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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 07-262
District Docket No. XIV-06-167E

IN THE MATTER OF
JOHN SCOTT ANGELUCCI
AN ATTORNEY AT LAW

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

Decided: December 20, 2007

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

This matter came before us on a certification of default
filed by the Office of Attorney Ethics (OAE), following
respondent's failure to file an answer to the formal ethics
complaint. R. 1:20-4(f). The complaint charged respondent with
violating RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence),
RPC 1.4(b) (failure to keep a client reasonably informed about the
status of a matter or to promptly comply with reasonable requests
for information), RPC 1.5(b) (failure to communicate the basis or

rate of the fee in writing), RPC 1.16(d) (failure to protect a client's interests on termination of the representation), and RPC 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal). We determine that a three-month suspension is appropriate discipline for respondent's misconduct.

Respondent was admitted to the New Jersey bar in 1992. At the relevant time, he maintained a law practice in Deptford, New Jersey.

In 2005, respondent was reprimanded after his conviction for obstructing the administration of law or other governmental function, a disorderly persons' offense (RPC 8.4(b) (commission of a criminal act that reflects adversely on a lawyer's honesty, trustworthiness, or fitness as a lawyer)). In re Angelucci, 183 N.J. 472 (2005). The conviction stemmed from his resisting arrest, a third degree crime, following an altercation with Deptford Township police officers.

On January 4, 2007, respondent was temporarily suspended for failure to cooperate with an ethics investigation. In re Angelucci, 189 N.J. 18 (2007). The suspension was continued on March 5, 2007, for his failure to comply with a fee arbitration determination. In re Angelucci, 189 N.J. 523 (2007).

The New Jersey Lawyers' Fund for Client Protection (the Fund) report shows that respondent has been ineligible to

practice law since September 25, 2006, for failure to pay his annual assessment to the Fund. Prior thereto, he had been on the ineligible list seven times, for periods ranging from approximately two weeks to two months.

Service of process was proper. On May 7, 2007, the OAE mailed copies of the complaint by certified and regular mail to respondent's home address: 149 Hampshire Drive, Deptford, New Jersey 08096. The certified mail was returned as unclaimed. The regular mail was not returned.

On June 7, 2007, the OAE mailed a second letter to respondent. The cover letter amended the complaint to correct respondent's name. The OAE sent the letter by certified and regular mail to the above address and to 867 Cooper Street, Deptford, New Jersey 08096, respondent's office address prior to his suspension. The certified mail sent to the 149 Hampshire Drive address was returned stamped "return to sender, unclaimed." The regular mail was not returned. The certified mail sent to the 867 Cooper Street address was returned stamped "return to sender, unable to forward." The regular mail was returned stamped "return to sender, moved left no address, unable to forward."

On June 13, 2007, the OAE served respondent by publication in The Gloucester County Times and, on June 18, 2007, in The New

Jersey Lawyer. As of the date of the certification of the record, respondent had not filed an answer.

In January 2006, Danielle M. Dougherty retained respondent to represent her in a bankruptcy proceeding. Respondent had not regularly represented Dougherty and did not provide her with a writing setting forth the basis or rate of his fee. Respondent informed Dougherty that his fee would be \$500 and that he preferred payment in cash. Dougherty gave respondent a check for \$100 and, several weeks later, \$300 in cash.

After their initial meeting, Dougherty had difficulty contacting respondent. "At or about that time," respondent's office telephone was disconnected. Dougherty, therefore, tried to contact him at his brother's and his father's houses, leaving messages for him to return her telephone calls, to no avail. Respondent's relatives told Dougherty that they did not know respondent's whereabouts or how to contact him. Dougherty also left "notes" in respondent's mail box on Cooper Street. According to the complaint, Dougherty finally threatened to call the police if respondent did not contact her. The complaint does not mention how that threat was conveyed to respondent. Only then did respondent contact Dougherty.

Presumably, respondent did some work on Dougherty's behalf, because the complaint alleges that Dougherty executed a

bankruptcy petition and paid respondent an additional \$100 in cash. Respondent advised Dougherty that, in thirty-to-ninety days, she would be scheduled to appear in court for a "Section 341(a) meeting of creditors." Both respondent and Dougherty attended the April 17, 2006 meeting.

Afterwards, the bankruptcy court sent Dougherty a number of notices that her filing was deficient. On June 13, 2006, her bankruptcy petition was dismissed because respondent failed to pay the filing fee. Dougherty, however, mistakenly believed that her petition had been dismissed because she had failed to attend pre-filing credit counseling that she did not know she was required to attend. Respondent had only informed her about post-filing credit counseling.

By letter dated June 19, 2006, Dougherty herself asked the court to reopen her case. The court scheduled a hearing for July 17, 2006. As a result of the hearing, the court issued an order compelling respondent to appear and show cause why he should not be required to return Dougherty's fees. Respondent failed to appear or to submit any written opposition. Therefore, on August 14, 2006, the court ordered respondent to repay Dougherty's attorney's fees (\$500) and filing fee (\$209).

Ultimately, Dougherty re-filed a pro se bankruptcy petition and obtained a discharge of her debts. As of January 11, 2007,

respondent had not complied with the court's order to refund Dougherty's money.

Following a review of the record, we find that the complaint contains sufficient facts to support the allegations 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).

The allegations establish that, although respondent had not regularly represented Dougherty, he failed to provide her with a writing setting forth the basis or rate of his fee, as required by RPC 1.5(b).

After Dougherty paid respondent's fee, she was unable to contact him because his telephone had been disconnected. In addition, respondent did not reply to Dougherty's notes and remained inaccessible to her. Even his family claimed that they did not know how to contact him. It was not until Dougherty threatened to contact the police that respondent finally communicated with her. Respondent also failed to explain to Dougherty the reason for the dismissal of her petition. We find, thus, that respondent violated RPC 1.4(b).

