

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 01-134

IN THE MATTER OF :
:
ALLEN C. MARRA :
:
AN ATTORNEY AT LAW :
:

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

Decided: October 16, 2001

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

Pursuant to R.1:20-4(f), the District VC Ethics Committee (“DEC”) certified the record 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 1967. He maintains an office for the practice of law in Montclair, New Jersey.

Respondent was privately reprimanded in June 1992 for lack of diligence and failure to communicate with a client in one case. In December 1993, respondent was publicly reprimanded for failing to communicate with a client, having an employee “notarize” false signatures, failing to deposit settlement proceeds in a trust account and failing to cooperate with disciplinary authorities.

On June 30, 1997, respondent was suspended for three months for gross neglect, failure to abide by the client's decision, lack of diligence, failure to keep a client reasonably informed, failure to cooperate with disciplinary authorities and conduct involving dishonesty, fraud, deceit or misrepresentation.

As of the date of this decision, two separate disciplinary matters against respondent are awaiting the Supreme Court's review.

On January 5, 2001, the DEC forwarded a copy of the complaint to respondent's office address by regular and certified mail. The certified mail was returned as unclaimed. The regular mail was not returned. On February 8, 2001, a second letter was sent to respondent by regular and certified mail, notifying him that, unless he filed an answer within five days, the record would be certified directly to us for the imposition of discipline. The certified mail receipt was returned, signed by respondent. Respondent did not file an answer to the formal ethics complaint. The DEC certified the record directly to us, pursuant to R. 1:20-4(f).

In 1996, Michelle Bey Gatling contacted respondent about representing her and her deceased son's estate in a negligence action against a Newark housing development. Gatling's son had been murdered in the housing development. Gatling sent respondent pictures that she had taken of the development and newspaper clippings of her son's murder. Respondent subsequently informed Gatling that he had notified the housing development of the cause of action. Respondent never contacted Gatling again. Although Gatling tried numerous times to contact respondent, she was unsuccessful.

After Gatling was unable to contact respondent for “an extended period of time,” she wrote to respondent, requesting that he send her a copy of the file. Respondent never complied with Gatling’s request. According to the complaint, Gatling retained another attorney but no complaint had been filed by that attorney as of the date of the complaint.

The complaint charges that respondent violated RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to keep a client reasonably informed and failure to comply with reasonable requests for information) and RPC 1.16(d) (failure to return the client’s file upon termination of representation). The complaint also charges that respondent’s neglect in this case, in conjunction with his similar conduct in prior cases for which he has been disciplined, constituted a pattern of neglect, in violation of RPC 1.1(b). In two prior cases, respondent was disciplined for gross neglect and lack of diligence.

Finally, the complaint charges that respondent violated RPC 8.1(b) (failure to cooperate with disciplinary authorities) because he failed to reply to the DEC’s “multiple written and oral requests” for information.

* * *

Service of process was proper. Therefore, the matter may proceed as a default. Pursuant to R. 1:20-4(f), the allegations of the complaint are deemed admitted. The complaint contains sufficient facts to support the charges of misconduct. Although the complaint does not specifically state that Gatling had retained respondent, his request for photographs and newspaper clippings and his subsequent telephone call advising Gatling

that he had notified the housing development of the cause of action could have reasonably led Gatling to believe that he was representing her. Thereafter, respondent did nothing on the case, failed to reply to Gatling's requests for information and failed to reply to her request to return her file. Respondent, therefore, violated RPC 1.1(a), RPC 1.3, RPC 1.4(a), and RPC 1.16(d).

Furthermore, respondent's gross neglect in this matter and his gross neglect and lack of diligence in two prior matters amount to a pattern of neglect, in violation of RPC 1.1(b). Finally, respondent's failure to cooperate with the DEC violated RPC 8.1(b).

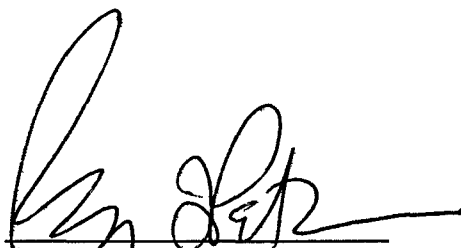
In determining the appropriate sanction, we also took into account respondent's significant ethics history and the fact that this matter is proceeding as a default. Given the various factors, and considering relevant precedent, a six-month suspension is appropriate. See In re Page, 162 N.J. 107 (1999) (six-month suspension in a default matter for gross neglect, lack of diligence, failure to communicate with the client, and failure to cooperate with disciplinary authorities; attorney had previously received an admonition, a private reprimand and a three-month suspension for similar misconduct); In re Dudas, 162 N.J. 101 (1999) (six-month suspension in a default matter for gross neglect, lack of diligence, failure to communicate with the client, misrepresentation about the status of a case, offering money to the client to keep him from contacting ethics authorities and failure to cooperate with ethics authorities; attorney had previously received an admonition and a three-month suspension for similar misconduct); In re Balsam, 142 N.J. 550 (1995) (six-month suspension where the attorney, who had previously been privately reprimanded twice,

grossly neglected a matter, failed to communicate with a client and failed to cooperate with disciplinary authorities).

In light of the foregoing, a five-member majority determined that respondent should be suspended for six months. Two members voted to suspend him for one year. Two members did not participate.

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

Dated: Oct 16 2001

By: 
ROCKY L. PETERSON
Chair
Disciplinary Review Board

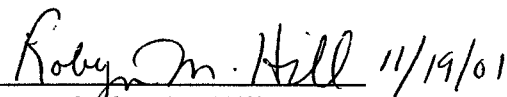
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Allen C. Marra
Docket No. DRB 01-134

Decided: October 16, 2001

Disposition: Six-month suspension

<i>Members</i>	<i>Disbar</i>	<i>Six-month Suspension</i>	<i>Reprimand</i>	<i>One-year Suspension</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Peterson</i>		X					
<i>Maudsley</i>		X					
<i>Boylan</i>		X					
<i>Brody</i>				X			
<i>Lolla</i>							X
<i>O'Shaughnessy</i>		X					
<i>Pashman</i>		X					
<i>Schwartz</i>							X
<i>Wissinger</i>				X			
Total:		5		2			2


 Robyn M. Hill
 Chief Counsel