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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket Nos. DRB 97-365, DRB 97-331
and DRB 97-493

IN THE MATTER OF
A. DAVID DASHOFF
AN ATTORNEY AT LAW

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

Decided: June 8, 1998

Pursuant to R. 1:20-4(f), the District IV Ethics Committee (DEC) certified the records in these matters directly to the Board for the imposition of discipline, following respondent's failure to file answers to the ethics complaints.

Respondent was admitted to the New Jersey bar in 1976. Until 1995, he maintained an office in Voorhees, New Jersey. Subsequent to his 1995 suspension, respondent advised ethics officials of his change of address to a post office box in Cherry Hill.

This decision encompasses three Board matters arising from four separate default certifications. These four certifications consolidate twelve docketed DEC cases for review. The certification in DRB 97-365 covers three separate DEC complaints concerning four

separately docketed grievances. The two certifications filed in DRB 97-331 concern two complaints covering seven separate DEC cases. Finally, the certification filed in DRB 97-493 concerns one complaint filed on one docketed DEC case.

The certifications describe the following attempts at service of process:

As to DRB 97-365, on July 11, 1997 three complaints were served on respondent by certified and regular mail at his last known office address, as listed in the New Jersey Lawyers Diary and Manual. The certified mail envelopes were returned unclaimed. The regular mail envelopes were not returned. Respondent did not file an answer.

Because the DEC had prior problems in serving respondent, notice by publication was made on July 18, 1997 in the Courier Post. On August 4, 1997 notice by publication was made in the New Jersey Law Journal. That notice informed respondent that, unless he filed answers to the complaints within twenty-one days of the date of publication of the notices, the allegations of the complaints would be deemed admitted. Respondent did not file an answer to any of the complaints.

In DRB 97-331, the DEC submitted two certifications of the record covering seven separate matters. In light of consistent problems with attempted service by regular and certified mail, notice by publication was made three times. In District Docket Nos. IV-96-016E, IV-96-040E, IV-96-043E and IV-96-047E, notice by publication was made on March 17, 1997 in the New Jersey Lawyer, on June 16, 1997 in the Courier Post and on June 23, 1997 in the New Jersey Law Journal. The Courier Post and New Jersey Law Journal notices

also contained notice as to District Docket No. IV-96-020E. As with other matters, respondent did not file an answer.

In DRB 97-493, unlike the first two default matters herein, proof of service of the complaint by certified mail was received. The green return receipt card – Exhibit B to the OAE’s certification – was accepted on November 7, 1997 at P.O. Box 533, Cherry Hill, N.J. 08003. While the signature is not perfectly legible, it does appear to be that of respondent. The letter accompanying the complaint advised respondent that failure to answer would be deemed an admission of the allegations of the complaint and that the matter would be certified to the Board as a default.

* * *

Respondent has an extensive ethics history. He received a public reprimand in 1987 for unethical conduct in three matters, including failure to complete legal matters during a six-year period. In re Dashoff, 108 N.J. 690 (1987). Respondent received a private reprimand in May 1989 for failure to pursue a medical malpractice action and for failure to keep his clients informed about the status of the matter.

In November 1995 respondent was suspended for three months for failure to maintain proper trust and business account records, despite direction from the Office of Attorney Ethics (“OAE”), and for failure to cooperate with the disciplinary authorities. In re Dashoff,

142 N.J. 555 (1995). Respondent never petitioned for reinstatement following this suspension.

On February 24, 1998 respondent was suspended for an additional six months for misconduct that included failure to communicate, lack of diligence, failure to communicate the basis of the fee to the client, conflict of interest and failure to cooperate with the disciplinary authorities.

* * *

DRB 97-365

This matter involves three separate DEC formal complaints concerning four separately docketed grievances – IV-96-082E, IV-96-101E and, in a consolidated complaint, IV-96-90E and IV-96-91E. Each matter is discussed separately.

The Campanella Matter - District Docket No. IV-96-083E

As stated in the complaints Dorothy Campanella retained respondent in May 1989 to represent her in a personal injury action to recover for injuries sustained in a motor vehicle accident. Campanella received out-patient treatment for her injuries and remained under a doctor's care until October 1989.

