

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 04-439
District Docket No. VIII-04-003

IN THE MATTER OF
GERALD M. LYNCH
AN ATTORNEY AT LAW

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

Decided: March 8, 2005

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 District VIII Ethics Committee ("DEC"), pursuant to
R. 1:20-4(f).

Respondent was admitted to the New Jersey bar in 1977.
According to the complaint, he maintains a law office in New
Brunswick, New Jersey. Respondent's ethics history consists of
a 1999 admonition for violation of RPC 1.4(b), RPC 1.15(b), and

RPC 8.1(b) and a temporary suspension of about one-month's duration in October 2003.

On July 28, 2004, the DEC transmitted a copy of the complaint to respondent's last known business address at 22 Kirkpatrick Street, P. O. Box #915, New Brunswick, New Jersey 08903, via regular and certified mail, return receipt requested. Respondent signed the return receipt. Respondent did not file an answer to the complaint.

On October 11, 2004, the DEC sent a letter to respondent at the same address, via regular and certified mail, return receipt requested. The letter directed respondent to file an answer within five days and informed him that, if he failed to do so, the DEC would certify the record directly to us for imposition of sanction. The receipt was not signed, and neither it nor the letter sent by regular mail were returned. Respondent did not file an answer within five days. Accordingly, the DEC certified the record directly to us for the imposition of discipline pursuant to R. 1:20-4(f).

The one-count complaint charged respondent with violations of RPC 5.5, presumably (a) (unauthorized practice of law) and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

Respondent was placed on the September 2002 Supreme Court list of ineligible attorneys for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection (CPF). In August 2003, respondent's name was removed from the list upon payment of the fees owed. However, respondent's check bounced, and he was placed on the list again in September.

On October 9, 2003, respondent was temporarily suspended from the practice of law. He was reinstated on November 13. However, as of February 17, 2004, respondent still had not paid the outstanding fees and remained on the ineligible list. Although not alleged in the complaint, on March 17, 2004, the DEC wrote to respondent and requested that he explain why he had not issued a replacement check to the CPF. On June 11, 2004, the DEC wrote to respondent and informed him that he had not replied to the March 17 letter.

Service of process was properly made in this matter. Following a *de novo* review of the record, we found that the facts recited in the complaint support a finding of unethical conduct. Because of respondent's failure to file an answer, the allegations of the complaint are deemed admitted. R. 1:20(f).

With respect to the alleged violation of RPC 5.5, presumably (a), the complaint is devoid of any factual

allegation that even suggests that respondent practiced law while he was on the ineligible list. Indeed, the complaint contains no allegation that respondent engaged in any unethical conduct. Thus, we find that respondent did not violate RPC 5.5 (a). Nevertheless, we do find that respondent's failure to reply to the DEC's inquiry regarding his failure to issue a replacement check constituted a failure to cooperate with disciplinary authorities, even in the absence of a finding that respondent actually had engaged in unethical conduct. See, e.g., In re Pierce, 181 N.J. 294 (2004), In re Wood, 175 N.J. 586 (2003), In re Medinets, 154 N.J. 255 (1998) (reprimands for violations of RPC 8.1(b) even though the balance of the complaint's charges or the underlying grievance were dismissed).

The remaining issue is the quantum of discipline to be imposed. In matters where an attorney has violated only RPC 8.1(b), either an admonition or a reprimand has been imposed. In the absence of an ethics history or default, the discipline is limited to an admonition. In the Matter of Keith O. D. Moses, DRB 02-248 (October 23, 2002) (admonition for failure to reply to DEC's requests for information about two grievances); In the Matter of Jon Steiger, DRB 02-199 (July 22, 2002) (admonition for failure to reply to DEC's numerous

communications regarding a grievance); In the Matter of Wesley S. Rowniewski, DRB 01-335 (January 10, 2002) (admonition for failure to comply with OAE's letters seeking a reply to a grievance and failure to file a timely answer to the complaint); In the Matter of Robert P. Gorman, DRB 94-437 (February 8, 1995) (admonition for violation of RPC 8.1(b) after the attorney failed to submit a written response to the investigator's requests for information about a grievance that had been filed). If the attorney has an ethics history or has defaulted, a reprimand generally issues. In re Pierce, supra, 181 N.J. 294 (reprimand where ethics history included one reprimand for misconduct in three cases); In re Wood, supra, 175 N.J. 586 (reprimand where ethics history included an admonition for failure to cooperate with disciplinary authorities); Medinets, supra, 154 N.J. 255 (despite lack of ethics history, reprimand ordered where the attorney had defaulted).

Here, respondent already has been admonished for failure to cooperate with disciplinary authorities. Moreover, he has defaulted in this matter. Accordingly, we determine that a reprimand is the appropriate form of discipline. Member Ruth Lolla did not participate.

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

Disciplinary Review Board
Mary J. Maudsley, Chair

By: Julianne K. DeCore
Julianne K. DeCore
Chief Counsel

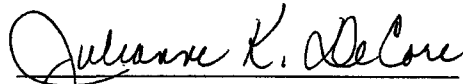
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

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Disposition: Reprimand

Members	Suspension	Reprimand	Admonition	Disqualified	Did not participate
Maudsley		X			
O'Shaughnessy		X			
Boylan		X			
Holmes		X			
Lolla					X
Pashman		X			
Schwartz		X			
Stanton		X			
Wissinger		X			
Total:		8			1


Julianne K. DeCore
Chief Counsel