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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 99-353

IN THE MATTER OF :
:
:
E. LORRAINE HARRIS :
:
:
AN ATTORNEY AT LAW :
:

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

Decided: June 16, 2000

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

Pursuant to R. 1:20-4(f)(1), the District IV 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 to the formal ethics complaint.

This matter was initially scheduled to proceed as a default at the February 3, 2000

Board hearing. However, respondent filed a motion to vacate the default, which we granted on February 8, 2000. Respondent was directed to file an answer with the DEC within twenty days. As of March 14, 2000, however, respondent had not filed an answer to the formal ethics complaint with the DEC. Therefore, the matter was again certified to us as a default.

On August 5, 1999 the DEC forwarded a copy of the formal ethics complaint to respondent's last known office address by regular and certified mail. The certified mail receipt was returned, indicating delivery on August 19, 1999. The signature of the accepting agent is illegible. The regular mail was not returned. On September 16, 1999 the DEC sent respondent a letter by regular and certified mail to the same address, advising her that, unless she filed an answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted and the record would be certified directly to the Board for the imposition of discipline. The certified mail receipt was returned, bearing respondent's signature on September 25, 1999. The regular mail was not returned.

Respondent did not file an answer to the formal ethics complaint. The record was certified directly to the Board for the imposition of discipline, pursuant to R. 1:20-4(f).

Respondent was admitted to the New Jersey bar in 1994. She maintains a law office at 1180 Berkeley Road, Gibbstown, New Jersey.

On January 10, 2000 respondent was temporarily suspended for failure to refund client funds in accordance with a fee schedule set forth in a Court order. She has since made the

necessary payments and has been reinstated. On September 28, 1999 respondent was temporarily suspended, following the filing of allegations that she misappropriated escrow funds. On October 26, 1999 respondent was reinstated with restrictions.

On January 19, 2000, respondent was admonished for failure to prepare a written fee agreement or to communicate in writing the basis of the fee. On September 13, 1999 we determined to reprimand respondent for fee overreaching and for failure to provide a written fee agreement to a client. That matter is pending before the Court.

In two cases reviewed by us on February 3, 2000 we voted to suspend respondent for six months for making false statements to the tribunal and conduct involving dishonesty, fraud, deceit or misrepresentations in each of two independent complaints. DRB 99-352 and DRB 99-390.

The first count of the complaint alleges that respondent represented Richard Lindenmuth, Jr. on a charge of driving on a suspended license, pending in the Woodstown-Mannington -Elmer Municipal Court. The matter was initially scheduled for trial on January 8, 1998 and was adjourned to February 12, 1998 at 9:00 A.M.

Respondent failed to appear on February 12, 1998, without prior notice to or consent from the court. However, at 4:29 P.M. that afternoon, the court administrator received a letter from respondent, via facsimile, asking for a postponement. Respondent's request was granted and the case was rescheduled for March 12, 1998.

On March 12, 1998 respondent "faxed" a letter to the court requesting that the case be marked "ready hold until 11:00 A.M." Respondent and her client failed to appear in court that day. Judge John D. Jordan rescheduled the matter for March 26, 1998.

On March 18, 1998 respondent requested and was granted a postponement until April 9, 1998. On April 6, 1998 respondent again requested a postponement. Her request was once more granted and the case was rescheduled for trial on May 14, 1998. Over the next three months the case was adjourned and rescheduled on several occasions. The case was finally set for trial on July 23, 1998.

On July 23, 1998 respondent appeared in court, but was not ready to proceed because she had not received discovery. She again requested an adjournment. Judge Jordan rescheduled the matter for trial on August 13, 1998 at 9:00 A.M.

On August 13, 1998 neither respondent nor her client appeared for trial. At the conclusion of the court session that day, Judge Jordan found a letter from respondent in the facsimile machine, which respondent had "faxed" to the court at 12:10 that afternoon. In the letter respondent thanked the court "for the postponement on today [sic] of the above listed case." In a November 23, 1998 letter to the DEC (attached as an exhibit to the complaint), Judge Jordan stated that respondent had not requested or received a postponement from him or court personnel, that respondent had not notified the prosecutor that she was requesting a postponement and would not appear, and that he was offended by respondent's

representation that he had postponed the case.