Respondent filed suit on behalf of Campanella on May 16, 1991. However, because respondent did not serve defendant with the complaint, in April 1992 he received a notice of dismissal for failure to prosecute. Respondent filed an affidavit objecting to the dismissal, whereupon the matter remained active. Respondent later received additional notices of dismissal on January 22, 1992, September 18, 1992 and November 20, 1992. Respondent objected to each of the notices. Service was eventually made on the defendant in December 1992.

On August 13, 1993 the defendant moved for summary judgment on the ground that the verbal threshold barred suit in the matter. Respondent objected to the motion that appeared on its return date. After summary judgment was granted, the complaint was dismissed with prejudice on September 24, 1993. Respondent never informed Campanella that her case had been dismissed.

More than two years later, in January 1996, Campanella contacted the court and learned that her case had been dismissed. When she questioned respondent about the dismissal, respondent informed her that he would take care of everything and that her case was "where it should be." That statement was false and respondent knew it to be false at the time it was made. Respondent also failed to inform Campanella that he had been suspended from the practice of law and that she should retain other counsel to represent her in the matter during his suspension.

In addition, respondent failed to reply to the OAE's requests for information about the grievance and failed to cooperate with the attorney/trustee appointed by the Court to take possession of respondent's files.

The two-count complaint charged respondent with violations of RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate), RPC 1.16(d) (failure to take steps to protect client's interest on termination of representation), RPC 8.4(c) (dishonesty, fraud, deceit or misrepresentation) (count one) and RPC 8.1(b) (failure to cooperate with the disciplinary authorities) (count two).

The Bhatt Matter (District Docket No. IV-96-090E)

The Sheth Matter (District Docket No. IV-96-091E)

According to the complaint, in April 1993 respondent performed legal services to incorporate a business known as "Sanket Corporation" on behalf of his client, Neeraj Sheth. Under that corporation, Sheth operated a business known as "The Irish Deli." In 1996 Yogesh Bhatt wanted to lease the deli from Sheth. Even though respondent was suspended from the practice of law, both Sheth and Bhatt met with him in 1996 and retained him to prepare a contract to govern the lease. Respondent did not advise them that he was suspended. Moreover, he did not advise Sheth or Bhatt of the conflict of interest involved in representing their adverse interests in the transaction or of the desirability of retaining separate counsel.

Respondent prepared an "Independent Operator's Agreement" that was executed by both parties on February 23, 1996. He charged Sheth \$400 for preparing the agreement. He also charged Bhatt \$800 for preparing the agreement and for incorporating a business. Respondent filed a certificate of incorporation for Bhatt on March 7, 1996 to create the "Purva Corporation." Respondent did not provide Bhatt with a copy of the filed certificate.

After the agreement was executed, Bhatt told respondent that he wanted to make some changes to the agreement. Respondent agreed to make the changes and to send Bhatt a revised agreement. After several weeks, Bhatt still had not received the agreement. Respondent met with Sheth, at which time Sheth informed him that he did not wish to do business with Bhatt. Bhatt tried to contact respondent, unsuccessfully.

After the agreement between Sheth and Bhatt was executed and respondent's fees were paid, respondent approached Sheth and advised him that he was interested in renting The Irish Deli from him under a corporation called Tykes N'Tots, Inc., of which respondent was an officer. Sheth questioned respondent as to whether the agreement with Bhatt could be voided. Sometime later, respondent informed Sheth that Bhatt had withdrawn from the agreement.

On March 17, 1996 respondent prepared a new agreement between Sheth and Tykes N'Tots, Inc., which was executed by both parties. The new agreement incorporated several changes from the first agreement, thereby making the transaction financially more favorable to respondent. Respondent did not advise Sheth of the conflict of interest involved in

representing Sheth as well as himself or of the desirability of Sheth's seeking independent counsel. Moreover, Sheth did not consent in writing to respondent's continued involvement in the transaction as Sheth's attorney.

The transaction and terms under which respondent acquired his interest in The Irish Deli were not fair and reasonable to Sheth. Moreover, the transaction and terms were not fully disclosed and transmitted to Sheth in a manner that could have been reasonably understood by Sheth.

Under the agreement, Tykes N'Tots, Inc. took possession of The Irish Deli on March 20, 1996 for a period of twenty-one days and until April 11, 1996. During that time period, while Tykes N'Tots, Inc. had possession of The Irish Deli, the company failed to pay for existing inventory and rent, failed to purchase and pay for new inventory and failed to pay employees' salaries and wages. As a result of the foregoing, Sheth sustained financial harm. He took back possession of The Irish Deli on April 11, 1996.

