

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 03-146

IN THE MATTER OF :
 :
CARL C. BOWMAN :
 :
AN ATTORNEY AT LAW :
 :

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

Decided: August 27, 2003

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

Pursuant to R.1:20-4(f)(1), the Office of Attorney Ethics ("OAE") certified the record in this matter directly to us for the imposition of discipline, following respondent's failure to file an answer to the formal ethics complaint.

On March 13, 2003, the OAE mailed a copy of the complaint to respondent by certified, and regular mail to his last known home address listed in the records of the New Jersey Lawyers' Fund for Client Protection, 100 North Chew Street, Apartment B, Hammonton, New Jersey 08037. The certified mail envelope was returned marked "Not

Deliverable As Addressed Unable to Forward” with a hand-written note “MLNF” (moved left no forwarding). The regular mail was returned marked “Attempted-Not Known.” On March 15, 2003, the complaint was served on respondent in accordance with the provisions of R.1:20-4(d), by publication in “The Press of Atlantic City,” and, on March 17, 2003, by publication in the “New Jersey Lawyer.” Respondent did not file an answer to the complaint.

Respondent was admitted to the New Jersey bar in 1962. He does not currently maintain an office for the practice of law. His last known office was located in Westville, Gloucester County.

Respondent was temporarily suspended on November 1, 2002, following his abandonment of his law practice. Although not reflected in the order, an affidavit in support of the motion stated that respondent had failed to pay a \$1,500 award to a client following a fee arbitration proceeding. He remains suspended to date.

Earlier this year, respondent was suspended for six months for gross neglect, pattern of neglect, lack of diligence, failure to communicate, failure to provide a written fee agreement, failure to protect a client’s interests on termination of representation, false statement of fact in a disciplinary matter, and misrepresentation, all arising out of his handling of three client matters. In re Bowman, 175 N.J. 108 (2003). Previously, in 1971, respondent was privately reprimanded for lack of diligence in a divorce matter. In the Matter of Carl C. Bowman, (December 27, 1971).

Count One

Leonard Sporn retained respondent on October 25, 1999, to represent him in a civil action against the Ocean Colony Condominium Association (“OCCA”), and others, alleging violations of the Fair Housing Act, and the Law Against Discrimination. On March 10, 2000, respondent filed a complaint in behalf of Sporn, and several others, in United States District Court. OCCA, and five OCCA trustees, were named as the defendants. On February 5, 2001, the Honorable Joel B. Rosen, U.S.M.J., entered a scheduling order, which extended the deadline for fact discovery to February 28, 2001, and provided in part: “The form Joint Final Pretrial Order . . . as signed by all counsel, shall be delivered to me at the conference on May 7, 2001 at 4:15 p.m. . . . **FAILURE TO APPEAR AT THIS CONFERENCE WILL LEAD TO THE IMPOSITION OF SANCTIONS, INCLUDING COSTS.**” On February 28, 2001, Judge Rosen entered an order further extending the deadline for fact discovery to March 23, 2001. Respondent did not reply to defendant’s requests for discovery, and did not request an extension of time within which to reply. Furthermore, he did not oppose defendants’ subsequent motion to impose sanctions, and did not provide a justifiable reason why he had not complied with the court’s order to provide discovery by March 23, 2001. On April 23, 2001, Judge Rosen entered an order imposing sanctions against the plaintiffs for failing to meet the March 23, 2001 deadline.

In or about April 2001, respondent moved his law office, and Sporn began to have difficulty reaching him by telephone. On April 24, 2001, Sporn e-mailed respondent asking respondent to call him because Sporn had heard that respondent was terminating

his private law practice. Sporn and respondent spoke later that day, at which time respondent assured him that he would continue to represent him, but stated that he had arranged for another attorney, Edward L. Gatier, to assist him. At the time respondent made that statement he knew it to be false. In fact, respondent and Gatier had spoken, but respondent had not made arrangements for Gatier to assist him with Sporn's case. Respondent sent an e-mail to Sporn on April 24, 2001, confirming that he would continue to represent him in the OCCA matter. On April 25, 2001, respondent e-mailed to Sporn the address and phone number for Gatier and further stated:

He will make court appearances when I am not available. His secretary will provide secretarial services. He will assist in preparing any documents which must be filed with the court. I will continue to be the attorney of record in the matter. Should the matter proceed to trial, I will try the case.

