

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 00-328 & DRB 00-329

IN THE MATTER OF

KIMBERLY A. HINTZE a/k/a
KIMBERLY HINTZE-WILCE

AN ATTORNEY AT LAW

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

Decided: December 20, 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 VI Ethics Committee (“DEC”) certified the record in these two matters directly to us for the imposition of discipline, following respondent’s failure to file answers to the formal ethics complaints.

Respondent was admitted to the New Jersey bar in 1991. On July 6, 2000, she was reprimanded for violating RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate with client) and RPC 8.1(b) (failure to cooperate with ethics authorities). In re Hintze-Wilce, 164 N.J. 548 (2000). Pursuant to the July 6, 2000 Court order, respondent was required to practice law under the supervision of a proctor. When respondent did not submit to the Office of

Attorney Ethics (“OAE”) the name of a proposed proctor, she was temporarily suspended on January 17, 2001. She remains suspended to date.

Respondent was the subject of an agreement in lieu of discipline/diversion, pursuant to R.1: 20-3(i)(2), in 1997. That matter concerned respondent’s practice of law while on the Court’s ineligible list of attorneys for failure to pay the annual assessment to the New Jersey Lawyers’ Fund for Client Protection.

In DRB 00-328, the DEC sent the complaint by certified and regular mail to respondent’s last known office address, in Jersey City, New Jersey, on May 10, 2000. The certified mail envelope was returned with the notation “Moved 539 Bramhall Avenue, Jersey City, NJ 07304”. The regular mail was not returned. On June 12, 2000, the DEC sent the complaint to the new address, by certified and regular mail. The certified mail was returned as unclaimed. The regular mail was not returned.

On September 21, 2000, when respondent failed to answer the complaint, the DEC forwarded a third letter by regular and certified mail. The letter notified respondent that her failure to file an answer would constitute an admission of the allegations contained in the complaint. Again, the certified mail was returned as unclaimed. The regular mail was not returned.

In DRB 00-329, the complaint was sent by certified and regular mail to respondent’s office address at 539 Bramhall Ave., Jersey City, New Jersey, on

August 11, 2000. The certified mail was returned with an illegible signature. The regular mail was not returned. When respondent failed to answer the complaint, the DEC sent a second letter on September 21, 2000, informing her that her failure to file an answer would constitute an admission of the allegations contained in the complaint. The certified mail was returned as unclaimed. The regular mail was not returned.

DRB 00-328 - The Casey Matter

In June 1997, respondent was retained by Stephanie Casey to represent her in a lawsuit. After filing an answer to the complaint on behalf of Casey, respondent failed to appear for a scheduled court date and failed to notify Casey that she would not appear. Respondent also failed to keep Casey informed about the status of the case. In June 1998, respondent signed an agreement in lieu of discipline in this matter, admitting that she was not diligent in the case and had failed to communicate with Casey. She agreed to participate in the New Jersey State Bar Association's In-Office Law Office Management Assistance Program. When she failed to meet the terms of the agreement, a formal complaint was filed. The complaint charged that respondent's failure to appear for the court appearance and to keep Casey informed of the status of the matter, coupled with her conduct in the matter that led to her 2000 reprimand, constituted a pattern of neglect, in violation of "PPC1- (b)," more properly RPC 1.1(b).

are deemed admitted. R.1:20-4(f). The complaint in DRB 00-328 also alleges sufficient facts to support a finding of violations of RPC 1.3 (lack of diligence), RPC 1.1(a) (gross negligence) and RPC 1.4(a) (failure to communicate with the client). Although these RPCs were not cited in the complaint, the facts recited therein provide sufficient notice of a potential finding of those violations. We, therefore, deemed the complaint amended to conform to the proofs. In re Logan, 70 N.J. 222, 232 (1976).

In DRB 00-329, for her failure to finalize the sale of Velez' business, to communicate with Velez and to account for the \$900 in escrow or disburse it to Velez, respondent violated RPC 1.3, RPC 1.1(a) and RPC 1.4(a). Moreover, although the complaint did not charge a violation of RPC 1.15(a), the facts recited therein gave sufficient notice of a potential finding of a violation of that rule. In re Logan, supra, 70 N.J. at 232. In addition, a pattern of neglect was established by respondent's conduct in Velez, Casey and Citro, in violation of RPC 1.1(b).

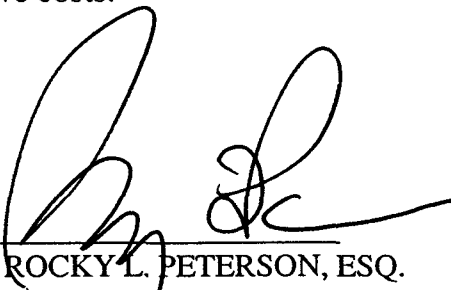
Prior to deciding these matters, we reviewed respondent's letter to Deputy Ethics Counsel Nitza Blasini, dated November 6, 2000, wherein respondent denied receipt of the complaint and requested that the default be vacated. Respondent was contacted on January 16, 2001 at her stated "correct address" (the Barrow Mansion, 83 Wayne St., Suite 201, Jersey City NJ 07302) and was advised of the steps required to file a motion to vacate the default. Respondent did not file anything, and

we unanimously determined to deny her November 6, 2000 request to vacate the default.

These are respondent's third and fourth brushes with the disciplinary system. Absent aggravating factors, conduct similar to that displayed by respondent in these two matters would result in a reprimand or, at most, a three-month suspension. See, e.g., In re Manns, 157 N.J. 532 (1999) (reprimand for lack of diligence, failure to communicate and pattern of neglect) and In re West, 156 N.J. 391 (1998) (three-month suspension for gross neglect, lack of diligence, failure to communicate and pattern of neglect). Because of the default nature of these matters and respondent's disciplinary record, a three-month suspension is appropriate.

We, therefore, unanimously determined to impose a prospective three-month suspension. Two members did not participate.

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

By: 
ROCKY L. PETERSON, ESQ.
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of Kimberly Hintze-Wilce
Docket Nos. DRB 00-328 and 00-329**

Decided: December 20, 2001

Disposition: three-month suspension

Members	Disbar	Three-month suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not participate
Hyerling		X					
Peterson		X					
Boylan							X
Brody		X					
Lolla							X
O'Shaughnessy		X					
Maudsley		X					
Schwartz		X					
Wissinger		X					
Total:		7					2

Robyn M. Hill 12/28/01
Robyn M. Hill
Chief Counsel