

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 03-077

IN THE MATTER OF
DEBORAH A. PIERCE
AN ATTORNEY AT LAW

Decision

Argued: April 17, 2003

Decided: June 17, 2003

Janice L. Richter appeared on behalf of the District XIII Ethics Committee.

Respondent waived appearance for oral argument.

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

This matter was before us pursuant to R.1:20-6(c)(1).¹ Three of four counts in the complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4, presumably (a) (failure to communicate with client) and

¹ That rule provides as follows:

A hearing shall be held only if the pleadings raise genuine disputes of material fact, if the respondent's answer requests an opportunity to be heard in mitigation, or if the presenter or ethics counsel requests to be heard in aggravation. In all other cases the pleadings, together with a statement of procedural history, shall be filed by the trier of fact directly with the Board for its consideration in determining the appropriate sanction to be imposed.

No hearing was required because respondent admitted every allegation of neglect and waived a hearing on all the charges.

RPC 8.1(b) (failure to cooperate with disciplinary authorities), mistakenly cited as RPC 1:20-3(g)(3). Two counts charged a violation of RPC 1.5(b) for respondent's failure to communicate to her clients the basis or rate of her fee, in writing. The last count charged respondent with a pattern of neglect, in violation of RPC 1.1(b).

Respondent was admitted to the New Jersey bar in 1994. At the relevant times, she maintained a law office in Vauxhall and then Watchung, New Jersey. She has no history of discipline.

The Pereira Matter – District Docket No. XIII-02-06E

Count one alleged that, in November 1999, Yvette and Bienvenido Pereira, brother and sister, retained respondent to file individual bankruptcy petitions. They each paid respondent \$925. Respondent did not complete the bankruptcy petitions for two years and did not return most of her clients' telephone calls.

In September 2001, the Pereiras went to respondent's office in Vauxhill, only to discover that it had been vacated and that her telephone had been disconnected. According to the complaint, in December 2001 the Pereiras again met with respondent to finalize the bankruptcy petitions. It is unknown how they located her. Shortly thereafter, respondent learned that the Pereiras had filed an ethics grievance against her.

According to the complaint, in reply to the Pereiras' request for the return of their retainer, respondent issued a partial refund to each of them. The investigator's report, however, states that, on March 11, 2002, respondent refunded their entire retainer.

This count of the complaint charged respondent with violations of RPC 1.1(a), RPC 1.3 and RPC 1.4. It also charged respondent with failure to cooperate with the DEC investigation. Specifically, the complaint alleged that, although respondent initially replied to the DEC's requests for information about the grievance, she failed to provide copies of her accounting, billing or invoice records and to reply to correspondence about the possibility of resolving this matter through diversion [R.1:20-3(i)(2)(B)].

This count also charged respondent with a violation of RPC 1.5(b) for her failure to communicate the basis or rate of her fee to the Pereiras, in writing.

The Coelho Matter – District Docket No. XIII-02-11E

Count two alleged that, in June 2001, Aurora Coelho retained respondent to represent her in the sale of a house. Coelho paid an \$850 retainer, but did not receive a written retainer agreement. After two months passed, respondent had not made any of the requested changes to the contract of sale. Moreover, Coelho was unable to contact respondent. Ultimately, Coelho retained another attorney. Respondent never refunded Coelho's \$850 retainer.

The complaint charged violations of RPC 1.1(a), RPC 1.3, RPC 1.4 and RPC 1.5(b).

Between February 20 and July 24, 2002, the DEC investigator sent three letters to respondent, requesting that she contact her and forward certain records. Because of respondent's failure to reply to these requests, she was charged with failure to cooperate with disciplinary authorities.

The Taylor Matter – District Docket No. XIII-02-12E

Count three stated that, on June 23, 2000, James E. Taylor paid respondent \$1,100 to represent him in connection with “a modification of custody.”² During the next eleven months, respondent failed to return Taylor’s telephone calls, and failed to file documents with the court or otherwise perform any services on his behalf. The complaint charged respondent with violations of RPC 1.1(a), RPC 1.3 and RPC 1.4.

