

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket Nos. DRB 02-265 and 02-266

IN THE MATTER OF
PAUL PASKEY
AN ATTORNEY AT LAW

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

Decided: December 17, 2002

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

Pursuant to R.1:20-4(f), the District VI Ethics Committee (“DEC”) certified the record in this matter directly to us for the imposition of discipline, following respondent’s failure to file an answer to the complaint.

Respondent was admitted to the New Jersey bar in 1983. At the relevant times, he maintained a law office in Bayonne, New Jersey.

In 1998, respondent received an admonition for gross neglect, lack of diligence and failure to communicate with the client. In the Matter of Paul Paskey, Docket No. 98-244 (October 23, 1998). The Court temporarily suspended him on May 9, 2002 for

serious irregularities in his recordkeeping practices. He remains suspended to date. Thereafter, he received a three-month suspension on September 18, 2002 in a default matter involving gross neglect, failure to communicate with the client and failure to cooperate with disciplinary authorities. In re Paskey, 174 N.J. 334 (2002). We considered another default matter in July 2002. We determined to suspend him for a consecutive three-month period for gross neglect, lack of diligence and failure to communicate with the client in two matters, misrepresentation of the status of the case to the client in one of those two matters, failure to cooperate with ethics authorities and a pattern of neglect. In the Matter of Paul Paskey, Docket No. DRB 02-177. That matter is pending with the Court.

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On April 12, 2002, the DEC mailed copies of the complaints to respondent by regular and certified mail, return receipt requested, to his last known office address listed in New Jersey Lawyers' Diary and Manual. The certified mail envelopes were returned marked "unclaimed." The regular mail was not returned. When respondent did not file the answers, the DEC sent him another letter in each matter, on May 8, 2002, by both regular and certified mail, return receipt requested. The letters informed respondent that he had five days to file the answers or the matters would be certified directly to us for the imposition of discipline. Again, the certified mail was returned marked "unclaimed" and the regular mail was not returned. Respondent did not file answers.

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Docket No. DRB 02-265 – District Docket Nos. VI-02-001E and VI-02-004E

The two-count complaint charged respondent with gross neglect, lack of diligence, failure to communicate with clients, failure to cooperate with the DEC investigation and pattern of neglect.

The first count alleged that Kathy Ancipink and her sister-in-law retained respondent in connection with their interest in an estate. The investigator's report, however, indicates that, at a later date, Ancipink contacted respondent, presumably over a dispute with her sister-in-law involving the family homestead. The complaint further alleged that respondent neglected the matter, failed to perform any services on Ancipink's behalf and failed to reply to her requests to return documents related to the real estate in dispute. In addition, respondent failed to provide any reply to the DEC investigator's requests for information about the grievance.

Count two alleged that Stella Aquino retained respondent to represent her in connection with the purchase of real estate. Respondent closed title on the property on April 30, 2001, but then failed to file the deed. Aquino tried to contact respondent about the status of the matter on numerous occasions, to no avail. Respondent also failed to reply to the investigator's repeated requests for information about the grievance.

Docket No. DRB 02-266 – District Docket Nos. VI-01-034E and VI-01-035E

The four-count complaint charged respondent with gross neglect, lack of diligence, failure to expedite litigation and failure to communicate with the client in counts one and two. Count three charged respondent with a pattern of neglect and

violation or attempt to violate the Rules of Professional Conduct. Finally, count four charged respondent with failure to cooperate with the DEC investigation, in violation of RPC 8.4(a) (attempting to or violating the Rules of Professional Conduct), RPC 8.5 (jurisdiction over attorneys admitted to practice in New Jersey) and R. 1:20-3(g)(1), more appropriately a violation of RPC 8.1(b).

Count one alleges that Eileen Duda retained respondent in April 2001 and paid him a \$200 retainer to represent her in a claim against her tenants for non-payment of rent. Between April and August 2001, Duda repeatedly attempted to contact respondent to determine the status of her matter. Respondent did not communicate with Duda or take any action on her behalf.

Duda, acting pro se, initiated proceedings. The court sent her a notice of a hearing date of August 17, 2001, of which she notified respondent. According to the complaint, respondent informed her that he had already "filed for 'possession,'" but had not attended the hearing because he had not received notice of it in a timely manner.

Still acting pro se, Duda appeared in court on August 17, 2001, as did respondent. Because the tenants failed to appear, a default judgment was entered against them. Respondent offered to pursue the tenants for the past due rent of \$4000, free of charge, "to make amends for his past performance, or lack thereof."

Respondent took no further action and failed to reply to Dudas' numerous telephone calls, despite her threat to file a grievance against him.

Count two alleges that Joseph Sparacello paid respondent a \$500 retainer in March 2001 to represent him in a divorce and custody matter. Thereafter, Sparacello did

not hear from respondent, despite repeated telephone calls and attempts to have a meeting with him. Eventually, Sparacello contacted the court and learned that respondent had not initiated any proceedings on his behalf.