Both Sheth and Bhatt filed grievances against respondent. On May 20, 1996 the DEC forwarded a copy of Bhatt's grievance to respondent and requested a reply within ten days. Respondent did not submit a reply. Thereafter, on October 22, 1996 the OAE wrote to respondent and forwarded copies of the grievances, asking for a written reply by November 6, 1996. Respondent did not reply.

The first count of the complaint charged respondent with violations of RPC 1.3, RPC 1.4(a), RPC 1.7(b) and (c) (conflict of interest) and RPC 5.5(a). Count two charged similar

violations, including RPC 1.4(a), RPC 1.7(b) and (c), RPC 1.8(a) (entering into a business transaction with a client), RPC 5.5(a) and RPC 8.4(c). The third count charged respondent with a violation of RPC 8.1(b).

The Riccardi Matter - District Docket No. IV-96-101E

Mark Riccardi retained respondent to represent him in connection with injuries sustained in an accident on September 2, 1990, while he was a passenger in a car. On September 2, 1992 respondent filed suit against the driver of the other vehicle. After respondent did not serve the defendant, in May 1993 he received a notice of dismissal of the complaint for failure to prosecute the matter. Respondent filed an affidavit objecting to the dismissal, whereupon the matter remained active. Thereafter, respondent received additional notices of dismissal on June 18, 1993, August 20, 1993, November 8, 1993 and December 17, 1993. Respondent successfully objected to all but the last notice of dismissal. Riccardi's complaint was dismissed without prejudice on February 17, 1994.

Respondent took no further action to have the complaint served on the defendant or to have it reinstated. He did not disclose to Riccardi that the case had been dismissed.

As of the date of the filing of the grievance, February 19, 1996, respondent had not communicated with Riccardi to advise him of the status of the case despite Riccardi's numerous attempts to contact respondent. Also respondent did not inform Riccardi that

respondent had been suspended from the practice of law and did not advise him to retain other counsel.

Respondent failed to reply to the DEC's and the OAE's requests for information about the grievance in this matter. Respondent was charged with violations of RPC 1.3, RPC 1.4(a), RPC 1.16(d) (count one) and RPC 8.1(b) (count two).

* * *

DRB 97-331

1. First Complaint - Nye, Houghton and Lindgren

The Nye Matter - District Docket No. IV-96-020E

Martin H. Nye retained respondent in August 1992 to represent him for injuries sustained as a result of an August 10, 1992 automobile accident.

On November 1, 1995 the Supreme Court suspended respondent for a three-month period, effective November 27, 1995. On December 26, 1995 respondent prepared an affidavit of compliance regarding his suspension. Paragraph nine of the affidavit stated that "[i]n all pending litigated or administrative matters, the client, attorney and Judge and/or clerk has been notified of the status of the attorney by, (a) telephone when appropriate and (b) correspondence." In accordance with R.1:20-20, respondent appended to the affidavit copies of all correspondence and an alphabetical listing of all clients he was actively

representing as of the date of his suspension. Nye was not included in the list of clients. Respondent did not send Nye any correspondence about his case. Nye asserted that he had not spoken with respondent since October 1995, despite his repeated attempts to contact respondent.

According to Nye, he telephoned respondent's Voorhees office, only to discover that the telephone had been disconnected. The complaint further alleged that respondent did not inform Nye that he had closed his office and failed to provide Nye with a new address and telephone number.

In March 1996 Nye contacted the Camden County Bar Association, which informed him of respondent's November 1995 suspension. Nye claimed that respondent had not personally notified him of the suspension.

On March 19, 1996 Nye retained a new attorney. The attorney telephoned the insurer in the matter and was informed that Nye's case had been closed in October 1994, after the statute of limitations had expired in August 1994, and that respondent had not filed a complaint or negotiated a settlement. The court records, however, showed that respondent had filed a complaint in Nye's behalf in 1994. On January 26, 1995 the court notified respondent that the matter would be dismissed on April 20, 1995 for lack of prosecution. On April 25, 1995 the court dismissed the matter.

According to Nye, respondent had not told him that the case was dismissed and that as late as October 1995, respondent had informed him that his case was still pending.

