SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 13-043
District Docket No. VA-2011-0003E

IN THE MATTER OF	
JOAN OTHELIA PINNOCK	
AN ATTORNEY AT LAW	

Decision

Argued: June 20, 2013

Decided: August 9, 2013

Lindal L. Scott-Foster appeared on behalf of the District VA Ethics Committee.

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 recommendation for a reprimand filed by the District VA Ethics Committee (DEC). The six-count complaint charged respondent with having violated RPC 1.3 (lack of diligence), RPC 1.4(b) (failure to communicate with a client), RPC 1.5(b) (failure to provide a client with a writing setting forth the basis or rate of the fee), RPC 1.16(d) (failure to promptly surrender papers to the client on

termination of the representation (count four) and failure to return the unearned portion of the fee (count six)).[1] For the reasons expressed below, we determine that a reprimand is appropriate discipline.

Respondent was admitted to the New Jersey bar in 1997. She maintains a law office in Newark, New Jersey. She has no history of discipline.

This case involves respondent's conduct in a divorce and an immigration matter for the same client. Counts one and two allege violations of RPC 1.4(b) and RPC 1.5(b), respectively, in the divorce matter. In the immigration matter, count three alleges a violation of RPC 1.5(b), counts four and six allege violations of RPC 1.16(d) and count five alleges a violation of RPC 1.3. The parties entered into a disciplinary stipulation relating to counts one through four and presented testimony on counts five and six. Respondent stipulated to violating RPC 1.4(b) in the divorce matter, RPC 1.5(b) in both matters, and RPC 1.16(d) in the immigration matter, in that she failed to turn over a file to the client.

The stipulated facts are as follows:

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[1] Several paragraphs of the complaint inexplicably refer to grievant Horace Chambers as "Morris."

Horace Chambers retained respondent for representation in his divorce and immigration matters. Chambers and respondent had known each other socially, but respondent had never represented him, prior to taking on his divorce matter. On August 13, 2009, Chambers paid respondent $7,500 for what he understood was the full fee for the divorce matter.

Respondent did not provide Chambers with a formal retainer or writing setting forth the basis or rate of her fee. The only document she provided Chambers was an August 13, 2009 hand-written receipt. According to the stipulation, "[t]he receipt shows that no other amounts were due and owing."

Chambers had obtained $27,610 in net proceeds from a personal injury matter that had been handled by another attorney. The funds had been deposited into the Superior Court Trust Account. Pursuant to a July 12, 2010 amended final judgment of divorce, Chambers was to receive $22,110 and his ex-wife was to be paid $5,500.

Weeks after the monies were released to respondent, Chambers called her office, on numerous occasions, about the disbursement of his funds. "Respondent felt [that] the calls were harassing."

By certified letter dated October 14, 2010, Chambers requested from respondent all files relating to the "escrow

funds" and noted that respondent had not satisfactorily communicated with him about the return of his funds, despite his numerous telephone calls.

On October 26, 2010, respondent forwarded to Chambers the only itemized bill in the matter and a check for $18,737.25. Respondent did not provide Chambers with an explanation for the delay in disbursing the funds.

Respondent's bill itemized services for Chambers from August 6, 2009 to October 12, 2010, but did not include bills for her conversations with Chambers, after August 10, 2010. The bill further showed the $7,500 retainer fee and an additional $3,372.75, which respondent withheld from the settlement funds, as the balance due for her fee.[2]

By certified letter dated November 10, 2010, Chambers acknowledged receipt of the $18,737,25, disputed the deduction respondent had made for an additional fee, and requested a copy of a written agreement to explain the amount respondent had withheld. Receiving no reply, on November 22, 2010, Chambers again wrote to respondent, requesting a copy of the retainer agreement, the documents he had previously requested, and an

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[2] Chambers testified that respondent had told him that the $7,500 for his divorce was payment in full so that she did not have "to go back" to him for more money.

explanation for the amounts respondent had withheld. Respondent's failure to reply prompted another letter, dated December 3, 2010, again seeking a reply. Respondent did not comply with Chambers' requests.

