

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 04-189
District Docket No. IIA-03-009E

IN THE MATTER OF
JOSEPH POVEROMO
AN ATTORNEY AT LAW

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

Decided: August 16, 2004

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 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.
According to the complaint, at the relevant times, he maintained
a law office in Paramus, New Jersey.¹

¹ Respondent's earlier ethics matters indicated that his office
was located in Hackensack, New Jersey.

Respondent's ethics history is significant. It includes four default matters and one motion for final discipline, at which he failed to appear for oral argument.

Respondent was reprimanded in 2002, his first default, for gross neglect, lack of diligence, failure to communicate with a client, and failure to cooperate with ethics authorities. In re Poveromo, 170 N.J. 625 (2002). In that same year, he was reprimanded for failure to cooperate with ethics authorities, and for violations of the Rules of Professional Conduct. In re Poveromo, 170 N.J. 627 (2002).

In 2003, on a motion for final discipline filed by the Office of Attorney Ethics, the Court imposed yet another reprimand for respondent's conviction for contempt (violating a restraining order in a domestic relations matter). In re Poveromo, 176 N.J. 507 (2003). Respondent received a three-month suspension for misconduct in two cases, including gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, failure to reply to a reasonable request for information from a disciplinary authority, and a violation of the Rules of Professional Conduct. In re Poveromo, 176 N.J. 508 (2003). Finally, respondent received an additional three-month suspension, effective September 25, 2003, for gross neglect, pattern of neglect, lack of diligence, failure to communicate with a client, failure to take steps reasonably practicable to

protect a client's interest on termination of the representation, failure to cooperate with disciplinary authorities, and a violation of the Rules of Professional Conduct. In re Poveromo, 178 N.J. 262 (2003).

On November 12, 2003, the DEC mailed a copy of the complaint to respondent at 307 Prospect Avenue, Hackensack, New Jersey 07601, by regular and certified mail, return receipt requested. The certified mail was returned unclaimed; the regular mail was not returned. Respondent did not file an answer.

On March 16, 2004, the DEC forwarded a second letter to respondent, giving him an additional five days to file an answer, and notifying him that, if he failed to do so, the matter would be certified directly to us for the imposition of sanction. The certification of the record stated that the certified mail was returned unclaimed, but it failed to mention whether a copy of the March 16, 2004 letter was sent to respondent by regular mail. Respondent did not file an answer.

The eight-count complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.1(b) (pattern of neglect), RPC 1.3 (lack of diligence), RPC 1.4 presumably (a) (failure to reply to client's reasonable requests about the status of the matter and to promptly reply to requests for information), RPC 1.15(b) (failure to promptly deliver to a

client funds to which he was entitled), RPC 1.16(b) (protecting a client's interest upon termination of representation and failure to refund to a client an unearned fee), RPC 3.2 (failure to expedite litigation), RPC 8.1, presumably (b) (failure to reply to a lawful demand for information from a disciplinary authority), and RPC 8.4, presumably (a) (violating the Rules of Professional Conduct).

In November 2002, Eddie Moya retained respondent to file an answer to a divorce complaint. From the time he was retained, respondent took no action on Moya's behalf.

Over a five-month period, Moya tried to communicate with respondent by leaving him numerous telephone messages. Respondent failed to reply to the messages. Finally, in March 2003, Moya retained new counsel.

The DEC investigator sent a copy of Moya's grievance to respondent by regular and certified mail, requesting a reply. The regular mail was not returned; respondent signed the certified mail receipt card on April 17, 2003. He did not, however, submit a reply to the grievance.

The complaint charged that respondent's failure to take any action on Moya's behalf for a five-month period violated RPC 1.1(a), RPC 1.1(b), RPC 1.3, and RPC 3.2; that his failure to file an answer to the divorce complaint violated RPC 1.16(d) because he failed to protect Moya's interests; that he failed to

keep Moya reasonably informed about the status of the matter, and failed to promptly reply to his reasonable requests for information, violating RPC 1.4; that by failing to complete the legal work he agreed to perform, and by failing to return any unearned portion of the \$1,000 fee, respondent violated RPC 1.15(b) and RPC 1.16(d); that his failure to respond to a lawful demand for information violated RPC 8.1; and that the sum total of these ethics infractions violated RPC 8.4.

Service of process was properly made. The complaint contains sufficient facts to support a finding of unethical conduct. Because of respondent's failure to file an answer to the complaint, we deem the allegations admitted. R. 1:20-4(f).

