

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 00-125

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IN THE MATTER OF

PETE GIOVETIS

AN ATTORNEY AT LAW

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

Decided:

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 IIB 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 28, 1999, the DEC forwarded a copy of the complaint to respondent's last known office address, 793 Kettlerun, Atco, New Jersey, 08004, by regular and certified mail. The regular mail was not returned. As to the certified mail, although the DEC secretary's certification refers to exhibit A as "the front and back of the signed green card,"

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the card was not attached to the certification. When respondent did not file an answer, the DEC sent him a second letter, on January 28, 2000, by certified and regular mail. The letter advised respondent that, if he did not reply within five days, the matter would be certified to us for the imposition of sanctions and that, in addition, he might be temporarily suspended from the practice of law. The certified mail was returned indicating delivery on February 4, 2000. The signature on the card is illegible.

Respondent did not file an answer to the formal ethics complaint. The record was 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. At the relevant times he maintained an office in Marlton, New Jersey. He has no ethics history.

Respondent was ineligible to practice law from September 21, 1997 through February 24, 1999 for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection ("The Fund").

Both counts of the complaint charged respondent with violations of RPC 5.5 (unauthorized practice of law), RPC 8.1(b) (failure to respond to a lawful demand for information from a disciplinary authority) and R. 1:20-3(g)(3) (failure to cooperate with a disciplinary investigation).

According to the first count of the complaint, James Beecher retained respondent on or about October 27, 1998 for representation in a municipal matter. Beecher paid respondent a \$500 retainer. Respondent, however, was ineligible to practice law at the time he received

the retainer. Moreover, he kept the retainer, despite Beecher's numerous requests for its return.

The first count also alleges that respondent did not reply to the DEC investigator's requests for information about the grievances.

The second count of the complaint alleges the same above violations in connection with the preparation of wills, power-of-attorney and living wills for Vincent and Esther Severino on November 1, 1998.

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Service of process was properly made in this matter. Following a de novo 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 file an answer, the allegations of the complaint are deemed admitted. R. 1:20-4(f)(1).

Respondent's representation of Beecher and the Severinos, while ineligible to practice law, constituted violations of RPC 5.5. In addition, respondent's failure to contact the DEC investigators, after receiving notice of the grievances, violated RPC 8.1(b).

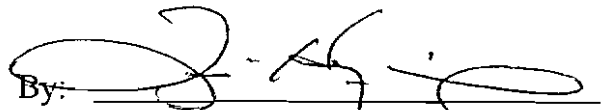
Ordinarily, misconduct of this nature would warrant a reprimand. See In re Namias, 157 N.J. 15 (1999) (reprimand for practicing while ineligible, lack of diligence and failure to communicate); In re Maioriello, 140 N.J. 320 (1995) (reprimand for practicing while

ineligible, lack of diligence, gross neglect and failure to communicate in six matters). Based on the default nature of this matter, however, a three-month suspension is the appropriate discipline. See In re Dudas, 156 N.J. 540 (1999) (default matter; three-month suspension for practicing while ineligible, failure to cooperate with disciplinary authorities, lack of diligence and failure to safeguard property).

Accordingly, we unanimously determined to impose a three-month suspension. Before his reinstatement, respondent is to show proof that he has refunded the retainers to Beecher and the Severinos. One member did not participate.

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

Dated: 10/15/00

By:   
LEE M. HYMERLING  
Chair  
Disciplinary Review Board