

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 04-127
District Docket No. XIV-03-130E

IN THE MATTER OF
PETER A. WOOD
AN ATTORNEY AT LAW

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

Decided: June 10, 2004

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

This matter was before us based on a certification of default filed by the Office of Attorney Ethics ("OAE"), pursuant to Rule 1:20-4(f).

Respondent was admitted to the New Jersey bar in 1993. On November 14, 2002, he was suspended for three months for gross neglect, failure to communicate with a client, failure to cooperate with ethics authorities, and misrepresentation. In re

Wood, 174 N.J. 507 (2002). On March 12, 2003, he was suspended for three months, to be served consecutively to the suspension of November 14, 2002, for failure to communicate in writing the basis or rate of his legal fees, failure to deliver funds to which a client is entitled, practicing law while ineligible, and failure to cooperate with disciplinary authorities. In re Wood, 175 N.J. 551 (2003).

On January 15, 2004, the OAE sent a complaint by certified and regular mail to respondent's last known office address in Williamstown, New Jersey. The certified mail was returned marked "unclaimed." The regular mail was not returned.

On March 1, 2004, the OAE sent a second letter by certified and regular mail to the same address, advising respondent that, unless he filed an answer, the allegations of the complaint would be deemed admitted and the record in the matter would be certified directly to us for the imposition of discipline. The letter further informed respondent that the complaint was deemed amended to include a charge of failure to cooperate with a disciplinary authority, based on his failure to answer the complaint. The certified mail was returned marked "other." The regular mail was not returned.

On March 8, 2004, the OAE sent another copy of the complaint by certified and regular mail to an address in Turnersville, New Jersey, that respondent had provided to the OAE. The certified mail was returned marked "unclaimed." The regular mail was returned marked "moved left no address" and "box closed, no order."

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

As mentioned above, on November 14, 2002, respondent was suspended for three months. As is customary, the suspension order required that respondent comply with Rule 1:20-20. Among other things, that rule requires suspended attorneys to file with the OAE, within thirty days of the suspension, an affidavit specifying their compliance with the rule and the Court order. Respondent, thus, was required to file an affidavit of compliance by December 14, 2002. He failed to do so.

On March 12, 2003, the OAE requested, in writing, that respondent submit the affidavit of compliance. Respondent submitted the required affidavit on March 28, 2003, more than three months after the deadline. In his affidavit of compliance, respondent stated, "I have not used any signs nor advertisements

suggesting an attorney conducts business at my former office space; I have removed the signage from my former office space frontage".

On October 9, 2003, the OAE investigator went to respondent's law office to confirm that he had closed his practice. A sign on the front of the building identified respondent's office as "Peter A. Wood, Attorney at Law". Respondent told the investigator that, although he had tried to remove the sign, he was unable to do so. The investigator's examination of the sign revealed that it was loose and appeared as if an attempt had been made to remove it. Respondent agreed to either remove or cover the sign and to provide the OAE with a photograph demonstrating that he had done so. Despite this promise, respondent did not submit documentation that he had removed or covered the sign.

On November 20, 2003, the investigator returned to respondent's office and observed that the office sign remained on the building.

The complaint charged respondent with a violation of Rule 1:20-20, RPC 8.1(a) and (b) (false statement of material fact to, and failure to cooperate with, disciplinary authorities), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit, or

misrepresentation), and RPC 8.4(d) (conduct prejudicial to the administration of justice).

Service of process was properly made. The complaint contains sufficient facts to support findings of the violations charged in the complaint. Because of respondent's failure to file an answer, the allegations of the complaint are deemed admitted. Rule 1:20-4(f).

By Supreme Court order dated November 14, 2002, respondent was suspended for three months. The order required him to comply with Rule 1:20-20, governing future activities of suspended or disbarred attorneys. Pursuant to Rule 1:20-20(b)(15), within thirty days after the date of the attorney's prohibition from practice, the attorney is required to file with the OAE a detailed affidavit specifying how the attorney has complied with each of the provisions of the rule. Among other things, the rule prohibits the attorney from using a sign or other advertisement indication that the attorney is entitled to practice law. Failure to file the affidavit within the prescribed time shall preclude consideration of an application for reinstatement for a period of three months from the filing date of the affidavit. Rule 1:20-20(b)(15) and Rule 1:20-21(i)(A).

Although respondent filed the affidavit of compliance, he did so in an untimely fashion, thus failing to comply with Rule 1:20-20, a violation of RPC 8.1(b) and RPC 8.4(d). In addition, his misrepresentation in the affidavit that he had removed the sign and his later misrepresentation to the OAE investigator that he would remove the sign violated RPC 8.1(a) and RPC 8.4(c).