As noted above, count three charged respondent with a pattern of neglect for his conduct in the Duda and Sparacello matters.

Count four alleged that respondent failed to reply to the DEC investigator's certified letters in each matter, sent on November 29, 2001 and January 24, 2002, notwithstanding proper service.

* * *

Service of process was properly made. Following a review of the record, we found that the facts recited in the complaint support a finding of unethical conduct. Because of respondent's failure to answer the complaint, the allegations are deemed admitted.

In both Ancipink and Aquino, respondent did little or no work. He also failed to reply to the clients' numerous attempts to obtain information about their cases. Respondent's conduct included gross neglect, lack of diligence and failure to communicate with clients, in violation of RPC 1.1(a), RPC 1.3 and RPC 1.4(a). He also failed to cooperate with the DEC's investigation, in violation of RPC 8.1(b).

In Duda, it appears that respondent had a little more contact with his client. Nevertheless, because respondent failed to act on her behalf, she was required to proceed

pro se. After she obtained a default judgment against her tenants, respondent offered to pursue them for the back rent, but failed to do so. Respondent then failed to reply to Duda's numerous attempts to contact him. His conduct in that matter included gross neglect, lack of diligence and failure to communicate with the client, in violation of RPC 1.1(a), RPC 1.3 and RPC 1.4(a). Despite respondent's claim that he had filed an action on Duda's behalf, there was no independent evidence to corroborate his assertion. Therefore, we dismissed the charge of failure to expedite litigation.

Similarly, in the Sparacello matter, there is no evidence that respondent took any action on his client's behalf or filed any papers with the court. Thus, while respondent's conduct included gross neglect, lack of diligence and failure to communicate with the client, in violation of RPC 1.1(a), RPC 1.3 and RPC 1.4(a), RPC 3.2 is inapplicable here.

Also, respondent's gross neglect in all four matters constituted a pattern of neglect, in violation of RPC 1.1(b).

Finally, respondent's failure to cooperate with the DEC's investigation of these matters or to answer the complaints violated RPC 8.1(b).

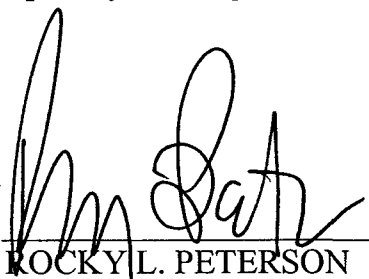
Generally, in default cases with similar violations, short-term suspensions have been imposed. Respondent's disciplinary history, however, is a significant aggravating factor. He is still serving a temporary suspension and received an admonition and a three-month suspension. In addition, we recently voted to impose another three-month suspension, to run consecutively to his prior suspension. Even though the investigator's report made passing reference to some personal and medical problems, there is nothing in the record before us that could even remotely be considered as mitigation. We

determined, thus, that another suspension is warranted here. See In re Banas, 157 N.J.18 (1999) (three-month suspension in a default matter involving gross neglect, lack of diligence, failure to communicate with client, failure to reduce fee agreement to writing and failure to cooperate with disciplinary authorities; attorney had prior reprimand) and In re West, 156 N.J. 451 (1998) (six-month suspension in a default matter for misconduct in three matters, including gross neglect, pattern of neglect, lack of diligence, failure to communicate with client, failure to return client's funds and papers and failure to cooperate with disciplinary authorities; attorney had prior admonition).

Because of respondent's significant ethics history and the lack of any mitigating factors, we unanimously determined to impose a six-month suspension, to be served at the expiration of respondent's last suspension.

We further determined that respondent should not be reinstated until all ethics matters pending against him are completed. Prior to reinstatement, respondent is to submit proof of fitness to practice law, as attested by a mental health professional approved by the Office of Attorney Ethics.

Finally, respondent is required to reimburse the Disciplinary Oversight Committee for administrative costs.

By: 
ROCKY L. PETERSON
Chair
Disciplinary Review Board

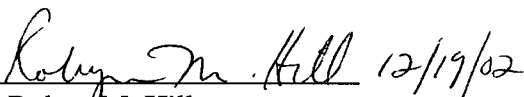
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matters of Paul Paskey
Docket Nos. DRB 02-265 and 02-266

Decided: December 17, 2002

Disposition: Six-month suspension

<i>Members</i>	<i>Disbar</i>	<i>Six-month Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Peterson</i>		X					
<i>Maudsley</i>		X					
<i>Boylan</i>		X					
<i>Brody</i>		X					
<i>Lolla</i>		X					
<i>O'Shaughnessy</i>		X					
<i>Pashman</i>		X					
<i>Schwartz</i>		X					
<i>Wissinger</i>		X					
Total:		9					


Robyn M. Hill
Chief Counsel