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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 03-024

IN THE MATTER OF
CHARLES STEPHEN BARTOLETT
AN ATTORNEY AT LAW

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

Decided: May 20, 2003

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

Pursuant to R.1:20-4(f), the District I Ethics Committee ("DEC") certified the record in this matter directly to us for the imposition of discipline, following respondent's failure to file an answer.

Respondent was admitted to the New Jersey bar in 1983. He maintains a law office in Philadelphia, Pennsylvania, and purportedly in Margate, New Jersey. He has no history of discipline.

On November 21, 2002, the DEC mailed a copy of the complaint to respondent's Margate address. Exhibit A to the certification of the record shows that the letter was

sent by certified mail, return receipt requested. A copy of the certified mail receipt indicates delivery on November 25, 2002. The signature of the recipient is illegible. When respondent did not file an answer, on December 17, 2002, the DEC sent a second letter to his Margate address, presumably by regular mail only. The letter gave respondent an additional five days to file an answer and amended the complaint to include a violation of RPC 8.1(b) for his failure to file an answer. Respondent did not file an answer.

* * *

The six-count complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.2 (failure to consult with the client about the objectives of the representation and means by which they are to be pursued), RPC 1.3 (lack of diligence), RPC 1.4, presumably (a) (failure to communicate with client), RPC 1.5(b) (failure to provide the basis or rate of the fee in writing), RPC 1.7, presumably (a) (conflict of interest - representing a client where the representation will be directly adverse to another client), RPC 1.8(b) (using information about one client to the disadvantage of another client), RPC 1.15, presumably (b) (failure to promptly deliver property to which the client is entitled), RPC 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal), RPC 5.5(a) (failure to maintain a bona fide office), RPC 8.1(b) (failure to cooperate with disciplinary authorities) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

The complaint alleged that Dr. Nazir Memon, the grievant, retained respondent sometime in 1997 to represent him in connection with various legal matters. Respondent failed to provide Memon with a written fee agreement.

The investigative report, an exhibit to the certification of the record, provides some relevant background in this matter. Memon is a board certified physician in internal and pulmonary medicine. In 1996, he retired due to a heart condition. He lectures on medical matters.

In or about 1996, Memon became an investor in an entity known as U. S. Medical Alliance (USMA), which purportedly bought medical practices from retiring doctors and otherwise engaged in grouping of practices to better deal with HMOs. According to the investigative report, the entity went public sometime thereafter.

In June 1997, USMA hired the firm of Bartolett and Kline to handle its legal matters, including the preparation of corporate contracts, board minutes, loan documents and the company's day-to-day legal affairs. That relationship purportedly continued through June 1998.

According to the report, sometime in 1997, Memon wanted to acquire a liquor license for the eventual use by one of the hotels that he owned and operated. The complaint alleged that respondent neglected to conduct due diligence with respect to the acquisition of the liquor license and neglected to "properly and completely" pursue certain litigation concerning the activation of the liquor license.

Memon also asked respondent to represent him in connection with alleged liquor license violations to be heard by the Egg Harbor Township Municipal Court.

Respondent, however, did not properly represent Memon's interests by failing to adequately advise him of the consequences of pleading guilty to the charges.

Respondent filed a bankruptcy petition on Memon's behalf. However, this and a subsequent petition were dismissed because of certain deficiencies. Memon was required to retain another attorney, who filed a third petition and was able to obtain a discharge in bankruptcy for Memon.

Memon had also retained respondent for the formation of four corporations, which respondent failed to properly complete. Finally, respondent allowed default judgments to be entered against Memon in "certain civil litigation" and also failed to appear at depositions and/or other court appearances in other legal matters that he was handling for Memon.

Count one charged that respondent neglected Memon's legal matters, failed to keep him advised about the status of the matters and failed to turn over Memon's files and other documents that he requested.

Count two charged that, in or about June 1997, respondent was retained to represent the interests of USMA. Memon was an investor with USMA and had lent it certain monies, prior to retaining respondent as his attorney. During the course of respondent's dual representation of USMA and Memon, respondent obtained personal financial information from Memon, who was a creditor of USMA. Respondent failed to advise Memon about the conflict of interest created by the dual representation.

The third count alleged that Memon retained respondent to file a Chapter VII bankruptcy petition on his behalf. Following the filing of the petition, respondent

continued to collect legal fees from Memon. On November 13, 2000, during the course of the bankruptcy proceeding, the court ordered respondent to personally repay all post-petition payments made to him by Memon. Respondent failed to comply with the court's order.

