SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 05-263
District Docket Nos. XIV-03-373E; XIV-04-174E; XIV-04-177E; XIV-04-325; XIV-04-426E; XIV-04-494E; XIV-05-262E; and XIV-05-263E

IN THE MATTER OF	
LUCIO PETROCELLI	
AN ATTORNEY AT LAW	

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

Decided: December 27, 2005

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

Pursuant to R. 1:20-4(f), the Office of Attorney Ethics ("OAE") certified the record in this matter directly to us for the imposition of discipline, following respondent's failure to file an answer to the ethics complaint.

Respondent was admitted to the New Jersey bar in 1987. He has no prior discipline. However, respondent has been temporarily suspended since November 21, 2003, for failing to

cooperate with ethics authorities in a demand audit of his trust account, pursuant to an overdraft notice, as detailed below.

The Hannos Matter – XIV-04-0177E

Count one of the complaint alleged violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 5.5(a) (1) (practicing law while suspended), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and R. 1:20-20(b) (failure to comply with the rule requirements following suspension).

On July 22, 2003, respondent accepted a $2,500 retainer to represent Hannos Incorporated ("Hannos") in a civil action against BSJ Realty ("BSJ"). Respondent prepared and filed a complaint on October 17, 2003. BSJ filed an answer on December 3, 2003.

On January 22, 2004, respondent sent Hannos a copy of a letter that, he claimed, he had sent to the court. Respondent stated therein that no answer had been filed, and that his office would request a default. Hannos later determined that respondent's letter had not actually been sent to the court until February 22, 2004, and that BSJ had filed its answer on December 3, 2003. On March 30, 2004, BSJ filed a motion to

dismiss the complaint, which was granted on April 16, 2004, without prejudice.

The complaint further alleged that respondent failed to advise Hannos of his temporary suspension, the need to retain other counsel, and the true status of the litigation, and that he generally "failed to protect Hannos' legal interests."

Finally, the complaint alleged that respondent falsely certified to the OAE that he had informed Hannos client of his suspension.[1]

The Luberto Matter – Docket No. XIV-04-0325E

Count two of the complaint alleged violations of RPC 1.1(a), RPC 1.3, RPC 8.4(c), and R. 1:20-20(b).

In April 2001, Mary Ann Luberto retained respondent to represent her in a civil suit against the Rockaway Mall and Control Security Services ("CSS"). Respondent filed a complaint on April 10, 2003.

In November 2003, respondent was served with interrogatories. In December 2003, respondent's adversary sent him a letter requesting answers to interrogatories. On April 27,

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[1] This additional charge appears in count eight of the complaint.

2004, Luberto's complaint was dismissed for failure to answer interrogatories.

Sometime in 2003, Luberto met with respondent about her matter, and was advised that the case would be completed by year's end. Respondent did not inform Luberto that he had been temporarily suspended.

Luberto met with respondent in February and April 2004, and was told that her case was "going fine." Two months later, she met respondent again, and was told that her case would "settle in a few days."

On May 5, 2004, Luberto contacted the Morris County Clerk to inquire about her civil case. She was informed that the complaint had been dismissed without prejudice.

Finally, without further detail, count two alleged that respondent falsely certified that he had informed Luberto of his suspension.

The Hawkins Matter – XIV-04-0426E

Count three of the complaint alleged that respondent violated RPC 4.1(a) (making a false statement of material fact), RPC 8.4(c), RPC 8.4(d) (conduct prejudicial to the administration of justice), RPC 5.5(a) (1) and R. 1:20-20(b).

Respondent represented SRC Construction Corporation ("SRC") in a dispute with "Madison Financial," which was represented by Matthew Hawkins.

Madison Financial obtained a $68,000 judgment against SRC. In early 2004, respondent issued a series of checks in satisfaction of the judgment. The first check (#1055), dated January 20, 2004, and made in the amount of $5,000, was drawn on his trust account. The check was returned by the bank marked "Payment Stopped."

A second check (#1089), also for $5,000, but drawn on respondent's business account on February 2, 2004, was returned marked "Account Closed."

At no time did respondent inform Hawkins that he was suspended.

On February 13, 2004, respondent wrote to Hawkins, indicating his client's wish to pay the entire $68,000. On February 23, 2004, respondent issued a trust account check (#1054) for $68,000, and assured Hawkins that the check was good and should be deposited. Despite respondent's assurances, the check was returned for insufficient funds. According to the complaint, at the time respondent issued the check, he knew that the account contained insufficient funds, a violation of N.J.S.A. 2C:21-5.

