

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket Nos. DRB 02-465 and 02-466

IN THE MATTER OF
JOSEPH POVEROMO
AN ATTORNEY AT LAW

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

Decided: April 8, 2003

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

Pursuant to R.1:20-4(f), the District IIA Ethics Committee (“DEC”) certified the record in these matters directly to us for the imposition of discipline, following respondent’s failure to file answers to the formal ethics complaints.

Respondent was admitted to the New Jersey bar in 1988. At the relevant times, he maintained a law office in Hackensack, New Jersey.

Respondent was reprimanded in 2002 for gross neglect, lack of diligence, failure to communicate with a client and failure to cooperate with ethics authorities. That matter proceeded on a default basis. In re Poveromo, 170 N.J. 625 (2002). In that same year he

was reprimanded for failure to cooperate with ethics authorities and violation of the Rules of Professional Conduct. That matter, too, was certified to us as a default. In re Poveromo, 170 N.J. 627 (2002). We recently determined to impose yet another reprimand for respondent's conviction of the fourth degree crime of contempt, in violation of N.J.S.A. 2C:29-9b; in that case, respondent violated a restraining order in a domestic relations matter. In the Matter of Joseph E. Poveromo, Docket No. DRB 02-400. That matter is pending with the Court.

Respondent has been ineligible to practice law in New Jersey since September 29, 2001 for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection.

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Docket No. DRB 02-465

On January 16, 2002, the DEC mailed a copy of the complaint to respondent by certified mail, return receipt requested. The certification is silent about whether the certified mail was accepted. When respondent did not file an answer, the DEC sent a second letter to respondent on March 7, 2002. The DEC certification does not state the form of service. When no answer was filed, notice by publication was made in the New Jersey Lawyer on August 12, 2002.

Respondent did not file an answer.

At the relevant times, respondent was employed by the law firm of Aretsky & Aretsky. Halsey J. Pringle retained the firm in September 1998 to file a claim against his former employer, Bergen Pines Hospital, for possible violations of civil service laws and federal and state discrimination laws. The firm assigned the matter to respondent. As of the date of the formal ethics complaint, respondent had neither filed an action on Pringle's behalf, nor advised his client about his rights. Respondent did little or nothing to protect Pringle's interests.

The complaint charged respondent with gross neglect, lack of diligence and pattern of neglect. The complaint also charged him with violations of RPC 3.2 (failure to expedite litigation) and RPC 1.4, presumably (a) (failure to communicate with client).

The DEC sent a letter to respondent by regular mail and certified mail, return receipt requested, requesting a reply to Pringle's grievance. Although the certified mail was returned as "unclaimed," the regular mail was not returned. Because respondent failed to reply to the grievance, the complaint also charged a violation of RPC 8.1, presumably (b) (failure to reply to a reasonable request for information from a disciplinary authority).

Finally, the complaint charged respondent with a violation of RPC 8.4, presumably (a) (violating or attempting to violate the Rules of Professional Conduct).

Docket No. DRB 02-466

On May 16, 2002, the DEC mailed a copy of the complaint to respondent by certified mail, return receipt requested. An exhibit to the certification indicates that the

certified mail was returned stamped "unclaimed." Again, the DEC published notice of the complaint in the New Jersey Lawyer on June 17, 2002.

As of the date of the DEC certification to us, respondent had not filed an answer.

In July 1999, George Irizarry retained respondent's firm to file a divorce complaint. The case was assigned to respondent. From July 1999 to March 2001, respondent failed to take any action on Irizarry's behalf. During that twenty-month period, Irizarry attempted to telephone respondent on numerous occasions, to no avail. Finally, in March 2001, Irizarry confronted respondent at the law firm. At that time, respondent drafted the divorce complaint and gave it to Irizarry to file with the court. When Irizarry attempted to file the complaint, the court rejected it because respondent had not drafted a required certification of insurance coverage. Thereafter, in June 2001, respondent faxed the certification of insurance coverage to Irizarry, at which time he was able to file his divorce complaint.

The formal ethics complaint charged that respondent's failure to act for over twenty months constituted gross neglect, lack of diligence, pattern of neglect and failure to expedite litigation. The complaint also charged that respondent's failure to keep his client informed about the status of the case and to promptly reply to his requests for information violated RPC 1.4.

Respondent also failed to reply to the DEC's letter requesting information about the grievance, which had been sent to him by regular and certified mail. Although the certified mail was returned as "unclaimed," the regular mail was not returned. The complaint, thus, charged respondent with a violation of RPC 8.1, presumably (b).

Finally, the complaint charged respondent with a violation of RPC 8.4, presumably (a).

* * *

According to the investigator's report, respondent's employment with Aretsky & Aretsky was terminated in March 2001, at which time he began practicing law from his home. As a result, the investigator sent the grievances to respondent's home address.

* * *

Service of process was properly made. A review of the record shows that the facts recited in the complaints support findings of unethical conduct. Because of respondent's failure to answer the complaints, the allegations are deemed admitted. R.1:20-4(f)(1).

Respondent's conduct in both matters was similar. The law firm assigned him cases, which he mishandled. In the Irizarry matter, he did not act until he was personally confronted by the client, twenty months after the case had been assigned to him. Although respondent eventually drafted a complaint, he failed to prepare the certification of insurance coverage, resulting in further delays.

In both matters, respondent's conduct constituted gross neglect and lack of diligence. While generally we only find a pattern of neglect where at least three matters are involved, respondent's earlier default included a violation of RPC 1.1(a). We, therefore, found a pattern of neglect here, in violation of RPC 1.1(b). We dismissed the

charge of a violation of RPC 3.2, however, because respondent's conduct took place before the suit was filed in the Irizarry matter and because no suit was filed in the Pringle matter.


Respondent also failed to communicate with his clients in both matters, in violation of RPC 1.4(a), and failed to reply to the grievances, in violation of RPC 8.1(b). He also violated RPC 8.4(a) in both matters.

Generally, discipline in default matters involving similar violations has resulted in either a reprimand or a short-term suspension. See In re Gruber, 152 N.J. 451 (1998) (reprimand for gross neglect, lack of diligence, failure to communicate with client and failure to cooperate with disciplinary authorities); In re Lampidis, 153 N.J. 357 (1998) (reprimand for gross neglect, lack of diligence, failure to communicate with client and failure to cooperate with disciplinary authorities); In re Banas, 157 N.J. 18 (1999) (three-month suspension for gross neglect, lack of diligence, failure to communicate with client, failure to provide written fee agreement and failure to cooperate with disciplinary authorities); and In re Gorman, 156 N.J. 435 (1998) (three-month suspension for gross neglect, pattern of neglect, lack of diligence, failure to communicate and failure to cooperate with disciplinary authorities). Here not only does respondent have an extensive ethics history, but this is his third default matter, evidencing his total disregard for the ethics system.

We, therefore, found that enhanced discipline was required and unanimously determined to impose a three-month suspension. We further determined that all matters

pending against respondent must be concluded before he is reinstated to the practice of law. Two members did not participate.

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

By: 
ROCKY L. PETERSON
Chair
Disciplinary Review Board

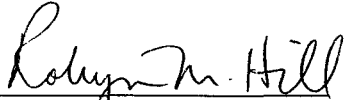
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matters of Joseph E. Poveromo
Docket Nos. DRB 02-465 and DRB 02-466

Decided: April 8, 2003

Disposition: Three-month suspension

<i>Members</i>	<i>Disbar</i>	<i>Three-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:		7					2


Robyn M. Hill
Chief Counsel

4/10/03