

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket Nos. DRB 97-367 and DRB 98-081

IN THE MATTERS OF :
ANGELA C. W. BELFON :
AN ATTORNEY AT LAW :

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

Decided: November 2, 1998

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

Pursuant to R. 1:20-4(f), the District VIII Ethics Committee ("DEC") certified the records in these matters directly to the Board for the imposition of discipline following respondent's failure to file answers to the formal ethics complaints.

Respondent was admitted to the New Jersey bar in 1993. At the relevant times, she maintained a law office in Piscataway, New Jersey. Respondent has no history of discipline.

I. DRB Docket No. 97-367

On June 26, 1997 a copy of the complaint was served on respondent by both regular and certified mail at an address in Riverdale, New York. While the certification is silent as to the regular mail, the certified mail receipt was returned indicating delivery on June 30, 1997. The signature of the recipient is illegible. As of September 9, 1997 respondent had not filed an answer.

The four-count complaint charged respondent as follows:

A. The Matthews Matter - District Docket No. VIII-96-045E

Count one of the complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.4(a) (failure to communicate with client), RPC 3.2 (failure to expedite litigation consistent with the interests of the client), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) and RPC 1.1(b) (pattern of neglect).

According to the complaint, Barbara and Arthur Matthews retained respondent in September 1995 in connection with a bankruptcy matter. Following foreclosure proceedings, a sheriff's sale of their house was scheduled. In November 1995 respondent filed a Chapter 13 bankruptcy petition in the Matthews' behalf. Respondent's pleading was insufficient, however. The court requested that respondent submit a Chapter 13 summary, a Chapter 13 plan and an attorney "identification code." Respondent did not submit the requested papers to the court. The court, therefore, scheduled a hearing for failure to file papers.

After respondent filed the Chapter 13 pleading, she advised the Matthews to send mandatory payments to the Chapter 13 trustee. The Matthews sent payments to the trustee in February, May and June 1996. In May 1996 the Matthews received a letter from Cenlar Federal Savings Bank ("Cenlar"), a creditor, advising that it had not received their payments. The Matthews notified Cenlar that respondent had instructed them to submit their payment to the Chapter 13 trustee. The Matthews also wrote to respondent to inform her that Cenlar was not receiving payments from the trustee. Respondent did not respond to the Matthews' letter.

On August 20, 1996 Equity One, Inc., another creditor, filed a motion to vacate the automatic stay of the Chapter 13 bankruptcy matter. Equity One, Inc. was not receiving payments from the Matthews. Respondent failed to submit any opposition to the motion. The court entered an order vacating the automatic stay.

On August 26, 1996 the trustee informed respondent that the trustee had no authority to unilaterally make payments without a court order and that respondent should obtain a court order directing the trustee to make payments so that the Matthews' payments could be properly disbursed. Respondent failed to respond to the trustee and did not prepare a motion to disburse the funds.

Cenlar also filed a motion to vacate the automatic stay, returnable on September 17, 1996. Respondent did not object to the motion. In September the court scheduled a creditors' meeting. Although the Matthews appeared, respondent did not. At that time,

the Matthews requested an adjournment to retain a new attorney.

B. The Sakos Matter - District Docket No. VIII-96-014E

Count two of the complaint charged respondent with violations of RPC 1.1(a), RPC 1.1(b), RPC 1.4(a) and RPC 3.2.

The complaint alleged that Shirley Sakos retained respondent, her friend, on or about July 5, 1995 for representation in a personal injury matter. On July 5, Sakos had fallen down in front of a state-owned, operated and maintained building. She sustained serious injuries to her right shoulder and right hip.

On July 7, 1995 Sakos and respondent took pictures of the scene of the accident. Thereafter, Sakos gave respondent a completed accident report. Sakos received medical treatment and turned over all of her medical bills and pharmacy receipts to respondent. Sakos then made repeated inquiries of respondent about the status of her case. Respondent did not reply.

Respondent failed to prepare a notice of claim within ninety days of the accident, as required under the Tort Claims Act. She also failed to prepare a motion for leave to file a notice of claim within one year of the date of the accident.

In January 1996 Sakos retained new counsel because she was concerned that the statute of limitations would expire.

C. The Aggrey Matter - District Docket No. VIII-97-018E

Count three of the complaint charged respondent with violations of RPC 1.1(b), RPC 3.3(a) (making a false statement of material fact or law to a tribunal), RPC 3.5(c) (conduct intended to disrupt a tribunal) and RPC 5.5 (unauthorized practice of law).

On or about January 17, 1997 respondent appeared before Superior Court Judge John A. Sweeney on a petition to allow her to replace counsel for Patrice and James Aggrey, the plaintiffs in a malpractice action. On that date, respondent represented to the court that she had paid the required fee to the Lawyers' Fund for Client Protection ("Fund") and was, therefore, an attorney in good standing.