As a result of respondent's actions, Hawkins filed suit in Superior Court to enforce the judgment.

The Trocano Matter – Docket No. XIV-05-263E

Count four of the complaint alleged violations of RPC 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer) and RPC 8.4(c).

Russell Trocano, an attorney acquaintance, made a personal loan to respondent ($42,000) for a construction project. Respondent paid back $2,500 and then issued a series of bad checks to Trocano.

On December 3, 2003, respondent issued Trocano a check (#1080) from his attorney business account with First Union Bank ("FUB"), in the amount of $500. FUB returned the check, on the basis that respondent had previously closed that account. On March 15, 2004, respondent gave Trocano another bad check from the FUB account (#1099), in the amount of $2,500, which was also returned. On April 27, 2004, respondent gave Trocano a third FUB business account check (#1130), in the amount of $2,000, also drawn on the closed account. That check, too, was returned to respondent. On July 5, 2004, respondent gave Trocano another

check, this time for $3,000, drawn on another closed account at a different bank, Amboy National Bank ("ANB").

At the time respondent issued the FUB and ANB checks, he knew that the accounts were closed, a violation of N.J.S.A. 2C:21-5.

The Fisher Matter – Docket No. XIV-05-0262E

Count five alleged violations of RPC 8.4 (b) and RPC 8.4(c).

At an unspecified time, respondent retained the services of a certified public accountant, Sam Fisher, to reconcile his attorney trust account. According to the complaint, respondent paid Fisher with a $5,000 check (#1085) drawn on his closed FUB business account.

On February 18, 2004, Fisher filed a complaint against respondent in New Brunswick Municipal Court. When respondent failed to appear in court, a warrant issued for his arrest. Sometime thereafter, Fisher advised respondent that he had two hours to "bring the money," after which respondent paid Fisher $5,000 in cash.

At the time respondent issued the FUB check, he knew that the account was closed, a violation of N.J.S.A. 2C:21-5.

The Murphy Matter – Docket No. XIV-03-0373E

Count six alleged violations of RPC 8.4 (b) and RPC 8.4(c).

Respondent asked another attorney, Joseph Murphy, to take over the representation of a client in a criminal matter, because respondent had developed a relationship with the client. Murphy agreed to represent the client, but required a $15,000 retainer. Respondent told Murphy that his client had given him $4,000 for the representation, and that he would pay Murphy personally for his work.

On April 22, 2003, respondent issued Murphy a check (#1009) from his FUB account, which was still open at the time, in the amount of $3,000. The bank returned the check for insufficient funds. Thereafter, on May 10, 2003, respondent issued another check to Murphy (#1024) for $15,000. That check, too, was returned for insufficient funds.

On May 29, 2003, respondent issued Murphy a check (#1006) from his attorney trust account at FUB, in the amount of $500. On June 16, 2003, the check was returned for insufficient funds. At the time these checks were issued, respondent knew that there were insufficient funds in his attorney trust and business accounts to cover them.

On June 12, 2003, respondent deposited $2,500 into the trust account – funds sufficient to cover new checks (#1007 and #1009) in the amount of $1,500, which then cleared the bank.

The Client Protection Fund Matter

Count seven alleged that respondent violated RPC 8.4(b) and RPC 8.4(c).

On October 9, 2002, respondent issued a check (#171) to the New Jersey Lawyers' Fund for Client Protection ("CPF") in the amount of $220, for his annual assessment. That check was returned, as it had been issued on a closed account with Franklin Bank. The check was replaced on December 6, 2002.

On September 29, 2003, respondent again issued a check to the CPF on a closed account. This time, he sent a $240 check (#1073) issued on his closed FUB business account. Although the check was returned by the bank, respondent never issued another check to the CPF.

At the time these two checks were issued, respondent knew that the accounts were closed.

Failure to Cooperate and Unauthorized Practice of Law - Docket Nos. XIV-04-0147E and XIV-04-049E

Count eight alleged violations of RPC 8.1(b), RPC 5.5(a)(1), and R. 1:20-20(b) (failure to file affidavit in compliance with that rule).

