

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 00-356

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

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

Decided: July 18, 2001

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

Pursuant to R. 1:20-4(f)(1), the District IIA 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.

Respondent was admitted to the New Jersey bar in 1988. He maintains a law office at 65 Route 4 East, River Edge, New Jersey. Respondent has no prior ethics history.

On May 23, 2000, the DEC forwarded a copy of the complaint to respondent's office address by certified and regular mail. The certified mail was returned as "unclaimed." The regular mail was not returned. Thereafter, on June 23, 2000, the DEC forwarded a second letter to respondent's office address by certified and regular mail. The certified mail was

returned as "unclaimed," the regular mail was not returned. A third letter was forwarded by the DEC to respondent at his office address advising him that, unless he filed an answer to the complaint within five days, the allegations of the complaint would be deemed admitted, pursuant to R. 1:20-6(c)(1) and R. 1:20-4(f).

Respondent did not file an answer to the complaint. The matter was certified directly to the Board for the imposition of discipline, pursuant to R. 1:20-4(f).

The complaint alleged that, in 1999, Diane K. Barone retained respondent to represent her in two personal injury actions. Respondent did not provide Barone with a copy of the retainer agreement. Barone was not kept adequately informed of the progress of the litigation: although she made numerous calls to respondent, she rarely spoke with him. She did not receive any correspondence from respondent concerning her case. Ultimately, when she did not hear from respondent, Barone settled one personal injury action on a *pro se* basis.

Respondent referred Barone to Hackensack Physical Therapy (HPT), a medical service provider. Later, HPT demanded payment for the medical services it rendered to Barone. Because respondent failed to answer HPT's demand for payment or issue a letter of protection, HPT recovered a judgment against Barone in the amount of \$1,984.00.

In addition, the complaint alleged that respondent failed to cooperate with the DEC investigation. On January 11, 2000, the presenter forwarded a letter and a copy of the grievance to respondent by certified and regular mail. On January 31, 2000, respondent

contacted the presenter and stated that he would reply to the grievance in writing within one week. Respondent failed to reply. On February 17, 2000, respondent promised in both a telephone message and a subsequent telephone conversation with the presenter that he would forward a written reply by February 21, 2000. When he did not receive a response, the presenter sent a third letter to respondent on March 6, 2000, demanding a reply. Respondent did not respond. The complaint charged respondent with violations of RPC 1.4,¹ RPC 8.1(b) (failure to cooperate with disciplinary authorities), RPC 1.1(a)² (gross neglect), RPC 1.3 (lack of diligence), and RPC 1.4³ (failure to communicate with the client).

* * *

Service of process was properly made in this matter. Following a review of the complaint, we found that the facts recited therein support a finding of unethical conduct. Because respondent failed to file an answer, the allegations of the complaint are deemed admitted. R. 1:20-4(f)(1).

Respondent violated RPC 8.1(b) by failing to respond to numerous demands for information from the DEC investigator, and by failing to file an answer to the complaint. However, the charged violation of RPC 1.4 in count one should be dismissed. This rule

¹The complaint does not cite a specific subsection.

²No subsection is specified. However, because the complaint does not charge a pattern of neglect, it is presumed that the intended charge was RPC 1.1(a).

³The complaint does not cite a specific subsection.

relates exclusively to communications between the attorney and the client and does not encompass failure to communicate with disciplinary authorities.

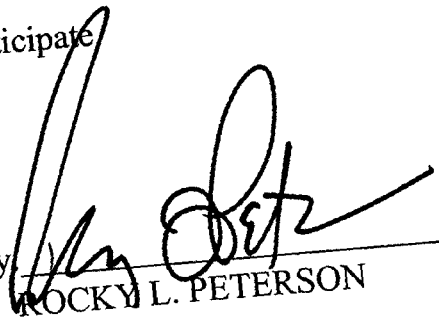
As to count two, respondent did violate RPC 1.4(a) by failing to keep Barone adequately informed about the status of her matters. Respondent also violated RPC 1.1(a) and RPC 1.3 by agreeing to represent Barone in two matters and failing to do any work. As a result, in one matter, Barone settled the case *pro se* and, in the other, a judgment was entered against Barone.

Conduct involving gross neglect, lack of diligence, failure to communicate with the client and failure to cooperate with disciplinary authorities has generally resulted in an admonition. In the Matter of Gerald Nunin, Docket No. DRB 98-263 (admonition for gross neglect, lack of diligence, failure to communicate with the client, failure to maintain a bona fide office and failure to cooperate with disciplinary authorities); In the Matter of Paul Paskey, Docket No. DRB 98-244 (admonition for gross neglect, lack of diligence and failure to communicate with the client). Where, however, the attorney has defaulted in the ethics proceeding, a reprimand is generally appropriate. In re Gruber, 152 N.J. 451 (1998) (reprimand in a default case involving gross neglect, lack of diligence, failure to communicate with the client and failure to cooperate with disciplinary authorities); In re Lampidis, 153 N.J. 367 (1998) (reprimand in a default case for gross neglect, lack of diligence, failure to communicate with the client and failure to cooperate with disciplinary authorities).

Because of the default posture of this matter, we unanimously determined to impose a reprimand.

We further direct that respondent reimburse the Disciplinary Oversight Committee for administrative costs. Two members did not participate

Dated: July 18 2001

By: 
ROCKY L. PETERSON
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

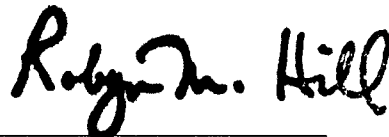
*DISCIPLINARY REVIEW BOARD
VOTING RECORD*

**In the Matter of Joseph E. Poveromo
Docket No. DRB 00-356**

Decided: July 18, 2001

Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hyerling			X				
Peterson			X				
Boylan							X
Brody			X				
Lolla							X
Maudsley			X				
O'Shaughnessy			X				
Schwartz			X				
Wissinger			X				
Total:			7				2



Robyn M. Hill
Chief Counsel