, Irvin Hearing retained respondent to pursue a collection action in New Jersey arising out of a contract dispute. Respondent did not charge a fee for his services because he and Hearing were "previously acquainted." Hearing made it clear to respondent that, although the statute of limitations would not run until the year 2003, he wanted the matter handled immediately. He repeatedly asked respondent about the progress of the case. Nonetheless, respondent wrote only one demand letter on Hearing's behalf, in December 1997, and attempted unsuccessfully to file a complaint in March 1998. Approximately six months later, when respondent realized that the complaint had not been filed, he attempted to have it re-filed.

The complaint alleged that despite numerous "angry" telephone conversations with Hearing about the collections matter, respondent continued to delay handling the matter. Apparently, respondent failed to provide the immediate attention requested by Hearing because he was providing representation free of charge and because the statute of limitations

would not run until 2003. In fact, the complaint stated that the interactions between the two were so unpleasant that respondent stopped actively pursuing the matter in the latter half of 1998. Thereafter, respondent made no effort to consult with Hearing about these circumstances or to terminate the representation.

The complaint also charges that respondent maintained a “virtual office” in New Jersey. Respondent did not employ any staff at his New Jersey office to answer telephone calls or meet clients. Rather, telephone calls to respondent’s New Jersey law office were routinely forwarded to his Pennsylvania office. The mail that was delivered to respondent’s New Jersey office address was also forwarded to respondent’s Pennsylvania law office address.

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Service of process was proper. Therefore, the matter may proceed as a default. Pursuant to R. 1:20-4(f)(1), the allegations of the complaint are deemed admitted.

Respondent never pursued the collection action with the promptness and sense of urgency requested by Hearing. Because of respondent’s inattentiveness, he did not file the complaint until nearly one year after he was retained. Respondent’s failure to undertake immediate action on behalf of his client constituted a failure to abide by the client’s decision

and lack of diligence, in violation of RPC 1.2(a) and RPC 1.3, respectively. In addition, respondent failed to maintain a bona fide office, in violation of RPC 5.5(a).

We dismissed the charged violation of RPC 1.7, however, because no facts were stated within the complaint to support the charge that respondent's representation of Hearing created a conflict of interest.

Cases involving failure to maintain a bona fide office generally result in a reprimand. See In re Kasson, 141 N.J. 83 (1995). Here, we have other violations, in addition to the failure to maintain a bona fide office. It appears, however, that those violations were, in large part, the result of the poor relationship between respondent and Hearing. In aggravation, respondent failed to file an answer to the ethics complaint, despite being aware of it and having agreed with the investigator on the manner of service. Thus, more severe discipline is appropriate in this case. We, therefore, unanimously determined to impose a three-month suspension. One member did not participate.

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

Dated:

Oct 9 2001

By:



ROCKY L. PETERSON

Chair

Disciplinary Review Board

**SUPREME COURT OF NEW JERSEY**

**DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

**In the Matter of Joel B. Rubinstein  
Docket No. DRB 01-067**

**Decided: October 9, 2001**

**Disposition: Three-month suspension**

Members	Disbar	Three-month suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not participate
Peterson		X					
Maudsley		X					
Boylan							X
Brody		X					
Lolla		X					
O'Shaughnessy		X					
Pashman		X					
Schwartz		X					
Wissinger		X					
<b>Total:</b>		8					X

*Robyn M. Hill* 10/28/01  
Robyn M. Hill  
Chief Counsel