On September 14, 2009, while his divorce matter was still pending, Chambers paid respondent $1,500 for the immigration matter. As with the divorce case, respondent did not provide Chambers with a writing setting forth the basis or rate of her fee. She gave him only a receipt for the $1,500 payment, which stated that it was for "'filing fee/attorney fee.' No balance was indicated on it, indicating that this was payment for services in full."

On or around November 2, 2009, respondent electronically filed a change of address form (Form AR-11), on Chambers' behalf with the U.S. Citizenship and Immigration Services (USCIS). On November 4, 2009, after obtaining documentation from Chambers, she filed with the USCIS a Notice of Entry of Appearance as Attorney (Form G-2B).

Following Chambers' divorce, his ex-wife withdrew her Petition to Remove Conditions on Residence (Form I-751). As a result, Chambers' status as a conditional resident was terminated and the Immigration Court ordered him to appear at a July 14, 2010 hearing. Chambers was never informed about the

hearing and, therefore, did not appear. Respondent also failed to appear, resulting in the immigration court's entry of an in absentia deportation order.[3]

On July 23, 2010, respondent prepared and filed a motion to re-open and rescind the order. The motion included a Petition to Remove Conditions on Residence (Form I-751). On July 28, 2010, respondent filed an amended motion to re-open and rescind the in absentia removal order. The immigration court granted the order to re-open the matter and rescinded the deportation order.

In July 2010, Chambers retained Raymond Vivino, Esq., to take over the representation of his immigration matter. By letter dated July 22, 2010, Joseph DiPisa of the Vivino firm asked respondent for a copy of Chambers' file. Receiving no reply, on July 26, 2010, he faxed another copy of the letter to respondent and then, on August 22, 2010, mailed a copy of the letter to respondent.

Thereafter, in an October 14, 2010 letter sent by certified mail, Chambers requested that respondent forward his immigration file and return the $1,500 retainer/filing fee. Chambers complained that respondent had failed to timely file papers or inform him of the July 14, 2010 hearing. On November 10, 2010,

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[3] The stipulation is silent as to whether respondent was informed about the hearing.

Chambers sent a second certified letter to respondent, requesting either a written reply to his previous letter or the return of his fee. Respondent did not reply to that letter.

Respondent stipulated that her (1) failure to comply with Chambers' repeated requests for information, in the divorce matter, about the disbursement of the escrow funds, a copy of his file, and an explanation of the disbursements violated RPC 1.4(b); (2) failure to provide Chambers with a writing communicating the basis or rate of the fee in both the divorce and immigration matters violated RPC 1.5(b);[4] and (3) failure to comply with Chambers' and his new attorney's requests to turn over the immigration file violated RPC 1.16(d).

The parties agreed that a reprimand was appropriate because respondent had no history of discipline, was contrite and remorseful, cooperated with ethics authorities, and, in addition, there were no aggravating factors.

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[4] By letter dated November 10, 2010, Chambers acknowledged receipt of the $18,735.25 check for his personal injury matter, but pointed out that the additional amount that respondent had deducted as attorney's fees was "disputed and unauthorized." Respondent was not charged with any wrongdoing in connection with withholding the additional $3,372.75. While respondent's conduct could be viewed as a violation of a court order or failure to safeguard funds (RPC 8.4(d) and RPC 1.15(c)), neither violation was charged in the complaint.

At the DEC hearing, testimony was taken and documentary evidence submitted on (1) whether respondent lacked diligence by failing to notify Chambers of the July 14, 2010 immigration court hearing, resulting in the issuance of a deportation order; failing to appear at that hearing; failing to prepare or file pleadings or other documents between September 14, 2009 and July 14, 2009 or failing to work on Chambers' file between September 14 and July 23, 2009 (count five) and (2) whether respondent failed to return any portion of the unearned fee in the immigration matter (count six).

