

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 01-230

IN THE MATTER OF :
JOSEPH E. POVEROMO :
AN ATTORNEY AT LAW :

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

Decided: December 17, 2001

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

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

Respondent was admitted to the New Jersey bar in 1988. He maintains an office for the practice of law in Hackensack, New Jersey.

As of the date of this decision, a pending matter against him is awaiting the Court’s review.

* * *

On February 28, 2001, the DEC forwarded a copy of the complaint to respondent's office address by regular and certified mail. The certified mail receipt was returned with an illegible signature. The regular mail was not returned. On March 14, 2001, a second letter was sent to respondent by regular and certified mail, notifying him that, unless he filed an answer within five days, the record would be certified directly to us for the imposition of discipline. The certification is silent on how service of that letter was accomplished.

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

* * *

Respondent failed to file the annual attorney registration statement with the New Jersey Lawyers' Fund for Client Protection by the August 20, 1999 deadline. He was, therefore, declared ineligible to practice law by Order of the Court dated September 20, 1999. The complaint alleged that, by continuing to practice law after he was declared ineligible, respondent violated RPC 5.5(a). The complaint does not specify the acts that constituted the practice of law.

The complaint also charged that respondent violated RPC 8.1(b) (failure to cooperate with an ethics investigation) because he failed to reply to the DEC's "repeated demands for written information." Respondent had more than one and one-half months to submit a written reply to the DEC investigator and failed to do so.

Finally, the complaint charged that respondent violated RPC 8.4(a) (violation of the Rules of Professional Conduct) by his violations of RPC 5.5(a) and RPC 8.1(b).

* * *

Service of process was proper. Therefore, the matter may proceed as a default. Pursuant to R.1:20-4(f), the allegations of the complaint are deemed admitted. The complaint, however, does not contain sufficient facts to support the charge that respondent violated RPC 5.5(a). In fact, the complaint does not allege any facts to show that respondent practiced while ineligible.


As to the charge that respondent failed to cooperate with the DEC investigator, although respondent telephoned the investigator and provided an oral explanation that he misplaced the annual registration statement, he failed to address the specific charges in writing, as requested by the investigator. Despite a subsequent letter from the investigator, respondent did not supply the requested written reply. Therefore, there are sufficient facts to support the charge that he violated RPC 8.1(b). In this matter, the RPC 8.4(a) charge is merely derivative of the RPC 8.1(b) violation and does not affect the level of discipline.

Generally, an attorney's failure to cooperate with disciplinary authorities warrants an admonition or, if the matter proceeds as a default, a reprimand. See In the Matter of Robert P. Gorman, Docket No. DRB 94-437 (February 8, 1995) (admonition for failure to submit a written reply to the district ethics committee's request for information); In re Medinets,

164 N.J. 400 (1998) (reprimand, in a default matter, for failure to reply to the ethics investigator and failure to answer the complaint).

Because this matter proceeded as a default, we unanimously determined to reprimand respondent. Two members 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 Joseph E. Poveromo
Docket No. DRB 01-230**

Decided: December 17, 2001

Disposition: reprimand

Members	Disbar	Three-month 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:			7				2

Robyn M. Hill 12/20/01
Robyn M. Hill
Chief Counsel