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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket Nos. DRB 99-352 & 99-390

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IN THE MATTER OF :  
 :  
E. LORRAINE HARRIS :  
 :  
AN ATTORNEY AT LAW :  
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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 ("DEC IV") and District IIIA ("DEC IIIA") Ethics Committees certified the records in these matter directly to us for the imposition of discipline, following respondent's failure to file answers to the formal ethics complaints.

This decision encompasses two separate defaults filed against respondent: DRB 99-352 and DRB 99-390.

On February 1, 1999 the DEC IIIA forwarded a copy of the formal ethics complaint, (Docket No. DRB 99-352) to respondent's last known office address by regular and certified mail. The certified mail receipt was returned; the signature is not that of respondent's. The regular mail was not returned. On June 15, 1999 the DEC IIIA sent respondent a letter by regular mail, advising her that she could be temporarily suspended if it did not receive her answer within five days of the date of the letter. The regular mail was not returned.

On September 3, 1999 the DEC IV forwarded a copy of the formal ethics complaint, (Docket No. DRB 99-390) to respondent's last known office address by regular and certified mail. The certified mail receipt was returned, bearing respondent's signature. The regular mail was not returned. On October 21, 1999 the DEC IV sent a second letter to the same address, by regular and certified mail, advising respondent 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 us for the imposition of discipline. The certified mail receipt was returned with respondent's signature. The regular mail was not returned.

Respondent did not file answers to either of the formal ethics complaints. Accordingly, the records were certified directly to us 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 September 28, 1999 respondent was

temporarily suspended, following the filing of allegations that she misappropriated escrow funds. On October 26, 1999 she was reinstated with restrictions.

On January 10, 2000 respondent was again temporarily suspended for failure to refund a fee, in accordance with a fee schedule set forth in a Supreme Court order. She has since made the necessary payments and has been reinstated.

On September 13, 1999 we voted 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. On January 19, 2000, we admonished respondent for failure to prepare a written fee agreement and to communicate to the client the basis of the fee, in writing. In the Matter of E. Lorraine Harris, Docket No. DRB 99-037 (January 19, 2000).

#### I. Docket No. DRB 99-352

The first count of the complaint (the Emery matter) alleges that respondent represented William Emery in a domestic relations matter pending before the Superior Court of New Jersey, Chancery Division, Family Part, Salem County.

On February 20, 1998 respondent was scheduled to attend a court hearing in the matter. On February 19, 1998 respondent sent the judge correspondence via facsimile and regular mail, signed "as dictated to Irene Grelli, Assistant for Lorraine Harris, Esquire." The letter stated that, on Tuesday, February 17, 1998, respondent had "verbally informed" the court, through another judge's secretary, that she had been on family medical leave for a few weeks

and would not be able to appear at the “rescheduled hearing was improperly noticed about for Friday, February 20, 1998.”

On February 26, 1998 respondent wrote again to the court to emphasize her belief that she had not received proper notice of the February 20, 1998 hearing date. She stated: “I reiterate: Mr. Emery was unaware of any prior hearings held in February for I was out of the office on Family Medical leave and was not aware myself until I telephoned the court.”

The complaint alleges that respondent’s statements in both letters to the court were false and that respondent knew them to be false because, on February 20, 1998, she appeared in Gloucester County Superior Court in connection with another matter. The complaint also alleges that respondent could not have spoken to the other judge’s secretary on Tuesday, February 17, 1998, because the secretary had been on vacation on that date.

The second count of the complaint (the Scott matter) alleges that respondent represented the defendants in the matter captioned Black v. Scotts Auto Repair, et. al. in the Superior Court of New Jersey, Law Division, Salem County. On February 6, 1998 respondent was scheduled to appear before the court to argue a motion to enforce litigant’s rights. On the morning of February 6, 1998 respondent sent a letter to the court via facsimile and regular mail, stating that she would be unable to attend the hearing due to illness. The letter explained that she had left a **telephone message** with her adversary about her request for an adjournment. The letter also stated that she had previously filed an emergent appeal opposing the issues that were scheduled that day before the court. The letter further stated that, although the emergent

order was **denied**, the appeal was placed on a regular appeal schedule and was pending at that time. The letter continued as follows:

I respectfully assert that an appeal renders moot any motion for movement on a state Court order under appeal until there is a decision from the higher court.