The evidence, at the DEC hearing, revealed the following specific facts:

On June 28, 2004, Chambers, a "citizen and national" of Jamaica, married Dorothy in Jamaica. Presumably, Dorothy's an American citizen. On August 31, 2005, Chambers was admitted into the United States as a conditional resident. He had originally been granted a two-year conditional residency. On June 2, 2009, Chambers and Dorothy filed with the USCIS a Petition to Remove Conditions on his Residency (I-751), so that Chambers could obtain a permanent green card.[5] The petition listed Chambers' address as 352 E. 25 Street, Paterson, New Jersey. The I-751

[5] Respondent noted that the USCIS processes all applications for permanent residency status.

receipt notice had extended Chambers' conditional resident status for a one-year period.

On August 5, 2009, Dorothy instituted divorce proceedings against Chambers. Prior thereto, on July 27, 2009, unbeknownst to Chambers, Dorothy had withdrawn the Petition to Remove Conditions on Residency.

On August 13, 2009, Chambers retained respondent for the divorce matter. According to respondent, it was "a horrible bloody divorce." She stated that Chambers was concerned that, because he had not yet heard about the petition, documents might be sent to Dorothy's house, a circumstance that, at that point, "would have been problematic."

Chambers testified that he had retained respondent to monitor his pending petition. He believed that there was a chance that the petition could be granted, before the divorce proceedings were finalized.[6]

On October 29, 2009, respondent's office electronically filed Chambers' change of address form with the USCIS. On November 2, USCIS confirmed receipt of the document.

By letter dated November 4, 2009, respondent wrote to the USCIS office in Vermont, referencing Chambers as the applicant

[6] A final judgment of divorce was entered on June 24, 2010. An amended judgment was entered on July 12, 2010.

and the receipt number (EAC-09-245-00311), which was to be listed on all correspondence. Respondent's cover letter noted that she had been retained to represent Chambers in his immigration matter and requested that all documents regarding his matter be forwarded to her. She enclosed a copy of the G-28, the notice of entry of appearance, dated November 2, 2009, the I-751 receipt, and a copy of Chambers' passport.[7] According to respondent, only USCIS was aware that respondent was Chambers' attorney of record. She explained that the U.S. Immigration and Customs Enforcement Office was not notified of the change of address because it is a separate agency.

The "Immigration Court" (Executive Office for Immigration Review), which is the enforcement branch, separate and apart from USCIS, sent Chambers a June 1, 2010 notice to appear in removal proceedings to 352 East 25th Street, Paterson, New Jersey.[8] The document stated, among other things, that Chambers

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[7] Respondent blamed the gap in her initial letter to USCIS on the fact that Chambers had not provided her with a copy of the receipt notice for the I-751. She could not contact USCIS without the reference number. She claimed that, when Chambers returned with the receipt, she sent the change of address letter to USCIS.

[8] Respondent explained that only if there is a denial of the I-751 application or a withdrawal would the matter be referred to the immigration court. That department would then file a notice to appear.

had been admitted to the United States, but was "removable" based on his spouse's withdrawal of the I-751 petition on July 27, 2009. The document, which was served by regular mail, ordered Chambers to appear before an immigration judge on "a date to be set."

At the time the document was mailed, Chambers was no longer living with Dorothy at the above address, but resided at 350 East 24th Street, Paterson, New Jersey. The deportation hearing was set for July 14, 2010. As neither Chambers nor respondent appeared at the hearing, an in absentia deportation order was issued on that date.[9]

According to Chambers, on a date not specified in the record, he informed respondent that they had missed his court date. Prior thereto, respondent had told him, "all the time, don't worry, we see the board every week, [we] check the board so if you have a court date, we'll know." Chambers complained that he was "given the run around," until he ended up "in deportation". Chambers claimed that, from the date he retained

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[9] USCIS had sent correspondence to Chambers at the 350 East 24th Street address as early as September 16, 2008. The letter noted that Chamber's Petition to Remove Conditions on Residency had been deemed abandoned and, therefore, denied without prejudice for failure to submit the requested evidence in support of the petition. The denial could not be appealed, but a motion to re-open the petition could be filed.

respondent, in September 2009, to the date he received a copy of the deportation letter, respondent had done nothing in the immigration matter.

