

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 01-314

IN THE MATTER OF :
: :
SCOTT E. WALTERSCHIED :
: :
AN ATTORNEY AT LAW :
: :
:

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

Decided: December 28, 2001

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

Pursuant to R. 1:20-4(f), the District VC 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 1992. On November 6, 2000 he consented to a temporary suspension until the final disposition of numerous ethics grievances pending against him. As of the date of this decision, a number of pending matters are awaiting the Supreme Court’s review.

In addition to numerous disciplinary matters pending against respondent at various levels, two criminal indictments against him have been filed, charging him with engaging in a “check-kiting” scheme in one matter and with third degree theft by deception and fourth degree unauthorized practice of law in the second matter.

* * *

On June 6, 2001 the DEC sent a complaint by regular and certified mail to respondent’s last known office addresses. The certified mail sent to 2001 Route 46, Parsippany, New Jersey, was returned, stamped “Moved, left no address.” The regular mail sent to that address was refused. The certified mail sent to 373 Route 46 West, Fairfield, New Jersey, was returned stamped “Moved, left no address.” The regular mail sent to that address was returned stamped “Not deliverable as addressed - unable to forward.” On June 26, 2001, notice of the complaint was published in the *Star-Ledger* in Essex County. On July 2, 2001, notice of the complaint was published in the *New Jersey Law Journal*.

Respondent did not file an answer to the complaint. The DEC certified the record directly to us for the imposition of discipline, pursuant to R. 1:20-4(f)(1).

* * *

In 1999, the grievant, Thomas F. Basil, retained respondent to represent him in connection with a personal bankruptcy and a workers' compensation matter. Between August 1999 and September 2000, Basil paid respondent \$1,250 in legal fees. Because respondent provided no legal services, Basil was required to retain another attorney to represent him in both cases. According to the DEC investigative report, attached as an exhibit to the ethics complaint, after receiving a copy of the grievance respondent telephoned the investigator and obtained a ten-day extension to reply. Respondent never replied to the grievance and, as noted above, failed to answer the complaint.

The complaint charged respondent with violations of *RPC* 1.1(a) (gross neglect), *RPC* 1.3 (lack of diligence), *RPC* 3.2 (failure to expedite litigation), *RPC* 8.1(b) (failure to cooperate with disciplinary authorities) and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

* * *

Service of process was properly made in this matter. Due to respondent's refusal to accept mail and failure to notify the post office of his new address, the DEC notified him of this disciplinary matter by publication. Because respondent requested and received an

extension of time to reply to the grievance, he obviously was aware that an ethics grievance had been filed against him. Yet, he did not follow up on the grievance.

Following a review of the complaint, we find that the facts recited therein support a finding of unethical conduct. Respondent undertook to represent a client in a bankruptcy and a workers' compensation matter, accepted \$1,250 as legal fees and took no action in his client's behalf, in violation of *RPC* 1.1(a) and *RPC* 1.3. Although the complaint also charged respondent with a violation of *RPC* 3.2, that *RPC* usually applies to matters in which an attorney files a complaint and then takes no action to advance the litigation. Here, there was no litigation to advance because respondent failed to file a complaint. We, therefore, dismissed the charge of a violation of *RPC* 3.2. Similarly, we dismissed the charge of a violation of *RPC* 8.4(c). There is no evidence that, when respondent accepted legal fees, he did not intend to perform any services. Lastly, respondent's failure to cooperate with the ethics authorities violated *RPC* 8.1(b).

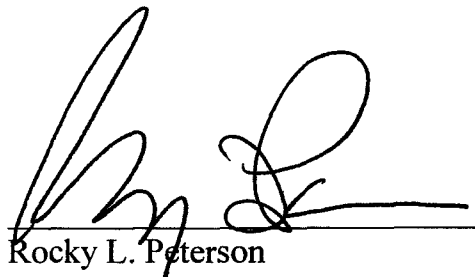
In short, respondent displayed gross neglect and lack of diligence and failed to cooperate with ethics authorities. Similar misconduct has resulted in the imposition of discipline ranging from a reprimand to a three-month suspension. *See, e.g., In re Onorevole*, 144 *N.J.* 477 (1996) (reprimand where, for more than six months, an attorney misrepresented to his client that he had filed a complaint, displayed gross neglect and lack of diligence, failed to communicate with the client and failed to cooperate with disciplinary authorities; the attorney had previously been admonished); *In re Muller*, 162 *N.J.* 121 (1999) (reprimand

for gross neglect, lack of diligence, failure to communicate and conduct involving dishonesty, fraud, deceit or misrepresentation; the attorney failed to prosecute a divorce case, resulting in the complaint's dismissal, failed to advise the client of the dismissal or otherwise communicate the status of the matter to the client; the attorney had received a prior private reprimand); *In re Bernstein*, 144 N.J. 369 (1996) (three-month suspension where an attorney misrepresented to his client that he was preparing paperwork for her mortgage refinance – when he took no action – exhibited gross neglect and lack of diligence, failed to communicate with the client and failed to answer the complaint or to appear at the hearing on the matter; the attorney had received a prior private reprimand).

This respondent is no newcomer to the disciplinary system. Based on his disciplinary history and the default nature of this proceeding, we unanimously determined to impose a three-month suspension, to begin at the expiration of respondent's most recent suspension. Three 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 Matter of Scott E. Walterschied
Docket No. DRB 01-314**

Decided: December 28, 2001

Disposition: three-month suspension

Members	Disbar	Three-month suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not participate
Peterson		X					
Maudsley		X					
Boylan							X
Brody		X					
Lolla		X					
O'Shaughnessy		X					
Pashman							X
Schwartz							X
Wissinger		X					
Total:		6					3

Robyn M. Hill 1/9/02
Robyn M. Hill
Chief Counsel