

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 01-361

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IN THE MATTER OF  
ERIC M. D. LEVANDE  
AN ATTORNEY AT LAW

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Decision

Argued: November 15, 2001

Decided: January 4, 2002

Richard J. Engelhardt appeared on behalf of the Office of the Attorney Ethics.

Respondent waived appearance for oral argument.

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

This matter was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (“OAE”), based on an April 2, 2001 decision by the Supreme Court of Pennsylvania suspending respondent for one year and one day.

Respondent was admitted to the New Jersey bar in 1987 and has no prior discipline. He failed to notify the OAE of his Pennsylvania suspension, as required by R.1:20-14(a) (1).

The OAE discovered the suspension during a routine search of recent Pennsylvania disciplinary cases.

Respondent's suspension was based on findings of violations of the following RPCs: RPC 1.1(gross neglect), RPC 1.3(lack of diligence), RPC 1.4(a) (failure to communicate); RPC 1.15(recordkeeping), RPC 1.16(d) (improper termination of representation) and RPC 8.4(d) (conduct prejudicial to the administration of justice).

Respondent's misconduct was summarized by the Disciplinary Board of the Supreme Court of Pennsylvania in its February 2, 2001 decision, upon which the Supreme Court of Pennsylvania's Order of suspension was based:

This matter is before the Disciplinary Board on a Petition for Discipline charging Respondent with eight counts of misconduct relating to lack of diligence and failure to communicate with clients and one count of improper handling of client funds. The parties entered into an extensive Stipulation of Facts and Documents which was presented to the Hearing Committee prior to the first hearing.

The evidence of record shows an extensive pattern of misconduct by Respondent during the time period of 1996 and 1997. During this time, Respondent ran a high volume, low cost legal practice consisting of bankruptcy, divorce, and some criminal matters. Respondent's main office for the practice of law was in Scranton, with satellite offices in Stroudsburg, Allentown, and Bloomsburg. Although Respondent had paralegal help in the main office, he did not have personnel to staff the satellite offices. Respondent spent one day each week at each of the satellite offices. Respondent's misconduct appears to arise from the over extension of his practice in terms of case load and geographic scope of representation and his inability to keep abreast of this workload.

Respondent's misconduct is similar in each of the charges against him. Clients requested him to file bankruptcy petitions or divorce complaints. He failed to timely file the documents, and when he finally did, they often contained inaccuracies or failed to include pertinent information. Respondent's clients had difficulty communicating with him. In fact, at the inception of the representation, Respondent gave each client a form that stated his office would not answer legal questions over the phone nor would it return phone calls. This was extremely frustrating to the clients.

Respondent also failed to maintain financial records and client accounts. This was a result of quite sloppy bookkeeping on Respondent's part. Respondent's basic problem was his practice of collecting sums which represented payment in part for fees and in part for court costs, and depositing these sums in his own account while the matters were pending, then transferring funds into the trust account when needed. Respondent failed to clearly describe the basis of his fee, such as whether it was a flat or hourly fee, thus intensifying his record-keeping problems.

The Hearing Committee concluded that Respondent's actions constituted violations of Rules of Professional Conduct 1.1., 1.3, 1.4(a), 1.15(a), (b) and (d), 1.16(d), and 8.4(d).

After finding violations of the Rules, the Hearing Committee recommended a suspension of one year followed by a period of probation for two years. Aggravating factors considered by the Committee were Respondent's history of discipline, consisting of two informal admonitions, and Respondent's attitude during the hearing. The Committee found that Respondent, in attempting to explain himself, often placed blame for his filing delays on his clients, claiming that they moved around a lot, did not communicate with him and constantly added creditors. The Committee is correct in that the record simply does not support a finding that the actions of Respondent's clients contributed substantially to his misconduct. Certainly Respondent's tendency to apportion blame to his clients instead of accepting responsibility for his actions demonstrates he does not fully comprehend the extent of his misconduct nor is he remorseful. In mitigation the Committee considered Respondent's health and marital problems, as well as

his decision to scale back his law practice in recognition of these difficulties.