Seven months into his suspension, in June 2004, respondent negotiated a settlement in a matter titled 116 Newark Avenue Corporation v. Roberto Pizza Corp.[2]

In addition, this count alleged that respondent violated R. 1:20-20(b) in other respects. The Court Order of November 21, 2003 directed respondent to comply with R. 1:20-20, which requires, among other things, that "within 30 days after the date of the attorney's prohibition from practice [the attorney] file with the Director a detailed affidavit specifying by correlatively numbered paragraphs how the disciplined attorney has complied with each of the provisions of this Rule and the Supreme Court's order."

After an OAE letter on April 5, 2004, an OAE office visit on June 24, 2004, and an OAE reminder telephone call on July 13, 2004, respondent filed an incomplete and false affidavit on July

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[2] This count also charged that respondent performed legal work in the Hannos matter after he was temporarily suspended. This charge, however, had already been addressed in count one of the complaint.

16, 2004, in which he swore that he had informed Hannos of his suspension.

On July 30, 2004, the OAE sent respondent a letter advising him that his affidavit was deficient. Respondent did not answer the letter or amend the affidavit.

This count also alleged that respondent failed to cooperate with the OAE.

On May 23, 2005, the OAE sent a copy of the complaint to respondent's home address at 174 Brookstone Drive, Princeton, New Jersey, 08540, by certified and regular mail.

Both the certified mail and the regular mail were returned marked "not deliverable as addressed, unable to forward."

On June 1, 2005, a copy of the complaint was sent to respondent's last known office address, as contained in the OAE's attorney registration system, 2011 Lemoine Avenue, Fort Lee, New Jersey, 07024, by both certified mail, return receipt requested, and regular mail.

The certified mail was returned marked "unclaimed," with the street number "2011" crossed out and the number "2013" written in its place. The regular mail was not returned.

On June 30, 2005, the OAE sent respondent a letter advising him that, unless he filed an answer to the complaint within five days of the date of the letter, the allegations would be deemed

admitted and the record certified directly to us for the imposition of discipline. That letter was sent to respondent at the same office address, by both certified and regular mail. The certified mail was returned marked "unclaimed." The regular mail was not returned.

On July 5, 2005, respondent sent the OAE a letter stating, "I am in receipt of your correspondence of June 30, 2005. I did not receive any previous papers. However, I will arrange to have the papers picked up at your office on Thursday, July 7, 2005." No one picked up the complaint.

On July 11, 2005, a copy of the complaint was sent to respondent at 2013 Lemoine Avenue, Fort Lee, New Jersey, 07024, the address respondent used in his July 5, 2005 correspondence to the OAE. The complaint was sent by certified mail, return receipt requested, and regular mail. The certified mail was delivered on July 13, 2005, but the signature on the receipt is illegible. The regular mail was not returned.

On August 3, 2005, respondent sent a letter to the OAE, indicating that his answer would be filed on August 8, 2005.

On August 15, 2005, the OAE sent respondent another "five-day" letter by both certified and regular mail, addressed to 2013 Lemoine Avenue. The certified mail receipt had not been

returned at the time of the certification of the record to us. The regular mail was not returned.

Respondent did not file an answer to the complaint.

Following a review of the record, we find that the facts recited in the complaint support the charges of unethical conduct. Because of respondent's failure to file an answer, the allegations of the complaint are deemed admitted. R. 1:20-4(f).

In the Hannos matter, respondent filed a complaint, but neglected the case thereafter. Eventually, in April 2004, Hannos' complaint was dismissed for respondent's failure to prosecute the case, a violation of RPC 1.1(a) and RPC 1.3.

In January 2004, respondent made a misrepresentation to Hannos about sending a letter to the court in his matter. He also misrepresented to his client that the defendants had not yet filed an answer, knowing that one had been filed the previous December. We find that respondent's actions here violated RPC 8.4(c).

Respondent later sent the letter to the court, even though he was temporarily suspended at the time. The letter, dated January 22, 2004 (but not received by the court until February 23, 2004), sought the entry of a default against the defendant. In sending that letter, respondent engaged in the unauthorized practice of law, a violation of RPC 5.5(a)(1).

So, too, respondent failed to notify Hannos and the court of his suspension, a violation of R. 1:20-20.

In all, respondent violated RPC 1.1(a), RPC 1.3, RPC 5.5(a)(1), RPC 8.4(c), and R. 1:20-20(b) in the Hannos matter.

In the Luberto matter, respondent filed a complaint in April 2003, but took no further action thereafter. A year later, in April 2004, the complaint was dismissed for plaintiff's failure to answer interrogatories. Respondent thereafter failed to take action to have the complaint reinstated. His conduct in this regard constituted violations of RPC 1.1(a) and RPC 1.3.