Afterwards, Nye was unable to retrieve his file from respondent because respondent had never notified him of his change of address and telephone number.

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), RPC 1.16(d) (upon termination of representation, failure to return property to which the client is entitled) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

The Houghton Matter - District Docket No. IV-96-040E

Robert Houghton retained respondent in June 1994 to represent him in a parental neglect/custody hearing with DYFS.

In December 1995, while the matter was pending, Houghton received notice of respondent's three-month suspension. Houghton, therefore, appeared pro se in subsequent court actions.

On January 16, 1996 DYFS filed a new complaint against Houghton, alleging ongoing child abuse. Houghton contacted respondent in mid-February 1996 to retrieve his file. Respondent told him that he was moving his office, but did not give Houghton his new address or telephone number. Respondent failed and refused to turn over Houghton's file to him. Afterwards, respondent's telephone was disconnected and Houghton could not contact respondent to obtain his file. As a result, Houghton was prejudiced in preparing his

own case. He, nevertheless, appeared pro se on June 19, 1996, without his file, and was awarded custody of his son.

After respondent received a copy of Houghton's grievance, he telephoned Houghton to apologize for failing to give him his new address and telephone number. Respondent gave Houghton the information at that time.

Respondent was charged with violations of RPC 1.4(a) and RPC 1.16(d). Respondent was also charged with a violation of RPC 8.1(b) (failure to respond to lawful demand for information from a disciplinary authority) in both the Nye and Houghton matters. Respondent failed to reply to requests for information from the OAE in both matters, failed to return telephone calls from the OAE investigator in Houghton and also failed to appear at the offices of the OAE or to contact the OAE in Houghton.

The Lindgren Matter - District Docket No. IV-96-047E

Anthony Lindgren retained respondent in October 1995 to defend him in a civil suit and to file a counterclaim. Although Lindgren did not recall any retainer agreement, he remembered paying respondent \$500 for his services.

On November 29, 1995, two days after respondent's November 27, 1995 suspension, respondent filed an answer and counterclaim in Lindgren's matter. On December 26, 1995 respondent prepared an affidavit of compliance, in accordance with R. 1:20-20, and sent Lindgren notice of the three-month suspension and right to obtain new counsel. Respondent,

however, failed to notify Lindgren of his new address and telephone number and failed to return Lindgren's file. Lindgren left a number of messages on respondent's answering machine between the third week in November 1995 and December 1995. During the last week of December 1995, respondent left a message on Lindgren's answering machine, advising him that an answer to the complaint had been filed and that he would contact him at the end of the week. According to Lindgren, there was no further communication with respondent.

On January 31, 1996 interrogatories and a demand for production of documents were propounded on respondent. A partial answer to Lindgren's counterclaim was filed on February 3, 1996. Supplemental interrogatories were also propounded on respondent at his Voorhees office address on February 14, 1996. Respondent, however, did not act on the requests for discovery; nor could he, given his suspension. More importantly, respondent did not turn over the demands for discovery to Lindgren or inform his adversary of his suspension. Respondent's adversaries made several unsuccessful attempts to contact him by telephone at his Voorhees office.

On May 9, 1996 respondent's adversaries filed a notice of motion to dismiss the counterclaim for failure to submit answers to interrogatories and a response to the demand for production of records. On June 7, 1996 Lindgren's counterclaim was dismissed.

Lindgren retained a new attorney in May 1996. Although his new attorney filed a substitution of attorney with the court, the attorney was unable to obtain respondent's

signature on the form as the withdrawing attorney. Respondent had not conducted any discovery in Lindgren's behalf during his representation. On September 13, 1996 Lindgren's counterclaim was reinstated.

The complaint charged respondent with violations of RPC 1.1(a), RPC 1.3, RPC 1.4(a), RPC 1.5(b) (failure to communicate in writing the basis or rate of fee) and RPC 1.16(d).

2. Second Complaint

The Johnson Matter - District Docket No. IV-96-016E

Robert C. Johnson, the grievant, and Kathleen Johnson were divorced on September 23, 1994. In March 1995, Kathleen retained respondent to represent her in post-divorce matrimonial matters.

