

Grievance Administrator,
Petitioner/Appellant,
v
John J. Goldpaugh, P-30578,
Respondent/Appellee.

ADB 180-88

Decided: May 1, 1989

BOARD OPINION

The Attorney Discipline Board has considered the Petition for Review filed by the Grievance Administrator seeking an increase in the discipline imposed by the hearing pane. The Board affirms the reprimand imposed for the respondent's neglect of a workers' compensation matter and his failure to communicate with his client, as alleged in Count I. However, the respondent's failure to answer a Request for Investigation and a subsequent formal complaint warrants a suspension of thirty days.

The respondent has not filed pleadings at any stage of these proceedings. He appeared before the panel and stated that he would not contest the allegations that he neglected a workers' compensation case. The panel found that the respondent's default for failure to answer the formal complaint was properly entered and that the allegations of Formal Complaint ADB 180-88 were established.

Based upon its review of the record below, the Board is satisfied that the reprimand imposed by the panel is appropriate with regard to the respondent's neglect of that matter and his subsequent failure to reply to his client's inquiries. We note that the panel considered respondent's prior unblemished record and his willingness to make restitution to this client.

The only issue remaining before the Board, therefore, is whether a reprimand is an appropriate discipline in light of the respondent's admitted failure to answer the Request for Investigation, compounded by his subsequent failure to answer the formal complaint. In Matter of David A. Glenn, DP 91/86 (February 23, 1987), the Board increase discipline to a thirty-day suspension in a similar case involving neglect of a client matter and failure to answer the Request for Investigation. We noted in that opinion that failure to answer a Request for Investigation is misconduct per se, MCR 9.104(7) and MCR 9.113(B)(2); Schwartz v Kennedy, DP 40/80 (Brd. Opn. p. 132, 1981); Schwartz v Ruebelman, DP 5/81 (Brd. Opn. p. 150, 1981).

"Members of the Bar have an unavoidable duty to answer requests for investigation . . . a respondent failing to answer requests for investigation may be considered 'professionally irresponsible and

contemptuous' . . . this Board has recognized that failure to answer also indicates a conscious disregard for the rules of the Court." Schwartz v Kennedy, supra.

The Board took the opportunity in Matter of David Glenn to serve notice on the Bar that "the lawyer who ignores the duty imposed by Court Rule to answer Requests for Investigation and Formal Complaints does so at his or her peril and that, absent exceptional circumstances, that attorney may expect a discipline greater than a reprimand." Matter of David A. Glenn, supra. We are unable to conclude that such circumstances are present in this case.

Martin M. Doctoroff, Remona A. Green, Hanley M. Gurwin, Linda S. Hotchkiss, M.D., Patrick J. Keating and Theodore P. Zegouras.