

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 01-193 (formerly DRB 01-021)

IN THE MATTER OF :
: :
KAREN ANN KUBULAK :
: :
AN ATTORNEY AT LAW :
: :
:

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

Decided: August 22, 2001

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

This matter was before us on a certification of default filed by the District VIII Ethics Committee ("DEC"), pursuant to R. 1:20-4(f).

Respondent was admitted to the New Jersey bar in 1980. At the relevant times, she maintained a law office at 335 Maple Street, Perth Amboy, New Jersey.

On January 26, 1999, in a default matter, respondent was suspended for three months (effective March 1, 1999) for violating RPC 1.1(a) (gross neglect), RPC 1.2(a) (failure to abide by the client's decisions concerning the objectives of the representation), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate with the client), RPC 3.2 (failure to expedite litigation), RPC 8.1(b) (failure to respond to a lawful demand for information from

a disciplinary authority), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) and RPC 8.4(d) (conduct prejudicial to the administration of justice). The order also provided that respondent could not apply for reinstatement until she fully complied with all audit-related demands by the Office of Attorney Ethics. In re Kubulak, 157 N.J. 74 (1999). Respondent remains suspended to date.

On November 16, 2000, copies of the complaint in the within matter were sent by certified and regular mail to two addresses in Perth Amboy, New Jersey: 335 Maple Street and 654 Penn Street. The certified mail receipt was returned indicating delivery to the Maple Street address on December 1, 2000, but the signature was illegible. The certified mail receipt to the Penn Street address was signed by an Eleanor Kubulak on November 17, 2000. The regular mail was not returned from either address. Respondent did not answer the complaint.¹

The first count of the complaint merely charges that respondent practiced law while suspended. It does not provide the factual basis for this charge. Although there was no citation to a specific rule violation, RPC 5.5(a) (unauthorized practice of law) is applicable.

The second count of the complaint charges that respondent violated RPC 1.1(a) (gross neglect), RPC 1.1(b) (pattern of neglect), RPC 1.4(a) (failure to communicate with the client) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

¹In a separate matter before us, respondent replied to communication from the Board, which had been mailed to the two Perth Amboy addresses.

Specifically, in January 1998, James Licata retained respondent to represent him in a wrongful termination of employment suit and also in a collection matter. In the latter action, Licata requested that respondent file liens against the property in which he worked as a subcontractor.

The complaint charges that respondent failed to timely file the liens and the wrongful termination suit in behalf of Licata. Respondent's failure to file the liens prevented Licata from recovering any funds due. The ethics complaint also alleges that Licata frequently attempted to contact respondent but never received a response from him. On the one occasion that Licata was able to contact respondent's office, respondent misrepresented to him, through her secretary, that both cases were progressing. After this sole contact, Licata learned that no work was ever done on his cases.

* * *

Service of process was proper. Therefore, the matter may proceed as a default. Pursuant to R.1:20-4(f)(1), the allegations of the complaint are deemed admitted.

The first count of the complaint charges that respondent continued to practice law after she had been suspended. There were no facts alleged in this count to support that allegation. Respondent was suspended on March 1, 1999. The only date referenced in the complaint is January 1998, when respondent was retained by Licata. Therefore, the charge that respondent practiced law while suspended is dismissed.

There are also insufficient facts to support the charge that respondent made a

misrepresentation to Licata, under RPC 8.4(c). Licata was informed by respondent's secretary that "Karen was working on the cases." There is no evidence, however, that respondent was responsible for her secretary's remark. Therefore, the alleged RPC 8.4(c) violation is also dismissed.

On the other hand, there are sufficient facts to support the charge of a violation of RPC 1.1(a) since respondent never filed a complaint for the wrongful termination of employment and never filed the liens requested by Licata. Respondent also violated RPC 1.4(a) by failing to reply to Licata's numerous requests for information about his cases.

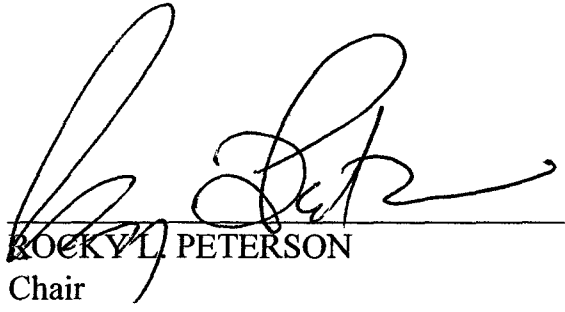
Finally, respondent's gross neglect in this case, as well as those cited in her ethics history, constitutes a pattern of neglect, in violation of RPC 1.1(b).

In sum, respondent violated RPC 1.1(a), RPC 1.1(b) and RPC 1.4(a). Her failure to cooperate with the DEC, as evidenced by this default, is a violation of RPC 8.1(b). Ordinarily, the conduct displayed in this matter would lead to a reprimand or a three-month suspension. In light of respondent's disciplinary history and the default nature of this matter, we unanimously determined to impose a three-month suspension. See In re Gorman, 156 N.J. 435 (1998) (three-month suspension in a default matter for gross neglect, pattern of neglect, lack of diligence, failure to communicate and failure to cooperate with disciplinary authorities) and In re Page, 156 N.J. 432 (1998) (three-month suspension imposed in a default matter for gross neglect, lack of diligence, failure to communicate, failure to communicate basis of rate or fee in writing, knowingly false statement of material fact in a

disciplinary matter and failure to cooperate with disciplinary authorities). One member did not participate.

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

Dated: 8/22/01

By: 
ROCKY L. PETERSON
Chair
Disciplinary Review Board

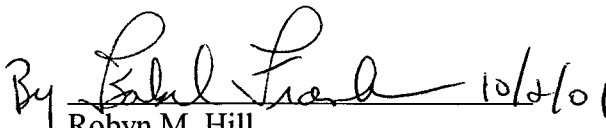
SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Karen Ann Kubulak
Docket No. DRB 01-193

Decided: August 22, 2001

Disposition: three-month suspension

Members	Disbar	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					
Total:		8					1

By  10/2/01
Robyn M. Hill
Chief Counsel