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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 97-396

IN THE MATTER OF
ROBERT P. GORMAN,
AN ATTORNEY AT LAW

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

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 VII 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. A copy of the complaint and cover letter dated July 7, 1997 were sent by certified and regular mail to respondent's last known office address: 228 Alexander Street, Princeton, New Jersey 08540.

The certified mail receipt (green card) was returned showing delivery on July 8, 1997, signed

by E. Scheff. On September 18, 1997 a second letter was forwarded by certified and regular mail to respondent, 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) was returned showing delivery on September 19, 1997, also bearing the signature of E. Scheff. Respondent did not file an answer, prompting the certification of the record by the DEC and the request that the matter be treated as a default.

Respondent was admitted to the New Jersey bar in 1960. He was admonished on February 8, 1995 for failure to respond to an ethics investigator's requests for information.

The allegations in the complaint stem from the same matter that led to respondent's admonition in February 1995. According to the panel report from the earlier case, for more than twenty years, respondent provided legal services for the estate of Bella Chasen. After the original executor of the estate, Howard F. Skarbnik, also an attorney, died on November 23, 1991, Skarbnik's daughter, grievant Michelle Skarbnik Kirmser, Esq., turned over her father's *Chasen* files to respondent. She asked respondent about fees the estate owed to her father for his services as executor. Respondent promised to review the will to determine if an alternate executor had been named and to contact Kirmser about any executor fees owed. Although during the next several months, Kirmser left five or six messages on respondent's telephone answering machine, respondent failed to return her calls. Her letters to respondent of April 25, 1992 and August 28, 1992 apparently generated two telephone conversations and one office conference with respondent. At the ethics hearing on the first complaint, Kirmser

testified that she currently was satisfied with respondent's legal services; that she was not aware of any damage caused by respondent's delay; and that any discipline imposed should be minimal. At the hearing, respondent acknowledged and apologized for the delay, attributing his actions to health problems from a toxic reaction to prescription medicine and to depression and a mental breakdown caused by a bitter divorce. Respondent contended that his failure to act was aberrational. The DEC dismissed the charge of RPC 1.1 (gross neglect), finding only a violation of RPC 8.1(b) (failure to respond to a lawful demand for information from a disciplinary authority), for which the Board admonished respondent.

On January 21, 1997 Kirmsler filed a grievance against respondent, alleging that he again failed to return her telephone calls and to communicate the status of the matter; failed to complete the work required and failed to respond to requests from her and her new attorneys to turn over his files so that the estate administration could be concluded.

On April 22, 1997 the DEC investigator sent the grievance to respondent, requesting a written reply by May 7, 1997. Respondent failed to reply to the grievance. The investigator left a telephone message for respondent on May 8, 1997. Respondent failed to return the call. On May 15, 1997 after the investigator reached respondent by telephone, respondent promised to reply to the grievance by May 27, 1997. Respondent failed to submit a reply.

The ethics complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.1(b) (pattern of neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to

communicate with client) and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

* * *

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.


This leaves only the issue of appropriate discipline. Although an admonition or reprimand is generally imposed for lack of diligence and failure to communicate, See In the Matter of Dennis Joy, DRB 97-105 (1997) (admonition); In re Gordon, 139 N.J. 606 (1995) (reprimand); In re Carmichael, 139 N.J. 390 (1995) (reprimand), respondent's failure to cooperate with disciplinary authorities cannot be ignored. See 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 disciplinary authorities); In re Ortopan, 143 N.J. 586 (three-month suspension for gross neglect, lack of diligence, failure to communicate, misrepresentations and failure to cooperate with disciplinary authorities); In re Kates, 137 N.J. 102 (1994) (three-month suspension for lack of diligence, failure to communicate and extreme indifference towards the ethics system).

Accordingly, a seven member majority of the Board determined to suspend respondent for three months. One member dissented, voting for a reprimand. One member

recused himself.

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 Robert P. Gorman
Docket No. DRB 97-396**

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					
Total:		7	1			1	

By Robyn M. Hill 8/11/98
Robyn M. Hill
Chief Counsel