As to R. 1:20-20, respondent twice met with Luberto about the case in early 2004, but failed to inform her of his temporary suspension.

So, too, respondent misrepresented to his client that the case was "going fine," and then that the case would "settle in a few days," when, in fact, the complaint had been dismissed. Respondent's misrepresentations to Luberto violated RPC 8.4(c).

Finally, in a July 16, 2004 affidavit to ethics authorities, respondent falsely certified that he had informed Luberto of his suspension, a further violation of RPC 8.4(c), as

well as a violation of RPC 8.1(a) (misrepresentation to disciplinary authorities).[3]

Altogether in the Luberto matter, respondent violated RPC 1.1(a), RPC 1.3, RPC 8.1(a), RPC 8.4(c), and R. 1:20-20(b).

In the Hawkins matter, respondent issued a series of bad checks in satisfaction of a $68,000 judgment against his client. The first check was drawn on his trust account, and was returned by the bank marked "Payment Stopped." Two subsequent checks were returned, having been drawn on another, defunct, attorney business account.

Later, in February 2004, while temporarily suspended, respondent wrote to Hawkins, indicating his wish to conclude the matter with the payment of the entire $68,000 balance. That action constituted the unauthorized practice of law, a violation of RPC 5.5(a)(1).

Respondent then issued a trust account check for $68,000, which was returned for insufficient funds. Respondent knew that the account contained insufficient funds to cover the check, but gave Hawkins false assurances that the check was good. Here, respondent's actions violated the bad-check provisions of

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[3] Although the complaint did not specifically charge respondent with violating RPC 8.1(a), the facts recited therein gave him sufficient notice of this allegedly improper conduct and of a potential finding of a violation of that RPC.

N.J.S.A. 2C:21-5 and, in turn, RPC 8.4(b). Although no criminal charges were brought against respondent in the matter, no criminal conviction is necessary for a finding of RPC 8.4(b). In re McEnroe, 172 N.J. 324 (2002). Respondent's actions also violated RPC 4.1(a) and RPC 8.4(c).

On the other hand, we find no clear and convincing evidence that respondent's actions were prejudicial to the administration of justice. We, therefore, dismiss the charged violation of RPC 8.4(d).

In all, in the Hawkins matter, respondent violated RPC 4.1(a), RPC 8.4(b) and (c), RPC 5.5(a)(1), and R. 1:20-20(b).

In the Trocano matter, respondent accepted a $42,000 personal loan from another attorney, Russell Trocano, but repaid only a small fraction of the loan amount ($2,500), before issuing a series of bad checks to Trocano.

Between December 2003 and April 2004, respondent issued three checks to Trocano from a closed attorney business account with FUB. Each check was returned to respondent indicating that the account was closed. Undeterred, respondent continued to use the account.

In July 2004, respondent gave Trocano another check, this time drawn on a closed account at a different bank, ANB. When respondent issued all of the FUB and ANB checks, he knew that

the accounts at those banks were closed. Again, respondent violated the bad-check provisions of N.J.S.A. 2C:21-5, RPC 8.4(b), and RPC 8.4(c).

The Fisher matter involved respondent's retention of an accountant to reconcile his attorney trust account. As with Hawkins, respondent attempted to use his closed FUB business account. Fisher, however, filed a criminal complaint against respondent for passing a bad check. When respondent failed to appear in court, a warrant was issued for his arrest. Respondent avoided arrest by a last-minute cash payment to Fisher, after which the criminal charges were withdrawn.

At the time respondent issued the bogus FUB check, he knew that the account had been closed, violations of N.J.S.A. 2C:21-5, RPC 8.4 (b), and RPC 8.4(c).

In the Murphy matter, respondent transferred a criminal case to another attorney, and agreed to pay a $15,000 retainer himself.

In April 2003, respondent gave Murphy a $3,000 check, which was returned for insufficient funds. In early May, respondent issued another check for $15,000, which was returned for the same reason. Three weeks later, respondent issued a third check, for $500. That check, which was drawn on respondent's attorney trust account, was returned for insufficient funds. Respondent

knew that there were insufficient funds in his trust and business accounts to cover them, violations of RPC 8.4 (b) and RPC 8.4(c).

