

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 01-422

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IN THE MATTER OF  
JOHN D. LYNCH  
AN ATTORNEY AT LAW

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Decision

Argued: February 7, 2002

Decided: April 30, 2002

Kenneth J. Fost appeared on behalf of the District VC Ethics Committee.

Brian J. Neary appeared on behalf of respondent.

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

This matter was before us based on a recommendation for discipline filed by the District VC Ethics Committee ("DEC").

Respondent was admitted to the New Jersey bar in 1981. He has no history of discipline.

Here, in two separate ethics matters, formal complaints alleged that respondent grossly neglected several client matters, failed to communicate with the clients and failed to

cooperate with ethics authorities in the investigation of the matters.

Respondent filed answers to the complaints, partially denying the allegations and offering affirmative defenses for his actions. At the beginning of the DEC hearing, however, he withdrew both answers and stipulated all of the facts and alleged misconduct cited in the complaints. With no contested issues before it, the DEC determined to forego most of the planned testimony, allowing only brief statements from the grievants, who were present and prepared to testify about their matters.

I. The Estrella Matter - District Docket No. VC-00-19E

A three-count complaint alleged that respondent grossly neglected several matters for Felix Estrella and Maria C. Rivera. As to the first count of the complaint, respondent stipulated as follows:

1. Prior to February 1998, Respondent was retained by Felix Estrella and Maria C. Rivera (hereinafter Estrella) in connection with the purchase of real property located in Teaneck, New Jersey.
2. The closing on the Title took place on February 28, 1998.
3. In November 1999, Estrella learned that the Deed and Mortgage had not been sent for recording by Respondent.
4. Between November of 1999 through August 11, 2000, Respondent failed to respond to inquiries made of him by Estrella in connection with the failure to record the Deed and Mortgage.
5. A representative of the Mortgage Company wrote and telephoned Respondent on numerous occasions, advising that the original closing documents (Deed and Mortgage) had not been recorded and the Title Policy not received.
6. On September 19, 2000, Respondent mailed to Estrella the original recorded Deed, stamped recorded in Bergen County on August 11, 2000.

Respondent admitted that his failure to promptly record the deed and mortgage constituted gross neglect and lack of diligence, in violation of RPC 1.1(a) and RPC 1.3. Respondent also admitted that his failure to reply to Estrella's requests for information about his case was a violation of RPC 1.4(a).

With regard to the second count of the complaint, respondent stipulated the following:

1. Prior to December 1999, Respondent was retained by Estrella in connection with what was alleged to be negligent repair of Estrella's motor vehicle.
2. In connection with that representation, Respondent instituted litigation against the repairer of the motor vehicle in the Superior Court of New Jersey, Hudson County, HUD-L-003515-99.
3. At Respondent's request, Estrella appeared in Court on December 6, 1999 for an Arbitration Hearing. In court, Respondent advised Estrella that the Hearing had been cancelled and that Respondent had forgotten to inform Estrella.
4. In late 1999, Estrella learned that the case had been dismissed by the Court.
5. Respondent informed Estrella that the case had been dismissed because Defendant was bankrupt.
6. Respondent failed to respond to Estrella's multiple requests for information and status and failed to return telephone calls from Estrella.

Respondent admitted that his conduct in this matter violated RPC 1.1(a), RPC 1.3 and RPC 1.4(b).<sup>1</sup>

As to the third count in Estrella, respondent admitted the following:

1. On or about April 25, 2000, Estrella filed an Attorney Ethics Grievance Form (the Grievance) with the District Ethics Committee for Hudson

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<sup>1</sup>RPC 1.4(a) (failure to communicate with client) is the more applicable rule to the within facts.

County, District VI.

2. The Grievance was assigned to the District VC Ethics Committee on May 10, 2000.
3. On September 13, 2000, an Investigator for the District VC Ethics Committee sent a copy of the Grievance to Respondent with a request that the Respondent make a full, candid and complete disclosure of all facts reasonably within the scope of the transactions set forth in the Grievance, within ten days.
4. Respondent failed to respond to the investigator's request.

Respondent admitted that his failure to cooperate with ethics authorities during the investigation violated RPC 8.1(b) and R. 1:20-3(g) (3).

II. The Dongaro Matter<sup>2</sup> - District Docket No. VC-00-028E

In Dongaro, respondent admitted the following:

1. In 1998, Respondent was retained by Joseph Dongaro in connection with the purchase of real property at 221 Brunswick Street, Jersey City, New Jersey. Subsequent to the closing of title, Grievant learned that taxes due prior to the closing had not been paid, and a tax lien had been placed on the property. Grievant made between 7 and 10 telephone calls to Respondent for assistance and information. Respondent failed to respond to Grievant's inquiries. Grievant subsequently satisfied the tax lien by paying the back taxes, plus penalties and interest.
2. On June 30, 1997, Respondent was retained to represent Grievant in connection with the purchase of real property at 106 Adams Street, Hoboken, New Jersey. Subsequent to the closing of title, Grievant received notice that there had been an added assessment for taxes on the property made prior to closing and apparently not included in the tax search. Grievant made numerous calls to Respondent for assistance and information, none of which were responded to. Grievant sought, inter alia, Respondent's assistance in having the sellers pay this debt. Grievant ultimately had to retain another attorney to resolve the issue.

