

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket Nos. DRB 97-504

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IN THE MATTER OF :  
:   
RAYMOND T. PAGE, :  
:   
AN ATTORNEY AT LAW :  
:

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

Decided: June 29, 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 IV 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 October 6, 1997, the DEC sent a copy of the complaint to respondent's last known address by regular mail. The regular mail was not returned. Respondent did not file an answer. A second letter was sent to respondent by certified mail on November 12, 1997, advising him that failure to file an answer to the complaint within five days would result in treatment of the matter as a default. The certified mail return receipt (green card) indicates

delivery on November 17, 1997 and bears an illegible signature. Again, respondent did not file an answer.

Respondent was admitted to the New Jersey bar in 1983. He was reprimanded in 1997 for gross neglect, failure to communicate and failure to keep a client reasonably informed. In re Page, 150 N.J. 254 (1997). Respondent was admonished in 1995 for lack of diligence, failure to communicate with a client and failure to respond to an ethics investigator's requests for information. In the Matter of Raymond T. Page, Docket No. DRB 95-413 (1995).

According to the complaint, grievants Joan L. Stackhouse and Eileen Fisher retained respondent in June 1995 to defend them against harassment charges in municipal court. The parties agreed that, if the defense was successful, respondent would file a malicious prosecution action on behalf of Stackhouse and Fisher against their accuser. Stackhouse and Fisher each paid respondent a retainer of \$500 for the municipal court defense, \$500 for the civil action and \$135 for filing fees, for a total payment of \$1,135 by each. Respondent did not provide a written fee agreement. Respondent's associate successfully defended Stackhouse and Fisher against the harassment charges. On December 1, 1995 respondent filed a civil action that was subsequently dismissed on April 16, 1996 for lack of prosecution. Respondent failed to inform Stackhouse and Fisher either that the complaint had been filed or that it had been dismissed. He took no further action in the civil matter, prompting the filing of the grievance.

On June 17, 1996 the DEC secretary sent a copy of the grievance to respondent, requesting a written reply within twenty days. Respondent failed to reply. On October 15, 1996 the DEC secretary requested a reply within five days. Again, respondent failed to reply. The DEC secretary forwarded the files to the Office of Attorney Ethics ("OAE") for investigation. On December 3, 1996 and December 23, 1996, OAE staff wrote to respondent, requesting a reply to the grievance. Respondent failed to reply. On March 12, 1997 OAE staff left a telephone message for respondent. Respondent failed to return the call. When OAE staff finally reached respondent by telephone on March 17, 1997, respondent asserted that his associate had handled the matters and taken the files with him when he ceased working in respondent's office. Respondent promised to call the next day to discuss the grievances, but failed to do so. On July 9, 1997 OAE staff telephoned respondent, who agreed to send the file to the OAE. Respondent indicated that although his former associate had prepared the complaint, it had never been filed. He asserted that there were insufficient proofs to support the alleged tortious conduct. After respondent provided his file, the OAE requested additional information. Respondent failed to provide the requested information.

The complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate with client), RPC 1.5(b) (failure to communicate basis or rate of fee in writing), RPC 8.1(a) (knowingly making a false statement of material fact in connection with a disciplinary matter) and RPC 8.1(b) (failure

to disclose a fact necessary to correct a misapprehension in connection with a disciplinary matter and failure to cooperate with disciplinary authorities).

\* \* \*

Following a de novo review of the record, the Board deemed the allegations contained in the complaint admitted. The facts alleged support a finding of unethical conduct by respondent.

The Board, however, dismissed the charges of a violation of RPC 8.1(a) (knowingly making a false statement of material fact in connection with a disciplinary matter) and a violation of RPC 8.1(b) (failure to correct a misapprehension in connection with a disciplinary matter). Those charges apparently stem from respondent's representation to the OAE that the civil complaint had not been filed, when it had been filed and later dismissed for lack of prosecution. There was no proof that respondent knew that the statement was false. Indeed, if respondent's associate had taken the files with him, respondent may not have been aware of the ultimate outcome of the matter. While respondent is responsible for the disposition of the litigation as counsel of record, he may not be found to have knowingly made a false statement without proof that he knew the statement was false.

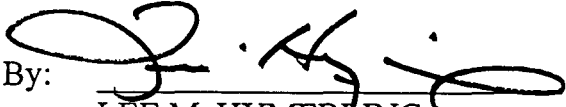
Nevertheless, respondent committed other misconduct. He failed to provide a written fee agreement to his clients. His failure to prosecute the civil claim resulted in its dismissal. He did not inform his clients that the complaint had been filed and later that it had been dismissed. Finally, although respondent produced his file, he failed to reply to the grievance

or to the OAE's request for information. This conduct constitutes a violation of RPC 1.1(a), RPC 1.3, RPC 1.4(a), RPC 1.5(a) and RPC 8.1(b).

Ordinarily, an admonition or a reprimand would constitute appropriate discipline for such conduct. See In the Matter of Dennis Joy, Docket No. DRB 97-105 (1997) (admonition for lack of diligence and failure to keep client reasonably informed); In re Gordon, 139 N.J. 606 (1995) (reprimand for lack of diligence, failure to communicate, gross neglect and failure to return a file); In re Carmichael, 139 N.J. 390 (1995) (reprimand for lack of diligence and failure to communicate). However, because past discipline has failed to deter respondent from unethical conduct and because respondent failed to file an answer to the formal complaint, the Board unanimously determined to impose a suspension of three months.

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

Dated: 6/29/98

By:   
LEE M. HYMERLING  
Chair  
Disciplinary Review Board

*SUPREME COURT OF NEW JERSEY*

*DISCIPLINARY REVIEW BOARD  
VOTING RECORD*

**In the Matter of Raymond T. Page  
Docket No. DRB 97-504**

**Decided: June 29, 1998**

**Disposition: Three-Month Suspension**

Members	Disbar	Three-Month Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling		x					
Zazzali		x					
Brody		x					
Cole		x					
Lolla		x					
Maudsley		x					
Peterson		x					
Schwartz		x					
Thompson		x					
<b>Total:</b>		9					

By *Leah Frank* 8/17/98  
Robyn M. Hill  
Chief Counsel