Sporn e-mailed respondent on May 3, 2001, after several unsuccessful attempts to reach him by phone, asking if respondent would be making a scheduled court appearance on May 4, 2001, before Judge Rosen. Respondent telephoned and advised Sporn that no appearance was necessary. Sporn received no further communications from respondent, despite his repeated requests for information about his case.

On May 7, 2001,¹ respondent wrote to Judge Rosen, and advised him that he had left the private practice of law, that he would not be representing Sporn, and was not available to participate in a pre-trial conference before the judge scheduled for that afternoon. Judge Rosen replied on May 8, 2001, stating that respondent had abandoned

¹ The complaint mistakenly states the date as May 7, 2002.

his clients and that his handling of the matter subjected his client's case to possible dismissal:

As things now stand, your clients have been abandoned with no one representing them. Further, we have been trying to contact you for some time, but your telephone was disconnected.

I am concerned about the status of these, and other clients. What arrangements have been made for a transfer of files to other counsel? I have also discovered that you have left no forwarding address. How can your clients possibly find out what is happening in their cases? Indeed, in this case you have failed to file opposition to several motions, including a motion for sanctions.

The Final Pretrial Conference is scheduled for May 21, 2001 at 12:00 Noon. I fully expect that the pretrial order will be completed by you, other counsel, or your client. If not, their case may be dismissed.

[Exhibit 9]

Respondent did not comply with the court's directive, and did not reply to Judge Rosen. On May 14, 2001, Judge Rosen awarded \$1,230 in counsel fees and costs to defendants, to be paid by respondent. The court further directed that the plaintiff's ability to maintain the civil action was contingent upon compliance with the order. Thereafter, on June 4, 2001, Judge Rosen entered an order memorializing the results of a May 21, 2001, status conference, which provided, in part, that if respondent failed to pay the \$1,230 sanction within ten days of the order, the court would initiate contempt proceedings against him. By letter dated July 20, 2001, respondent advised Judge Rosen that he had resigned from the New Jersey bar. At the time respondent made that statement he knew it to be false. In fact, respondent had not resigned from the bar, and had made no attempt to do so.

By letter dated July 24, 2001, the Honorable Joseph E. Irenas, U.S.D.J., instructed respondent to send the file in Sporn v. OCCA to the plaintiff immediately. On the same

day, Judge Irenas wrote to Sporn and told him that respondent had resigned from the bar and could no longer practice law and that the judge had asked respondent to deliver the file to Sporn. Judge Irenas advised Sporn to find a new attorney. By letter dated August 6, 2001, respondent advised Sporn to pick up his file at Gatier's office and to retain another attorney. On August 17, 2001, respondent forwarded to Sporn a copy of Judge Rosen's August 13, 2001, order awarding fees and costs against him. Respondent advised Sporn that he was "not in a position to pay the money required by the Order." On September 6, 2001, Judge Rosen conducted a show cause hearing in the matter. Respondent did not attend. The following day, Sporn retained new counsel to take over his case. Ultimately, Judge Irenas decided the matter in favor of the defendants, and granted their motion for attorney fees and costs.

The complaint charged respondent with a violation of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate), RPC 1.16(d) (failure to protect a client's interests upon termination of the representation), RPC 3.3(a)(1) (false statement of material fact to a tribunal), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and RPC 8.4(d) (conduct prejudicial to the administration of justice).

Count Two

On August 16, 2001, the District I Ethics Committee ("DEC"), sent a letter to respondent's last known office address, requesting that he reply to the allegations in the grievance filed by Sporn. Shortly thereafter, the DEC sent a similar letter to respondent's

residence. Respondent did not reply to either request for information. Thereafter, the DEC sent two additional letters to respondent, seeking a reply to the grievance, followed by a similar letter from the OAE. All were to no avail. On February 27, 2002, an OAE investigator sent a letter to respondent, via certified, and regular mail, requesting a reply to the grievance. On April 24, 2002, the certified letter was returned as unclaimed. The regular mail was not returned. Again respondent did not reply.

