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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 06-098
District Docket Nos. VI-05-001E;
VI-05-010E and VI-05-011E

IN THE MATTER OF
JAMES J. GALLO
AN ATTORNEY AT LAW

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

Decided: June 27, 2006

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 District VI Ethics Committee ("DEC"), following respondent's
failure to file an answer to the formal ethics complaint. R. 1:20-
4(f). The complaint charged violations of RPC 1.1(a) (gross
neglect), RPC 1.1(b) (pattern of neglect), RPC 1.16(d) (failure to
take reasonable steps to protect the client's interests upon
termination of representation), and RPC 8.1, presumably (b)
(failure to cooperate with disciplinary authorities).

Among other things, respondent grossly neglected an appeal, a divorce matter and a case involving the reduction of child support payments. He also failed to communicate with his clients and to cooperate with the DEC investigation. For this misconduct we find that a one-year suspension is appropriate.

Respondent was admitted to the New Jersey bar in 1978. At the relevant time, he maintained a law practice in Jersey City, New Jersey.

In 1990, respondent was suspended for three months for recordkeeping violations and negligent misappropriation of client trust funds. In re Gallo, 117 N.J. 365 (1990). Effective April 21, 2006, he was suspended for six months for failure to file a workers' compensation claim, leading to the expiration of the statute of limitations; failure to reply to his client's requests for information about the matter; failure to release the file; and failure to cooperate with the DEC investigation. That matter proceeded on a default basis. After the Court issued an Order to Show Cause as to why he should not be disbarred or otherwise disciplined, respondent informally requested an adjournment, which was denied. Thereafter, he failed to appear on the return date of the Order to Show Cause. In re Gallo, 186 N.J. 247 (2006).

Service of the complaint was proper. On December 6, 2005, the DEC sent respondent a copy of the complaint by regular and certified mail to his office address, 618 Newark Avenue, Jersey City, New Jersey. Neither the certified nor the regular mail was returned. Respondent did not file an answer to the complaint.

On January 19, 2006, the DEC sent another copy of the complaint to the same address, via certified and regular mail. The certified mail was returned. The explanation for the letter's return was "OTHER." The regular mail was not returned.

On February 22, 2006, the DEC sent respondent a letter, by regular and certified mail, advising him that, if he did not file an answer within five days, the matter would be certified directly to us for the imposition of discipline and the complaint would be amended to include a violation of RPC 8.1(b). The certified mail receipt was returned signed by a V. Santana. The regular mail was not returned. As of the date of the certification of the record, March 13, 2006, respondent had not filed an answer to the complaint.

COUNT ONE

The Rolando Sapio Matter - District Docket No. VI-05-01E

In November 2002, Rolando Sapio retained respondent to appeal a decision of the Jersey City Zoning Board and Housing Board. Respondent failed to appeal the decision. According to the

complaint, respondent's failure to appear in court, on May 21, 2003, August 25, 2003, April 2, 2004, and August 31, 2004, led to the issuance of warrants for Sapio's arrest.

In September 2004, respondent again failed to appear in court. The following month, Sapio retained new counsel. Sapio and his new counsel repeatedly asked respondent for the return of the file, to no avail. In addition, respondent failed to communicate with Sapio and to reply to his requests for information about the case.

COUNT TWO

The Mary (Gerardi) Buonauro Matter - Docket No. VI-05-10E

In January 1999, Mary (Gerardi) Buonauro retained respondent to file a complaint for divorce. Respondent did not do so. At some point, Buonauro's husband moved to Phoenix, Arizona.

On July 21, 2004, Buonauro's husband passed away in Arizona. Respondent assured Buonauro that he would pursue the decedent's estate on her behalf. Although Buonauro telephoned respondent "more than one hundred times," he did not return her calls.

COUNT THREE

The Paul J. Stavar, Sr. Matter - Docket No. VI-05-01E

In January 1999, Paul J. Stavar, Sr. retained respondent to secure a reduction of child support payments. Respondent failed to file any papers on Stavar's behalf, leaving Stavar to pursue the matter pro se.

