

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 03-125

IN THE MATTER OF
JOSEPH POVEROMO
AN ATTORNEY AT LAW

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

Decided: August 20, 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 this matter directly to us for the imposition of discipline, following respondent's failure to file an answer to the formal ethics complaint.

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. In re Poveromo, 170 N.J. 625 (2002). In that same year, he was reprimanded for failure to

cooperate with ethics authorities and for violation of the Rules of Professional Conduct. In re Poveromo, 170 N.J. 627 (2002). In a third matter, a motion for final discipline filed by the Office of Attorney Ethics, the Court imposed yet another reprimand for respondent's conviction for contempt, when he violated a restraining order in a domestic relations matter. In re Poveromo, N.J. (2003). The Court recently imposed a three-month suspension against respondent for misconduct in two cases, including gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, failure to reply to a reasonable request for information from a disciplinary authority, and violation of the Rules of Professional Conduct. In re Poveromo, N.J. (2003). Respondent failed to appear for oral argument on the motion for final discipline. All the other matters proceeded on a default basis.

* * *

On February 19, 2003, the DEC mailed a copy of the complaint to respondent by regular and certified mail to his Hackensack, New Jersey address. According to the DEC investigator's statement of procedural history, respondent practiced law from his home, where service was attempted. The certified mail was returned unclaimed. The regular mail was not returned. Respondent did not file an answer.

* * *

The seven-count complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.1(b) (pattern of neglect), RPC 1.3 (lack of diligence), RPC 1.4, presumably (a) (failure to communicate with client), RPC 1.16(d) (upon termination of representation, a lawyer shall take steps reasonably practicable to protect a client's interest, such as surrendering any advance payment of fee that has not been earned), RPC 3.2 (failure to expedite litigation), RPC 8.1(b) (failure to respond to a lawful demand for information from a disciplinary authority), and RPC 8.4, presumably (a) (violation of the Rules of Professional Conduct).

In or about March 2000, James Botsacos retained respondent to file a divorce complaint and paid him a \$1,200 fee. From March 2000 to September 2001, Botsacos was unable to locate respondent and, therefore, unable to determine the status of his case.

In or about September 2001, Botsacos located respondent, who told him that he was "too busy" and "could not take his case." Respondent also assured Botsacos that he would refund his retainer within one week. As of May 24, 2002, when Botsacos filed the ethics grievance, respondent had not refunded the retainer or performed any work on Botsacos' behalf.

* * *

Service of process was properly made. A review of the record shows 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. R.1:20-4(f).

Respondent's failure to take any action on Botsacos' behalf for more than eighteen months violated RPC 1.1(a) and RPC 1.3. As to the charge of a violation of RPC 1.1(b) (pattern of neglect), respondent's gross neglect here, when considered with the gross neglect and pattern of neglect in his earlier disciplinary matters, requires a finding of a pattern of neglect here. We so find.

We also find that respondent's failure to keep Botsacos apprised of the status of his case violated RPC 1.4(a); his failure to return Botsacos' retainer violated RPC 1.16(d); his failure to reply to the DEC investigator's request for information about the grievance violated RPC 8.1(b); and the sum of the above infractions violated RPC 8.4(a). Because respondent failed to file an action in Botsacos' behalf, the charge of a violation of RPC 3.2 (failure to expedite litigation) is dismissed as inapplicable.

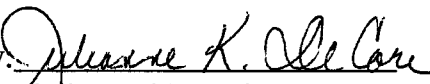
Generally, in default matters involving similar violations and an ethics history, three-month suspensions have been imposed. See In re Clemmons, 169 N.J. 477 (2001) (attorney grossly neglected a matter, failed to act with diligence, failed to communicate with the client and failed to cooperate with disciplinary authorities; attorney had a prior six-month suspension); In re Davis, 163 N.J. 563 (2000) (attorney grossly neglected a client matter and failed to act with reasonable diligence by failing to oppose a motion for summary judgment, he also failed to keep his client reasonably informed about the status of his case and failed to reply to disciplinary authorities; attorney had a prior admonition and a three-month suspension); and In re Hoffman, 163 N.J. 4 (2000) (attorney neglected four client matters, closed his law practice but failed to advise his clients to find new counsel, failed to protect their interests upon termination of representation and failed to

cooperate with disciplinary authorities; the attorney had a prior reprimand and three-month suspension).

Respondent's disciplinary record includes three reprimands and a three-month suspension. In each matter he ignored the disciplinary process. Because his ethics infractions are similar to those cited in the above matters, we unanimously determined to impose a three-month suspension, to run consecutively to his prior suspension. We further determined that, prior to his reinstatement, he is to submit proof that he refunded the unearned retainer to James Botsacos.

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

Disciplinary Review Board
William J. O'Shaughnessy
Vice-Chair

By: 
Julianne K. DeCore
Acting Chief Counsel

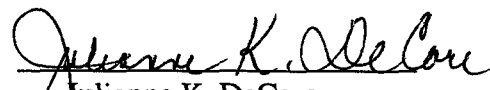
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Joseph Poveromo
Docket No. DRB 03-125

Decided: August 20, 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>Maudsley</i>						X	
<i>O'Shaughnessy</i>		X					
<i>Boylan</i>		X					
<i>Holmes</i>		X					
<i>Lolla</i>		X					
<i>Pashman</i>		X					
<i>Schwartz</i>		X					
<i>Stanton</i>		X					
<i>Wissinger</i>		X					
Total:		8				X	


 Julianne K. DeCore
 Acting Chief Counsel