I have repeatedly informed the various Counsel who have handled this matter for Tomar, Simonoff of the appeal status and pending complaints. But they continue to ignore my information and attempt to harass Mr. Wayne Scott by continually filing motions. There is also a state court complaint and cross-complaint that has been filed by Mr. Scott on which there has been no scheduling order issued by the court.

The complaint alleges that those statements were false and that respondent knew them to be false. Respondent's appeal had been dismissed for lack of prosecution by order dated December 29, 1997 and her adversary had received a copy of the order on January 12, 1998.

The first and second counts of the complaint charge respondent with violations of RPC 3.3(b) (knowingly making false statements of material fact to a tribunal) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) in each matter.

The third count of the complaint alleges that, on April 15, 1998, the Office of Attorney Ethics ("OAE") wrote to respondent, requesting that she submit a written reply to the grievance. Respondent did not reply. On May 8, 1998 the OAE wrote to respondent a second time and requested that she submit a written reply to the grievance. Again, respondent failed to reply.

This count of the complaint charges respondent with a violation of RPC 8.1(b) (failure to comply with lawful demands for information from disciplinary authorities).

## II. Docket No. DRB 99-390

The first count of the complaint (the Doyle matter) alleges that, on April 21, 1995, respondent was retained by Michael Doyle to defend him on criminal charges in Gloucester County, Salem County and Rhode Island, alleging that he had issued bad checks. The written fee agreement provided that a \$1,500 retainer was due and payable to respondent immediately for "case evaluation of the above-listed cases and possible negotiations with Salem and Gloucester County Prosecutor's offices," as well as document retrieval and accompanying services. The agreement stated that any further arrangements for representation would be made at an agreed upon fee.

Between May and August 1995 respondent negotiated plea agreements on Doyle's behalf with the New Jersey and Rhode Island authorities. Respondent is not admitted to practice in Rhode Island. Respondent also negotiated restitution agreements with the New Jersey banks that had suffered losses.

In August 1995 Doyle agreed to plead guilty to the offenses charged in New Jersey. He received probation and agreed to make restitution in the amount of \$10,400. Respondent also negotiated a settlement with the Rhode Island authorities.

On August 22, 1995 respondent submitted a bill to Doyle for \$35,405 in legal fees and \$11,127.14 in costs. The complaint alleges that respondent's bill was so excessive "as to amount to an intentional misrepresentation of the nature and value of her legal services."

Respondent's bill indicated flat fees of \$15,000 for the Gloucester County case, \$3,500

for the Salem County case and \$3,500 for the Rhode Island case. Respondent billed Doyle for legal services provided in Rhode Island, a state where she is not licensed to practice law. In addition to the flat fees, respondent charged Doyle for 47.5 hours of attorney time at \$150 per hour; \$500 for legal fees paid to Doyle's initial attorney; \$1,750 for letters; \$2,450 for court appearances and \$800 for facsimiles.

Doyle and/or his parents had previously paid the sum of \$14,200 to respondent — \$10,400 as restitution and \$3,800 in attorney's fees. Respondent failed to promptly pay all sums due as restitution. Doyle was subsequently arrested as a result of respondent's failure to promptly pay the restitution amount.

During the investigation of this matter, respondent was asked to provide proof that sums received on Doyle's behalf had been properly deposited into an attorney trust account and safeguarded. Respondent failed to provide such proof.

The second count of the complaint charges that, on October 15, 1998, the DEC IV Fee Arbitration Committee referred its determination in the matter of Charles Doyle v. Lorraine Harris, docket number IV-98-051F, to the OAE. On November 25, 1998 OAE Deputy Ethics Counsel Michael J. Sweeney forwarded the matter to the DEC IV.

On December 8, 1998 Deputy Ethics Counsel Walton W. Kingsbery, III forwarded the grievance to respondent and requested that she furnish a written response by December 28, 1998. Respondent did not reply. On March 25, 1999 the OAE again wrote to respondent and requested that she furnish a written reply to the grievance by April 8, 1999. Respondent

ignored the OAE's request.

On May 28, 1999 the OAE investigator spoke with respondent's attorney and informed him that the OAE had not received either a reply to the grievance or a copy of the Doyle file. The OAE investigator also forwarded to the attorney, via facsimile, copies of letters sent to respondent on December 8, 1998 and March 25, 1999.

On June 3, 1999 the attorney wrote to the OAE, stating that on May 28, 1999 he had forwarded the "faxed" OAE letters to respondent. According to the attorney, respondent had informed him that she was unable to produce a reply or the file because she was leaving for vacation the next day and would not be returning until June 10, 1999.