We find that respondent's failure to take any action on Moya's behalf for approximately five months violated RPC 1.1(a), RPC 1.3, and, since the divorce litigation had already started, RPC 3.2. As to the charge of a violation of RPC 1.1(b) (pattern of neglect), we have considered respondent's conduct here, with his gross neglect and pattern of neglect in his earlier disciplinary matters, and find a pattern of neglect here as well.

We further find that respondent violated RPC 1.4(a), by failing to keep his client apprised about the status of the matter and by failing to reply to his numerous telephone messages, and RPC 1.16(d) (failure to refund an unearned fee).

The complaint charged that respondent's failure to return Moya's \$1,000 violated RPC 1.15(b) (a lawyer shall promptly deliver to the client funds that the client is entitled to receive). We dismiss the charge of a violation of RPC 1.15(b) because RPC 1.16(d) more properly addresses respondent's conduct.

Finally, we find that respondent's failure to reply to the grievance violated RPC 8.1(b), and that the totality of respondent's ethics infractions violated RPC 8.4(a).

One additional point deserves mention. This matter occurred shortly after respondent's conduct in a prior matter (In re Poveromo, 178 N.J. 262 (2003)). In that matter, respondent was retained in March 2000 to file a divorce complaint. As of May 24, 2002, when the client filed a grievance, respondent had not refunded the retainer or performed any work in the matter. Here, respondent was retained in November 2002, approximately six months after the grievance in the prior matter was filed. Obviously, then, respondent did not learn from his prior mistakes and continues to ignore the entire ethics process.

The only issue left for determination is the proper discipline. Discipline imposed in default matters involving similar violations has ranged from a three-month to a one-year suspension, depending on, among other things, the attorney's ethics history. See In re Hoffman, 163 N.J. 4 (2000) (three-month suspension where attorney neglected four client matters,

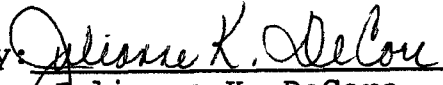
closed his law practice but failed to advise his clients to find new counsel, failed to protect their interests upon termination of the representation, and failed to cooperate with disciplinary authorities; the attorney had a prior reprimand and three-month suspension); In re Cubberley, 178 N.J. 103 (2003) (six-month suspension where the attorney accepted a \$2,000 retainer to obtain a site plan approval for his client, failed to communicate with her, and failed to return her retainer; his misconduct included gross neglect, lack of diligence, failure to communicate with the client, and failure to cooperate with disciplinary authorities; his ethics history included an admonition, two reprimands, a temporary suspension for failing to cooperate with the attorney designated to supervise his practice, a three-month suspension, and a six-month suspension); In re Annenko, 167 N.J. 603 (2001) (six-month suspension where attorney accepted a fee to file a motion to reopen a bankruptcy petition, then did no work on the file, failed to refund the retainer, and failed to keep her client informed about the status of the matter; the attorney had two private reprimands, a temporary suspension for failure to comply with a fee arbitration award, a three-month suspension, and a six-month suspension); and In re Page, 165 N.J. 512 (2000) (one-year suspension where attorney accepted a fee, but failed to give the client a retainer agreement, took no further action on the

client's behalf, refused to talk with her when she inquired about the status of the matter, and failed to cooperate with disciplinary authorities; the attorney's ethics history included an admonition, a reprimand, a three-month suspension, and a six-month suspension).

This is respondent's sixth disciplinary matter, five of which involved client matters. One of the most troubling aspects of respondent's conduct is that he continues to ignore the disciplinary process. Therefore, although this case involved only one client matter, we find that a one-year consecutive suspension is warranted. We also condition respondent's reinstatement to the practice of law on the resolution of all ethics matters currently pending against him. Robert C. Holmes, Esq. did not participate.

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

Disciplinary Review Board
Mary J. Maudsley, Chair

By: 
Julianne K. DeCore
Chief Counsel

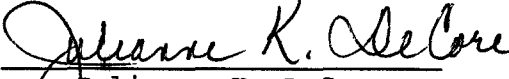
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Joseph Poveromo
Docket No. DRB 04-189

Decided: August 16, 2004

Disposition: One-year suspension

Members	Disbar	One-year Suspension	Reprimand	Disqualified	Did not participate
Maudsley		X			
O'Shaughnessy		X			
Boylan		X			
Holmes					X
Lolla		X			
Pashman		X			
Schwartz		X			
Stanton		X			
Wissinger		X			
Total:		8			1



Julianne K. DeCore
Chief Counsel