SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 02-330

IN THE MATTER OF

SANDRA TAYLOR

AN ATTORNEY AT LAW

Decision

Argued: December 19, 2002

Decided: February 20, 2003

Herbert I. Waldman appeared on behalf of the District VB Ethics Committee.

Respondent waived appearance.

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

This matter was before us based on a recommendation for discipline filed by the District VB Ethics Committee ("DEC").

Respondent was admitted to the New Jersey bar in 1990. At the relevant times, she maintained a law practice in South Orange, New Jersey. She has no history of discipline.

The nine-count complaint charged respondent with violations of RPC 1.1(a) (gross neglect); RPC 1.1(b) (pattern of neglect); RPC 1.3 (lack of diligence); RPC 1.4(a) (failure to communicate with client); RPC 1.16(d) (failure to take steps reasonably practicable to protect the client's interest upon termination of representation); RPC 1.17(c) (failure to provide client with proper notice upon the sale of a law practice); and RPC 3.2 (failure to expedite litigation).

This record is somewhat sparse. For the most part, respondent admitted the violations alleged in the complaint. She entered into a stipulation of facts and testified at the DEC hearing.

The Milton Matter – District Docket No. VB-00-49E

Lurine Milton was involved in an automobile accident in September 1998. She retained respondent in October 1998. During the early part of 2000, respondent failed to return Milton's telephone calls or to reply to her certified letters. In May 2000, respondent transferred Milton's case to another attorney without Milton's knowledge and consent. The attorney filed a timely lawsuit on Milton's behalf.

The Grissom Matter – District Docket No. VB-01-02E

From 1997 through 1999, respondent represented Bonnie Grissom in a personal injury lawsuit arising from an automobile accident. The case settled in January 1999 for $8,000. Prior to the settlement, East Orange General Hospital and

other medical providers asserted a lien for medical bills. According to the stipulation, there was a discrepancy in the amount of the lien asserted by the hospital. Respondent disbursed the proceeds of the settlement to Grissom and all the lienholders, except the hospital. According to respondent, she attempted to challenge the amount of the lien, but at the time she was closing down her practice and did not resolve the issue.

The complaint alleged that Grissom learned that the lien had not been paid when she reviewed her credit report. The hospital bill had been sent to a collection agency.

Respondent claimed that, once she obtained Grissom's ethics grievance, she again tried to settle the discrepancy with the hospital, but was unsuccessful. She, therefore, paid the bill in February 2001, more than one year after the settlement and four months after the filing of the grievance. She used $400 from Grissom's escrow funds and paid the remainder out of her own funds.

The Finley/Hatcher Matter – District Docket No. VB-01-04E

According to the stipulation, beginning in 1997 or 1998, respondent represented two plaintiffs, Shalga Finley and Allen Hatcher, in a consolidated personal injury claim. In January 1999, the lawsuit was settled with one of two defendants. It was respondent's intent to dismiss the complaint against the remaining defendant.

In late 2000 or early 2001, the remaining defendant filed a motion to dismiss the complaint. Because respondent had closed her office without leaving a forwarding address, she was unaware of the motion. As a result, she failed to appear on its return date and failed to communicate with the court. Ultimately, a bench warrant was issued for her arrest.

The stipulation states that, on or about April 20, 2001, respondent appeared before Judge Theodore A. Winard, at which time she was ordered to inform her clients about the status of the litigation and their rights with respect to it. The stipulation further states that

> [b]y letter of April 24, 2001, Respondent was directed to 'report to the court concerning [her] communication with [her] clients and what, if any, action may be contemplated to protect their interests' in the litigation.

According to the stipulation, respondent did not communicate with the court until June 16, 2001.

<u>The Pearson Matter – District Docket No. VB-01-05E</u>

Martha Pearson was involved in an automobile accident in February 1998. She retained respondent to file suit. According to the stipulation, respondent first discussed transferring some of her files to the law firm of Picillo & Picillo on January 31, 2000. Pearson's file was not one of those cases. By the time the statute of limitations on Pearson's claim expired, February 9, 2000, respondent still had not

filed suit on Pearson's behalf. Respondent did not transfer Pearson's file to Picillo & Picillo until February 14, 2000.

According to respondent, she had intended to protect the client's interests by filing a timely complaint, but had not realized that the statute had expired at the time that she transferred the case. She claimed that the matter got "lost in the shuffle." Respondent admitted having Pearson's file since sometime in 1998.