To date, the OAE has not received any reply from respondent.

The first count of the complaint charges that respondent violated RPC 1.1(a) (gross neglect); RPC 1.3 (lack of diligence); RPC 1.5(a) (unreasonable fee); RPC 1.15(a) (failure to safeguard a client's property); RPC 1.15(b) (failure to promptly notify or deliver the funds to a third party); RPC 1.15(d) (recordkeeping violations); and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). The second count of the complaint charges respondent with a violation of RPC 8.1(b) (failure to respond to lawful demands for information from disciplinary authorities).

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Service of process was properly made in these matters. Therefore, the matters may proceed as defaults. Pursuant to R. 1:20-4(f)(1), the allegations of the complaint are deemed admitted.

We found that respondent's conduct in the Emery and Scott matters 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). In the Emery matter, respondent's letters to the court led it to believe that she was unavailable to appear for the hearing due to a family medical situation, not because she was scheduled to appear before another judge on a separate matter. The letters suggest that her family situation was such that it would have been an extreme hardship to appear in court that day, which was clearly not the case.

The complaint in the Scott matter contains, as an exhibit, a copy of the December 29, 1997 order dismissing the appeal and recites that respondent's adversary received a copy of that order on January 12, 1998. It is, therefore, reasonable to assume from the allegations in the complaint that respondent, too, had received the dismissal order and that, therefore, she was aware of the dismissal when she represented to the court that the appeal was pending.

In addition, we find that respondent's failure to submit a written reply to the grievances to the OAE constituted a violation of RPC 8.1(b) (failure to cooperate with disciplinary authorities).

As to the Doyle matter, we find that respondent violated RPC 1.1(a) and RPC 1.3 by

her failure to forward restitution monies on behalf of her client, which resulted in his arrest. In addition, respondent's failure to send the restitution to the appropriate authorities violated RPC 1.15(b).

We also found that respondent's fee in that matter, totaling \$35,405 plus \$11,127.14 in costs, was unreasonable, in violation of RPC 1.5(a) and RPC 8.4(c), as was respondent's charge of a flat fee for each of three matters plus to an hourly rate, itemized costs and court appearances. We also find that respondent violated RPC 1.15(a) (failure to hold client property in an account separate from that of respondent) and RPC 1.15(d) (recordkeeping violations).

In total, respondent's conduct in these matters violated RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.5(a) (unreasonable fee), RPC 1.15 (a) (failure to safeguard a client's property), RPC 1.15(b) (failure to promptly deliver funds to a third party), RPC 1.15 (d) (recordkeeping), two counts of RPC 3.3(b) (knowingly making false statements of material fact to a tribunal), RPC 8.1(b) (failure to cooperate) and RPC 8.4(c) (dishonesty and misrepresentation). Moreover, at least one client, Doyle, suffered significant consequence - his arrest - as a result of respondent's inaction.

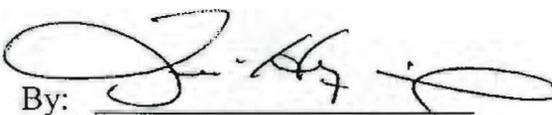
Respondent's misconduct in these matters was serious. Coupled with her failure to answer the complaints, causing these matters to proceed as defaults, it warrants a period of suspension. See, e.g., In re Ismael, 157 N.J. 632 (1999) (Six-month suspension where, in a default matter, an attorney violated RPC 1.1(a), RPC 1.3, RPC 1.15(a), RPC 1.15(b), RPC

1.15(d) and RPC 8.1(b); the attorney also had two prior reprimands and one earlier admonition); In re Lester, 148 N.J. 86 (1995) (six-month suspension where attorney violated RPC 1.1(a), RPC 8.4(c) (misrepresentation) and RPC 8.1(b)); and In re Dudas, 162 N.J. 101 (1999) (six-month suspension in a default proceeding where an attorney, then currently suspended, violated RPC 1.1(a), RPC 1.3, RPC 1.4(a), RPC 8.1(b) and RPC 8.4(c)).

In light of the foregoing, we unanimously determined to impose a six-month suspension for the totality of respondent's ethics infractions. Prior to reinstatement, respondent must demonstrate her fitness to practice law, following an examination by a psychiatrist approved by the OAE. After reinstatement, respondent shall be monitored indefinitely by a proctor approved by the OAE. Lastly, respondent is required to fully cooperate with the OAE on all pending matters. Three members did not participate.

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