

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. 00-366

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IN THE MATTER OF  
ANTHONY C. NWAKA  
AN ATTORNEY AT LAW

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

Decided: December 10, 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 VB 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 1992. He maintains a law office at 280 South Harrison Street, Suite 304, East Orange, Essex County, New Jersey.

In 1996, respondent conceded to a violation of RPC 1.15(b) and entered into an agreement in lieu of discipline, which was completed in 1997. In the Matter of Anthony C. Nwaka, District Docket No. VB-95-035E. In that case, respondent failed to record a

mortgage and pay title fees for ten months.

On August 21, 2000, the DEC forwarded a copy of the complaint to respondent at his office address by certified and regular mail. The certified mail receipt, dated August 22, 2000, was returned, signed by an individual named Guildine. The regular mail was not returned. Respondent did not file an answer.

On September 28, 2000, the DEC forwarded a second copy of the complaint to respondent's office address, advising him that, unless he filed an answer 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). The certified mail receipt of the second letter, dated September 29, 2000, was returned, signed by an individual named D. Batson. The regular mail was not returned.

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

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The first count of the complaint alleges that, on or about October 18, 1996, Adolfo Noguerras retained respondent to represent him in a personal injury action against his landlords. Respondent filed suit on behalf of Noguerras sometime in 1997. Beginning in May 1998, and continuing for eighteen months, Noguerras repeatedly attempted to obtain information from respondent about the status of his case. Respondent repeatedly failed to

reply to Nogueras' inquiries.

On an unknown date, between May and November 1998, respondent rejected defendants' offer for a \$500 settlement without conveying the terms of the offer to Nogueras. Respondent advised Nogueras thereafter that he had turned down the \$500 offer. Later, in April 1999, Nogueras instructed respondent to accept the \$500 offer of settlement. However, by that time, unbeknownst to Nogueras, the matter had been dismissed.

On November 19, 1998, summary judgment was entered in favor of the defendants. Respondent did not inform Nogueras about the summary judgment until November 2, 1999, despite numerous inquiries from Nogueras about the status of the case.

In four separate letters, dated May 12, June 9, June 19, and June 30, 2000, the DEC asked respondent for information about his representation of Nogueras. Respondent failed to reply.

The complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.4(a) (failure to communicate with the client) and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

\* \* \*

Service of process was properly made in this matter. Following a review of the complaint, we find that the facts recited therein 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).

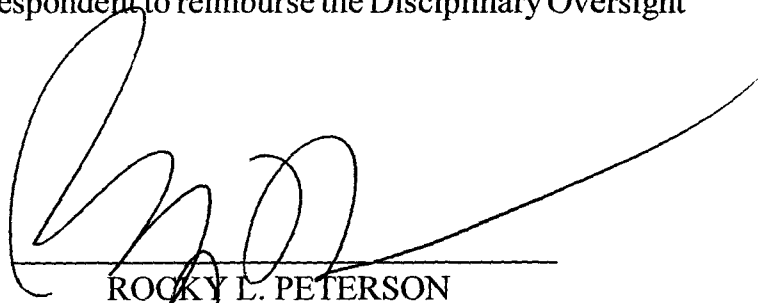
Respondent clearly violated RPC 1.4(a) by failing to inform Nogueras about the status of the case, the settlement offer and the summary judgment. In fact, respondent's conduct goes beyond a failure to inform and supports a finding of gross neglect, in violation of RPC 1.1(a).

Lastly, respondent violated RPC 8.1(b) by failing to reply to the DEC's requests for information about the grievance. Respondent's conduct towards the DEC investigator mirrors his actions (or inactions) toward his client: he ignored the inquiries for as long as possible, and was less than forthcoming when he ultimately replied. In his only correspondence to the investigator, filed after four written inquiries from the investigator, respondent stated that his reply had been drafted and would be forwarded in several days. Respondent did not communicate further with the investigator.

We found no mitigating factors in this record. We did, however, find several aggravating factors; specifically, respondent's prior disciplinary diversion and the fact that this matter is proceeding as a default. On that basis, while under some circumstances a reprimand might be considered adequate discipline, see e.g. In re Gruber, 152 N.J. 451 (1998) (reprimand for, inter alia, failure to communicate and failure to cooperate), enhanced discipline is required here. We, therefore, unanimously determined to impose a three-month suspension. In re Herron, 162 N.J. 105 (1999); In re Banas, 157 N.J. 18 (1999).

Two members did not participate.

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

A handwritten signature in black ink, appearing to read 'R. Peterson', written over a horizontal line.

ROCKY L. PETERSON  
Chair  
Disciplinary Review Board

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**SUPREME COURT OF NEW JERSEY**

**DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

**In the Matter of Anthony C. Nwaka  
Docket No. DRB 00-366**

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**Decided: December 10, 2001**

**Disposition: three-month suspension**

| Members       | Disbar | Three-month 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                      |           |            |         |              |                     |
| <b>Total:</b> |        | 7                      |           |            |         |              | 2                   |

*Robyn M. Hill 12/10/01*  
**Robyn M. Hill  
Chief Counsel**