

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 01-217

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

On February 22, 2001 the DEC sent a complaint by regular and certified mail to respondent's last known office address in New Jersey. The certified mail return receipt was returned, signed by Nat Walterschied, indicating delivery on March 2, 2001. The regular mail was not returned. On April 10, 2001 the DEC sent a second letter to respondent by regular and certified mail, informing him that the failure to answer the complaint would constitute an admission of the allegations contained in the complaint and could result in his temporary suspension. The certified mail was returned marked "refused." The regular mail was not returned.

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)*.

Respondent was admitted to the New Jersey bar in 1992. On November 6, 2000 he consented to being temporarily suspended 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 ethics matters pending against respondent at various levels of the attorney disciplinary system, two criminal indictments have been returned against him for engaging in a "check-kiting" scheme in one matter and for third degree theft by deception and fourth degree unauthorized practice of law in the second matter.

According to the complaint, the grievant, Dom Dipaolo, retained respondent to represent him in an employment discrimination lawsuit brought under Title VII of the Civil Rights Act of 1964 and the New Jersey Law Against Discrimination. On October 17, 1996 respondent, along with co-counsel, filed the complaint in the United States District Court for the District of New Jersey. A federal magistrate issued a scheduling order on January 21, 1997.

At some unknown point, respondent told Dipaolo and his co-counsel that the court had referred the matter to arbitration, scheduled for April 1999. That was untrue. According to the court's records, on December 30, 1997 the federal magistrate dismissed the complaint and recommended that respondent be investigated for disciplinary action. Dipaolo learned that the complaint had been dismissed during the DEC investigation of this matter. After that conversation with respondent, Dipaolo's and co-counsel's numerous efforts to contact respondent were unsuccessful. Dipaolo tried to retrieve his file from respondent, also without success.

The complaint charged respondent with violations of *RPC* 1.1, presumably (a) (gross neglect), *RPC* 1.3, *RPC* 1.4, presumably (a) (failure to communicate with a client), *RPC* 4.1, presumably (a) (false statement of material fact or law to a third person) and *RPC* 8.4, presumably (c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

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Service of process was properly made in this matter. Following a review of the record, we find that the facts recited in the complaint support findings of unethical conduct. Because of respondent's failure to file an answer, the allegations of the complaints are deemed admitted. *R.* 1:20-4(f)(1).

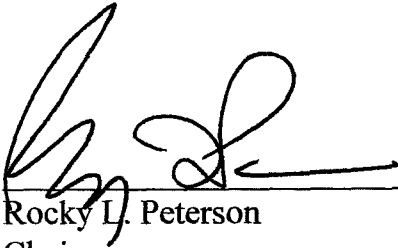
Respondent undertook to represent a client in an employment discrimination lawsuit and filed a complaint, but took no action to advance the litigation. Instead, he permitted the complaint to be dismissed, in violation of *RPC* 1.1(a) and *RPC* 1.3. He also failed to communicate with his client, in violation of *RPC* 1.4(a), and to return his client's file, in violation of *RPC* 1.16(d). Although respondent was not charged with a violation of *RPC* 1.16(d), the facts alleged in the complaint provide sufficient basis for that finding. *In re Logan*, 70 *N.J.* 222, 232 (1976). Moreover, respondent misrepresented the status of the matter when he told Dipaolo and his co-counsel that the matter had been scheduled for arbitration. Respondent's conduct in this regard violated *RPC* 4.1(a) and *RPC* 8.4(c). Lastly, respondent's failure to cooperate with the DEC and to file an answer to the complaint violated *RPC* 8.1(b).

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 told his client that he had filed a complaint, when no complaint had been filed, 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 with the client and conduct involving dishonesty, fraud, deceit or misrepresentation; the attorney failed to prosecute a divorce case, resulting in the complaint's dismissal and failed to advise the client of the dismissal or communicate the status of the matter to the client; the attorney had received a 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, exhibited gross neglect and lack of diligence, failed to communicate with the client, failed to answer the complaint and to appear at any hearing on the matter and 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 his current suspension. Two 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

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**SUPREME COURT OF NEW JERSEY**

**DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

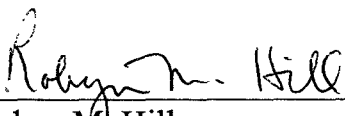
**In the Matter of Scott Walterschied  
Docket No. DRB 01-217**

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**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:        |        | 7                      |           |            |         |              | 2                   |

  
Robyn M. Hill 1/9/02  
Chief Counsel