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<sup>2</sup>Also mentioned in the record as "Donargo."

3. In 1998, Grievant retained Respondent in connection with the purchase of real property at 362 8th Street, Jersey City, New Jersey. Grievant did not receive a copy of the Deed and subsequently learned that the Deed had not been recorded by the County Clerk. Grievant made multiple telephone calls to Respondent for information or an explanation. Respondent did not reply to Grievant's requests.
4. On August 4, 2000, an Investigator from District XII Ethics Committee wrote to Respondent advising Respondent of the Grievance filed, provided Respondent with a copy of the Grievance and requested that Respondent provide a written response within ten (10) days. Respondent failed to respond to the letter of August 4, 2000 and failed to respond to four follow-up telephone calls.
5. On October 24, 2000, an Investigator from the District VC Ethics Committee wrote to Respondent advising Respondent of the Grievance filed, provided Respondent with a copy of the Grievance and requested that Respondent provide a written respond [sic] within ten days. Respondent failed to respond to the letter of October 24, 2000 and failed to respond to a follow-up telephone call.

Respondent admitted that his misconduct in the Dongaro matters violated RPC 1.3, as well as RPC 1.4(a) and (b). Moreover, respondent acknowledged that his failure to cooperate with ethics authorities in the investigation of the matter violated RPC 8.1(b).

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In Estrella, the DEC found violations of RPC 1.1(a), RPC 1.3, RPC 1.4(b) and RPC 8.1(b). In Dongaro, the DEC found violations of RPC 1.3, RPC 1.4(a) and (b) and RPC 8.1(b). The DEC recommended the imposition of a reprimand and the requirement that respondent be supervised by a proctor.

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Upon a de novo review of the record, we are satisfied that the DEC's conclusion that respondent was guilty of unethical conduct is supported by clear and convincing evidence.

In Estrella, respondent stipulated violations of RPC 1.1(a), RPC 1.3, RPC 1.4(b)<sup>3</sup> and RPC 8.1(b). In Dongaro, he stipulated violations of RPC 1.3, RPC 1.4(a) and (b), as well as RPC 8.1(b).

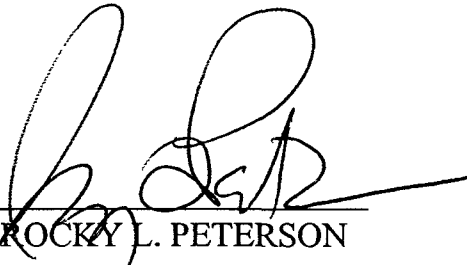
Ordinarily, an admonition or a reprimand is adequate discipline for gross neglect, lack of diligence or failure to communicate in one or several matters, where the attorney does not have a disciplinary history, as here. See, e.g., In the Matter of Paul Paskey, DRB 98-244 (1998) (admonition imposed for gross neglect, lack of diligence and failure to communicate with the client by twice allowing a complaint to be dismissed and failing, over a four-year period, to apprise the client of the dismissals or to reply to the client's numerous requests for information); In the Matter of Ben W. Payton, DRB 97-247 (1998) (admonition for 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 Wildstein, 138 N.J. 48 (1994) (reprimand for gross neglect and lack of diligence in two matters and failure to communicate in a third matter); and In re Gordon, 121 N.J. 400 (1990) (reprimand for gross neglect and a failure to communicate in two matters.) There are aggravating factors in this matter. Respondent's client was required to pay penalties and interest because of respondent's inaction. Moreover, respondent failed to cooperate with

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<sup>3</sup>As noted earlier, the applicable subsection is (a). We, therefore, find that respondent violated RPC 1.4(a), instead of RPC 1.4(b).

ethics authorities in its investigation of these matters. Therefore, we unanimously determined that an admonition is insufficient for respondent's ethics infractions and voted to impose a reprimand. We also determined to require respondent to practice, for a period of two years, under the supervision of a proctor approved by the Office of Attorney Ethics. One member did not participate.

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

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

ROCKY L. PETERSON  
Chair  
Disciplinary Review Board

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

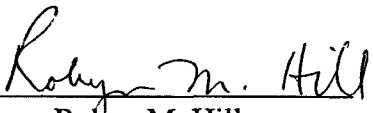
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Disposition: Reprimand

<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>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

  
 Robyn M. Hill  
 Chief Counsel

5/9/02