The Rokes Matter – District Docket No. VB-01-09E

In November 1997, Charles Rokes, Jr. and two other individuals were involved in an automobile accident. Following the accident, respondent was retained to represent Rokes. The stipulation states that, from early 2000 until at least May 2001, respondent had no contact with Rokes. At no time following her retention and prior to the filing of the grievance, did respondent advise Rokes that she would not handle the case or attempt to refer the case to another attorney. According to the stipulation, respondent misplaced the Rokes file.

At the DEC hearing, respondent admitted that she did not do any work in the matter or help Rokes find another attorney until after he filed the grievance. Respondent claimed that she misplaced the file and did not realize, until after she received the grievance, that the case had not been transferred with the others.

Respondent testified that she graduated from law school in 1987, moved to the New York area in 1988 and passed the New Jersey and New York bars that year. She then worked at a Wall Street law firm, in the securities litigation area, for a year and a half. Afterwards, she left the firm with several senior associates who started their own firm. That firm could not survive the financial climate at the time and closed after one year. Respondent then spent seven years working for New York Legal Services, in its civil department and, thereafter, opened up a solo law practice in South Orange, New Jersey, where she lived at the time. She had never before worked in a small law office or as a sole practitioner.

At the time of the DEC hearing, respondent was employed at Telecordia Technologies. She had been there for approximately two years and had been promoted to the position of service manager of the software licensing division. She managed approximately six attorneys. According to respondent, they did not act as attorneys for the corporation, but provided legal analyses, and drafted and negotiated agreements.

Respondent stated that, in 1998, she began experiencing severe marital problems, which reached a "boiling point" in October 1999. She experienced emotional, psychological and financial difficulties. Notwithstanding these problems, she testified, she was not taking any medications or seeing a psychiatrist. She stated that she filed a domestic violence complaint against her husband and

obtained a restraining order, but apparently voluntarily dismissed the complaint. She reconciled with her husband in late 2000.

As a result of respondent's problems, she decided to transfer her clients' files to attorneys who, she believed, would zealously represent them. She claimed that she interviewed attorneys to determine who would be best suited to continue the representations. She believed that the new attorneys would send letters to her clients, acknowledging possession of their files, assuring the protection of any statutes and giving them the option to retrieve their files and seek alternate counsel if they so desired. She had approximately 100 to 150 files at the time.

Respondent testified that she stopped going to her office in February or March 2000. She opened up a post office box and forwarded most of her mail to the attorneys that were handling her prior cases. According to respondent, she did not know that she was required to send a letter informing her clients that she would no longer be representing them; she believed that it was sufficient for the attorneys to whom the cases were transferred to relay that information to the clients.

Respondent stated that, when she closed her office, she had no intention of practicing law again. She added, however, that uncertainties in her current employment may require her to do so. She has been asked to serve as counsel to a group that organizes activities for the East Orange youths. Recently, she was hired as a deputy county counsel in Essex County and was appointed to serve as counsel

for the Democratic County Committee. Respondent stated that she values her license to practice law.

Respondent admitted that, when she opened her own practice, she did not know what was required of her and that she should have taken courses or worked as "someone's understudy." She requested that the DEC view her not as someone that abandoned her practice, but as someone incapable of functioning at the time.

The presenter had recommended to respondent that she send out letters of apology to stop the flow of complaints from other clients who might be mystified over what happened to their cases. Respondent followed his recommendation.

According to respondent, financial restraints prevented her from paying her annual fee to the New Jersey Lawyers' Fund for Client Protection ("the Fund") for the year 2000. As a result, in September 2000, she was declared ineligible to practice law. She returned to active status in February 2001.

* * *

In the Milton matter, the DEC found that respondent failed to return her client's telephone calls, failed to reply to her certified letters and failed to appear for appointments, in violation of RPC 1.4(a). The DEC also found that respondent failed to inform Milton that she was transferring her case to another attorney. The DEC found violations of RPC 1.16(d) and RPC 1.17(c).

In the Grissom matter, the DEC found that respondent's failure to resolve a lien in her client's personal injury lawsuit violated RPC 1.3.

