

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 01-201

IN THE MATTER OF
JAY G. HELT
AN ATTORNEY AT LAW

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Decision

Argued: September 13, 2001

Decided: January 29, 2002

Laura Witherington appeared on behalf of the District IX Ethics Committee.

Respondent appeared pro se.

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

This matter was initially before us as a recommendation for an admonition, which we determined to bring on for hearing. Each of two complaints 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) (count one) and RPC 8.1(b) (failure to respond to a lawful demand for information from a disciplinary authority) (count two).

Respondent was admitted to the New Jersey bar in 1983. He maintains a law practice in Monmouth Beach, New Jersey.

Respondent received a private reprimand in 1986 for failure to keep his client informed about the status of the matter and failure to give her a written retainer agreement. In the Matter of Jay G. Helt, Docket No. DRB 85-416 (1986). In 1997, he was reprimanded for failure to turn over client files, in violation of RPC 1.16(d), and failure to cooperate with disciplinary authorities, in violation of RPC 8.1(b). In re Helt, 147 N.J. 273 (1997). Respondent was again reprimanded in 2001 for failure to surrender papers and property upon termination of representation, in violation of RPC 1.16(d). In re Helt, 166 N.J. 597 (2001).

First Complaint
The Knott Matter - District Docket No. IX-99-041E

At the DEC hearing, the presenter withdrew the second count of the complaint, charging respondent with a violation of RPC 8.1(b). The presenter noted that there was some confusion with the documents she had sent to respondent and that, once she resent them, respondent submitted a reply.

At the DEC hearing, the parties entered into the following stipulation of facts:

Theresa Knott retained respondent's firm in February 1996 for a personal injury action against the Monmouth Medical Center and other potential defendants, arising from injuries sustained in the hospital's garage. Although a complaint was submitted to the court

the day before the statute of limitations was to expire, it was not stamped "filed" until the next day. Thereafter, respondent failed to issue a summons or have the complaint served in accordance with the court rules. Subsequently, Knott's case was dismissed for lack of prosecution. Respondent did not attempt to have the complaint reinstated.

Respondent failed to return telephone calls from Knott or her son about the status of the case and did not inform Knott that her case was dismissed. That information was obtained by Knott's son, when he contacted the court. Once Knott learned that her case had been dismissed, she consulted with another attorney, who informed her that the statute of limitations had expired.

Respondent admitted that his failure to file suit timely or to pursue litigation, once it had been instituted, was a violation of RPC 1.1(a) (presumably, the transcript of the DEC hearing cites RPC 1.4(a) instead). Respondent also stipulated that his failure to issue a summons or to serve the complaint violated RPC 1.3 and that his failure to keep his client informed about the status of her matter or to reply to her requests for information violated RPC 1.4(a).

Second Complaint
The Wright Matter - District Docket No. IX-00-016E

Lewis Wright retained respondent's firm in 1994. Wright was the executor of the estate of Joseph Rimkus, who passed away on March 26, 1994. Wright retained respondent

to settle the estate. Wright agreed to pay respondent, in advance, a discounted fee of \$13,000.

Rimkus' will contained specific bequests and a provision that Wright was to remain in Rimkus' house for five years after Rimkus' death. Thereafter, the house was to be sold and the proceeds distributed in accordance with the will.

The house was sold in June 1999. Between that date and April 2000, Wright did not hear from respondent. During that time, Wright "was put in the middle of a conflict between respondent and the beneficiaries" of the will, who wanted to know when they would receive their share of the estate. When the beneficiaries experienced difficulty contacting respondent, they contacted Wright, who was also unable to reach respondent.

On April 28, 2000, about two weeks after the grievance in this matter was filed, but before it was sent to respondent and apparently before he was aware of it, he sent a letter to Rimkus' daughters, the beneficiaries, stating that he had prepared a final accounting of the estate. He also indicated that he would compute the final distribution of the available funds in accordance with the will.

As of the date of the DEC complaint, the disbursement of the balance of the estate had not been made. According to the presenter, respondent had informed her that refunding bonds had been sent out and that, once he received all of the funds, he would be in a position to disburse them.

The parties further stipulated that, after respondent became aware of the grievance, he did not cure the problem in a timely manner and also failed to promptly return Wright's and the beneficiaries' telephone calls.

The parties stipulated that (1) respondent's failure to disburse the estate proceeds for one and one-half years, after the sale of the house, was a violation of RPC 1.1(a); (2) his failure to complete the services for which he was retained was a violation of RPC 1.3; and (3) his failure to keep his clients adequately and accurately informed and to reply to their requests for information was a violation of RPC 1.4(a).

The grievance in the Wright matter was sent to respondent on June 21, 2000. Respondent failed to reply within the requested ten days. A second letter was sent to him on July 19, 2000, but again he did not reply. Respondent stipulated that his failure to file a timely and specific reply to the grievance was a violation of RPC 8.1(b).

