

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 00-067

IN THE MATTER OF
THOMAS M. BROWN
AN ATTORNEY AT LAW

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

Decided: October 18, 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 IIIA 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.

On December 2, 1999, the DEC forwarded a copy of the complaint to respondent by regular and certified mail. The certified mail receipt was signed by a Cathy Brown and indicated delivery on December 6, 1999. The regular mail was not returned. When

respondent did not answer, on February 8, 2000 the DEC forwarded a second letter, by regular mail, seeking a reply within five days. The letter informed respondent that, if he did not reply, the matter would be certified to the Board for the imposition of discipline. The letter also amended the complaint to include a charge of RPC 8.1(b) (failure to respond to a lawful demand for information from a disciplinary authority). 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 1993. At the relevant times he had an office in Atlantic City, New Jersey. Respondent is not currently practicing law and does not maintain an office in this state. Respondent was reprimanded in 1999 for violations of RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate) and RPC 8.4(c) (misrepresentation). In re Brown, 159 N.J. 530 (1999).

The complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.1(b) (pattern of neglect), RPC 1.3 (lack of diligence) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

From January 4, 1998 through November 10, 1998 respondent was employed as an associate by the law office of Jacobs & Barbone, in Atlantic City, New Jersey. Respondent was given responsibility for handling twenty to thirty client files. The complaint alleged that respondent failed to conduct discovery, failed to file required pleadings and motions, failed

to prepare or file necessary legal memoranda/briefs and failed to prepare the matters for trial. The complaint further alleged that respondent repeatedly misrepresented the status of the cases to his supervisors and also misrepresented his whereabouts, when questioned by his supervisors, in order to conceal the status of the matters entrusted to him.

* * *

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

Respondent's conduct in failing to take action in twenty to thirty client matters violated RPC 1.1(a), RPC 1.1(b) and RPC 1.3. Also, respondent's misrepresentations to his supervisors about the status of the matters and about his whereabouts violated RPC 8.4(c).

The discipline imposed in cases involving mishandling of multiple cases ranges from a reprimand to disbarment, depending upon the number of matters involved, the seriousness of the conduct, the attorneys' history of discipline and mitigating or aggravating factors. See, e.g., In re Fox, 154 N.J. 139 (1998) (reprimand for gross neglect of fourteen cases); In re Barry, 90 N.J. 286 (1992) (three-month suspension for mishandling nineteen cases and borrowing money from clients); In re Pollan, 143 N.J. 306 (1996) (six-month suspension for

misconduct in seven matters and failure to cooperate with ethics authorities); In re Kanter, 162 N.J. 118 (1999) (one-year suspension for neglect of twelve cases and misrepresentations to clients); In re Sternstein, 152 N.J. 433 (1998) (two-year suspension for mishandling ten matters and conduct involving dishonesty, deceit, fraud or misrepresentation); In re Gaffney, 146 N.J. 522 (1996) (three-year suspension for misconduct in eleven matters, including gross neglect, failure to communicate, conduct involving dishonesty, deceit, fraud or misrepresentation and conduct prejudicial to the administration of justice); and In re Spagnoli, 115 N.J. 504 (1989) (disbarment for mishandling fifteen matters and accepting representation without intention to pursue clients' interests). Here, because this is a default matter, no mitigating factors have been presented. Moreover, the default nature of this case is an aggravating circumstance.

Respondent's misconduct involved twenty to thirty cases. Although the record does not reveal the harm, if any, that befell any of the firm's clients, the sheer number of matters that respondent mishandled requires stern discipline. Moreover, respondent has a disciplinary record. As noted, was reprimanded in 1999 for similar misconduct.

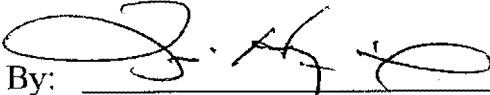
Taking into account the number of cases involved here, respondent's prior history and the default nature of this proceeding, we unanimously determined to impose a one-year suspension. Prior to reinstatement, respondent is to take twelve hours of professional responsibility courses approved by the Office of Attorney Ethics and retake the ICLE skills and methods courses. Following reinstatement, respondent is to practice law under an

indefinite proctorship, the proctor to be approved by the Office of Attorney Ethics.

One member did not participate.

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

Dated: 10/18/00

By: 

LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of Thomas M. Brown
Docket No. DRB 00-067**

Decided: October 18, 2000

Disposition: One-year suspension

Members	Disbar	One-year 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 3/7/01
Robyn M. Hill
Chief Counsel