

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 99-349

IN THE MATTER OF :
JULES FARKAS :
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), the District IV Ethics Committee ("DEC") certified the record directly to us for the imposition of discipline, following respondent's failure to file an answer to the formal ethics complaint.

On August 5, 1999 a copy of the complaint was sent to respondent's last known office address by regular and certified mail. The certified mail receipt was returned, indicating delivery on August 7, 1999. The signature of the agent accepting delivery was illegible. The regular mail was not returned.

Upon respondent's failure to file an answer to the formal ethics complaint within the specified period, the DEC sent a second letter by regular and certified mail, dated September 16, 1999, notifying him that failure to file an answer within five days would constitute an

admission of all the charges and could result in his immediate temporary suspension. The certified mail receipt was returned, indicating delivery on September 18, 1999. The signature of the accepting agent was again illegible. The regular mail was not returned.

Respondent was admitted to the New Jersey bar in 1983. He currently maintains an office in Cherry Hill, New Jersey.

On February 1, 1993 respondent was privately reprimanded for lack of diligence and failure to adequately communicate with a client. In the Matter of Jules Farkas, Docket No. DRB 92-475 (1993).

According to the complaint, respondent was retained by Lewis H. Jones in December 1997 to file a motion to reduce child support payments taken out of his monthly Social Security disability checks. Jones paid respondent \$500 for the representation, but was not provided with anything in writing setting out the terms of the representation. The complaint does not refer to any possible oral agreements between respondent and Jones and does not mention whether respondent had represented Jones prior to this matter.

On April 24, 1998 respondent filed the motion and was thereafter ordered by the presiding judge to produce verification of Jones' income and of any garnishments made against such income and, as well as documentation of any additional income. Respondent made no effort to comply with the order and he took no further action on Jones' behalf. Thereafter, although Jones attempted to contact respondent by telephone and in writing to determine the status of his case, respondent failed to reply to these inquiries. As a result, Jones retained another attorney to represent him in the matter. Although on numerous occasions new counsel requested that respondent turn over the file, he failed to do so.

The complaint charged that the aforementioned conduct violated RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate with client), RPC 1.5(b) (failure to provide client with written fee agreement) and RPC 1.16(d) (failure to turn over client's file upon termination of representation).

* * *

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).

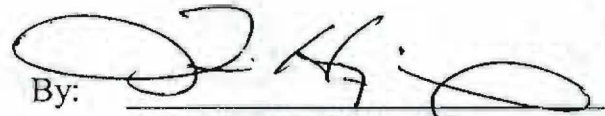
Respondent's failure to provide the necessary documentation, as ordered by the court in Jones' child support matter constituted a lack of diligence, in violation of RPC 1.3. Furthermore, his failure to reply to Jones' requests for information, leaving him uncertain about the status of his matter and causing him to seek new counsel, constituted a failure to communicate, in violation of RPC 1.4(a). Lastly, respondent's failure to provide Jones with a written fee agreement and his failure to turn over the Jones file to new counsel violated RPC 1.5(b) and RPC 1.16(d), respectively.

Ordinarily, for misconduct of this nature in one matter either an admonition or a reprimand would be appropriate. See In the Matter of Diane K. Murray, Docket No. DRB 97-225 (1997) (admonition for lack of diligence, failure to communicate with client and failure to provide client with a written fee agreement); In the Matter of Vera E. Carpenter,

Docket No. DRB 97-303 (1997) (admonition for lack of diligence, failure to communicate with a client and failure to turn over a client's file upon the termination of representation); In re Paradiso, 152 N.J. 466 (1998) (reprimand for respondent who failed to act with diligence and failed to communicate with a client causing the case to be dismissed with prejudice. RPC 1.3 and RPC 1.4(a)); In re Gordon, 139 N. J. 606 (1995) (reprimand where respondent, in two client matters, grossly neglected the cases, failed to return a client file and failed to keep his clients informed.); In re Lester, 144 N.J. 130 (1996) (reprimand for respondent who failed to communicate with his client, failed to adequately supervise office staff, and failed to release a file to a client.) Based on the default nature of this matter, however, and on respondent's prior private reprimand, the discipline should be elevated to either a reprimand or a three-month suspension. After consideration of the relevant circumstances, however, the board was not persuaded that a suspension is required in this instance. Accordingly, the Board unanimously determined to impose a stern reprimand for respondent's misconduct. Respondent is forewarned that future ethics transgressions will be met with more severe discipline.

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

Dated: 6/16/00

By: 
LEE M. HYMERLING
Chair
Disciplinary Review Board