In mitigation, respondent stated that, at the time that Knott retained his firm, February 1996, he had two lawyers, one paralegal, five secretaries and a staff accountant in his employ. Respondent claimed that the Knott matter was being handled by one of his associates. According to respondent, he never met Knott, never spoke to her or any of her relatives, and was not aware that the Knotts had placed calls to his office that were not returned. His belief, he stated, was that the matter was proceeding properly. Respondent claimed that letters had been sent to Knott telling her which doctors to see and that doctors' reports had been requested. No documentary evidence was submitted to support this claim,

however. Respondent also stated that work had been done on the case and that the complaint had been timely filed. He admitted that a summons was never sent, although he did not know why. He claimed that, because his handwriting did not appear in the file, he might not have seen it. Nonetheless, he accepted responsibility for his firm's inaction in the matter, conceding that it had "fallen through the cracks." He stated that the attorney and the paralegal who handled the case are no longer in his employ.

Respondent also related that he received a telephone call from Knott's new attorney, who was attempting to reinstate the complaint, but believed that he was time-barred. Respondent agreed to settle the matter with Knott for \$3,500, if she were to withdraw her grievance. It was not until respondent spoke with the presenter that he learned that the grievance could not be withdrawn. Nevertheless, respondent paid Knott \$3,500. According to respondent, he believed that Knott's injuries were not serious and that a settlement in her personal injury case would have resulted in a similar amount. There was no malpractice suit pending against respondent at the time of the DEC hearing.

As to the Wright matter, respondent stated that he had instructed Wright to open up an executor's bank account. He claimed that the sporadic papers he received from Wright were difficult to interpret, that checks were missing and that Wright's handwriting was not easy to decipher.

Respondent explained that there were problems in concluding the administration of the estate. He claimed that, as of the date of the DEC hearing, \$2,500 was being held in

escrow from the sale of the house, because it was still in dispute. As to the two beneficiaries, Rimkus' daughters, respondent stated that they lived out of state and that one begrudged amounts paid to the other for flying to New Jersey to help dispose of the contents of the house. Respondent added that one of the sisters had received a greater portion of the estate, about which the two continued to fight.

Respondent stated that, at the time the grievance was filed, he had already prepared and sent out a release and refunding bond and a final accounting of the estate. One of the daughters, however, objected to several items in the final accounting. As a result of the dispute between the sisters, one of them refused to execute the release and refunding bond. Eventually, she agreed to execute the documents with some changes, but respondent had to redo the release and refunding bond because of the revisions, which he accomplished only the week before the DEC hearing. Respondent stated that, as soon as he receives the funds, he can disburse them. At oral argument before us, respondent represented that the estate had been finalized.

Based on the stipulated facts, the DEC determined that respondent's conduct included violations of RPC 1.1(a), RPC 1.3, RPC 1.4(a) in both matters and RPC 8.1(b) in the Wright matter. The DEC recommended an admonition.

* * *

Following a de novo review of the record, we are satisfied that the DEC's conclusion that respondent was guilty of unethical conduct is supported by clear and convincing evidence.


We have only the stipulated facts as the basis for discipline. Although respondent disclaimed responsibility for the Knott matter, he conceded that he was ultimately responsible for the handling of that file. As a result, he admitted violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence) and RPC 1.4(a) (failure to communicate with client). The stipulated facts, however, provide a basis for a violation of RPC 1.3 only. The complaint was filed before the statute of limitations expired, even though it was not filed. Thereafter, the case "slipped through the cracks." Knott was not harmed because respondent paid her what he believed the case was worth, \$3,500, in lieu of a recovery from a lawsuit.

As to the Wright matter, respondent admitted violations of RPC 1.1(a), RPC 1.3, RPC 1.4(a) and RPC 8.1(b). Here, although the Rimkus estate was not finalized until more than six and one-half years after Rimkus' death, the decedent's house could not be sold for five years. Thereafter, the beneficiaries' conduct impeded respondent's ability to finalize the estate. Accordingly, we found a violation of RPC 8.1(b) only, in Wright.

The DEC recommended the imposition of an admonition. Generally in cases involving similar violations, admonitions are appropriate discipline. See In the Matter of Paulette Brown, Docket No. DRB 97-383 (December 2, 1997) and In the Matter of James C. Zimmerman, Docket No. DRB 97-476 (May 21, 1998) (admonitions for lack of

diligence); In the Matter of Michael K. Mullen, Docket No. DRB 98-067 (April 21, 1999); In the Matter of Michelle J. Munsat, Docket No. DRB 99-444 (March 20, 2000) (admonitions for lack of diligence and failure to communicate with client); and In the Matter of Erik Shanni, Docket No. DRB 98-488 (April 21, 1999); In the Matter of Donald B. Stemmer, Docket No. DRB 98-394 (April 11, 2000) and In the Matter of Andrew S. Wulfman, Docket No. DRB 00-245 (September 25, 2000) (admonitions for failure to cooperate with disciplinary authorities). Here, however, we cannot ignore respondent's disciplinary history. This is his fourth brush with the ethics system. As a result, we unanimously determined that a reprimand more properly addresses respondent's unethical conduct here, as well as his past problems with the disciplinary system. Two members did not participate.

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

By: 
ROCKY L. PETERSON
Chair
Disciplinary Review Board

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

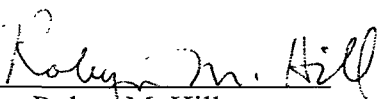
In the Matter of Jay G. Helt
Docket No. DRB 01-201

Argued: September 13, 2001

Decided: January 29, 2002

Disposition: Reprimand

<i>Members</i>	<i>Disbar</i>	<i>Suspension</i>	<i>Reprimand</i>	<i>Admonition</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:			7				2


 Robyn M. Hill
 Chief Counsel