



SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 97-309

IN THE MATTER OF :
MARIE CHEN, :
AN ATTORNEY AT LAW :
_____ :

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

Decided: April 13, 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. Service of the complaint was made by certified and regular mail to the address listed on the grievance. The certified mail receipt was returned indicating that respondent had accepted delivery on June 28, 1997. Respondent did not file an answer. Thereafter, on July 23 1997, a second letter was sent to respondent by regular and certified mail to a different address obtained by the DEC investigator. The letter informed respondent that, if she did not file an answer within five days, the allegations of the complaint would be deemed admitted. As of the date of the

certification, neither the certified mail receipt card nor the regular mail had been returned. Respondent did not file an answer to the complaint.

Respondent was admitted to the New Jersey bar in 1986. Her disciplinary history is extensive. In 1995 respondent received a reprimand for gross neglect, failure to communicate and failure to maintain a bona fide office. In re Chen, 142 N.J. 479 (1995). In 1996 she was suspended for three months for pattern of neglect, failure to communicate and failure to cooperate with disciplinary authorities. In re Chen, 143 N.J. 416 (1996). In 1997 she received an additional three-month suspension for gross neglect, pattern of neglect, failure to communicate and conduct involving dishonesty, fraud, deceit or misrepresentation. In re Chen, 151 N.J. 477 (1997). Recently the Board determined to impose a six-month suspension for respondent's violations of RPC 1.16 (improper termination of representation), RPC 8.1(b) (failure to cooperate with a disciplinary authority) and RPC 1.3 (lack of diligence). The Board also determined to require respondent to practice under the supervision of a proctor for two years, upon her reinstatement. In the Matter of Marie Chen, Docket No. DRB 97-170.

The complaint alleged that, at an unspecified date, Phyllis Palisi-Reynolds retained respondent to represent her in a personal injury matter. Respondent allegedly negotiated a settlement in Palisi-Reynolds' behalf in February 1993. Afterwards, by letter dated May 18, 1993, the insurance company advised respondent that she needed to submit special paperwork because the matter involved a JUA claim. The insurer offered to give respondent

the appropriate documents, if needed. At that point in time, the payment of JUA claims was subject to an eighteen-month deferral period that began on the date of filing of the appropriate papers with the JUA. It is clear that respondent did not obtain the necessary forms and did not submit the required documents, as the eighteen-month deferral period was never triggered in this matter.

According to the complaint, Palisi-Reynolds had been waiting for a \$50,000 award since an arbitration took place on September 18, 1992. Palisi-Reynolds called respondent every month to determine what was causing the delay in receiving the proceeds. On one occasion respondent informed Palisi-Reynolds that the JUA had not processed her claim properly, that she needed to re-submit it and that "it would probably take another year." Thereafter, respondent also told Palisi-Reynolds that she had changed her residence and lost the "contract" (presumably the papers to be filed with the JUA). Respondent assured her that she would track it down and re-submit it.

As a result of the DEC investigation, it was determined that a workers' compensation lien was in place in this matter and that, apparently, some negotiations had begun in order to compromise the lien. The complaint, however, did not indicate how that issue was resolved. The complaint further alleged that, despite Palisi-Reynolds repeated efforts to determine the status of the matter, respondent either gave her false information or would not communicate with her.

In the fall of 1996, respondent requested that Palisi-Reynolds furnish her with a letter indicating that her family was "suffering severe hardship and needed the funds." Although Palisi-Reynolds forwarded the letter to respondent, she still did not recover any money. Eventually, on December 10, 1996, Palisi-Reynolds requested the return of her file so that another attorney could take over the matter.

The complaint charged respondent with gross neglect, pattern of neglect, lack of diligence, failure to communicate with her client, wrongful termination of representation and failure to cooperate with the 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, which included violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence) and RPC 1.4 (failure to communicate). The complaint, however, provided no basis for a finding that respondent failed to reply to the DEC's inquiries. The Board, therefore, dismissed the charge of a violation of RPC 8.1(b). In light of respondent's prior ethics infractions, which included findings of gross neglect, as well as pattern of neglect, the Board also found a violation of RPC 1.1(b). Finally, because there is some indication that respondent continued to take minimal action in the Palisi-Reynold's matter until the fall of

1996, the Board did not find a violation of RPC 1.16 (wrongful termination of representation).

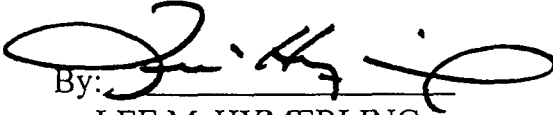
This leaves only the issue of appropriate discipline. Had this been respondent's first brush with the ethics system, perhaps a reprimand would have been appropriate. See, e.g., In re Gorden, 139 N.J. 606 (1995) (reprimand for lack of diligence and failure to communicate in two matters and gross neglect and failure to return a file in one of the two matters; prior public reprimand); In re Wildstein (reprimand for failure to communicate in three matters, lack of diligence and gross neglect in two of the three matters). However, respondent's ethics history is extensive and consists of repetitive violations. Similar repetitive misconduct has resulted in short-term suspensions. 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, failure to communicate, failure to turn over client files 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 toward the ethics system).

The Board has given strong consideration to the fact that this is respondent's second default matter, which shows either respondent's total indifference to the disciplinary process or her inability to cope with her professional and ethics responsibilities.

A five-member majority of the Board determined to suspend respondent for six months, to run consecutively to her current suspension. Three members voted to impose a one-year suspension. One member did not participate.

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

Dated: 4/13/98

By: 
LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of Marie Chen
Docket No. DRB 97-309**

Decided: April 13, 1998

Disposition: Six-Month Suspension

Members	Disbar	Six-Month Suspension	One-Year Suspension	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:		5	3				1

By Robyn M. Hill 5/15/98
Robyn M. Hill
Chief Counsel