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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 02-340

IN THE MATTER OF
ELAINE ZAMULA
AN ATTORNEY AT LAW

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

Decided: March 7, 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 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 complaint. R.1:20-4(f).

Respondent was admitted to the New Jersey bar in 1976. She maintains a law office in Lavalette, New Jersey. She has no history of discipline.

* * *

On October 5, 2001, the DEC mailed a copy of the complaint to respondent by certified mail, return receipt requested, and regular mail. The regular mail envelope was not returned. The record is silent about the certified mail. The certification of the record indicates that another copy of the complaint was served on respondent on April 4, 2002 by certified mail, return receipt requested, and regular mail. Again, the regular mail envelope was not returned and there is no reference to the certified mail. When respondent did not file an answer, the DEC sent respondent another letter on July 2, 2002, advising her that, unless she filed an answer within five days, the allegations of the complaint would be deemed admitted and the matter would be certified to us for the imposition of discipline. The letter was sent by regular mail. The envelope was not returned.

Respondent did not file an answer.

* * *

The two-count complaint charged respondent with violations of RPC 1.1(b) (pattern of neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate with client) and R.1:20-3(g) and (4), rather than RPC 8.1(b) (failure to comply with reasonable requests for information from a disciplinary authority).

According to the complaint, respondent was retained by Daniel J. and Edward Moran in March 1998 to represent them in connection with the estate of their deceased sister, Ruth Moran. Respondent began representing the estate in

May 1998. In June, she filed a complaint for the appointment of a temporary administrator, Edward Moran. Respondent's representation of the estate continued through 1998 and 1999.

At various dates in 2000, however, respondent failed to return Daniel Moran's telephone calls or to reply to his November 15, 2000 certified letter, requesting an update on the status of the case.

Throughout 2000 and 2001, respondent failed to act with reasonable diligence and promptness in representing the estate and the interests of Daniel and Edward Moran.

In addition, respondent failed to reply to the March 5, 2001 grievance, despite numerous letters and telephone messages from the DEC investigator.

According to the investigative report, respondent telephoned the investigator on April 29, 2001 and left a message indicating that she was ill and would not be in her office until the following week. When she did not submit a reply, the investigator sent her another letter on April 9, 2001, informing her that, if she was ill, she would be entitled to an extension. He added, however, that confirmation of when she would answer the grievance was required. She did not comply with the investigator's request.

The investigator left another telephone message for respondent on April 24, 2001 and sent her a confirming letter on April 25, 2001, indicating that, if she were unable to answer the grievance for medical reasons, someone had to contact him.

According to the complaint, in June 2001, respondent retained an attorney to represent her in connection with the grievance. The attorney advised the investigator that respondent was aware of her obligation to cooperate and that she intended to do so. Based on the attorney's representations, respondent was given until July 26, 2001 to reply to the grievance and to obtain a report from a psychologist. Nevertheless, she failed to do so. When no reply was forthcoming, the investigator contacted the attorney, who informed him that respondent was no longer cooperating with him and that, therefore, he could not provide the promised information.

* * *

Service of process was properly made. Following a review of the record, we found 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).

The complaint charged respondent with a violation of RPC 1.1(b) (pattern of neglect). As only one matter was involved, there is no evidence of such a violation. Generally, a pattern of neglect requires gross neglect in at least three matters. We, therefore, dismissed this charge.

The record supports a finding of a violation of RPC 1.4(a). Respondent failed to return her clients' telephone calls and failed to reply to her client's letter.

The investigative report detailed some of the steps that respondent took in connection with her representation of the Morans, but it is clear that, at some point, the attorney/client relationship broke down and the Morans were required to retain a new attorney. Respondent's conduct, thus, violated RPC 1.3. Moreover, her failure to reply to the grievance violated RPC 8.1(b).

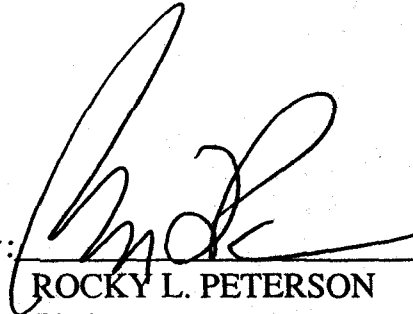
Initially, respondent performed some service for her clients, but for some unknown reason ceased to work on their case. The investigative report alludes to an illness and perhaps psychological problems. However, none of it is documented. In addition, respondent practiced law for twenty-six years without a blemish on her record. It could be that respondent's aberrant behavior was the result of either medical or psychological problems. From the record, however, we cannot draw any conclusion in this context.

Had this not been a default, then an admonition would have been appropriate discipline. See In the Matter of Mark W. Ford, Docket No. DRB 02-280 (October 22, 2002) (admonition for lack of diligence and failure to communicate with client); In the Matter of Lenora Marshall, Docket No. DRB 01-207 (September 26, 2001) (admonition for lack of diligence, failure to communicate with client and failure to cooperate with disciplinary authorities); and In the Matter of Larry J. McClure, Docket No. DRB 98-430 (February 22, 1999) (admonition for gross neglect, lack of diligence, failure to communicate with client, failure to provide a written retainer agreement and failure to cooperate with disciplinary authorities; two matters were involved).

Because of the default nature of these proceedings, we unanimously determined to impose a reprimand. Three members did not participate.

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

By:



ROCKY L. PETERSON

Chair

Disciplinary Review Board

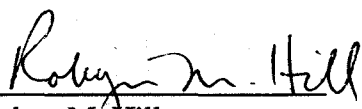
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Elaine Zamula
Docket No. DRB 02-340

Decided: March 7, 2003

Disposition: Reprimand

<i>Members</i>	<i>Disbar</i>	<i>Suspension</i>	<i>Reprimand</i>	<i>Admonition</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:			6				3


Robyn M. Hill 3/14/03
Chief Counsel