Respondent asserted, however, that, on a date not specified in the record, when she heard nothing further from USCIS, her office placed a "follow-up" call, at which time her office learned that USCIS did not have her entry of appearance form. Therefore, on February 23, 2010 (six months after having been retained), she sent a second letter to USCIS, stating only, "Please be advised that this office has been retained to represent [Chambers] with reference to his immigration matter." Respondent purportedly enclosed copies of the same documents, forwarded three months earlier. She claimed that she could not have done anything more. Her office was "calling and calling;" she had everyone in her office trying to figure out what was going on with Chambers' application. According to respondent, typically, if USCIS refers a case to the immigration court, USCIS notifies the petitioner that his/her petition has been denied. In this case, respondent never received a reply from USCIS and did not get the notice to appear in Chambers' deportation proceedings because the immigration court did not have a notice of appearance from her.

Respondent had no other written communication with USCIS after February 23, 2010, could not say how many times her office had tried to telephone it to try to obtain information about Chambers' matter, and had no contemporaneous notes to confirm the dates and substance of her or her staff's conversations with USCIS.

According to respondent she assumed that the petition was proceeding in a typical fashion. She expected to hear from USCIS, but noted that, often, they do not timely reply. She added that notice of Dorothy's withdrawal of the petition should have been sent to her. She expected to receive at least a copy of the denial, which she surmised was sent only to Dorothy's address. She received neither the withdrawal letter nor the denial. She added that it was not uncommon for "immigration" to not respond.

After learning about the deportation order, in July 2010, Chambers retained the law firm of Vivino & Vivino. Joseph DiPisa of that firm testified that he first tried to obtain Chambers' file from respondent around July 22 or July 26, 2010. On August 12, 2010, he filed a notice of motion to re-open the removal, based on lack of proper notice. He learned that respondent had filed a similar motion only after he had filed his own submission.

On July 23, 2010, respondent filed a motion to re-open the deportation matter. Her motion stated that, "[u]nbeknownst to [Chambers]," on July 27, 2009, Dorothy had withdrawn the I-751 petition. Respondent testified that she had not known about the withdrawal when she undertook Chambers' immigration matter.

According to Chambers, in 2010, respondent apologized to him and told him that "it" was her fault. She did not want to turn over his file to DiPisa, however, because "she's in the wrong and she admit [sic] to me so she just want to get back the court date for me because she know [sic] the judge." Chambers claimed, and respondent admitted, that she had asked Chambers for an additional $5,000 to appear before the immigration court. Chambers was angered by this request, because it was her fault that "she put me in deportation." That drove him to retain new counsel.

Respondent remarked that Chambers had not retained her to re-open his case, but that, based on what he had paid her, she would go ahead and do it, even though she did not have a retainer agreement for it. She did it as a "courtesy" to him and did not ask him for more money.

Respondent explained that an applicant has thirty days to file to re-open a deportation matter. She, therefore, knew that something had to be done immediately in Chambers' case, as the

order had been issued on July 14, 2010. The order of removal would become final, if the matter was not timely re-opened. If an immigration officer found Chambers walking on the street and no appeal had been filed, Chambers could have been picked up and "put in detention." She, therefore, filed the motion to re-open on July 23, 2010. Thereafter, she filed an amended motion, to which she attached a copy of the amended judgment of divorce and an I-751 form.