With regard to count seven, on October 9, 2002, respondent issued a check to the CPF ($220) for his annual attorney assessment. That check was returned by the Franklin Bank, as it had been issued on a closed account. The check was replaced on December 6, 2002.

The following year, respondent again issued a check to the CPF, this time on his closed account with FUB. The bank returned that check to respondent, who never issued a replacement check to the CPF.

At the time these two checks were issued, respondent knew that the accounts were closed, violations of N.J.S.A. 2C:21-5, RPC 8.4(b), and RPC 8.4(c).

Finally, respondent has flouted the disciplinary system in several respects. First, he did not file an affidavit in compliance with R. 1:20-20, as ordered by the Court. Later, he filed an incomplete affidavit in which he falsely stated that he had informed Hannos of his suspension. When the deficiency was brought to his attention by the OAE, respondent did not answer that office's letter or amend the affidavit.

Respondent also failed to comply with ethics authorities' other requests for information. Specifically, he repeatedly ignored the OAE's demand audit of his trust and business accounts, and failed to submit records of those accounts for ethics authorities' review.

Furthermore, respondent negotiated a settlement in the 116 Newark Avenue Corporation case after his temporary suspension.

As charged in count eight, respondent violated RPC 8.1(b), R. 1:20-20(b), and RPC 5.5(a)(1). In addition, as found in the Luberto matter, his false affidavit violated RPC 8.1(a).

In all, respondent has grossly neglected two matters; engaged in criminal conduct in five matters; acted dishonestly or made misrepresentations in six matters; practiced law while suspended in two matters; lied in an affidavit to ethics authorities; failed to comply with the notice and affidavit provisions of R. 1:20-20 regarding suspended attorneys; failed to cooperate with the OAE in the audit of his attorney trust and business accounts; and allowed this matter to proceed to us as a default.

One of respondent's most serious infractions was his practicing law during his suspension. In cases where attorneys have continued to practice law after having been suspended, the discipline has generally ranged from a two-year suspension to

disbarment, depending on factors such as the attorney's level of cooperation with the disciplinary proceedings, the presence of other misconduct, and the attorney's disciplinary history. See In re Wheeler, 140 N.J. 321 (1995) (two-year suspension for practicing law while suspended, making multiple and repeated misrepresentations about the status of cases to clients, failing to reply to clients' repeated requests for information, and displaying gross neglect, pattern of neglect, lack of diligence, conflict of interest, and dishonesty in issuing a check with knowledge that there were insufficient funds to cover it, negligently misappropriating escrow funds, and failing to cooperate with disciplinary authorities);[4] In re Wheeler, 163 N.J. 64 (2000) (three-year suspension for handling three matters without compensation, with the knowledge that he was suspended, holding himself out as an attorney, and failing to comply with Administrative Guideline No. 23 (now R. 1:20-20) relating to suspended attorneys); In re Kasdan, 132 N.J. 99 (1993) (three-year suspension for deliberately continuing to practice law after the Court denied request for a stay of suspension, failing

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[4] In that same order, but on a separate matter, the Court imposed a retroactive one-year suspension on the attorney for retention of unearned retainers, lack of diligence, failure to communicate with clients, and misrepresentations. That matter came to us as a motion for reciprocal discipline.

to inform clients, adversary and the courts of the suspension, failing to keep complete trust records, and failing to advise adversary of the location and amount of escrow funds; the attorney was also guilty of conduct involving dishonesty, fraud, and deception; prior three-month suspension); In re Beltre, 130 N.J. 437 (1992) (three-year suspension for appearing in court in one matter after his suspension, misrepresenting his status to the judge, failing to carry out his responsibilities as an escrow agent, lying to disciplinary authorities about maintaining a bona fide office, and failing to cooperate with an ethics investigation; the attorney had a prior three-month suspension from which he had not been reinstated); In re Olitsky, 174 N.J. 352 (2002) (disbarment for attorney who agreed to represent clients in bankruptcy cases after he was suspended, did not advise them that he was suspended, charged legal fees for the prohibited representation, signed another attorney's name on the petitions without that attorney's consent, and then filed the petitions with the bankruptcy court; in another matter, he agreed to represent a client in a mortgage foreclosure after his suspension, accepted a fee, and took no action on the client's behalf; the attorney also made misrepresentations to the court, was convicted of stalking a woman with whom he had been romantically involved, and engaged

in the unauthorized practice of law); and In re Costanzo, 128 N.J. 108 (1992) (disbarment for practicing law while suspended, pattern of neglect, lack of diligence, failure to communicate with clients, and failure to commit rate or basis for fee to writing). But see In re Lisa, 158 N.J. 5 (1999) (attorney appeared before a New York court during his New Jersey suspension; in imposing only a one-year suspension, the Court considered a serious childhood incident that made the attorney anxious about offending other people or refusing their requests; out of fear of offending a close friend, he agreed to assist as "second chair" in the New York criminal proceeding; there was no venality or personal gain involved; the attorney did not charge his friend for the representation).