Judge Jordan set a new trial date for September 10, 1998. Respondent again requested and was granted an adjournment until September 24, 1998, when respondent appeared and advised the court that she still had not obtained discovery. Judge Jordan rescheduled the trial date for November 12, 1998 at 9:00 A.M. to enable respondent to obtain discovery.

On November 12, 1998 respondent's client appeared in court, as scheduled. Respondent failed to appear. Instead, at 11:58 A.M. she "faxed" a letter and certification to the court asking to be relieved as counsel.

The second count of the complaint alleges that, on December 3, 1998, the DEC forwarded a copy of the grievance to respondent and requested that she forward a written response within twenty days. Respondent failed to forward a response.

On January 15, 1999 the DEC wrote again to respondent and requested that she submit a written response to the grievance by January 22, 1999. By letter dated January 22, 1999 respondent submitted a preliminary response to the grievance. The letter stated, in part, that she would furnish a more detailed response later that same week. However, she failed to do so.

On January 28, 1999 the DEC docketed the grievance and forwarded the file to the OAE for investigation.

On February 4, 1999 the OAE forwarded the grievance to respondent and requested

that she reply, in writing, by March 2, 1999. Respondent failed to reply. On March 5, 1999 the OAE wrote again to respondent and requested that she furnish a written response to the grievance by March 15, 1999. Again, respondent failed to reply.

The complaint charges respondent with violations of RPC 1.3 (lack of diligence), RPC 3.2 (failure to expedite litigation and failure to treat with courtesy all persons involved in the legal process), RPC 3.3(b) (knowingly making false statements of material fact or law to a tribunal), RPC 8.1(b) (failure to respond to a lawful demand for information from disciplinary authorities) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation).

* * *

Service of process was properly made in this matter. Following a review of the complaint, we find that the facts recited therein support a finding 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)(1).

We found that respondent's repeated adjournment requests over eleven months in the Lindenmuth matter and her ultimate withdrawal as counsel on the date of trial constitute violations of RPC 1.3 (lack of diligence) and RPC 3.2 (failure to expedite litigation).

We also find that respondent's misrepresentation to the court that an adjournment had been granted of the August 13, 1998 court date, when no postponement had been granted, violated RPC 3.3(b) (knowingly making a false statement of material fact to a tribunal) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation).

Finally, respondent's failure to submit a written response to the grievance and to file an answer to the complaint, after she was given a second opportunity to do so, constitutes a violation of RPC 8.1(b).


Ordinarily, conduct of this nature warrants a short-term suspension. *See, e.g., In re Zotkow*, 143 N.J. 229 (1996) (three-month suspension where attorney violated RPC 1.1(a), RPC 1.4(a), RPC 3.2 and RPC 8.1(b)) and *In re D'Arienzo*, 157 N.J. 32 (1999) (three-month suspension where attorney violated RPC 3.3(a)(1)¹ and RPC 8.4(c)). Here, however, because of the default nature of this matter and because of respondent's extensive ethics history, the level of discipline must be increased.

Accordingly, we unanimously determined to impose a six-month suspension to be served consecutively to the six-month suspension imposed in DRB 99-352 and DRB 99-390. In addition, respondent is required to cooperate fully with the Office of Attorney Ethics' requests for information, before consideration of any petition for reinstatement.

¹ RPC 3.3(b), the charged violation, implicates RPC 3.3(a) by reference.

We further directed that respondent reimburse the Disciplinary Oversight Committee
for administrative costs.

Dated: 6/16/00

By: 
LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of E. Lorraine Harris
Docket No. DRB 99-353**

Decided: June 16, 2000

Disposition: Six-Month Consecutive Suspension

Members	Disbar	Six-Month Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hyerling		X					
Peterson		X					
Boylan							X
Brody		X					
Lolla		X					
Maudsley		X					
O'Shaughnessy		X					
Schwartz		X					
Wissinger		X					
Total:		8					1

Robyn M. Hill 7/26/00
Robyn M. Hill
Chief Counsel