

Both

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 97-085

IN THE MATTER OF :
RICHARD L. GRUBER, :
AN ATTORNEY AT LAW :
:

Decision
Default [(R:1.20-4(f)(1)]

Decided: September 2, 1997

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 VA 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. The DEC served respondent with the complaint by both certified and regular mail on March 5, 1996, and again on May 17, 1996. Respondent did not file an answer.

Respondent was admitted to the New Jersey bar in 1977. He maintains a law office in Newark, New Jersey. Respondent has no history of discipline.

* * *

The first count of the complaint charged that respondent was retained by Stephen Kowalchuk in March 1993 to represent him in an action to vacate an in rem tax foreclosure on property located in Newark, New Jersey. Kowalchuk paid respondent a non-refundable retainer of \$1,000. Three months after having been retained, respondent sent copies of a certification, notice of motion and order to show cause to Kowalchuk for his signature. Kowalchuk signed the documents and returned them in accordance with respondent's instructions.

In July 1993, respondent forwarded a copy of those documents to Ayesha Freeman, Esq., Assistant Corporation Counsel for the City of Newark. In respondent's cover letter to Freeman, he requested that she review the moving papers and contact his office so that he could schedule a hearing date the following week. Respondent took no further action in connection with the matter. Moreover, respondent failed to reply to Kowalchuk's request for information about the status of the matter and also failed to reply to another attorney's request for information. The complaint charged respondent with violations of RPC 1.1(a) (gross neglect); RPC 1.3 (lack of diligence); and RPC 1.4(a) (failure to communicate).

In the second count, respondent was charged with a violation of RPC 8.1(b) (failure to cooperate with disciplinary authorities). Respondent failed to reply to two letters from the Office of Attorney Ethics ("OAE") requesting a reply to the grievance. The letters were sent on June 7 and June 21, 1995. On July 13, 1995 an OAE investigator telephoned respondent, at which time respondent denied having received either letter. An appointment was made for the two to meet at respondent's office on July 17, 1995 to review the Kowalchuk file. When the investigator appeared

at respondent's office, he was informed that respondent was in court, but was asked to wait until respondent returned. Approximately fifteen minutes later, respondent telephoned his office to advise the investigator that the file was not available for review. The investigator, therefore, requested that respondent deliver the file to the OAE as soon as possible. Respondent failed to comply with the investigator's request. Finally, on August 24, 1995 the investigator wrote to respondent by certified mail, return receipt requested, asking for additional information about the matter. The letter was delivered on August 29, 1995. Respondent again did not reply.

* * *

Following a de novo review of the record, the Board deemed the allegations of the complaint admitted. Kowalchuk's grievance, attached to the complaint (Exhibit-4), alleges that Kowalchuk was unable to reach respondent. Respondent did not return any of Kowalchuk's numerous telephone calls. Kowalchuk further claimed that respondent failed to reply to several letters sent by another attorney in Kowalchuk's behalf. As a result of respondent's inaction, Kowalchuk believed that he had lost the property in question and had "suffered significant loss and damages." Kowalchuk never learned whether respondent filed the motion papers with the court. The record is silent as to any actual losses suffered by Kowalchuk. Respondent's failure to act for such a significant period was a violation of RPC 1.1(a) (gross neglect) and RPC 1.3 (lack of diligence); his failure to communicate with Kowalchuk was a violation of RPC 1.4(a); and his failure to comply with any of the OAE's request's for information was a violation of RPC 8.1(b).

The range of discipline in similar matters is between an admonition and a reprimand. See,

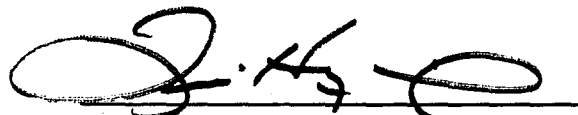
e.g., In re Mandle 146 N.J. 520 (1996) (reprimand where attorney grossly neglected four separate matters, failed to act diligently and failed to cooperate with the disciplinary authorities); In re Sternstein, 143 N.J. 128(1996) (reprimand where attorney failed to act diligently in two client matters, failed to communicate and failed to cooperate with the disciplinary authorities); In the Matter of George B. Crisafulli, Docket No. DRB 96-040 (May 6, 1996) (admonition where attorney failed to represent a client diligently, failed to keep the client reasonably informed about the status of the matter and failed to cooperate with the disciplinary authority); and In the Matter of Linda Ahmed-Howard, Docket No. DRB 95-485 (April 29, 1996) (admonition where attorney never filed and served a legal malpractice complaint, failed to reply to the client's request for information and failed to cooperate with the disciplinary authorities).

In this matter, respondent's total disregard for the entire attorney disciplinary system, including the DEC and the OAE, warrants more than an admonition. The Board, therefore, unanimously determined to impose a reprimand. Two members did not participate.

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

Dated:

9/2/97



LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Richard L. Gruber
Docket No. DRB 97-085

Decided: September 2, 1997

Disposition: Reprimand

Members	Disbar	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				2

By Isabel Frank
Robyn M. Hill
Chief Counsel