After Dougherty executed the bankruptcy petition, respondent appeared with her at a "Section 341(a)" creditors meeting. Thereafter, he took no action on Dougherty's behalf,

causing the dismissal of her bankruptcy petition. Dougherty was left to file a pro se bankruptcy petition. In this regard, respondent's conduct violated RPC 1.1(a) and RPC 1.3.

In addition, respondent failed to protect Dougherty's interests when he unilaterally terminated the representation and when he failed to comply with the court's order to refund Dougherty's fees (RPC 1.16(d)). His failure to appear at the order to show cause and to comply with the order to refund the fees was also unethical and, more properly, a violation of RPC 8.4(d) (conduct prejudicial to the administration of justice), rather than RPC 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal), as cited in the complaint.

The range of discipline for matters involving gross neglect has been broad, because of variables present such as additional ethics violations, the attorneys' ethics histories, and whether the cases proceeded as defaults.

Reprimands were imposed in In re Barth, 181 N.J. 536 (2004) (attorney grossly neglected a bankruptcy matter, failed to communicate with the client and misrepresented the status of the matter to his client); In re Aranguren, 172 N.J. 236 (2002) (attorney lacked diligence in his representation of the client's bankruptcy matter, failed to communicate with the client and failed to provide the client with a retainer agreement setting

forth the basis or rate of the fee; attorney had a prior admonition for misconduct in two matters and a six-month suspension for misconduct in several matters); In re Malfara, 157 N.J. 635 (1999) (attorney displayed gross neglect by failing to appear at two bankruptcy court hearings, forcing the client to represent himself; the attorney also engaged in conduct prejudicial to the administration of justice by failing to honor the bankruptcy judge's order to reimburse the client's retainer, and failed to cooperate with disciplinary authorities); and In re Lane, 147 N.J. 3 (1996) (attorney demonstrated gross neglect and lack of diligence in a bankruptcy case and failed to reply to her client's numerous inquiries about the status of the matter).

Suspensions were imposed in In re Berson, 172 N.J. 99 (2002) (three-month suspension in a default for attorney who grossly neglected a simple bankruptcy matter by failing to file essential documents, failed to inform the clients about the status of their case despite numerous requests for information and was found guilty of pattern of neglect, lack of diligence, and failure to expedite litigation; attorney had a prior admonition, a temporary suspension for failure to pay a fee arbitration award, a three-month suspension and, in another default, another three-month suspension); In re Olitsky, 158 N.J. 110 (1999) (six-month suspension for attorney who neglected two bankruptcy clients,

ignored the clients' numerous telephone calls and letters, failed to provide one of the clients with a written fee agreement, and failed to surrender property of the client on termination of the representation; attorney's ethics history included a private reprimand, an admonition, and two three-month suspensions); In re Annenko, 167 N.J. 603 (2001) (six-month suspension in a default for attorney who engaged in gross neglect and lack of diligence by accepting a retainer to file a motion to reopen a bankruptcy petition, and then did no work in the matter, failed to refund the unearned retainer, failed to keep the client informed about the status of the matter, and failed to cooperate with disciplinary authorities; attorney had two private reprimands, temporary suspension for failure to comply with a fee arbitration award, a three-month, and a six-month suspension); In re Kozlowski, 183 N.J. 224 (2005) (one-year suspension in a default for attorney who failed to expedite litigation and to act diligently in a bankruptcy matter by taking no action for over one year; the attorney also failed to communicate with the clients, misrepresented the status of the matter, and failed to cooperate with the investigation; ethics history included a private reprimand, an admonition, two reprimands and one three-month suspension).

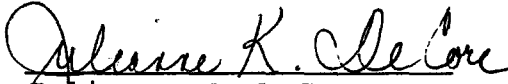
Here, respondent's misconduct includes gross neglect, lack of diligence, failure to communicate with the client, failure to communicate the basis or rate of the fee in writing, failure to return an unearned fee, and failure to comply with a court's order and to appear at an order to show cause. He has a prior reprimand and is currently temporarily suspended.

Although we are aware that respondent's conduct was limited to one matter, the totality of his ethics transgressions in that matter, when viewed in conjunction with his ethics history, his abandonment of his client's interests, and his failure to file an answer to the complaint, warrants nothing less than a term of suspension. We are guided in this determination by Berson, in which a three-month suspension was imposed for conduct similar to respondent's. Both attorneys were guilty of gross neglect, lack of diligence, and failure to communicate with the client. Although respondent's ethics history is not as extensive as Berson's (an admonition, two three-month suspensions, and a temporary suspension), other improprieties committed by respondent, namely his failure to memorialize the basis or rate of his fee, to refund the fee to Dougherty, and to obey a court order, added to his abandonment of his client, justify the same sanction imposed in Berson. We, therefore, determine that respondent should be suspended (prospectively) for three months.

Member Lolla did not participate.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
William J. O'Shaughnessy
Chair

By: 
Julianne K. DeCore
Chief Counsel

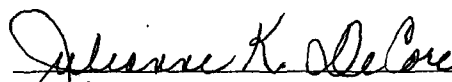
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of John Scott Angelucci
Docket No. DRB 07-262

Decided: December 20, 2007

Disposition: Three-month suspension

Members	Three-month Suspension	Reprimand	Admonition	Disqualified	Did not participate
O'Shaughnessy	X				
Pashman	X				
Baugh	X				
Boylan	X				
Frost	X				
Lolla					X
Neuwirth	X				
Stanton	X				
Wissinger	X				
Total:	8				1


Julianne K. DeCore
Chief Counsel