During the course of the representation, Memon paid respondent \$500 a week and later \$1,000 a week. Respondent requested that he be placed on the payroll account of a hotel that Memon owned and operated so that respondent and his wife could participate in the hotel's group health insurance. The complaint alleges that this conduct violated RPC 8.4(c).

The fourth count charged that respondent failed to turn over Memon's records after numerous requests and that he misrepresented the status of various legal matters to him.

Count five alleged that respondent failed to maintain a bona fide office at the 7707 Bayshore Drive, Margate, New Jersey, address. The property is located in a residential neighborhood and is a single-family home owned by individuals presumed to be the parents of respondent's wife. The investigator's report indicated that, during the course of an earlier investigation, the DEC investigator visited the property, contacted the Margate City Tax Collector and conducted "other investigations" that led him to conclude that respondent did not maintain a bona fide office there.

Finally, count six charged that respondent failed to cooperate with the ethics investigation of this matter, in violation of RPC 8.1(b).

* * *

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

Respondent's failure to provide Memon with a retainer agreement violated RPC 1.5(b). His failure to perform services for which he was retained or to otherwise properly represent Memon in various matters violated RPC 1.1(a) and RPC 1.3. He also failed to explain to Memon the ramifications of the plea agreement, in violation of RPC 1.4(b) (a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation).¹

Count two charged respondent with a conflict of interest. The investigator's report clarified that, in or about August 1998, Memon consulted respondent about loans he had made to USMA and about the prospect of seeking repayment from USMA. Apparently, USMA had gone into bankruptcy within eight months of its formation. Various creditors were pursuing claims against it and Memon. Respondent never advised Memon that his simultaneous representation of USMA and Memon created a conflict of interest. Respondent's conduct, thus, violated RPC 1.7(a). We found no clear and convincing

¹ Although the complaint charged that such conduct violated RPC 1.2, the applicable rule is RPC 1.4(b).

evidence, however, that respondent used information about one client to the disadvantage of another client, in violation of RPC 1.8(b).

Similarly, since Memon paid respondent a fixed amount on a weekly basis and, arguably, respondent could be deemed an employee of the hotel or its in-house counsel, we found no clear and convincing evidence that respondent's request to be placed on the hotel's payroll was dishonest, deceitful or fraudulent, in violation of RPC 8.4(c).

Respondent's misrepresentation about the status of Memon's matters, however, violated RPC 8.4(c); his failure to comply with Memon's requests for information about his legal matters violated RPC 1.4(a); his failure to repay post-petition fees, as ordered by the bankruptcy court, violated RPC 8.4(d)²; his failure to turn over the client files violated RPC 1.16(d)³; his failure to maintain a bona fide office in New Jersey violated RPC 5.5(a); and his failure to cooperate with the DEC investigation violated RPC 8.1(b).

Generally, in non-default matters that include a failure to maintain a bona fide office, reprimands have been imposed. See In re Armor 153 N.J. 358 (1998) (attorney grossly neglected a medical malpractice suit, failed to communicate with her client, practiced law while ineligible and failed to maintain a bona fide office); and In re Kasson, 141 N.J. 83 (1995) (attorney failed to maintain a bona fide office). But see In re Alston, 166 N.J. 597 (2001) (three-month suspension for failure to maintain a bona fide office, making false statements to disciplinary authorities and misrepresentation; attorney previously reprimanded for failure to maintain a bona fide office, practicing law while

² Although the complaint charged a violation of RPC 3.4(c), the applicable rule is RPC 8.4(d).

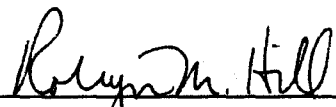
³ Although the complaint charged a violation of RPC 1.15, presumably (b), the applicable rule is RPC 1.16(d).

ineligible for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection and failure to cooperate with disciplinary authorities).

Default matters warrant the imposition of elevated discipline because of the attorney's blatant disregard for the ethics system. Four members, therefore, determined that a three-month suspension is the appropriate discipline for respondent's violations. Two members voted to impose a six-month suspension. Two members did not participate. One member recused herself.

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

Disciplinary Review Board
Rocky L. Peterson, Chair

By: 
Robyn M. Hill
Chief Counsel

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


In the Matter of Charles Stephen Bartolett
Docket No. DRB 03-024

Argued: March 13, 2003

Decided: May 20, 2003

Disposition: Three-month suspension

<i>Members</i>	<i>Disbar</i>	<i>Three-month Suspension</i>	<i>Reprimand</i>	<i>Six-month Suspension</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:		4		2		1	1

 5/22/03
 Robyn M. Hill
 Chief Counsel