Between February 13 and July 24, 2002, the DEC investigator sent four letters to respondent, to which she did not reply. She was again charged with failure to cooperate with the DEC investigation.

Finally, count four charged respondent with a pattern of neglect.

* * *

Respondent filed an answer admitting “each and every allegation of neglect” in the complaint. Her attached certification explained the “facts and mitigating circumstances” relating to the charged offenses.

² The investigator’s report indicated that Taylor signed a retainer agreement. However, his May 23, 2001 grievance stated that “Mrs. Pierce never asked me to sign a retainer agreement for modification of a child custody agreement.” Because the complaint did not charge respondent with a violation of RPC 1.5(b) in count three, we did not consider this issue.

According to respondent's certification, in or about April 2002³, she began working as a pool attorney for the parental representation unit of the Public Defender's Office. She soon realized that the work was interfering with her private cases. In or about June 2001, she attempted to tender her resignation as a pool attorney. The court, however, refused to relieve her of those responsibilities. At some point, she refused to accept any further pool assignments. By this time, the size and quality of her private practice had declined.

In May 2002, respondent submitted a second resignation and refused to continue as a pool attorney. She claimed that, as a result, her vouchers for final payment of legal services were not honored, causing her to lose a substantial amount of earned income. In the interim, her private practice had been reduced to nothing. She was, therefore, required to decrease her business expenses by closing down her office and sharing office space with a law firm in Watchung, New Jersey. She further claimed that, because she was unable to pay her rent, she was forced to live with a friend, while her son moved in with a relative.

Unable to revive her practice, respondent was given notice by the firm to vacate her new office as of October 31, 2002. As a result, she claimed, she would be ineligible to practice law in New Jersey, as she would not be in compliance with the bona fide office requirements of R.1:21-1(a).

³ Respondent's certification stated that she began working for the Public Defender's Office in April 2002. However, that appears to be an error, as she claimed that she attempted to tender her resignation in June 2001.

Respondent stated that she began her private practice in 1996 and that, until she became a pool attorney, she never neglected client matters. She attributed her neglect of her private practice to the court's refusal to release her from pool assignments.

Respondent also claimed that the "demise of her livelihood" resulted in stress-related illnesses. Although respondent did not submit proof of those illnesses, she attached a wrist I.D. issued to her by a hospital, on October 31, 2001.

* * *

Following a review of the record, including respondent's admissions, we determined that there is sufficient evidence to support a finding of unethical conduct.

Respondent's conduct in the above three matters included gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, failure to provide the clients with written retainer agreements and failure to cooperate with disciplinary authorities.

In mitigation, we considered that this is respondent's first brush with the ethics system and that, as a relatively new attorney, she may have undertaken more than she could handle by adding the pool assignments to her practice.

Discipline for similar misconduct has generally resulted in a reprimand. See In re Weiss, 173 N.J. 323 (2002) (reprimand for gross neglect, pattern of neglect and lack of diligence); In re Balint, 170 N.J. 198 (2001) (reprimand where, in three client matters, the attorney engaged in gross neglect, pattern of neglect, lack of diligence, failure to

communicate with clients and failure to expedite litigation); In re Bennett, 164 N.J. 340 (2000) (reprimand for gross neglect, pattern of neglect, lack of diligence and failure to communicate in a number of cases handled on behalf of an insurance company); and In re Sternstein, 143 N.J. 128 (1996) (reprimand for lack of diligence, failure to communicate with client, failure to expedite litigation and failure to cooperate with disciplinary authorities).

Here, too, a reprimand is the appropriate discipline for respondent's ethics infractions and we so determined. Two members did not participate.

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

Disciplinary Review Board
Mary J. Maudsley, Chair

By: Robyn M. Hill
Robyn M. Hill
Chief Counsel

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

In the Matter of Deborah A. Pierce
Docket No. DRB 03-077

Argued: April 17, 2003

Decided: June 17, 2003

Disposition: Reprimand

| <i>Members</i> | <i>Disbar</i> | <i>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 | | | | |
| <i>Total:</i> | | | 7 | | | | 2 |

Robyn M. Hill

Robyn M. Hill
Chief Counsel