Although respondent admitted that the two motions were not filed on the same date, the amended motion was originally dated either July 26 or July 28, 2010. The date was written-over to show a date of July "23," as were the dates on other documents attached to the amended motion (the I-751 petition, certification of service, and Chambers' certification). July 26, 2010 was the same date that DiPisa sent her a follow-up fax in the matter, requesting that she provide him with Chambers' file and that she execute a substitution of attorney form. Respondent could not adequately explain why she had changed the date.

The immigration court granted respondent's application to re-open or to rescind the in absentia removal order and to re-open the removal proceedings. That action was based on respondent's representation that Chambers had not received

notice of the hearing, because the notice had been sent to his old address.

As in the divorce matter, respondent did not provide Chambers with a writing setting forth the basis or rate of the fee for the immigration representation. Respondent's answer stated that Chambers had retained her "to check on the status of his immigration matter. In particular . . . that [she] check the status of his I-751 Petition to Remove Conditions on Residence," which he and his ex-wife had previously filed, and to draft a new petition, if necessary. On September 14, 2009, Chambers paid her $1,500.

As the receipt for $1,500 for "filing fee/attorney fee," respondent explained that the filing fee was for a new I-751, after Chambers' divorce decree was final. Respondent understood, that while the I-751 was pending, she could not file a second form. She claimed that she was waiting for the divorce to be final to file a second petition.

Respondent believed that, at the time in question, the filing fee to file an I-751 was $545. She stated, "So the fee that I charged. . . . [t]he $1,500 was . . . for me to look into the 751 processing with the intention that I would file the new 751 under the divorce waiver once the divorce was final that was the plan." She told Chambers that, under the divorce waiver

provision, she needed the final judgment of divorce to file the new I-751. Thus, respondent's fee broke down as $545 to file for a divorce waiver I-751 application and $965 for her attorneys' fees.

There is no evidence that respondent ever filed a second I-751, but only that she attached a draft copy of one to the amended motion to re-open the deportation matter.

The DEC noted that the immigration court sent the notice of the July 14, 2010 hearing to Chambers at his former address, rather than his current address listed in the AR-11, which had been filed with the USCIS. The DEC found no evidence to suggest that the notice had been sent to respondent. As a result, the DEC found no clear and convincing evidence that respondent violated RPC 1.3 by failing to notify Chambers of the hearing or to appear at it.

Likewise, the DEC did not find that respondent lacked diligence by failing to prepare or file pleadings or other legal documents on Chambers' behalf, or to otherwise "work" on Chambers' immigration matter.

The DEC found that respondent prepared and filed with USCIS a notice of appearance and other documents, on at least two occasions, caused to be prepared and filed electronically Chambers' change of address form, and contacted USCIS

telephonically on Chambers' behalf. Because at least some services were rendered and there was no evidence to demonstrate the reasonable value of those services sufficient to determine what, if any, portion of the $1,500 could be considered unearned, the DEC found no violation of RPC 1.16(d).

For respondent's admitted violations of RPC 1.4(b) in the divorce matter (count one), RPC 1.5(b) (counts two and three) in both matters, and RPC 1.16(d) (count four – failure to turn over the file) in the immigration matter, the DEC and respondent agreed to the imposition of a reprimand.

At oral argument before us, the presenter recommended a reprimand.

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

The stipulated facts clearly and convincingly establish that respondent failed to communicate with Chambers (RPC 1.4(b)), failed to provide Chambers with writings setting forth the basis or rate of her fee (RPC 1.5(b)), and failed to turn over Chambers' immigration file to him or to his new attorney (RPC 1.16(d)).

As to the remaining charges, we are unable to agree with the DEC's findings. With regard to the failure to return

Chambers' unearned fee in the immigration matter, respondent specifically stated that the $1,500 charge was for a filing fee, if a new petition had to be filed and the remainder was for her legal fee. The filing fee was approximately $545. Therefore, only the remaining $965 constituted her fee. Respondent never filed a new I-751 with the USCIS. Thus, the filing fee portion of the $1,500 should have been returned to Chambers because the expense was not incurred. We deem respondent's failure to return the filing fee portion of Chamber's payment a violation of RPC 1.16(d).