Count two of the complaint charged respondent with a violation of RPC 8.1(b) (failure to cooperate with disciplinary authorities).

* * *

Service of process was proper. Following a review of the record, we found that the facts recited in the complaint support the charges of unethical conduct. Because of respondent's failure to file an answer, the allegations of the complaint are deemed admitted. R.1:20-4(f).

Respondent demonstrated gross neglect, lack of diligence, failure to communicate, failure to protect his client's interests after terminating the representation, misrepresentation to his client and to the tribunal, failure to cooperate with disciplinary authorities, and conduct prejudicial to the administration of justice. Most reprehensibly, respondent abandoned his client in the middle of litigation, with no warning.

Discipline in other matters involving the abandonment of clients has varied, depending on the type of ethics violations involved, and the number of clients abandoned. See, e.g., In re Grossman, 138 N.J. 90 (1994) (three-year suspension where attorney signed a judge's name to a divorce judgment, and gave it to his client to cover up his

mishandling of the case; he also abandoned approximately two hundred cases after misrepresenting to the courts and clients that the cases had been settled); In re Mintz, 126 N.J. 484 (1992) (two-year suspension where attorney abandoned four clients and was found guilty of a pattern of neglect, failure to maintain a bona fide office, and failure to cooperate with ethics authorities); In re Annenko, 165 N.J. 508 (2000) (six-month suspension imposed where attorney, who had two prior private reprimands, subsequently abandoned two clients, and was guilty of gross neglect, pattern of neglect, lack of diligence, failure to communicate with the client, failure to return an unearned retainer, lack of written retainer agreement, failure to cooperate with disciplinary authorities, failure to maintain a bona fide office, and failure to maintain proper trust and business accounts; and In re Bock, 128 N.J. 270 (1992) (six-month suspension imposed on attorney who, while serving as both a part-time municipal court judge and a lawyer, with approximately sixty to seventy pending cases, abandoned both positions by feigning his own death). In In re Velazquez, 158 N.J. 253 (1999) a three-month suspension was imposed upon an attorney who abandoned seven clients and was found guilty of gross neglect and pattern of neglect, failure to communicate with the client, and failure to protect the clients' interests upon the termination of the representation in all seven matters. The attorney also engaged in conduct prejudicial to the administration of justice in three of the matters. That suspension was subsumed in Velazquez' disbarment case, In re Velazquez, 158 N.J. 253 (1999).

Were this respondent's first appearance before us, a three-month suspension would be appropriate. Respondent, however, has been privately reprimanded and was


recently suspended for six months. Moreover, his failure to comply with a fee arbitration award and abandonment of his law practice resulted in a temporary suspension in November, 2002. In the past several years, he has demonstrated contempt for his clients, the courts, and indeed, the practice of law, which cannot be allowed to continue.

Respondent also does not understand the importance of being responsive to disciplinary authorities. He ignored the DEC and the OAE and allowed this matter to proceed as a default. His cavalier attitude toward an arm of the Supreme Court cannot be tolerated.

This matter falls between Velazquez and Annenko – a three- to six-month suspension. In light of the default nature of the proceeding, we determined that a six-month suspension is more appropriate. Respondent's suspension is to be consecutive to the suspension he is currently serving.

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

Disciplinary Review Board
Mary J. Maudsley, Chair

By: 
Julianne K. DeCore
Acting Chief Counsel

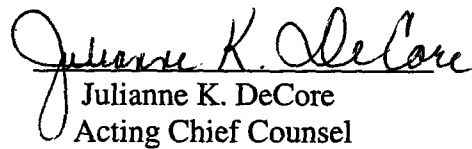
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Carl C. Bowman
Docket No. DRB 03-146

Decided: August 27, 2003

Disposition: Six-month suspension

<i>Members</i>	<i>Disbar</i>	<i>Six-month Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Maudsley</i>		X					
<i>O'Shaughnessy</i>		X					
<i>Boylan</i>		X					
<i>Holmes</i>		X					
<i>Lolla</i>		X					
<i>Pashman</i>		X					
<i>Schwartz</i>		X					
<i>Stanton</i>		X					
<i>Wissinger</i>		X					
Total:		9					


Julianne K. DeCore
Acting Chief Counsel