On January 29, 1997 Judge Sweeney learned that respondent had not paid the required fee to the Fund and that she had been ineligible to practice law since September 30, 1996. Judge Sweeney then relieved respondent as counsel and imposed a \$500 sanction against her for her misrepresentation.

As of the date of the complaint, respondent had failed to either contact the court or to pay the sanction.

D. The Banner Matter - District Docket No. VIII-97-042E

Count four of the complaint charged respondent with violations of RPC 1.1(b), RPC 1.4(a), RPC 3.3(a), RPC 3.5(c) and RPC 8.4(c).

The complaint alleged that respondent represented an infant, the plaintiff in a personal

injury matter, for improper medical treatment at the Robert Wood Johnson University Hospital.

On or about April 7, 1997 respondent appeared in behalf of the plaintiff for a hearing to approve a settlement between the plaintiff and one of the defendants. The court approved the settlement. Thereafter, on or about April 29, 1997 one of the attorneys involved in the matter discovered that respondent was ineligible to practice law at the time of the hearing. That attorney then requested that the court reopen the matter.

As of the date of the DEC complaint, the case was active, and was listed for trial on August 25, 1997. Another case management conference had been requested by one of the defendant's attorneys.

II. DRB Docket No. 98-081

The complaint was mailed to respondent on November 19, 1997 at an address in Riverdale, New York by regular and certified mail. The regular mail was not returned, and the certified mail was returned marked "unclaimed." Respondent did not answer the complaint within the allotted time. On April 6, 1998 notice of the Board hearing was sent to respondent at her last known address in Riverdale, New York. Notice was also published in both New Jersey Lawyer and New Jersey Law Journal. Respondent did not reply to the notices.

The three-count complaint charged respondent as follows:

A. The Bush Matter - Docket No. VIII-97-058E

Count one of the complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.1(b), RPC 1.4(a) (failure to communicate with client), RPC 3.2 (failure to expedite litigation consistent with the interest of the client) and RPC 8.4(c) (conduct involving dishonesty, fraud or misrepresentation). The complaint further charged that respondent's conduct, combined with other acts of neglect in the matters below, demonstrated a pattern of neglect, in violation of RPC 1.1(b).

According to the complaint, Jacqueline R. Bush retained respondent at the end of 1993 for representation in a medical malpractice matter against a doctor who allegedly had misdiagnosed a medical condition in 1992. The retainer agreement was signed by Bush in late 1993 or early 1994. Several months later, Bush signed medical authorizations or releases at respondent's request.

In October 1995 respondent took \$135 from Bush for filing fees. In October 1996 respondent informed Bush that motions had been filed in her behalf. Bush had no further contact with respondent after that date. Bush eventually discovered that respondent's law office had closed in July 1997.

B. The Reaves Matter - District Docket No. VIII-97-068E

Count two of the complaint charged respondent with violations of RPC 1.1(b), RPC 1.4(a) and RPC 3.2.

The complaint alleged that Kendra T. Reaves retained respondent in October 1995 to represent her in both a personal injury matter and a defamation matter against Fairleigh Dickenson University for incidents that occurred while Reaves was a student athlete at the university. Reaves injured her hip and was forced to give up an athletic scholarship. Reaves ultimately transferred to Rutgers College. As a result of the injuries she sustained, Reaves continues to receive medical treatment to date.

Reaves claimed that respondent missed one scheduled meeting with officials of Fairleigh Dickenson University and that respondent was several hours late for another meeting, which had to be rescheduled. Reaves has had no contact with respondent since December 1996. At some point Reaves discovered that respondent's law office had been closed and her telephone disconnected.

In October 1997 respondent informed the DEC investigator that she was still representing Reaves. However, respondent was not eligible to practice law in New Jersey at that time, as she had not paid her annual fee to the Fund.

C. The Brodzinski Matter - District Docket No. VIII-97-064E

The complaint charged respondent with violations of RPC 1.1(b), RPC 1.4(a), RPC 3.2 and RPC 8.4(c).

In March 1996 Susan A. Brodzinski retained respondent to represent her in a personal injury action against the Robert Wood Johnson University Hospital. A contingency fee agreement was signed. The injury occurred when Brodzinski fell at the hospital in New Brunswick, New Jersey. Brodzinski injured her shoulder and subsequently required arthroscopic surgery.

After March 1996 respondent contacted Brodzinski approximately three times: the first to obtain a check in the amount of \$135; the second for an office visit; and the third to have Brodzinski sign medical authorizations. Brodzinski has had no contact with respondent since 1996.