The settlement agreements between Kathleen and Robert provided that Kathleen was to remain in the marital home and make the mortgage payments. Robert was to retain a one-half equity interest in the property. Kathleen requested respondent to help her reduce her monthly mortgage payments by modifying the terms of the mortgage with GMAC Mortgage Company ("GMAC"). On May 19, 1995 GMAC sent Kathleen documentation for the mortgage modification. Robert, however, refused to sign the mortgage modification agreement and applied to the court for an order compelling Kathleen to sell the former

marital residence. Robert's application also objected to certain wording in the mortgage modification agreement.

Robert's application was heard on June 9, 1995. Respondent appeared on behalf of Kathleen and V. Richard Ferreri, Esq. appeared for Robert. The court ordered that the language in the modification agreement be amended to reflect Robert's concerns, but ordered Robert to sign the amended document.

When Robert refused to sign the agreement, the court threatened to hold him in contempt and ordered that he "remain on the floor" until the papers were signed. Nevertheless, Robert, his attorney and the paralegal left the building. Respondent and Kathleen remained in the courtroom and "from a window, saw [Robert] standing outside." Robert apparently signed the mortgage modification agreement and left the premises. His attorney, Ferreri, returned to the courtroom and handed the mortgage modification agreement to respondent. Respondent "inspected" the signatures and notarized Robert's signature on the mortgage modification.

The complaint alleged that respondent's notarization was defective in that 1) Robert did not personally appear before respondent while executing the document, 2) respondent did not administer an oath or acknowledgment to Robert and 3) respondent did not execute the jurat or certificate of acknowledgment in Robert's presence.

The complaint further alleged that respondent wrote to Judge Wallace on July 21, 1995, but that:

[S]aid Robert Johnson documented the documents within the vicinity of his attorney and when this Counsel was presented with the documents by the Plaintiff's attorney, who refused to execute notarization, the Defendant's attorney, as he had, along with two other parties, witnessed the signature, executed the notary and submitted the altered documents to the mortgage company consistent with the terms of the Order.

Count one of the complaint charged respondent with violation of RPC 8.4(c) and RPC 8.4(b) (conduct prejudicial to the administration of justice).

Count two of the complaint charged that respondent prepared a certification in support of an emergent application, dated July 17, 1995. Respondent requested that Kathleen come to his office to sign the certification, but she was unable to do so. He, therefore, reviewed the certification with Kathleen by telephone and she authorized his secretary to sign the certification in her behalf. Respondent had his secretary sign Kathleen's name on the certification, which was filed with the court. The complaint charged respondent with violations of RPC 8.4(c) and (d).

The third count charged that respondent violated RPC 8.1(b) in several respects. First, he failed to reply to the DEC investigator's request for a response to the grievance. Second, respondent failed to return telephone calls to the OAE to schedule an interview. Third, he failed to appear at the OAE offices, as directed in a certified letter to respondent. That letter, however, was returned to the OAE as "unclaimed."

3. Third Complaint

The Raman Matter - District Docket No. IV-96-043E

The first count of the two-count complaint charged that Zia and Zahida Raman retained respondent in May 1981 to represent them in personal injury claims arising from an automobile accident on May 1, 1981. Zia was the operator of the vehicle and Zahida was a passenger. Shortly before the statute of limitations was to expire, respondent referred Zahida's personal injury claim to another attorney, Larry M. Rauer, to file the lawsuit. Respondent indicated to Rauer that he would, nevertheless, continue to handle and attempt to settle both cases, despite the referral.

Respondent filed suit in Zia's behalf on May 5, 1983, four days after the statute of limitations expired. In the complaint, respondent misrepresented that the accident had occurred on May 5, 1981.

Rauer filed the complaint on behalf of Zahida on the same day. Neither complaint was served on the defendants, whereupon both complaints were dismissed for lack of prosecution. The Zia complaint was dismissed on May 23, 1985 (the complaint improperly stated 1995); the Zahida complaint was dismissed on June 19, 1986.

In December 1986 respondent misrepresented to the Ramans that he had settled their case for \$7,000. He forwarded releases to them for their signature. Although the Ramans signed and returned the releases to respondent, he did not forward any settlement funds to them. Thereafter, the Ramans attempted to contact respondent to inquire about their

settlement, but respondent failed and refused to meet with them or to take or return their telephone calls.

The complaint charged respondent with violations of RPC 1.1(a), RPC 1.3, RPC 1.4(a) and RPC 1.7(a) and (c) (conflict of interest by continuing to represent the driver and passenger after filing suit) and RPC 8.4(c).