[Exhibit B 32-36]

The OAE argued for the imposition of a one-year suspension, the same period imposed by the Pennsylvania disciplinary authorities.

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Upon a de novo review of the full record, we determined to grant the OAE's motion. We adopted the findings of the Supreme Court of Pennsylvania that respondent was guilty of gross neglect, lack of diligence and failure to communicate with clients, recordkeeping violations and conduct prejudicial to the administration of justice.

Reciprocal disciplinary proceedings in New Jersey are governed by R.1:20-14(a)(4), which states as follows:

. . . The Board shall recommend imposition of the identical action or discipline unless the Respondent demonstrates, or the Board finds on the face of the record upon which the discipline in another jurisdiction was predicated that it clearly appears that:

(A) the disciplinary or disability order of the foreign jurisdiction was not entered;

(B) the disciplinary or disability order of the foreign jurisdiction does not apply to the Respondent;

(C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;

(D) the procedure followed in the foreign matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

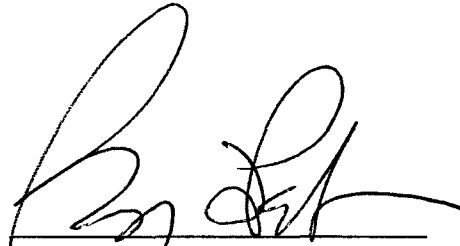
(E) the misconduct established warrants substantially different discipline.

A review of the record does not reveal any conditions that would fall within the ambit of subparagraphs (A) through (E).

In New Jersey, similar misconduct has often resulted in the imposition of a one-year suspension. See, e.g., In re Namias, 164 N.J. 310 (2000) (one-year suspension for gross neglect and pattern of neglect in four cases, misrepresentation to the client that one of the matters was proceeding after it had already been dismissed and recordkeeping violations; the attorney also negligently misappropriated and failed to safeguard clients' funds); In re Lawnick, 162 N.J. 113 (1999) (one-year suspension for gross neglect in a series of six matters; the attorney agreed to represent clients, then did nothing more; in five of the matters the attorney accepted retainers and undertook no action on behalf of the client; the attorney also failed to communicate with his clients and, in every matter, refused to cooperate with the disciplinary investigation); and In re Abdallah, 156 N.J. 551 (1999) (one-year suspension for gross neglect, lack of diligence, failure to communicate with clients, failure to return unearned retainers and failure to cooperate with disciplinary authorities). We unanimously determined that the imposition of a one-year prospective suspension, essentially the same

period meted out by the Pennsylvania authorities, is sufficient to address respondent's transgression. One member did not participate.

We also required respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

A handwritten signature in black ink, appearing to read 'Rocky L. 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 Eric M. D. Levande  
Docket No. DRB 01-361


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Decided: January 4, 2002

Disposition: one-year suspension

| <i>Members</i>       | <i>Disbar</i> | <i>One-year<br/>Suspension</i> | <i>Reprimand</i> | <i>Admonition</i> | <i>Dismiss</i> | <i>Disqualified</i> | <i>Did not<br/>participate</i> |
|----------------------|---------------|--------------------------------|------------------|-------------------|----------------|---------------------|--------------------------------|
| <i>Peterson</i>      |               | X                              |                  |                   |                |                     |                                |
| <i>Maudsley</i>      |               | X                              |                  |                   |                |                     |                                |
| <i>Boylan</i>        |               | X                              |                  |                   |                |                     |                                |
| <i>Brody</i>         |               | X                              |                  |                   |                |                     |                                |
| <i>Lolla</i>         |               | X                              |                  |                   |                |                     |                                |
| <i>O'Shaughnessy</i> |               | X                              |                  |                   |                |                     |                                |
| <i>Pashman</i>       |               | X                              |                  |                   |                |                     |                                |
| <i>Schwartz</i>      |               |                                |                  |                   |                |                     | X                              |
| <i>Wissinger</i>     |               | X                              |                  |                   |                |                     |                                |
| <b>Total:</b>        |               | 8                              |                  |                   |                |                     | 1                              |

 2/6/02  
Robyn M. Hill  
Chief Counsel