

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 01-402

IN THE MATTER OF

JEFFREY M. RIEDL

AN ATTORNEY AT LAW

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Decision

Argued: December 20, 2001

Decided: March 8, 2002

Lee A. Gronikowski appeared on behalf of the Office of Attorney Ethics.

Frank J. Cuccio appeared on behalf of respondent.

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

This matter was before us on a disciplinary stipulation between respondent and the Office of Attorney Ethics (“OAE”). Respondent stipulated that he grossly neglected several real estate matters, failed to properly supervise a paralegal in his office and allowed the paralegal to sign trust account checks in real estate closings.

Respondent was admitted to the New Jersey bar in 1973. He has no disciplinary history.

The stipulation states, in part, as follows:

- 1) This case was referred to the Office of Attorney Ethics on April 13, 2000 by the District IIA (North Bergen County) Ethics Committee. The Committee had received the original grievance dated March 27, 2000 from Ms. Carol E. Schwab, who alleged that respondent failed to satisfy a seller's mortgage following a real estate transaction. The OAE's investigation revealed that this allegation was unfounded.
- 2.) However, the OAE's investigation revealed that respondent had committed several other ethics violations. Specifically, it was found that respondent: a) violated RPC 1.1(a) (gross neglect) by failing to obtain a discharge of mortgage for approximately 18 months after the mortgage was satisfied; b) violated RPC 5.3(b) (failure to supervise non-lawyer assistant) by failing to ensure that his paralegal had prepared closing documents properly and by not following up with his paralegal to ensure that the discharge of mortgage had been obtained; c) violated RPC 1.1(b) (pattern of neglect) by negligently executing closing documents in four separate transactions; and d) violated R. 1:21-6 and RPC 1.15(d) by allowing his paralegal to sign trust account checks.
- 3.) Respondent's misconduct is described in the annexed Investigative Report of Investigator Wanda L. Riddle dated February 9, 2001, which consists of 38 pages and 98 numbered exhibits. That report is made a part of this Stipulation by incorporation.
- 4.) The Office of Attorney Ethics recommends that respondent receive a reprimand for his misconduct.

The OAE investigator's report contains a very detailed statement of facts. Also present, however, are hints of additional misconduct by respondent, beyond that stipulated.

For example, the report stated that, as settlement agent in one of the real estate closings, respondent failed to verify the existence of a deposit, listed as such on the RESPA statement. Depending on the circumstances, such omissions on RESPA statements are viewed as misrepresentations. Because the stipulation is silent in this regard, at oral argument we questioned OAE counsel about that aspect of the case. Based on the results of that inquiry, we were satisfied that the OAE fully evaluated the information in the investigative report and determined that only the stipulated violations were supported by clear and convincing evidence. Therefore, even though the parties agreed to incorporate the investigative report in the stipulation, we did not consider that to be an indication that every issue raised in the report is either factually correct or gives rise to a finding of unethical conduct. We have, thus, considered here only those aspects of the transactions that have been specifically stipulated.

Respondent's former secretary, Nancy Koenig, went to work for Rand Associates ("Rand"), a mortgage brokerage firm. Koenig, her sister, Carol E. Schwab (the grievant herein), and Schwab's companion, Anthony Pianfetti, were mortgage brokers at Rand. Pianfetti and Koenig, either on their own or as part of their association with Rand, engaged in a "side" business by purchasing houses in disrepair, renovating them to some extent and reselling them at a profit. Schwab's role in these transactions was described as an "accommodation buyer," in that she purchased the properties in her name. This arrangement was necessary because the mortgage lender in the transactions, Robert Benjamin, refused to lend funds directly to Pianfetti. Benjamin did not trust that Pianfetti would complete the

repairs with the mortgage proceeds. Respondent's involvement as settlement agent in this and the other transactions described below came about as the result of his prior association with Koenig.

On or about April 16, 1998 respondent, as the attorney for Benjamin, acted as the closing agent for real estate located in Trenton, New Jersey. Koenig and Pianfetti had arranged the transaction through Rand. Acting as a private lender, Benjamin extended a mortgage loan in the amount of \$45,000 to Lloyd Martin, the buyer. In return, Benjamin received a first mortgage lien on the property. The record does not include a RESPA statement for this transaction.

On or about July 30, 1998 Martin sold the property to Schwab. Line 505 of the RESPA statement for that transaction stated that the Martin to Benjamin first mortgage was paid at closing. Respondent mailed the payoff check to Benjamin by letter dated July 31, 1998, in which he advised Benjamin that he had "prepared and forwarded the necessary Discharge of Mortgage."

Shortly thereafter, in January 2000, Pianfetti contacted respondent about the mortgage discharge. In preparation for the sale of the property from Schwab to a Jewel Ross, it had been discovered that, respondent's letter notwithstanding, he had failed to obtain the discharge of the mortgage. The Schwab to Ross closing took place on February 4, 2000, without the discharge of the mortgage.

Over the next several months, the closing attorney in that transaction attempted unsuccessfully to obtain the document from respondent and then directly from Benjamin, who refused to execute that document, despite the fact that the mortgage loan had been paid in full in 1998.¹ Benjamin's refusal was based on a claim that Pianfetti owed him money from other deals.² Finally, after the OAE intervened, Benjamin signed the discharge of the mortgage on November 21, 2000.

Respondent admitted violations of RPC 1.1(a)(gross neglect) and RPC 1.3(lack of diligence) for his failure to obtain the discharge of the mortgage in a timely manner.