The DEC found a violation of RPC 3.2 in the Finley/Hatcher matter, based upon respondent's failure to dismiss the pending case against one of the defendants, her failure to reply to the defendant's motion to dismiss and her failure to appear in court, culminating in the issuance of a bench warrant for her arrest.

In Pearson, the DEC found that respondent failed to communicate the status of the case to her client and failed to reply to her telephone calls and letters, in violation of RPC 1.4. The DEC also found that respondent's failure to timely file a lawsuit, resulting in the expiration of the statute of limitations, was a violation of RPC 1.3.

In Rokes, the DEC determined that respondent failed to communicate the status of the case to the client, failed to reply to his telephone calls and written inquiries about the status of the case, failed to refer Rokes to another attorney and misplaced the Rokes file. The DEC found violations of RPC 1.4(a), RPC 1.3 and RPC 1.1(a).

Lastly, the DEC found a pattern of neglect, based on respondent's conduct in all of these matters.

The DEC recommended that respondent receive a reprimand and that she be required to take courses on the operation of a law practice, practice under the supervision of an attorney — should she reopen her law office — and undergo

psychological counseling for a period to be determined by a psychologist, based upon the issues that she presented as mitigation.

* * *

Following a de novo review of the record, we are satisfied that the DEC's conclusion that respondent was guilty of unethical conduct is fully supported by clear and convincing evidence.

Although the facts in these matters are somewhat sketchy, the record shows that, in Milton, although respondent initially may have performed some services, in early 2000 she failed to reply to Milton's telephone calls or certified letters. Thereafter, without consulting with Milton, she transferred the case to another attorney. Based on these facts, we found that respondent failed to communicate with her client, in violation of RPC 1.4, and failed to give her notice that she was terminating the representation, in violation of RPC 1.16(d). We dismissed the charge of a violation of RPC 1.17(c) (sale of a law practice), which we found inapplicable to this matter.

In Grissom, respondent failed to resolve a lien asserted against her client by East Orange General Hospital. She did not pay the bill until after Grissom filed a grievance against her. She, therefore, violated RPC 1.3.

In the Finley/Hatcher matter, respondent failed to file a motion dismissing the complaint against the remaining defendant. Because she closed her office without leaving a forwarding address, she was unaware that the defendants had filed a motion to dismiss the complaint, failed to appear at proceedings scheduled in the matter and failed to communicate with the court. The court's inability to locate respondent resulted in the issuance of a bench warrant for her arrest. Afterwards, she did not comply with the court's April 2001 letter for two months. Although the DEC found that respondent's conduct in Finley/Hatcher violated RPC 3.2 (failure to expedite litigation), we found that the more applicable rules are RPC 1.3 and RPC 1.16(d). Although the complaint did not specifically cite RPC 1.3 and RPC 1.16(d), the facts recited therein gave sufficient notice of a potential finding of violations of those rules.

In the Pearson matter, the DEC found that respondent's failure to file the complaint before the expiration of the statute of limitations violated RPC 1.3. Generally, conduct of this sort, without more, constitutes simple neglect, unless the attorney knows that the statute is about to expire and takes no action. Simple neglect does not amount to unethical conduct. Here, respondent testified that she had not realized that the statute had expired. The DEC made no finding that respondent's testimony in this context was not credible. We, therefore, dismissed the Pearson matter.

As to the Rokes matter, respondent admitted that she did not communicate with her client from early 2000 until at least May 2001. Moreover, she failed to inform Rokes that she would no longer handle his case, did not attempt to refer him to another attorney and misplaced his file. Her conduct in this matter violated RPC 1.1(a), RPC 1.3 and RPC 1.4(a).

Finally, because we generally require at least three instances of gross neglect to find a pattern of neglect, we dismissed the charged violation of RPC 1.1(b).

As to mitigation, we considered respondent's claim that she was going through a period of extreme emotional turmoil because of personal problems. As a result, she closed down her practice. She contended that she was handling between 100 and 150 files at the time. She attempted to transfer those files to attorneys who, she believed, would represent her clients as zealously as she had.

Respondent submitted a letter from a Dr. Marcus Johnson, M.D., M.P.H., Chair of the Department of Family Medicine of the University of Medicine and Dentistry of New Jersey. The letter indicated that respondent had been his patient from 1998 through 2000, as a result of problems stemming from her marital situation. Dr. Johnson indicated that there was a significant amount of marital discord. Dr. Johnson added that respondent's husband was psychologically abusive and had threatened her with physical harm. Respondent's symptoms included insomnia, loss of appetite, feelings of guilt, crying spells and low self-esteem. Dr. Johnson stated that the only factor that stabilized her was her desire to care for her

children. The doctor concluded that, based on these circumstances, it was reasonable to assume that respondent's work responsibilities would be compromised.

