

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 98-148

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IN THE MATTER OF :  
ROBERT JAY VEDATSKY :  
AN ATTORNEY AT LAW :

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Decision

Argued: May 14, 1998

Decided: February 11, 1999

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

Respondent did not appear for oral argument despite proper notice of the hearing.

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

This matter was before the Board on a Motion for Reciprocal Discipline filed by the Office of Attorney Ethics ("OAE"), based upon the decision of the Supreme Court of Pennsylvania to suspend respondent for two years. He was suspended for violating RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to keep clients

informed about their matters and to promptly comply with reasonable requests for information), RPC 1.4(b) (failure to explain matters to the extent necessary to permit clients to make informed decisions regarding the representation), RPC 1.5(b) (failure to provide a writing setting forth the basis or rate of a fee), RPC 1.16(a)(2) (representation of a client when the lawyer's mental condition materially impairs the lawyer's ability to represent the client), RPC 1.16(d) (failure to protect the clients' interests upon termination of representation) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

Respondent has been a member of the New Jersey bar since 1974. In 1994 he received a reprimand for failure to cooperate with disciplinary authorities.

By order dated November 22, 1993, the Supreme Court of Pennsylvania transferred respondent to inactive status, effective December 22, 1993, because he failed to file his annual attorney registration statement or to pay the registration fee. In December 1993 respondent abandoned his Pennsylvania office, owing back rent. He did not advise his clients that he was no longer going to practice law, left no forwarding address with the owner or other tenants of the building and left behind approximately fifteen client files. A conservator was appointed for respondent's practice. The conservator located respondent's clients and arranged to return their files to them. One file required emergency action, which was handled by the conservator.

In four of the cases abandoned by respondent, it was obvious that respondent had done

little or no work on the files despite the fact that he had received more than \$46,000 in fees and costs from the four clients. The four clients were: Ralph Britton, Neil and Pamela Bogin, Philip Harvey and Robert and Aurore Chace.

Britton retained respondent in June 1993 and paid him \$7,275 in fees and alleged costs over a period of several months. Respondent did nothing other than to draft a complaint that he never filed. He obtained \$275 from Britton by misrepresenting that the money was for the cost of filing the complaint in federal court. Respondent also induced Britton to give him \$2,000 by misrepresenting that the money was needed for depositions. Thereafter, respondent did not return Britton's numerous telephone calls. He also ignored correspondence from another attorney for Britton in which the attorney requested that respondent forward Britton's original documents. Although Britton requested that respondent refund the unearned fees, respondent did not do so.

In April 1992 the Bogins retained respondent to contest a claim on a note that they purportedly had not signed and to file a civil fraud complaint against several investment bankers who were responsible for the forged note. Respondent claimed that he knew the president of FirstBank, the holder of the allegedly forged note, and could resolve the note claim expeditiously. On respondent's advice, Neil Bogin signed a second note for FirstBank that made him, but not his wife, liable for the debt. Respondent advised the Bogins that he would pursue the loss on the note in the suit against the investment bankers. The Bogins paid respondent more than \$18,000 in fees and costs for his representation in the two matters.

For several months, respondent misrepresented to the Bogins that he was making progress in their case against the investment banker. In fact, respondent did nothing. Finally, in March 1993, respondent filed a Praecipe to Issue a Writ of Summons. He also showed Neil Bogin a copy of a request to produce documents and told Bogin that he was drafting a complaint. However, respondent never filed a complaint and never served a document request on the defendants. The case was dismissed in May 1993. Respondent did not advise the Bogins of the dismissal. In November 1993, respondent showed Neil Bogin a draft of a complaint that he supposedly was going to file; however, respondent never filed the complaint. In April 1994, the Bogins sued respondent in the Philadelphia Court of Common Pleas.

In the remaining two cases, Harvey and Chace, respondent did nothing on behalf of his clients, despite having collected \$10,500 and \$10,000, respectively, in fees from them. He also misrepresented to Harvey that he was making progress on Harvey's case, when in reality he had done nothing. Although Harvey and the Chaces requested that respondent refund their money, respondent did not do so.

In the Pennsylvania ethics proceedings, respondent claimed that he suffered from attention deficit disorder ("ADD") complicated by a co-dependent dysfunctional relationship with his wife, who was prone to violent and bizarre behavior. The Pennsylvania disciplinary authorities found that respondent's ADD was not a causal factor in his misconduct. The stress caused by respondent's marital problems was considered in mitigation of the

misconduct. The Pennsylvania Supreme Court suspended respondent for two years.

The OAE urged the Board to impose identical discipline.

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Upon a de novo review of the full record, the Board determined to grant the OAE's Motion for Reciprocal Discipline. Pursuant to R. 1:20-14(a)(5) (another jurisdiction's finding of misconduct shall establish conclusively the facts on which the Board rests for purposes of a disciplinary proceeding), the Board adopted the findings of the Supreme Court of Pennsylvania.

Reciprocal disciplinary proceedings in New Jersey are governed by R.1:20-14(a), which directs that

[t]he Board shall recommend the 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 disciplinary 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.

Nothing in the record indicates any condition that would fall within the ambit of subparagraphs (A) through (E).

Respondent neglected his clients' cases, lied to them about the status of the cases, failed to reply to their inquiries, failed to protect their interests upon termination of representation and made numerous misrepresentations to them. Some of the misrepresentations were made to induce his clients to give him additional money. Ultimately, respondent abandoned his clients. Although respondent had performed little or no work on the cases after having received substantial fees, he did not return the unearned fees.

The Board was also disturbed by respondent's failure to reply to the OAE's Motion for Reciprocal Discipline and his failure to appear at the hearing before the Board, particularly in light of respondent's prior reprimand for failure to cooperate with the disciplinary authorities.

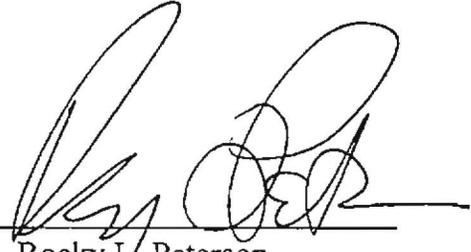
Respondent's utter disregard for his clients warrants substantial discipline. See, e.g., In re Grosser, 143 N.J. 561 (1996) (two-year suspension for gross neglect, lack of diligence, conduct involving dishonesty, fraud, deceit or misrepresentation, failure to cooperate with

the disciplinary authorities and conduct designed to limit liability to a client for malpractice); In re Depietropolo, 127 N.J. 237 (1992) (two-year suspension for gross neglect, lack of diligence, failure to communicate with clients, misrepresentations, charge of unreasonable fees and failure to cooperate with the disciplinary authorities); In re Mintz, 126 N.J. 484 (1992) (two-year suspension where attorney abandoned four cases and was found guilty of a pattern of neglect, failure to maintain a bona fide office and failure to cooperate with the ethics authorities).

The Board unanimously determined to suspend respondent for two years. One member recused himself and two members did not participate.

The Board also determined to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: Feb 11 1999

By:   
Rocky L. Peterson  
Member  
Disciplinary Review Board