At some unknown point, respondent informed Brodzinski that the hospital had failed to file an answer to the complaint and that a judge would award Brodzinski damages. Thereafter, Brodzinski was unable to contact respondent and discovered that her law office had been closed and her telephone disconnected.

In October 1997 respondent told the DEC investigator that she was in possession of Brodzinski's file and that the defendant had requested an extension to file an answer to the complaint. The Middlesex County clerk's office, however, advised the DEC that Brodzinski's complaint had been dismissed on January 17, 1997 for lack of prosecution.

Additionally, during this time period, respondent was ineligible to practice law in New Jersey.

* * *

Following a de novo review of the record, the Board deemed the allegations of the complaints admitted. The record contains sufficient evidence of respondent's unethical conduct. Not all violations charged, however, are supported by sufficient facts.

For instance, in Docket No. DRB 97-367, there is no factual basis for a finding of violation of RPC 8.4(c) in either Matthews or Banner, as record does not demonstrate any misrepresentation or fraud by respondent. Additionally, in Banner, there is insufficient evidence to support a finding of a violation of RPC 1.4(a) and RPC 3.5(c), since there are no allegations that respondent either failed to communicate with her client or intended to disrupt the tribunal. Similarly, the charge of a violation of RPC 3.5(c) in Aggrey is not supported by sufficient factual basis. The only possible violation in Banner would be RPC 5.5 (unauthorized practice of law), but the complaint did not charge respondent with this violation.

Also, in Docket No. DRB 98-081 there is no factual basis for finding a violation of RPC 8.4(c) in either Bush or Brodzinski, as there appears to be no misrepresentation or fraud by respondent. The finding of a violation of RPC 1.1(b) is appropriate, as there are

supported charges of neglect in the Matthews, Sakos, Bush, Reaves and Brodzinski matters.

Docket No. DRB 97-367 contains sufficient facts to support violations of RPC 1.1(a), RPC 1.4(a) and RPC 3.2 in Matthews and Sakos, and RPC 3.3(a) and RPC 5.5 in Aggrey.

Docket No. DRB 98-081 contains sufficient facts to support violations of RPC 1.4(a) and RPC 3.2 in Bush, Reaves and Brodzinski; RPC 1.1(a) in Bush; and, although not charged, RPC 5.5(a) (unauthorized practice of law) in Reaves and RPC 8.1(a) (making a misrepresentation to the DEC about the status of the case) in Brodzinski. Finally, respondent's conduct in all three matters constituted a pattern of neglect, in violation of RPC 1.1(b).

For respondent's infractions in Docket No. DRB 97-367 and failure to cooperate with the disciplinary system, ordinarily a three-month suspension would be imposed. *See, e.g., In re Marlowe*, 121 N.J. 238 (1990) (three-month suspension for gross neglect and failure to communicate in two matters, misrepresentation to clients and lack of cooperation with ethics authorities); *In re Beltre*, 119 N.J. 190 (1990) (three-month suspension for gross neglect in one matter, failure to maintain attorney records, practicing law while on the ineligible list and failure to cooperate with disciplinary authorities).

Conduct similar to respondent's in Docket No. DRB 98-081 has resulted in a three-month suspension. *See, e.g., In re Bernstein*, 144 N.J. 369(1996) (three-month suspension for gross neglect, lack of diligence, failure to communicate, misrepresentations and failure to cooperate with the disciplinary authorities); *In re Ortopan*, 143 N.J. 586 (1996) (three-

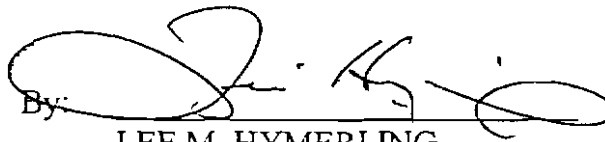
month suspension for gross neglect, failure to communicate, failure to turn over client files and failure to cooperate with the disciplinary authorities); In re Kates, 137 N.J. 102 (1994) (three-month suspension for failure to act with reasonable diligence, failure to communicate with a client and extreme indifference toward the ethics system).

For respondent's conduct in Docket No. DRB 97-367, the Board unanimously determined to impose a three-month suspension. For respondent's conduct in Docket No. DRB 98-081, the Board's vote was unanimous for a six-month suspension, to be served consecutively to the three-month suspension in Docket No. DRB 97-367. The fact that Docket No. DRB 98-081 was respondent's second default matter buttressed the Board's decision to suspend respondent for six months. One member did not participate in the deliberation of Docket No. DRB 98-081.

The Board further determined to require respondent to pay, prior to reinstatement, all sums due to the Fund and, after reinstatement, to practice under a proctorship for a period of two years.

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

Dated: 11/2/18

By: 

LEE M. HYMERLING
Chair
Disciplinary Review Board