Respondent also submitted a letter from the senior pastor of a church that she ultimately joined, indicating that he had counseled her during the period from 1998 to 2000. The pastor stated that respondent exhibited a fragile emotional state and that he provided her whatever counseling he could.

We also considered that, at the recommendation of the presenter, respondent sent letters to her clients explaining her decision to surrender her practice and apologizing for her inability to continue their representation.

We have taken into account respondent's fragile emotional state and her attempts to transfer her cases to attorneys whom she believed would be more capable of carrying on the representation. Although it is true that she did not follow proper procedures, it does not appear from the record that her conduct was motivated by indifference to her clients' well-being or any other improper motives. Furthermore, although there were five client matters involved, none of them involved more serious conduct, such as misrepresentation, dishonesty or failure to cooperate with disciplinary authorities.

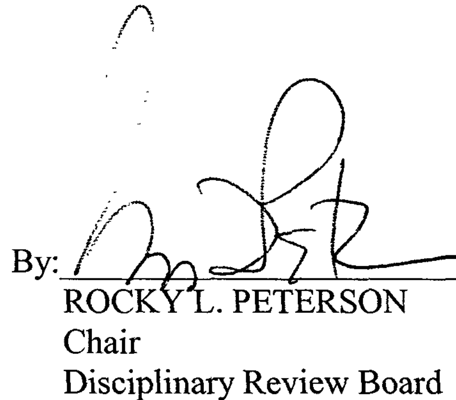
The level of discipline for similar conduct depends, among other things, on the degree of the ethics infractions, the number of matters involved and the attorney's history of discipline. See In re Dare, 174 N.J. 369 (2002) (reprimand for

lack of diligence and failure to communicate with clients in three matters, gross neglect, pattern of neglect, and failure to return escrow funds); In re Baiamonte, 170 N.J. 184 (2001) (reprimand for lack of diligence, failure to communicate, failure to turn over client's file after termination of representation and failure to expedite litigation); In re Magid, 167 N.J. 614 (2001) (reprimand for lack of diligence, failure to communicate with client and failure to take reasonable steps to protect interests of client on termination of representation); In re Caggiano, 165 N.J. 475 (2000) (reprimand for gross neglect in two matters, pattern of neglect, lack of diligence, failure to comply with clients' requests for information, failure to explain matter to extent necessary to permit client to make informed decision and misrepresentation to clients; in one case it was not until ten years later that the client learned from another source that her case had been dismissed); In re Bennett, 164 N.J. 340 (2000) (reprimand where attorney grossly neglected a number of cases he was handling on behalf of an insurance company and failed to adequately communicate with the company from 1979 through 1986; the attorney also engaged in pattern of neglect and lack of diligence); In re Peluso, 156 N.J. 545 (1999) (three-month suspension for gross neglect in six matters, pattern of neglect, lack of diligence, failure to communicate, failure to follow the client's requests, failure to turn over the file to new counsel and recordkeeping deficiencies); In re West, 156 N.J. 391 (1998) (three-month suspension for gross neglect, pattern of neglect, lack of diligence and failure to communicate with clients).

We found that respondent's misconduct was aberrational, rather than the product of ill motives. We, therefore, unanimously determined that a reprimand is sufficient discipline for her infractions. We also determined that if and when she returns to the private practice of law, she is to be supervised by a proctor approved by the Office of Attorney Ethics for a one-year period.

One member 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

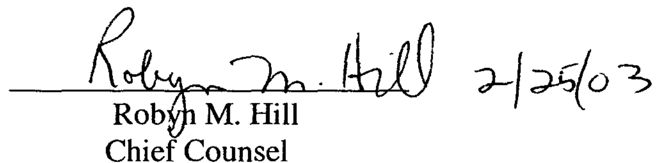
In the Matter of Sandra Taylor
Docket No. DRB 02-330

Argued: December 19, 2002

Decided: February 20, 2003

Disposition: Reprimand

Members	*Disbar*	*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:			8				1



Robyn M. Hill
Chief Counsel