

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 04-043

IN THE MATTER OF :
 :
MICHAEL L. BLOCK :
 :
AN ATTORNEY AT LAW :

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

Decided: May 4, 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 IIIB 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.

On December 22, 2003, the DEC secretary sent a copy of the
complaint to respondent by certified and regular mail to his
last known office address. The certified mail was returned
"Unclaimed." The secretary's certification is silent as to the
regular mail; presumably, it was not returned. On January 14,
2004, the secretary sent a second letter to respondent, advising
him that, if he failed to file an answer within five days, the

charges would be deemed admitted, and the record would be certified to us for the imposition of sanction. The letter further served to amend the complaint to charge respondent with a violation of RPC 8.1(b), for failure to file an answer. The letter was sent to respondent by certified mail to 18 Galloping Hill Road, Cherry Hill, New Jersey 08003. The certified receipt indicates delivery to respondent or his agent. (The signature is not clear but may contain the name Block.) Respondent did not file an answer to the complaint.

Respondent filed a motion to vacate the default in this matter. A motion to vacate must meet a two-prong test. The attorney must present a meritorious defense to the underlying charges and a plausible explanation for failing to answer the complaint. Respondent attributed his failure to file an answer to depression and an inability to reply to correspondence from disciplinary authorities. As to the other prong of the test, a meritorious defense to the charges, we determine that respondent failed to meet this prong of the test and proceed with the review of this matter on a default basis.

Respondent was admitted to the New Jersey bar in 1990. He maintains an office in Burlington, Burlington County. He was temporarily suspended by order dated 4/19/04, for failure to

comply with the determination of the District IIIB Fee Arbitration Committee.

On April 13, 2001, John Petteway retained respondent to petition the United States Department of Justice, Immigration and Naturalization Service ("INS") for residency, on behalf of Petteway's fiancée, Nicole Natasha Welch. At the time, Welch was residing in the United States under a tourist visa. During their initial meeting, respondent told Petteway that his fee would be \$1,500, and insisted on payment in cash. Petteway paid respondent \$500 in cash. Also at that meeting, Petteway asked respondent to file the appropriate paperwork to obtain a temporary work permit for Welch, until she received her green card. Thereafter, in late April 2001, respondent submitted a notice of appearance, petition for alien fiancée and a \$110 check to the INS in Petteway's behalf.

According to a June 5, 2001 letter from respondent to Petteway, it was agreed by the parties that his fee would be \$1,500 to file all necessary paperwork, and to attend the initial INS interview. The letter also stated that it had been agreed that all reasonable and necessary costs incurred would be Petteway's responsibility.

In September 2001, respondent's office received a notice from the INS indicating that the application filed in Welch's

behalf was being returned because he had submitted the incorrect filing fee. The notice stated that the petition should be resubmitted with the correct filing fee. Respondent contended that, when the petition was returned by the INS, it was not reviewed by him, and was accidentally misplaced in his office. According to the investigative report, respondent contended that he did not discover the returned petition until after he had received Petteway's grievance. Respondent also told the investigator that he made no calls to the INS about the status of the petition.

Over the next year and a half, Petteway made numerous inquiries of respondent about the status of Welch's application. Respondent provided Petteway with several reasons for the delay in processing the application, specifically: the INS was processing numerous applications due to pending changes in the immigration laws; there was an asbestos problem in an INS storage building; there was a fire in an INS warehouse; and the INS lost the petition.

Petteway also inquired of respondent about the temporary work permit for Welch, and was told, among other things, that the INS lost the application.

As of the date of the complaint, July 7, 2003, respondent had not obtained a temporary work permit or a green card for Welch.

The complaint charged respondent with a violation of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence) and RPC 1.4 (failure to communicate with client).

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).

Respondent contended that he had been unaware that the INS returned the application he filed in Welch's behalf until after Petteway filed his October 2002 grievance. Upon receiving his client's inquiries about the status of the application, however, he should have been prompted to action. Even accepting respondent's statement as true, he should have made inquiries into the application's status when apparently there had been no progress in the proceeding. Respondent's submission of an incorrect filing fee with the petition was not unethical. His failure to correct his mistake, however, in the face of evidence that something was amiss with the application, constituted gross neglect and lack of diligence.

Furthermore, by failing to look into the status of the INS application, respondent was unable to keep his client accurately informed about its status. Rather, he provided a series of excuses for the delay, with no investigation on his own part.

Discipline ranging from an admonition to a reprimand is generally appropriate when an attorney is guilty of gross neglect, lack of diligence, and failure to communicate in one or several matters. See, e.g., In the Matter of Paul Paskey, DRB 98-244 (October 23, 1998) (admonition imposed where the attorney exhibited gross neglect, lack of diligence, and failure to communicate with the client by twice allowing a complaint to be dismissed, failure to apprise the client of the dismissal of the complaint, and failure to reply to the client's numerous requests for information); In the Matter of Ben W. Payton, DRB 97-247 (October 27, 1998) (admonition imposed where the attorney exhibited gross neglect, lack of diligence, and failure to communicate with the client; after filing a complaint four days after the expiration of the statute of limitations, the attorney allowed it to be dismissed for lack of prosecution, and never informed his client of the dismissal); In re Gruber, 152 N.J. 451 (1998) (reprimand in a default matter for an attorney who, in a tax foreclosure matter, engaged in gross neglect, lack of diligence, failure to communicate with the client, and failure


to cooperate with disciplinary authorities); and In re Hamilton, 147 N.J. 459 (1997) (reprimand for lack of diligence, failure to keep a client reasonably informed about the status of the matter, and failure to cooperate with disciplinary authorities).

This matter could warrant either an admonition or a reprimand. We are persuaded that a reprimand is the more appropriate discipline because respondent took no action to ascertain the status of the petition, and instead gave his client a series of excuses for the delay. In addition, he allowed this matter to proceed as a default.

Two members did not participate.

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

Disciplinary Review Board
Mary J. Maudsley, Chair

BY: 
Julianne K. DeCore
Chief Counsel

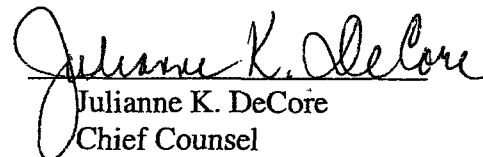
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Michael L. Block
Docket No. DRB 04-043

Decided: May 4, 2004

Disposition: Reprimand

<i>Members</i>	<i>Disbar</i>	<i>Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Maudsley</i>			X				
<i>O'Shaughnessy</i>			X				
<i>Boylan</i>			X				
<i>Holmes</i>							X
<i>Lolla</i>			X				
<i>Pashman</i>			X				
<i>Schwartz</i>							X
<i>Stanton</i>			X				
<i>Wissinger</i>			X				
Total:			7				2


Julianne K. DeCore
Chief Counsel