

B.A.

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket Nos. DRB 98-119 and DRB 98-163

IN THE MATTER OF :
 :
JOANNE E. ROBINSON, :
 :
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)(1), the District VC Ethics Committee ("DEC") and the Office of Attorney Ethics ("OAE") certified the record in this matter directly to the Board for the imposition of discipline, following respondent's failure to file an answer to the formal ethics complaint.

Two matters form the basis for these proceedings. In the first, the Byers matter, the DEC sent a copy of the complaint on July 3, 1997 by both certified and regular mail to respondent at her last known address. The certified mail receipt (green card) was returned indicating delivery on July 7, 1997; the signature appears to be that of someone other than respondent. The regular mail was not returned. On December 5, 1997 a second letter was mailed to respondent at the same address, again by regular and certified mail. The certified

mail receipt (green card) indicates delivery on December 11, 1997 and bears a signature that appears to be respondent's. The regular mail was not returned. Respondent did not file an answer. Notice of the Board's proceedings (for this matter and the matter discussed below) was published in the New Jersey Lawyer and in the New Jersey Law Journal.

The second matter arises out of a select audit of respondent's trust and business accounts conducted by the OAE. On February 6, 1998, the OAE sent a copy of the complaint to respondent, at the address at which respondent accepted the certified mail in the Byers matter, by certified and regular mail. According to the certification of March 12, 1998, "[r]espondent refused to accept the certified mail." The regular mail was not returned. Respondent did not file an answer.

Respondent was admitted to the New Jersey bar in 1984. She has no prior ethics history.

According to the Byers complaint, respondent was retained by Phyllis Byers to represent her in a matter in which Byers had previously acted pro se. Byers paid respondent an initial retainer of \$500 on or about November 27, 1995 and an additional fee of \$300 on or about December 15, 1996. Respondent told Byers that she had filed the appropriate documents with the court; however, respondent had not filed any papers. Moreover, respondent failed to comply with the court's directions to secure an expert witness.

The complaint further alleged that respondent failed to respond to Byers's telephone calls to her office. In addition, the complaint alleged that respondent failed to give Byers

either a written retainer agreement or copies of correspondence and documents that respondent had prepared. Finally, the complaint alleged that respondent failed to reply to the DEC investigation.

The Byers complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.4(a) (failure to communicate with the client), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

The OAE complaint contained two counts. According to the first, the Court entered an order on September 5, 1997 declaring respondent ineligible to practice law as a result of her failure to pay her 1997 annual assessment to the New Jersey Lawyers' Fund for Client Protection. The complaint alleged that, despite her ineligible status, respondent continued to represent clients and to appear in court. The second count arose from a select audit of respondent's trust and business accounts, conducted on November 3 and November 6, 1997.

According to the complaint, the audit uncovered the following recordkeeping deficiencies:

- a running cash balance was not kept in respondent's trust account;
- client trust ledger sheets were not fully descriptive;
- a separate trust ledger was not maintained for each client;
- a business disbursements book was not maintained;
- quarterly reconciliations of the trust account were not prepared;
- a disbursements journal for the trust account was not maintained;
- a receipts journal for the business account was not maintained; and
- trust account checks were not pre-numbered.

The OAE complaint charged respondent with violations of RPC 5.5(a) (unauthorized practice of law) and RPC 1.15(d) (cited in the complaint as RPC 1.5) (failure to maintain required records) and R. 1:21-6 (recordkeeping deficiencies).

* * *

Following a de novo review of the record, the Board deemed the allegations contained in the complaints admitted. The complaints contain sufficient facts to support the charges of unethical conduct.

In the Byers matter, respondent failed to act competently on behalf of her client. In addition, she failed to respond to her client's telephone calls or submit copies of correspondence and documents and compounded this misconduct by misrepresenting to her client that documents had been filed. Finally, she failed to respond to the DEC investigation. This conduct constituted violations of RPC 1.1(a), RPC 1.4(a), RPC 8.4(c) and RPC 8.1(b).

In addition, respondent failed to provide her client with a writing setting forth the basis for her fee, in violation of RPC 1.5(b) (written communication of basis for fee). Although the complaint did not specifically charge such a violation, the allegations of the complaint gave sufficient notice of a violation of RPC 1.5(b). Thus, in addition to the aforementioned infractions, respondent violated RPC 1.5(b).

In the OAE matter, the complaint charged that respondent continued to represent clients and to appear in court during her period of ineligibility. Although the complaint was silent as to the specifics of this alleged misconduct, the events detailed in the Byers complaint took place during respondent's period of ineligibility. Furthermore, the complaint

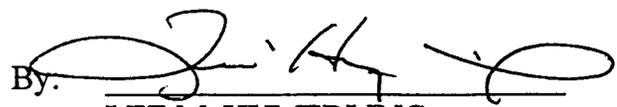
alleged that the OAE audit uncovered recordkeeping deficiencies. Thus, respondent's conduct was in violation of RPC 5.5(a), RPC 1.15 and R. 1:21-6.

Conduct similar to that of respondent has resulted in a reprimand to a short suspension. See In re Ortiz, 147 N.J. 292 (1997) (reprimand for gross neglect, failure to communicate with the client, failure to obtain an expert report, missing the statute of limitations, failure to obtain a signed retainer agreement and advancing personal funds to clients) and In re Medford, 148 N.J. 81 (1997) (three-month suspension for gross neglect, lack of diligence, failure to communicate, failure to promptly deliver funds to a client, failure to surrender client's file on termination of representation, practicing law while ineligible, conduct involving dishonesty, fraud, deceit or misrepresentation and failure to cooperate with disciplinary authorities).

Respondent has no history of discipline. However, she did not cooperate with disciplinary authorities. In light of the foregoing, the Board unanimously determined to impose a suspension of three months. In addition, before reinstatement, respondent must demonstrate reimbursement of the \$800 legal fee to Byers. One member did not participate.

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

Dated: 11/2/98

By: 
LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

*DISCIPLINARY REVIEW BOARD
VOTING RECORD*

**In the Matter of Joanne E. Robinson
Docket Nos. DRB 98-119 and DRB 98-163**

Decided: November 2, 1998

Disposition: Three-Month Suspension

Members	Disbar	Three-Month Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hyerling		X					
Zazzali							X
Brody		X					
Cole		X					
Lolla		X					
Maudsley		X					
Peterson		X					
Schwartz		X					
Thompson		X					
Total:		8					1

Robyn M. Hill 11/10/98
Robyn M Hill
Chief Counsel