

13

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 98-064

IN THE MATTER OF :
STEPHEN FEUERSTEIN, :
AN ATTORNEY AT LAW :
_____ :

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

Decided: August 18, 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 XIII Ethics Committee ("DEC") 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. On November 4, 1997, a complaint was served on respondent by regular and certified mail. The certified mail was returned as unclaimed. The regular mail was not returned. Respondent did not file an answer to the complaint. Thereafter, on December 3, 1997, a second letter was sent to

respondent by regular and certified mail. The letter notified respondent that, if he did not reply within five days, the matter would be certified directly to the Board for the imposition of sanction. The return receipt card, apparently signed by respondent, indicated delivery on December 6, 1997.

A December 15, 1997 letter from the DEC investigator stated that he spoke to respondent on that date, at which time respondent indicated that he had been suffering from various health problems, but intended to file an answer to the complaint. Respondent requested an extension of time to file the answer. By letter dated December 17, 1997 respondent was given a twenty-day extension. The certification does not state how service of that letter was made. When respondent did not file a response within the allotted time, he was advised by letter dated January 15, 1998, sent by certified and regular mail, that, if he did not file a timely answer, his failure to do so would be deemed an admission of the charges. The receipt card was returned indicating delivery on January 22, 1998; the signature of the recipient was, however, illegible. Respondent never filed an answer.

Notice of the Board's review of this matter was sent to respondent at his last known address and was also made by publication in the New Jersey Lawyer and the New Jersey Law Journal. Respondent did not reply to these notices either.

Respondent was admitted to the New Jersey bar in 1972. His disciplinary history is significant. In 1983, respondent was reprimanded for exhibiting a pattern of neglect and for failing to carry out contracts of employment and for failing to maintain trust and business

accounts in a New Jersey financial institution. In re Feuerstein, 93 N.J. 441 (1983). In 1989, respondent was suspended for six months for improperly withdrawing from representation in a pending matter, thereby causing the dismissal of the client's case, failing to withdraw as counsel pursuant to leave of court, failure to carry out a contract of employment with a client and neglect of a matter. In re Feuerstein, 115 N.J. 278 (1989).

The complaint alleged that, sometime prior to September 1996, respondent was retained by the Center for Physical Therapy of New Jersey, P.A. ("Center"), to represent it in negotiations of a business relationship with Jeffery E. Britz. Thereafter, a dispute arose between the Center and Britz. The Center retained another attorney to represent it in February 1997 to resolve the dispute.

Prior thereto, in September 1996, respondent had been placed on the list of attorneys who were ineligible to practice law for failure to pay the annual assessment of the New Jersey Lawyers' Fund for Client Protection. Respondent, nevertheless, continued to maintain an office in Manalapan, New Jersey, and to practice law.

The Center's new attorney made several requests for the return of the file. Despite these demands and respondent's ineligibility to practice law, respondent failed to release his file or documents relating to the matter.

Respondent also failed to reply to requests from one of the Center's principals, Dr. Theodore Bodner, with regard to information on other matters that respondent had been handling in his behalf. Specifically, respondent had been handling a number of estates and

trusts, including the Max Bodner trust, the Dinah Bodner estate, the June Bodner estate and trusts for certain grandchildren. It is not clear from the complaint whether respondent failed to respond to Bodner's requests for information about one or all of these matters.

The complaint charged respondent with violations of RPC 1.16(d) (failure to return a client's property upon termination of representation), RPC 5.5(a) (practicing while ineligible), RPC 1.4(a) (failure to communicate with client) and RPC 8.1(b) (failure to reply to requests for information from a disciplinary authority). The complaint also alleged that respondent failed to reply to a request for information from the ethics investigator.

* * *

Following a de novo review of the record, the Board deemed the allegations of the complaint admitted. R. 1:20-4(f)(1). The record contains sufficient evidence of respondent's unethical conduct. Respondent's conduct included violations of RPC 1.16(d), RPC 5.5(a), RPC 1.4(a) and RPC 8.1(b).

This leaves only the issue of appropriate discipline. Conduct similar to that displayed by respondent has ordinarily resulted in a short term suspension. See In re Brantley, 139 N.J. 465 (1995) (three-month suspension for lack of diligence in two matters, failure to communicate, failure to cooperate, pattern of neglect); In re Kates, 137 N.J. 102 (1994) (three-month suspension for lack of diligence, failure to communicate, extreme indifference

toward the ethics system); In re Hodge, 130 N.J. 534 (1993) (three-month suspension for pattern of neglect, failure to communicate, failure to turn over client property in three matters, gross neglect, lack of diligence, failure to cooperate with disciplinary authorities in five matters).

Based on the foregoing and considering respondent's ethics history, the Board unanimously determined to suspend respondent from the practice of law for a three-month period. One member did not participate.

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

Dated: 8/18/98

By: 

LEE M. HYMERLING

Chair

Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

*DISCIPLINARY REVIEW BOARD
VOTING RECORD*

**In the Matter of Stephen Feuerstein
Docket No. DRB 98-064**

Decided: August 18, 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 10/21/98
Robyn M Hill
Chief Counsel