

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 01-035

IN THE MATTER OF
JESSE JENKINS, III
AN ATTORNEY AT LAW

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

Decided: September 6, 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 VB 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.

The complaint in this matter alleged violations of RPC 5.5 (practicing while suspended), RPC 7.1(false or misleading communication about the lawyer or the lawyer’s services) and RPC 8.1(b) (failure to cooperate with ethics authorities).

* * *

Respondent was admitted to the New Jersey bar in 1992, having been previously denied admission because of his “consistent pattern of untruthfulness.” Specifically, in his certifications to the Committee on Character, respondent failed to disclose a 1973 arrest for larceny of an automobile and possession of burglary tools, a 1976 arrest for embezzlement and four civil lawsuits to which he was a party. He also made misstatements about his employment history. In re Jenkins, 94 N.J. 458 (1983).

In 1997, respondent was suspended for six months for violations of RPC 4.1(a) (truthfulness in statements to others), RPC 8.4(a) (attempt to violate the Rules of Professional Conduct), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) and RPC 8.4(d) (conduct prejudicial to the administration of justice). In re Jenkins, 151 N.J. 473 (1997).

In 1999, respondent was suspended for three months for violations of RPC 3.4 (c) (knowing disobedience of an obligation under the rules of a tribunal) and RPC 4.1(a) (truthfulness in statements to others). In re Jenkins, 161 N.J. 142 (1999).

Respondent has never applied for reinstatement.

* * *

On October 18, 2000, the DEC mailed a copy of the complaint by certified and regular mail to respondent’s office address. As set forth below, respondent maintained a law office, despite his suspension. The certified mail was returned as unclaimed. The regular

mail was not returned. On December 14, 2000, the DEC sent a second letter to respondent by regular and certified mail, notifying him that the failure to file an answer would constitute an admission of the charges contained in the complaint and the matter would be certified to us, pursuant to R.1:20-4(f). Again, the certified mail was returned as unclaimed and the regular mail was not returned.

Respondent did not file an answer to the complaint.

* * *

On August 4, 2000, respondent appeared in court on behalf of the plaintiff in a civil action. Respondent also submitted a certification to the court stating, "I am an attorney at law of the State of New Jersey. I am associated with the Law Offices of Jenkins & Scoon, attorneys for the plaintiffs LULIA EXILE, individually and as Guardian ad Litem, for ALY DEROSIER, and as such, I am fully familiar with the facts as stated herein." Respondent signed the certification on behalf of "Jenkins & Scoon, Attorneys for Plaintiffs."

The DEC investigator visited 334 Springdale Avenue, East Orange, New Jersey, where the Jenkins & Scoon law offices were located. There was a large sign in front of the building stating, "Jenkins & Scoon, Law Office, 675-5506." The investigator also called the telephone number shown on the sign and the call was "answered with the statement, among others, "This is the law office.'"

The complaint charged respondent with violations of RPC 5.5 (practicing while suspended) and RPC 7.1 (false or misleading communication about the lawyer or the lawyer's services).

The complaint also charged that respondent failed to reply to two grievances, in violation of RPC 8.1(b) .

* * *

Service of process was proper. Therefore, the matter may proceed as a default. Following a de novo review of the record, we find sufficient facts to support the charges contained in the complaint. Despite his suspension, respondent continued to practice law. He also falsely advertised to the public that he was eligible to practice. Finally, respondent failed to reply to the grievances or to answer the complaint, in violation of RPC 8.1(b) .

The complaint also alleged that respondent submitted a certification to the court in which he stated that he was "an attorney at law." That conduct violated RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) and RPC 8.4(d) (conduct prejudicial to the administration of justice). Although the complaint did not cite those particular RPCs, it stated sufficient facts to place respondent on notice of a potential finding of violations of those rules. Therefore, we deemed the complaint amended to include those charges. R. 4:9-2; In re Logan, 70 N.J. 222, 232 (1976).