As to RPC 1.3, the complaint charged that respondent violated that rule by failing to notify Chambers of the July 14, 2010 immigration court hearing, resulting in the issuance of a deportation order; failing to appear at that hearing; and failing to prepare or file pleadings or other documents, between September 14, 2009 and July 14, 2009, or failing to work on Chambers' file between September 14 and July 23, 2009.

There is no evidence that either Chambers or respondent was served with the notice of the deportation hearing. Therefore, neither one of them appeared at the hearing, resulting in an in absentia deportation order. The question is whether respondent diligently monitored Chambers' case. We find that she did not.

Respondent testified that she had substituted in "for hundreds of attorneys" and that she has been doing immigration work since 1997. She is, therefore, an expert of sorts in immigration matters. Her experience with immigration matters and her involvement in Chambers' divorce should have kept her more focused on Chambers' immigration case. She was retained for the divorce matter, in August 2009, and in the immigration matter, in September 2009. Dorothy had filed for divorce on August 5, 2009. Dorothy had previously withdrawn the I-751 petition, on July 27, 2009. Being an experienced immigration lawyer and being well aware that the divorce proceedings were contentious, respondent should have taken steps to determine whether Dorothy had withdrawn the petition. She did not do so.

In addition, respondent did not file a change of address form for Chambers until October 29, 2009, blaming Chambers for not having timely provided her with the file number that had to be included on all correspondence. Respondent filed her notice of appearance with USCIS on November 4, 2009, two months after Chambers had retained her for his immigration matter. In the accompanying letter, she requested that all documents regarding his matter be forwarded to her. She did not follow up on that request until February 23, 2010, five months after being retained, when she merely stated in the letter, "Please be

advised that this office has been retained to represent [Chambers] with reference to his immigration matter." She did not request documentation or a status update in the matter.

While respondent claimed that she or her staff frequently called USCIS in an attempt to determine the status of Chambers' petition, she could not substantiate this assertion. She could not say when such calls had taken place because, she claimed, she had no contemporaneous memoranda or notations of any calls or contacts.

Over the course of the representation, respondent assured Chambers that her office was "on the case" and that she checked the "board" every week. Had she done so, she would have been aware of the deportation hearing on July 14, 2010, at which neither she nor Chambers appeared. As a result of the deportation order that ensued, Chambers could have been picked up, detained, or even deported.

After having received a fax from DiPisa, on July 23, 2010, respondent quickly filed a motion to re-open and rescind the deportation motion. Thereafter, she had to file an amended motion to attach documentation that had been omitted from the first motion. Inexplicably, respondent changed the date on the amended motion to make it appear as if it, too, had been filed on July 23, 2010, rather than several days later. It is

questionable whether respondent would have filed the initial motion and then an amended motion days later, had DiPisa not contacted her. Nevertheless, she failed to inform DiPisa that she had filed it. DiPisa, having no knowledge of the motion, shortly thereafter duplicated respondent's efforts by filing a similar motion. The government filed no opposition to respondent's motion, which the immigration judge granted.

Given respondent's admitted experience in immigration matters dating back to 1997 and her awareness of "the bad blood" between Chambers and Dorothy, she should have anticipated that Dorothy might withdraw the I-751 petition and should have made greater efforts to ascertain the status of the petition. We view her dilatory actions set forth above as a lack of diligence, a violation of RPC 1.3. In criminal matters, an attorney's failure to file an appeal is deemed an aggravating factor because the client's liberty is at stake. In re Crisonino, 201 N.J. 415 (2010). The consequences of failing to promptly act in immigration matters are no less dire.

The only issue left for determination is the proper quantum of discipline for respondent's violations of RPC 1.4(b) and RPC 1.5(b) in the divorce matter and RPC 1.3, RPC 1.5(b), and RPC 1.16(d) in the immigration matter.