Apparently, an investigation into this matter did not take place until 1996. Count two of the complaint charged respondent with failure to cooperate with that investigation, in violation of RPC 8.1(b). Respondent did not reply to the grievance, but wrote to the OAE on July 11, 1996 indicating that he had changed his address. Thereafter, the OAE wrote to respondent at the new address, again seeking a reply. On July 18, 1996 respondent requested and was granted an extension until July 31, 1996. Respondent still failed to submit a reply to the grievance.

DRB 97-493

The Demand Audit - District Docket No. XIV-97-204E

Although respondent's misconduct, as recited in DRB 97-331 and DRB 97-365, was serious, it was more offensive cumulatively than individually. In this case, however, respondent was charged in a detailed two-count complaint with knowing misappropriation of client funds, in violation of RPC 1.15(a) and (c) and RPC 8.4(c) (first count), as well as

with failure to cooperate with the OAE investigation by not responding to an investigative subpoena, in violation of RPC 8.1(b) (second count).

Respondent was retained by Kathleen and David Moody (grievants) in December 1990 to represent them in a bankruptcy action. A retainer agreement was not signed. Respondent charged grievants a total of \$1,000 to handle the bankruptcy. Following receipt of \$725 from grievants, respondent filed a Chapter 13 petition in their behalf on December 14, 1990. The resulting bankruptcy plan required grievants to make fifty-four monthly payments of \$283.69 to the bankruptcy trustee to discharge their debt. Respondent filed an amendment to grievants' Chapter 13 plan on February 18, 1992, which required that grievants make forty-two monthly payments of \$206.47.

More than one year later, in May 1993, grievants again retained respondent, this time to represent them in the sale of their home and to prepare a lease-purchase agreement for the home. It was grievants' plan to complete their chapter 13 obligations with a lump sum from the lease-purchase agreement. Grievants requested that respondent arrange such a payoff. On June 7, 1993 the trustee advised respondent that the payoff amount was \$3,869.78. On that same day grievants issued a \$5,000 check to respondent to pay off the \$3,869.78, as well as to pay any additional attorney's fees due to respondent and to cover any remaining unpaid utility charges on their home. Two days later, on June 9, 1993, respondent deposited grievants' \$5,000 check in his attorney trust account.

Thereafter, on November 12, 1993, the trustee filed a motion to dismiss the petition on the basis that the ordered monthly payments had ceased in June 1993. A hearing on that motion was scheduled for December 17, 1993. When grievants telephoned respondent to inquire about the notice of the pending dismissal, respondent assured them that he would "take care of it." Respondent then wrote to the trustee on November 19, 1993, advising that he had sent the trustee a certified check to pay off the bankruptcy debt in July 1993. Respondent assured the bankruptcy trustee that he would send a new check to the trustee in one week. Grievants telephoned respondent on three later occasions asking for a receipt for the certified check allegedly sent in July 1993. Respondent did not provide the receipt and, at some point in 1994, advised grievants that he could not find the receipt. Later, in February 1995, respondent told grievants that, rather than a certified check, he had sent an attorney trust account check to the trustee. Respondent was unable to show that he had stopped payment on that trust account check or to offer an explanation for his inability to produce such a proof. A review of respondent's attorney trust account showed that the payoff amount was not debited against respondent's account until check # 646, issued December 1, 1993, was negotiated on December 22, 1993. Similarly, an inspection of respondent's monthly bank statements did not reveal any stop payment on the attorney trust account check that respondent allegedly forwarded to the trustee in July 1993. However, it is clear from respondent's attorney trust account bank statements and other bank records that the account contained insufficient funds to satisfy the bankruptcy payoff amount on many occasions.

Beginning on June 25, 1993, the balance in the account fluctuated significantly and nearly the entire amount of the bankruptcy payoff was missing at various times between the deposit of the \$5,000 and the actual payoff on December 1, 1993. Specifically, as early as July 28, 1993, respondent's account was short by \$3,544.21. Similarly, on December 22, 1993, respondent's account was short by \$3,560.67. On November 10, 1993 respondent's account held only \$143.39. Thus, as to grievant's funds alone, respondent's account had a \$3,726.39 deficiency. A review of respondent's attorney account disclosed that, during the nearly six months in which he should have retained \$3,861.79 in trust, he had written attorney trust account checks for numerous personal expenses, including utility bills, rent, automobile expenses, fee advances and payments to his wife.