The level of discipline for practicing law while suspended has generally ranged from a two-year suspension to disbarment, depending on a number of factors, including the attorney's level of cooperation with the disciplinary proceedings, the presence of other misconduct and the attorney's disciplinary history. See In re Goldstein, 97 N.J. 545 (1984) (attorney disbarred for misconduct in eleven matters and for practicing law while temporarily suspended by the Court and in violation of an agreement with the Disciplinary Review Board that he limit his practice to criminal matters); In re Kasdan, 132 N.J. 99 (1993) (three-year suspension, where the attorney continued to practice law after the Court denied her request for a stay of her suspension, failed to inform her clients, adversary or the courts of her suspension, failed to keep complete trust records and failed to advise her adversary of the location and amount of escrow funds; attorney was also guilty of conduct involving dishonesty, fraud, deceit or misrepresentation); In re Beltre, 130 N.J. 437 (1992) (attorney suspended for three years for appearing in court after having been suspended and for misrepresenting his status to the judge, failing to carry out his responsibilities as an escrow agent, lying to the Disciplinary Review Board about maintaining a bona fide office and failing to cooperate with an ethics investigation) and In re Wheeler, 140 N.J. 321 (1995) (attorney suspended for two years for practicing law while suspended, making multiple misrepresentations to clients and displaying gross neglect, pattern of neglect, negligent misappropriation, conflict of interest and failure to cooperate with disciplinary authorities).

Here, respondent initially was refused admission to the New Jersey bar because of his “consistent pattern of untruthfulness.” He displayed dishonest conduct in the matter that led to his 1997 suspension. In that matter, he placed an “S” and wrote a decedent’s name on the signature line of a medical authorization to give the impression that the documents had been signed by the decedent so that respondent could obtain the decedent’s medical records. Respondent also misrepresented to the hospital that he was the attorney for the decedent when he actually represented two individuals who claimed to be related to the decedent. Because of respondent’s misconduct, the probate court disqualified him in 1994 from representing the two individuals.

Respondent’s misconduct in the matter for which he received a three-month suspension arose out of the same probate matter that caused respondent to receive a six-month suspension. Despite his 1994 disqualification by the probate court, respondent continued to act and to hold himself out as the attorney for the individuals who claimed to be related to the decedent. That misconduct occurred between January and June 1995.

Given respondent’s lengthy bar application process, he should have had a heightened awareness of his professional and ethical duties. Instead, fewer than two years after he was finally admitted, he engaged in deceitful conduct. Then, six months after that misconduct, he violated a court order. Finally, he continued to practice law after having been suspended and filed a false certification with the court.

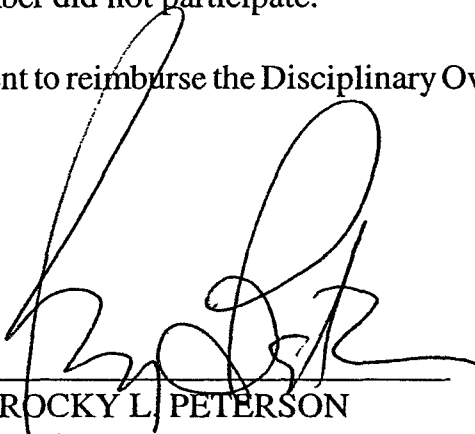
“Candor and honesty are a lawyer’s stock and trade. Truth is not a matter of convenience. Sometimes lawyers may find it inconvenient, embarrassing or even painful to tell the truth....Absolute candor coupled with an absolute duty to disclose, no matter how painful, is required.” In re Whitmore, 117 N.J. 472, 477-78 (1990) (citation omitted).

Unquestionably, this respondent has shown that he is unable or unwilling to adhere to the requirements of candor and honesty. He has also shown that he has no regard for court orders. “[I]n the totality of the circumstances respondent has demonstrated that his ethical deficiencies are intractable and irremediable.” In re Templeton, 99 N.J. 365, 376 (1985). Lastly, respondent exhibited wilful disregard for the Court, this Board and the entire disciplinary system by not answering the formal ethics complaint and causing this serious matter to proceed on a default basis.

In light of the foregoing, we unanimously determined to recommend that respondent be disbarred from the practice of law. One member did not participate.

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

Dated: 9/6/09

By: 
ROCKY L. PETERSON
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY


**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of Jesse Jenkins, III
Docket No. DRB 01-035**

Decided: September 6, 2001

Disposition: Disbar

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						
Total:	8						1


Robyn M. Hill
Chief Counsel

10/16/01