

M

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 06-159
District Docket No. IIIA-05-16E

IN THE MATTER OF
HENRY A. WALSH, JR.
AN ATTORNEY AT LAW

:
:
:
:
:
:
:
:
:

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

Decided: August 15, 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 Office of Attorney Ethics ("OAE") pursuant to R.
1:20-4(f). It arises out of respondent's failure to (1) pursue
a "disputed insurance claim" on behalf of his client, (2) reply
to the client's many attempts to communicate with him, and (3)
respond to the grievance that the client filed against him. The

formal ethics complaint charged respondent with gross neglect (RPC 1.1(a)), lack of diligence (RPC 1.3), failure to communicate with the client (RPC 1.4(b)),¹ and failure to cooperate with disciplinary authorities (RPC 8.1(b)). For the reasons expressed below, we determine to impose a reprimand.

Respondent was admitted to the New Jersey bar in 1993. He maintains an office for the practice of law in Lakewood. He has no disciplinary history.

From December 1994 through March 1997, respondent was on the ineligible list due to nonpayment of fees to the New Jersey Lawyers' Fund for Client Protection. He also was ineligible from September 2002 through June 2005. The conduct at issue in this matter occurred during this second period of ineligibility.

Service of process was proper. On February 13, 2006, the DEC sent a copy of the complaint to respondent's home address, 162 Mountain View Drive, Lakewood, New Jersey 08701, via regular and certified mail, return receipt requested. The certified mail receipt was not returned, and neither were the letters that were sent to respondent via certified or regular mail.

¹ Effective January 1, 2004, former RPC 1.4(a) became current RPC 1.4(b).

On April 6, 2006, the DEC sent a letter to respondent at the same address, via regular and certified mail, return receipt requested. The letter directed respondent to file an answer within five days and informed him that, if he failed to do so, the record would be certified directly to us for the imposition of sanction. On April 10, 2006, respondent signed for the certified letter. The letter sent via regular mail was not returned.

As of April 26, 2006, the date of the DEC's certification to us, respondent had not filed an answer to the complaint.

The complaint alleged that, in November 2003, respondent agreed to represent Dr. Robert E. Gleason with respect to a disputed insurance claim with the St. Paul Insurance Company. Over the next several months, respondent and Dr. Gleason were in periodic contact, during which time respondent assured Dr. Gleason that he was working on the file.

During the next six months, Dr. Gleason called, faxed, and emailed respondent numerous times for the purpose of learning the status of the matter. However, respondent did not reply to any of Dr. Gleason's communications.

In the fall of 2004, respondent answered Dr. Gleason's telephone call and told Dr. Gleason that he was "backed up but

would file on time." Thereafter, respondent again ignored Dr. Gleason's numerous telephone calls, faxes, and emails.

On June 27, 2005, the DEC sent respondent a copy of the grievance via certified mail and requested that he reply within ten days. Respondent acknowledged receipt of the correspondence.

On August 8, 2005, the DEC sent respondent a letter via regular mail, informing him that it was "imperative that he respond[] to the grievance." Respondent did not reply. On an unidentified date, the DEC secretary called respondent and left a telephone message directing him to contact him immediately. Respondent did not return the call.

On September 9, 2005, the DEC secretary wrote to respondent via certified mail and informed him that, if he did not reply to the grievance within five days, the DEC secretary would report his failure to respond to the DEC. Respondent acknowledged receipt of that correspondence but did not reply to the grievance.

Following a review of the record, we conclude that, with one exception, the facts recited in the complaint support the charges 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 respondent lacked diligence, failed to communicate with his client, and failed to cooperate with disciplinary authorities. However, the allegations do not support the conclusion that respondent was guilty of gross neglect.

RPC 1.3 requires a lawyer to "act with reasonable diligence and promptness in representing a client." Dr. Gleason hired respondent in November 2003. The task that respondent was to undertake on Dr. Gleason's behalf is not identified beyond a general statement that the representation was "in connection with a disputed insurance damage claim involving the St. Paul Insurance Company." Nevertheless, by May 2005, when the grievance was filed, respondent had apparently done nothing. It follows, therefore, that respondent lacked diligence in whatever task he was hired to complete, a violation of RPC 1.3.

The facts also sustain the conclusion that respondent failed to communicate with his client, a violation of RPC 1.4(b), which requires a lawyer to "keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information." Respondent failed to do

this when he virtually ignored Dr. Gleason altogether between November 2003 and May 2005. He did not initiate any communication with his client, and ignored most of his client's repeated attempts to communicate with him.

Finally, respondent violated RPC 8.1(b) when he ignored the DEC's repeated attempts to obtain his reply to the grievance.

The allegations do not support the conclusion that respondent's handling of the Gleason matter amounted to gross neglect. RPC 1.1(a) prohibits a lawyer from handling or neglecting a matter "in such manner that the lawyer's conduct constitutes gross negligence." The complaint does not clearly state the nature of the representation and what exactly respondent was to undertake or achieve on Dr. Gleason's behalf. Therefore, we are unable to conclude that his conduct moved beyond simple lack of diligence to include gross neglect.

There remains the quantum of discipline to be imposed for respondent's lack of diligence, failure to communicate, and failure to cooperate with disciplinary authorities. In default matters, reprimands are typically imposed for these violations when they are committed by attorneys with no disciplinary histories. In re Van De Castle, 180 N.J. 117 (2004) (gross neglect, lack of diligence, failure to communicate, and failure


to cooperate with disciplinary authorities in one client matter); In re Hediger, 179 N.J. 365 (2004) (in one client matter, same violations as Van De Castle). Thus, for all of respondent's violations, we determine to impose a reprimand.

Vice-Chair Pashman did not participate.

We further require respondent to reimburse the Disciplinary Oversight Committee for the costs incurred in connection with the prosecution of this matter.

Disciplinary Review Board
William J. O'Shaughnessy
Chair

By:


Julianne K. DeCore
Chief Counsel

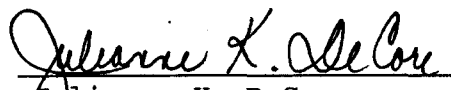
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Henry A. Walsh, Jr.
Docket No. DRB 06-159

Decided: August 15, 2006

Disposition: Reprimand

Members	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