In addition to practicing law while suspended, this respondent also showed a penchant for passing bad checks — a chronic and criminal practice. He intentionally defrauded his payees over and over again through the illegal use of closed bank accounts. He did so month after month. Even as bad checks were returned to him by the banks involved, he brazenly issued new bad checks on those and other accounts, knowing that they were closed. We find that, in at least the Fisher matter, respondent's theft is analogous to that of attorneys who commit

theft by deception, for which discipline may vary widely.[5] See, e.g., In re Gjurich, 177 N.J. 44 (2003) (reprimand imposed where attorney was guilty of theft by deception for collecting unemployment benefits from the State of New Jersey while employed as an attorney in a Pennsylvania law firm, a third-degree offense, in violation of N.J.S.A. 2C:20-4 and N.J.S.A. 2C:28-3; the attorney was admitted to a pre-trial intervention program for three years, ordered to pay $11,000 in restitution, a $7,500 fine, and to perform fifty hours of community service); In re Jaffe, 170 N.J. 187 (2001) (three-month suspension for attorney who pled guilty to one count of third degree theft by deception, in violation of N.J.S.A. 2C:20-4; the crime involved the theft of $13,000 from Blue Cross/Blue Shield through the submission of false health insurance claims for specially prescribed baby formula); In re Scola, 175 N.J. 58 (2002) (attorney disbarred after guilty plea to one count of theft by deception and one count of witness tampering; the attorney was involved in a check-kiting scheme that victimized a bank); In re Dade, 134 N.J. 597 (1994) (attorney disbarred after pleading guilty to theft by deception; the attorney submitted falsified

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[5] N.J.S.A. 2C:20-4, dealing with theft by deception, is a companion statute to N.J.S.A. 2C:21-5, the bad-check statute cited herein. See N.J.S.A. 2C:20-4, Note 42.

claims to her employer); and In re Spina, 121 N.J. 378 (1990) (attorney disbarred after criminal conviction for theft by deception; the attorney stole funds belonging to his university-employer totaling over $40,000; the funds were a combination of tuition receipts and corporate donations; the attorney used false expense vouchers to hide his misdeeds).

At a minimum, respondent's practices were fraudulent, for which severe discipline should result. See, e.g., In re Obringer, 152 N.J. 76 (1997) (attorney disbarred after, as trustee in bankruptcy cases, depositing excess funds with the bankruptcy court and later filing fictitious documents claiming to be another attorney, in order to induce court staff to send him funds ($40,000) registered with the court).

Respondent committed other serious ethics infractions as well: he neglected cases entrusted to his care, lied to his clients about the status of their matters, did not inform them of his suspension, did not file an affidavit in compliance with R. 1:20-20, as ordered by the Court, and, when he finally did so, he lied in the affidavit. He also failed to file an answer to the complaint, thereby allowing this matter to proceed on a default basis.

Altogether, respondent's conduct struck at the core of an attorney's character – lies, dishonesty, and criminal activity.

We conclude that disbarment is the only appropriate sanction for respondent's grievous ethics and criminal offenses.

Vice-Chair O'Shaughnessy and Members Pashman and Holmes would have suspended respondent for three years, with reinstatement conditioned on proof that he had complied with the OAE's demand for the production of his attorney books and records. Member Boylan did not participate.

We also require respondent to reimburse the Disciplinary Oversight Committee for administrative expenses.

Disciplinary Review Board
Mary J. Maudsley, Chair

By: Ellen A Brodsky
for Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Lucio A. Petrocelli
Docket No. DRB 05-263

Decided: December 27, 2005

Disposition: Disbar

Members	Disbar	Three-year Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Maudsley	X					
O'Shaughnessy		X				
Boylan						X
Holmes		X				
Lolla	X					
Neuwirth	X					
Pashman		X				
Stanton	X					
Wissinger	X					
Total:	5	3				1

for Julianne K. DeCore
Chief Counsel