

Bord

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 97-312

IN THE MATTER OF
A. ROBERT HOLMAN, III
AN ATTORNEY AT LAW

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

Decided: April 13, 1998

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

Pursuant to R.1:20(f)(1), the Office of Attorney Ethics ("OAE") 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 complaint in this matter was served on respondent's attorney, Frank L. Kilgannon, Esq., a New York attorney. Kilgannon represented respondent in connection with disciplinary proceedings in New York. Kilgannon represented to the OAE that respondent could not be served in New Jersey because he was an "in-patient at a drug rehabilitation treatment facility in New York State." Kilgannon agreed to accept process on behalf of Holman and to transmit the documents to him. The

Court has also recently recognized Kilgannon as the proper agent to accept service. The complaint was served on Kilgannon by certified mail and the receipt card was returned signed by Kilgannon's office. Regular mail forwarded to Kilgannon was not returned. Respondent was also served by publication in the New Jersey Lawyer on July 21, 1997. No answer has been filed on behalf of respondent.

Respondent was admitted to the New Jersey bar in 1989. He was temporarily suspended on March 18, 1997, following the filing of a grievance alleging knowing misappropriation in a bankruptcy matter. In re Holman, 148 N.J. 396 (1997). That suspension is still in effect. Respondent has no history of discipline.

The complaint charged respondent with misconduct in fifteen matters, which included accepting fees and undertaking representation of clients, then abandoning them without performing any services in their behalf and without returning the fee. This conduct occurred between January and October 1996. Thirteen of the fifteen matters involved bankruptcies.

They are listed below, along with the amount of fee taken:

1. Pedro Hernandez - Docket No. XIV-97-037E - \$1,175;
2. Angel I. Claudio - Docket No. XIV-97-065E - \$674;
3. Victor Calderone - Docket No. XIV-97-066E - \$574;
4. Annette Herrera - Docket No. XIV-97-067E - \$325;
5. Carmen Rodriguez - Docket No. XIV-97-068E - \$700;
6. Lavel Lewis - Docket No. XIV-97-069E - \$910;

7. Norman A. Vaniski - Docket No. XIV-97-084E - \$579;
8. Judith T. Belotti - Docket No. XIV-97-085E - \$675;
9. Edward Santos - Docket No. XIV-97-086E - \$574;
10. Phyllis A. Scank - Docket No. XIV-97-087E - \$674;
11. Lawrence A. Cimirro - Docket No. XIV-97-089E - \$450;
12. Kenneth Fichtner - Docket No. XIV-97-110E - \$574; and
13. Paul Fisher - Docket No. XIV-97-225E - \$574.

Two additional cases involved matrimonial issues:

14. Arthur McIver - Docket No. XIV-97-064E - \$459; and
15. Victor M. Corea - Docket No. XIV-97-070E - \$759.

The District VI Fee Arbitration Committee ordered respondent to refund the fees in the Hernandez matter on January 8, 1997 and in the McIver matter on January 17, 1997. Respondent did not comply with those orders.

The complaint alleged that respondent disappeared and abandoned all of the above clients sometime in November 1996. The complaint, therefore, charged respondent with violations of RPC 1.1(b) (pattern of neglect), RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.16(d) (abandonment of clients), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) and the principles of In re Spagnoli, 115 N.J. 504 (1989).

* * *

Following a de novo review of the record, the Board deemed the allegations contained in the complaint admitted. The record contains sufficient evidence of respondent's unethical conduct. As alleged in the complaint, respondent violated RPC 1.1(a) and (b), RPC 1.3, RPC 1.16(d) and RPC 8.4(c) in fifteen matters. This leaves only the issue of appropriate discipline.


Similar misconduct has resulted in disbarment. See In re Spagnoli, supra, 115 N.J. 504 (1989), where the attorney was disbarred for accepting retainers in fourteen matters over a three-year period without ever intending to act on behalf of his clients. At oral argument before the Court it was argued that the attorney's ethics transgressions and professional difficulties were substantially attributable to his marital problems and substance abuse during the critical period during which the violations occurred. However, no evidence of that nature had been produced before the DEC or the Board. While the Court noted its deep concern over the application of the "disciplinary rules in cases involving substance abuse," it nonetheless determined that disbarment is required, in light of the severity of the multiple ethics violations committed and of the attorney's failure to appear before the Board and to fully participate in the DEC proceedings.

Because this matter was before the Board by way of default, there was no record that either established or explained respondent's alleged drug problem or whether problems in

his life led to that drug problem. Based on Spagnoli, respondent must, therefore, be
disbarred. The Board unanimously so recommends.

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

Dated: 4/12/98

By: 
LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of A. Robert Holman, III
Docket No. 97-312**

Decided: April 13, 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:	8						

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