

remanded this matter to us for reconsideration, based on an omission, in our decision, of a reprimand imposed on respondent by Order dated May 18, 2000. That omission was, in fact, a clerical error. At the time of our earlier review, we were aware of the prior reprimand and considered it in reaching our decision.

* * *

On November 30, 1998, the DEC forwarded a copy of the complaint to respondent's last known address by regular and certified mail. The certified mail return receipt indicated acceptance on December 1, 1998. The signature was illegible. The regular mail was not returned. When respondent did not file an answer, the DEC sent him a second letter, on March 4, 1999, by certified and regular mail. The letter advised respondent that, if he did not reply within five days, the matter would be certified to us for the imposition of sanctions and that the allegations of the complaint would be deemed admitted. Again, a certified mail receipt, dated March 5, 1999 was received by the DEC, and the regular mail was not returned.

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

Respondent was admitted to the New Jersey bar in 1985. At the relevant times he maintained an office in Newark, New Jersey. Respondent was reprimanded in 1999 for

mishandling an estate matter over a six-year period, where he failed to make appropriate efforts to locate one of six beneficiaries and to respond to the inquiries of another beneficiary during that same period. In that default matter, violations of RPC 1.3, RPC 1.4(a) and (b), RPC 1.15 and RPC 8.1(b) were found.

The within complaint charged respondent with violating RPC 1.8(e) (providing financial assistance to a client in connection with pending or contemplated litigation). According to the complaint, respondent was retained by Hasaan Pasha in November of 1993 to represent him in a claim for personal injuries. On October 4, 1994, respondent filed a complaint on Pasha's behalf. While the lawsuit was still pending, respondent lent Pasha \$500 against his eventual settlement or recovery. The matter settled in February 1997 for \$15,000.

* * *

Service of process was properly made in this matter. Following a de novo review of the record, we determined that the facts recited in the complaint support a finding 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)(1).

Respondent lent his client \$500 against future recovery from a pending lawsuit. Respondent's financial assistance to the client in anticipation of recovery from the lawsuit was a clear violation of RPC 1.8(e) (providing financial assistance to a client in connection with pending or contemplated litigation).

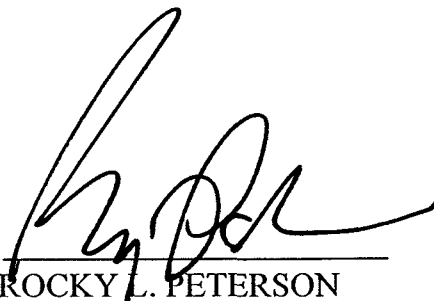
Misconduct of this nature, standing alone, has resulted in a private reprimand. (Private reprimand imposed in 1993 for \$3,000 loan to a personal injury client). Coupled with other violations, such misconduct has led to a reprimand. See, e.g., In re Daniels, 157 N.J. 71 (1999) (attorney advanced funds to two clients in anticipation of settlement litigation, negligently misappropriated client funds and failed to maintain required records; attorney had prior private reprimand for failure to maintain records); In re Rubin, 153 N.J. 354 (1998) (attorney advanced funds to at least ten clients and failed to maintain quarterly reconciliation of his trust account; attorney had two prior private reprimands and a diverted matter); In re Powell, 142 N.J. 426 (1995) (attorney advanced funds to eight personal injury clients, failed to maintain required records and had a shortage in his trust account).

In this matter, there are no other violations. Thus, the appropriate level of discipline ordinarily would be an admonition (formerly a private reprimand). Because, however, of respondent's prior reprimand, as well as the default nature of this matter, the discipline should be enhanced to a reprimand.

Accordingly, we unanimously decided to impose a reprimand.

We further directed that respondent reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: 8/06/01

By: 
ROCKY L. PETERSON
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

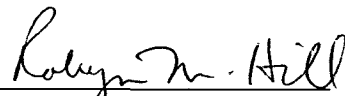
**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of James P. Tutt
Docket No. DRB 01-274**

Decided: August 6, 2001

Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling			X				
Peterson			X				
Boylan			X				
Brody			X				
Lolla							X
Maudsley			X				
O'Shaughnessy			X				
Schwartz							X
Wissinger			X				
Total:			7				

 9/10/01
Robyn M. Hill
Chief Counsel