

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 02-177

IN THE MATTER OF
PAUL PASKEY
AN ATTORNEY AT LAW

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Decision
Default [R. 1:20 4(f)]

Decided: October 22, 2002

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

Pursuant to R. 1:20-4(f), the District VI Ethics Committee (“DEC”) certified the record in this matter directly to us for the imposition of discipline, following respondent’s failure to file an answer to the formal ethics complaint.

The two-count complaint alleged that respondent neglected two matters.

On February 9, 2002 the DEC mailed a copy of the complaint by regular and certified mail to respondent’s office address at 1 West 8th Street, Bayonne, New Jersey 07002. The cover letter warned respondent that, if he did not timely file an answer, the matter would be

certified directly to us for the imposition of discipline. The certified mail receipt, bearing an illegible signature, indicated delivery on February 20, 2002. The regular mail was not returned.

On March 27, 2002 a second letter was sent to respondent advising him that, unless he filed an answer within five days of the date of the letter, the matter would be certified directly to us for the imposition of discipline. The letter was sent to the same address as the prior correspondence. The certified mail was returned marked "unclaimed." The regular mail was not returned.

Respondent did not answer the complaint.

Respondent was admitted to the New Jersey bar in 1983. On May 9, 2002 he was temporarily suspended from the practice of law on motion by the Office of Attorney Ethics ("OAE"), after the discovery of serious irregularities in his recordkeeping practices.

On October 23, 1998 respondent received an admonition for gross neglect, lack of diligence and failure to communicate with the client. In the Matter of Paul Paskey, Docket No. DRB 98-244 (October 23, 1998).

On September 18, 2002 the Supreme Court suspended respondent for three months in a default matter for gross neglect, failure to communicate with the client and failure to cooperate with disciplinary authorities. In re Paskey, N.J. (2002).

The first count of the complaint alleges that Louis Durando, the grievant, retained

respondent in connection with injuries sustained in a slip-and-fall accident. Although respondent filed suit in Durando's behalf, the complaint was dismissed on or about July 12, 1996 for failure to provide discovery.

In addition, Durando attempted to obtain information about his case on numerous occasions, at which times respondent misrepresented that the matter was proceeding apace. Four years later, on or about July 20, 2000, Durando met respondent at his office, at which time respondent attempted to give him \$20,000. Respondent told Durando that the funds represented a settlement of his claim. Respondent did not reveal to Durando that the matter had been dismissed years earlier.

The complaint alleges that respondent's conduct violated RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate with the client), RPC 1.8(3)(h), more properly RPC 1.8(h) (improper attempt to limit liability to a client for malpractice) and RPC 1.4(a) for respondent's "deceit and misrepresentation of facts," more properly a violation of RPC 8.4(c) (misrepresentation).

The second count of the complaint alleges that Jim Cristi, the grievant, retained respondent to represent him in a divorce action instituted by his wife. Respondent neglected to file an answer on his client's behalf, resulting in a judgment of divorce against Cristi. In addition, respondent ignored Cristi's requests for information about his case. The second count also alleges that respondent failed to cooperate with ethics authorities in the

investigation of this matter.

The complaint alleges 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 8.4(c) (misrepresentation) and RPC 1.20 (g) (3), more properly RPC 8.1(b) (failure to cooperate with ethics authorities).

* * *

Service of process was properly made. Following a review of the record, we found that the facts recited in the complaint support the charges 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).

In Durando, respondent violated RPC 1.1(a) and RPC 1.3 by neglecting the case and RPC 1.4(a) by failing to reply to Durando's requests for information about the case. In addition, respondent misrepresented the status of the case to Durando on numerous occasions, in violation of RPC 8.4(c). It is not clear from the complaint, however, that respondent attempted to obtain an agreement to limit his liability to his client for malpractice. Therefore, we dismissed the charge of a violation of RPC 1.8(h).

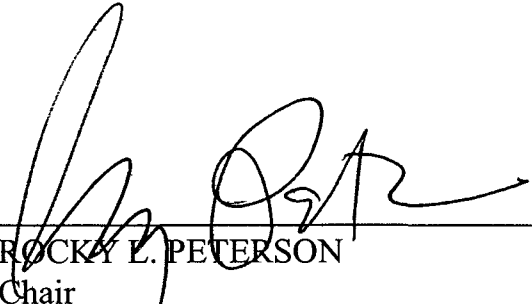
In Cristi, respondent violated RPC 1.1(a) and RPC 1.3 by his failure to answer the divorce complaint or otherwise protect his client's interests; RPC 1.4(a) by his failure to communicate with Cristi; RPC 1.1(b) by his gross neglect in this case and in his prior disciplinary matters; and RPC 8.1(b) by his failure to cooperate with ethics authorities.

Ordinarily, misconduct of this sort in default matters results in either a reprimand or a short-term suspension. See, e.g., In re Cubberly, 164 N.J. 532 (2000) (reprimand imposed in a default matter for pattern of neglect, lack of diligence and failure to cooperate with disciplinary authorities; two separate matters were involved; the attorney had been previously admonished in 1996 for failing to reply to the district ethics committee investigator's request for information); In re King, 157 N.J. 548 (1999) (three-month suspension imposed in a default matter for gross neglect, a pattern of neglect, lack of diligence, failure to communicate with the client and failure to cooperate with disciplinary authorities during the investigation of the case; the attorney had been previously reprimanded for gross neglect, pattern of neglect, lack of diligence, failure to communicate and failure to return an unearned fee); and In re Vnenchak, 156 N.J. 548 (1999) (three-month suspension imposed in a default matter for gross neglect, pattern of neglect, lack of diligence, failure to communicate, failure to expedite litigation, failure to cooperate with disciplinary authorities and misrepresentations to clients; the attorney had been temporarily suspended from the practice of law in New Jersey since September 1997 for failure to appear at the OAE's demand audit.)

This is respondent's second default matter. We voted to impose a three-month suspension for similar misconduct in the prior default. If the two defaults had been consolidated, harsher discipline would have been imposed. Therefore, we unanimously determined to impose a three-month suspension for respondent's conduct in this matter, to be served at the expiration of the three-month suspension in Docket No. DRB 02-092. One

member did not participate.

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



ROCKY L. PETERSON
Chair
Disciplinary Review Board

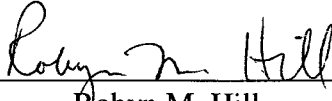
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Paul Paskey
Docket No. DRB 02-177

Decided: October 22, 2002

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>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

 10/24/02
 Robyn M. Hill
 Chief Counsel