Respondent also admitted violations of RPC 5.3 (b) (failure to supervise non-attorney employee) for his failure to properly supervise a paralegal in his office. In the course of the OAE's investigation of respondent's activities as closing agent in a range of real estate transactions, it became evident that numerous mistakes were made in the preparation of the closing documents in the Martin to Schwab and Schwab to Ross transactions, as well as in several other closings involving Schwab as an "accommodation buyer." Those transactions are identified in the investigative report as HUD to Schwab, Federal Home Loan to Schwab, and Ocwen Federal Bank to Schwab. In addition, in a series of tables, the report details mistakes contained in the closing documents. Investigative report, tables 1-7. Respondent

¹Respondent claimed that Benjamin forbade him from cooperating with either Pianfetti or the other attorney, in their requests for the discharge of mortgage.

²In fact, Benjamin sued Pianfetti and Koenig in Essex County, in February 2000, in connection with another of their real estate ventures.

explained that he had primarily acted as the closing attorney in all of the transactions and that the “deals” had been put together by the parties, prior to his involvement. Furthermore, respondent had given his paralegal great latitude in preparing the documents in each of the matters. Respondent acknowledged, however, that the ultimate responsibility for the accuracy of the documents was his alone. Respondent admitted that his misconduct in this regard amounted to a pattern of neglect, in violation of RPC 1.1(b).

Lastly, respondent stipulated that he allowed his paralegal to act as a signatory on his trust account, in violation of R. 1:21-6 (b) (1) and RPC 1.15 (d). In fact, many of the disbursement checks in these transactions were signed by the paralegal. In mitigation, respondent stated that he was unaware of the prohibition against that arrangement until the OAE brought it to his attention, in late 2000. Respondent immediately had the paralegal removed as a signatory on his attorney trust account.

The OAE recommended the imposition of a reprimand for the totality of respondent’s misconduct, reasoning that his most serious infraction – gross neglect for failure to obtain a discharge of the mortgage – even if considered with the additional charges, warranted a reprimand, due to the lack of aggravating circumstances.

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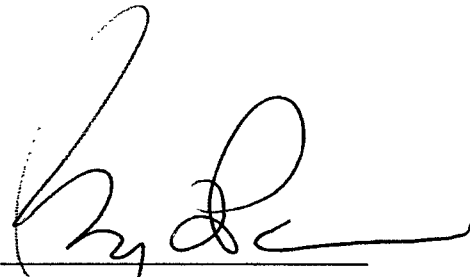
Upon a de novo review of the record, we are satisfied that the DEC’s conclusion that the facts contained in the stipulation provide sufficient basis for a finding of unethical conduct.

Respondent stipulated that he was guilty of gross neglect and pattern of neglect, in violation of RPC 1.1(a) and (b), as well as lack of diligence, in violation of RPC 1.3, for his failure to secure the discharge of the mortgage in the Martin to Schwab transaction. With regard to the activities of his paralegal, respondent admitted that he violated RPC 5.3(b) by failing to properly monitor the preparation of the documents in the Martin to Schwab, Schwab to Ross, HUD to Schwab, Federal Home Loan to Schwab and Ocwen Federal Bank to Schwab transactions. Numerous errors contained in those documents could have been avoided if respondent had taken a more active role in their preparation and review, prior to the closings. Moreover, respondent admitted that his practice of allowing his paralegal to sign checks drawn on the trust account violated R. 1:21-6 (b) (1) and RPC 1.15(d).

Similar misconduct has resulted in the imposition of a reprimand. In re Butler, 152 N.J. 448 (1998) (reprimand for attorney who, in a series of nine real estate transactions, engaged in a pattern of neglect by failing to record mortgages and mortgage discharges in a timely manner; the attorney also admitted numerous recordkeeping violations; the attorney had received a private reprimand for failure to obtain a canceled mortgage document from the county clerk in a real estate matter and for failure to cooperate with disciplinary authorities). Reprimands have also resulted where attorneys have failed to supervise junior attorneys or legal staff. In re Rovner, 164 N.J. 616 (2000) (reprimand for attorney partner of a Pennsylvania law firm with offices in New Jersey, where the partner admitted that, in two personal injury matters, the law firm exhibited gross neglect and lack of diligence, failed to

communicate with clients and failed to supervise the junior attorneys assigned to those matters); and In re Shapiro, 149 N.J. 392 (1997) (reprimand for attorney who failed to adequately supervise his wife-bookkeeper, as a result of which she negligently misappropriated clients' trust funds). In determining to impose only a reprimand, eight members of the Board considered respondent's unblemished disciplinary record of twenty-five years, prior to these events. One member dissented, voting to remand the matter to investigate what, if anything, respondent knew about possible fraudulent conduct by any of the parties to the transactions.

We also required respondent to reimburse the Disciplinary Oversight Committee for administrative expenses.



ROCKY L. PETERSON
Chair
Disciplinary Review Board

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

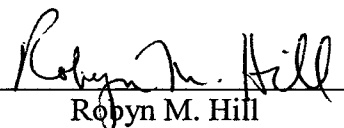
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Disposition: Reprimand

<i>Members</i>	<i>Disbar</i>	<i>Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Remand</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Peterson</i>			X				
<i>Maudsley</i>			X				
<i>Boylan</i>			X				
<i>Brody</i>					X		
<i>Lolla</i>			X				
<i>O'Shaughnessy</i>			X				
<i>Pashman</i>			X				
<i>Schwartz</i>			X				
<i>Wissinger</i>			X				
Total:			8		1		

 4/3/02
 Robyn M. Hill
 Chief Counsel