

Grievance Administrator,  
Petitioner/Appellee,  
v  
James M. Harris, P-24939,  
Respondent/Appellant.

ADB 147-88

Decided: March 13, 1989

BOARD OPINION

The respondent failed to answer the formal complaint which charged that he had failed to answer a Request for Investigation filed by the Grievance Administrator in accordance with MCR 9.112(C)(1)(b). The respondent failed to appear at the hearing held before Oakland County Hearing Panel #1 on August 29, 1988. The hearing panel concluded that the respondent's failure to answer or appear warranted a one-year suspension. The Attorney Discipline Board has considered the respondent's request for relief from that order of discipline. The Order of Suspension issued by the panel is vacated. The respondent shall be reprimanded.

The respondent, James M. Harris, appeared before the Board at a review hearing conducted on February 8, 1989 and provided further information to the Board. The respondent last practiced law in the State of Michigan in March 1980. He practiced patent law in the State of Texas until May 1987 and he continued to practice patent law in Chicago, Illinois from June 1987 until August 1987. He has not practiced law in any form since December 1987. It appears that the respondent maintained his active membership in the State Bar of Michigan until his dues became delinquent in the fall of 1987. His failure to pay dues for 1988 resulted in his automatic suspension from practice in this State in accordance with the Supreme Court Rules governing the State Bar of Michigan. The automatic suspension continued in effect throughout 1988, independent of any action instituted by the Grievance Administrator.

The respondent's automatic suspension for non-payment of dues in January 1988 prompted a Request for Investigation from the Grievance Administrator asking whether or not he continued to practice law and whether or not he complied with the applicable court rules which require notification to clients when an attorney is suspended. It was the failure to answer the Request for Investigation which resulted in the filing of the formal complaint in this case.

There is no question that the respondent failed to answer the Request for Investigation and failed to answer the formal complaint. Those failures constitute violations of Michigan Court Rules, including MCR 9.104(7), MCR 9.113(B)(2) and MCR 9.115(D)(1). The respondent's failure to appear at the hearing was an aggravating factor and was, itself, a violation of respondent's obligations under MCR 9.115(H). The Attorney Discipline Board has

ruled that failure to answer or appear during the discipline proceedings should generally result in a suspension of at least 120 days. Matter of Peter H. Moray, DP 143/86; 157/86, ADB Opinion March 4, 1987.

In this case, we have weighed the disciplinary alternatives in light of our overriding concern that discipline be consistent with our responsibility to protect the courts, the public and the legal profession. Our decision to reduce discipline in this case to a reprimand is based in part upon consideration of the fact that respondent's license to practice law has, in fact, been suspended for more than one year as the result of his non-payment of dues to the State Bar of Michigan. We have also considered respondent's sincere, if belated, efforts to address the situation through his written pleadings and his personal appearance before the Board. We are unable to conclude that continued suspension and costly reinstatement proceedings are necessary to insure that protection.

All concur.