COUNT FOUR

Failure to cooperate with disciplinary authorities

On May 5, 2005 and May 9, 2005, the DEC faxed and mailed, via certified mail, copies of the Buonauro and Stavar grievances to respondent. According to the complaint, the DEC investigator spoke to someone from respondent's office, prior to mailing the grievances. Nevertheless, respondent did not contact the investigator and did not reply to the grievances.

The complaint contains sufficient facts to support the charges of unethical conduct. Because respondent failed to answer the complaint, the allegations are deemed admitted. R. 1:20-4(f).

We find that respondent's failure to file an appeal in Sapio, failure to file a divorce complaint in Buonauro, and failure to seek a reduction of child support payments in Stavar amounted to gross neglect and a pattern of neglect. Also, in Sapio, his failure to return the file constituted a violation of RPC 1.16(d). Furthermore, his failure to keep Sapio and Buonauro

apprised of the status of their matters violated RPC 1.4(a). Although the complaint did not specifically charge respondent with violating that RPC, the facts recited therein gave him sufficient notice of this allegedly improper conduct and of a potential finding of a violation of that rule. Finally, respondent failed to cooperate with the investigation of the Buonauro and Stavar matters, thereby violating RPC 8.1(b).

The measure of discipline imposed in default cases with similar violations depends on the number of client matters involved and the attorney's ethics history. See, e.g., In re Davis, 163 N.J. 563 (2000) (three-month suspension for attorney who failed to oppose a motion for summary judgment, failed to keep his client reasonably informed about the status of the case, and failed to cooperate with disciplinary authorities; the attorney's ethics record included an admonition and a three-month suspension); In re Pollan, 163 N.J. 87 (2000) (three-month suspension for attorney who took no action with respect to estate funds, except to place them in a certificate of deposit, where they stayed for almost twenty-five years; the attorney also failed to cooperate with disciplinary authorities; his ethics history included a six-month suspension and a two-year suspension); In re Hoffmann, 163 N.J. 4 (2000) (three-month suspension for attorney who engaged in gross neglect and lack of diligence in four client

matters, failed to communicate with his clients, failed to protect his clients' interests upon termination of representation, and failed to cooperate with disciplinary authorities; the attorney's ethics history included a reprimand and a three-month suspension); In re Paskey, 175 N.J. 500 (2003) (six-month suspension for misconduct in four matters, including gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, and failure to cooperate with disciplinary authorities; the attorney had a prior admonition, a temporary suspension for recordkeeping irregularities, and a three-month suspension); and In re Girdler, 182 N.J. 40 (2004) (one-year suspension for misconduct in only one matter, involving the failure to release escrow funds after entering into a stipulation of settlement, failure to provide closing documents to his client, failure to communicate the status of the matter to his client and failure to cooperate with the DEC investigation; the attorney had a prior private reprimand, a reprimand and, in default matters, two three-month suspensions).

Based on respondent's repeated disregard of his duty to cooperate with disciplinary authorities (he defaulted twice and did not appear on the return date of the Court's Order to Show Cause), his disciplinary record, and the need for progressive discipline for attorneys who continue to run afoul of their professional

responsibility, we determine to impose a one-year suspension, to be served at the expiration of his six-month suspension.

Vice-Chair Pashman and Member Stanton believe that the one-year suspension should be retroactive to April 21, 2006, the date of respondent's six-month suspension. Members Boylan and Baugh did not participate.

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

Disciplinary Review Board
William J. O'Shaughnessy, Chair

By: Julianne K. DeCore
Julianne K. DeCore
Chief Counsel


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

In the Matter of James J. Gallo
Docket No. DRB 06-098

Decided: June 27, 2006

Disposition: One-year consecutive suspension

Members	One-year consecutive Suspension	One-year retroactive Suspension	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:	5	2			2


Julianne K. DeCore
Chief Counsel