The remaining issue is the quantum of discipline to be imposed. In similar cases, the OAE has asserted that, presumptively, a reprimand is the appropriate sanction for attorneys who fail to file an affidavit in compliance with Rule 1:20-20, subject to individual assessments of aggravating and mitigating factors.

In cases in which attorneys have not cooperated with disciplinary authorities, ordinarily admonitions or reprimands have been imposed. See, e.g., In the Matter of Andrew T. Brasno, Docket No. DRB 97-091 (June 25, 1997) (admonition for failure to reply to the ethics grievance and failure to turn over a client's file); In the Matter of Mark D. Cubberley, Docket No. DRB 96-090 (April 19, 1996) (admonition for failure to reply to the ethics investigator's request for information); In re Williamson, 152 N.J. 489 (1998) (reprimand for failure to cooperate with disciplinary authorities); In re Vedatsky 138 N.J. 173 (1994)

(reprimand for failure to cooperate with the district ethics committee); In re Macias, 121 N.J. 243 (1990) (reprimand for failure to cooperate with the OAE).

In addition, attorneys who have failed to obey court orders have been reprimanded. See, e.g., In re Holland, 164 N.J. 246 (2000) (reprimand for attorney who, although required to escrow funds until resolution of a fee dispute, nevertheless took the fee, in violation of a court order); In re Milstead, 162 N.J. 96 (1999) (reprimand where the attorney disbursed escrow funds to his client, in violation of a court order); In re Hartmann, 142 N.J. 587 (1995) (reprimand for intentionally and repeatedly ignoring court orders to pay opposing counsel a fee – resulting in a warrant for the attorney's arrest – and for discourteous and abusive conduct toward a judge with intent to intimidate her).

One case in which the attorney violated RPC 8.1(b) and RPC 8.4(d) by failing to comply with Rule 1:20-20 resulted in a three-month suspension. In re Girdler, 179 N.J. 227 (2004). The attorney's disciplinary history included a private reprimand, a public reprimand, and a three-month suspension.

We have reviewed at least three similar cases that are pending with the Court. In In the Matter of George J. Mandle, Docket No. DRB 03-250 (December 5, 2003), we voted to impose a

six-month suspension. In a six-year span, Mandle received three reprimands, a temporary suspension for failure to comply with an order requiring that he practice under a proctor's supervision, and two three-month suspensions. In three of those matters, he failed to cooperate with disciplinary authorities.

In In the Matter of Paul J. Paskey, Docket No. DRB 04-010 (April 15, 2004), we determined that a one-year suspension was the appropriate level of discipline. Paskey's extensive ethics history included an admonition, a temporary suspension for recordkeeping irregularities, two three-month suspensions, and a six-month suspension. In addition, in an unrelated matter pending with the Court, we determined that Paskey was deserving of a three-year suspension.

We also determined that a one-year suspension was the appropriate level of discipline in In the Matter of Sherry D. King, Docket No. DRB 03-428 (April 21, 2004). King's ethics history included a reprimand, a temporary suspension for failure to comply with a Supreme Court order requiring her to return an unused retainer to a client, a three-month suspension, and a one-year suspension. Both of the suspensions will not begin until King returns the unused retainer, thus ending the temporary suspension.

Here, respondent's ethics history includes two concurrent three-month suspensions. In addition to his failure to comply with Rule 1:20-20, he misrepresented to the OAE in his affidavit of compliance that he had removed the sign identifying his law office. Furthermore, he failed to remove or cover the sign, after misrepresenting that he would do so.

Attorneys who file late affidavits receive an "indirect" three-month suspension because the attorneys are precluded from seeking reinstatement for three months from the date that the affidavit is filed. We determine that, in light of respondent's ethics history and the default nature of this matter, a three-month suspension, in addition to the "indirect suspension," is the appropriate level of discipline. One member did not participate.

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

Disciplinary Review Board
Mary J. Maudsley, Chair

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

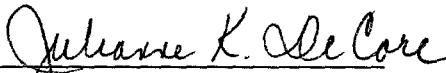
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Peter A. Wood
Docket No. DRB 04-127

Decided: June 10, 2004

Disposition: Three-month suspension

<i>Members</i>	<i>Disbar</i>	<i>Three-month Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Maudsley</i>		X					
<i>O'Shaughnessy</i>		X					
<i>Boylan</i>							X
<i>Holmes</i>		X					
<i>Lolla</i>		X					
<i>Pashman</i>		X					
<i>Schwartz</i>		X					
<i>Stanton</i>		X					
<i>Wissinger</i>		X					
Total:		8					1


Julianne K. DeCore
Chief Counsel