The complaint charged respondent with knowing misappropriation of client funds, in violation of RPC 1.15(a); dishonesty, fraud, deceit or misrepresentation in violation of RPC 8.4(c); and failure to safeguard client funds, in violation of RPC 1.15(c), citing In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985).

The second count of the complaint charged respondent with lack of cooperation with the investigation conducted by the OAE. Respondent was first contacted on June 27, 1996, when the OAE sent a copy of the grievance to his former office address in Voorhees, New Jersey. A reply was requested by July 12, 1996. On July 11, 1996 respondent contacted the OAE and requested an extension of time to respond. At that time, he supplied the address of his new office in Cherry Hill. Thereafter, on July 17, 1996, the OAE forwarded a copy

of the grievance to respondent's Cherry Hill office address and requested a response by July 29, 1996. On the next day, July 18, 1996, the OAE forwarded a letter to respondent granting his earlier request for an extension and asking for a response by July 31, 1996. Respondent failed to reply to either of these requests.

Several months later, on October 30, 1996, respondent was personally served with a subpoena duces tecum at his residence in Voorhees. That subpoena demanded the production of attorney trust and business account records for the period covered by the audit. Respondent failed to comply with the subpoena. The complaint charged that respondent violated RPC 8.1(b).

* * *

Following a de novo review of the record, the Board deemed the allegations contained in the complaints admitted. The record contains sufficient evidence of respondent's unethical conduct to support each and every one of the forty-four ethics violations charged in twelve separate complaints. Respondent committed multiple violations of RPC 1.1(a), RPC 1.3, RPC 1.4(a), RPC 1.5(b), RPC 1.7(a), (b) and (c), RPC 1.8(a), RPC 5.5(a), RPC 8.1(b), RPC 8.4(b), (c) and (d), RPC 1.15(a) and (c), and RPC 1.16(d). Respondent grossly neglected cases, failed to communicate with clients, acted without due diligence, made misrepresentations concerning the cases, engaged in conflicts of interest and failed to provide

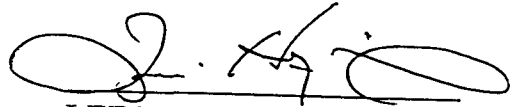
files and documents to clients or their attorneys. In many instances, respondent's actions caused harm to clients. In Campanella, for example, the client was barred from recovering any recompense for her injuries. In Sheth, respondent engineered a business agreement under terms that benefitted him, to the client's detriment.

It is also clear that, in each of the twelve matters before the Board, respondent wilfully disregarded the disciplinary system in a number of respects: he failed to file an answer to any of the four complaints now consolidated for review by the Board; engaged in a course of contumacious conduct rarely seen in disciplinary matters; failed to cooperate with the trustee appointed by the Court to take possession of his client files; failed to reply to requests for information by the DEC and OAE; failed to notify clients of his suspension from the practice of law; represented clients Sheth and Bhatt while under suspension; and he failed to respond to a valid subpoena filed by the OAE. While respondent's foregoing conduct was egregious and deserving of severe discipline, his knowing misappropriation of nearly \$4,000 from the Moodys requires disbarment. Indeed, respondent was given funds to hold in trust and pay out on behalf of his client. He failed to do so for an extended period of time (at least five months) and utilized those funds for personal obligations. Accordingly, under In re Wilson, *supra*, 81 N.J. 451 (1979), respondent must be disbarred (Knowing misappropriation of client funds mandates disbarment).

The Board unanimously voted to recommend respondent's disbarment. One member recused herself. One member did not participate.

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

Dated: 6/8/98



LEE M. HYMERLING
Chair
Disciplinary Review Board

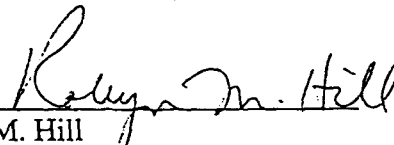
SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of A. David Dashoff
Docket No. DRB 97-331, DRB 97-365 & DRB 97-493

Decided: June 8, 1998

Disposition: Disbar

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					1	1


Robyn M. Hill 6/25/98
Chief Counsel