Ordinarily, lack of diligence and failure to communicate with the client results in an admonition. See, e.g., In the Matters of Peter A. Cook, DRB 12-290 and DRB 12-331 (January 25, 2013) (attorney lacked diligence and failed to communicate with clients in two simple matters); In the Matter of Barry S. Block, DRB 11-372 (January 30, 2012) (attorney lacked diligence by failing to serve a filed complaint or to take other action to pursue the client's claim; in addition, although the attorney wrote three letters early in the case, he later failed to reply to the client's reasonable requests for information about the matter); In the Matter of Darryl W. Simpkins, DRB 11-258 (October 31, 2011) (attorney failed to file a personal injury complaint for the client and failed to adequately communicate with the client, who made numerous telephone calls to the attorney requesting information about the matter); In the Matter of James C. Richardson, DRB 06-010 (February 23, 2006) (attorney lacked diligence in an estate matter and did not reply to the beneficiaries' requests for information about the estate); and In the Matter of Jonathan Saint-Preux, DRB 04-174 (July 19, 2004) (in two immigration matters, attorney failed to appear at the hearings, thereby causing orders of deportation to be entered against the clients, and failed to apprise the clients of these developments). But see In re McCoy, 193 N.J. 477 (2008)

(reprimand for attorney who, in an employment discrimination matter, violated RPC 1.3 by conducting inadequate discovery and not opposing one of the defendants' motion to dismiss certain claims; the attorney also violated RPC 1.4(c) when she voluntarily dismissed with prejudice the surviving claim against one of the defendants without the client's knowledge or authorization and RPC 1.4(b), when for three months she failed to notify the client that his case against another defendant had been dismissed; aggravating factors were a prior admonition, the client's loss of appeal rights, and the attorney's failure to withdraw from the case because of her lack of expertise in the area).

Conduct involving a violation of RPC 1.5(b), even when accompanied by other, non-serious ethics offenses, also results in an admonition. See, e.g., In the Matter of Joel C. Seltzer, DRB 09-009 (June 11, 2009) (attorney failed to memorialize the rate or basis of his fee and, in another client matter, failed to promptly deliver funds to a third party); In the Matter of Alfred V. Gellene, DRB 09-068 (June 9, 2009) (in a criminal appeal, the attorney failed to furnish the client with a writing that set forth the basis or rate of his fee; the attorney also lacked diligence in the matter); In the Matter of David W. Boyer, DRB 07-032 (March 28, 2007) (in an estate matter, the

attorney failed to provide the client with a writing setting forth the basis or rate of his fee); In the Matter of Carl C. Belgrave, DRB 05-258 (November 9, 2005) (attorney was retained to represent the buyer in a real estate transaction, and failed to state in writing the basis of his fee, resulting in confusion about whether a $400 fee was for the real estate closing or for a prior matrimonial matter for which the attorney had provided services without payment; recordkeeping violations also found). In the Matter of William J. Brennan, DRB 03-101 (May 23, 2003) (attorney did not memorialize the rate or basis of his fee in a criminal matter); and In the Matter of Louis W. Childress, Jr., DRB 02-395 (January 6, 2003) (attorney did not reduce to writing the rate or basis of his fee in real estate matters).

A case somewhat similar to respondent's is In the Matter of Michael James Geron, DRB 12-307 (January 22, 2012). There, the attorney received an admonition for failing to provide two clients with writings setting forth the basis or rate of the fee. He was also found guilty of lack of diligence for waiting nearly three years to have an arbitration award reduced to a judgment and failed to comply with the client's requests for information about the status of the matter. Finally, the attorney failed to provide one of the clients with a copy of her

file until after she filed a grievance. Like this respondent, the attorney had no history of discipline.

The above-cited cases suggest that an admonition might be adequate here, absent aggravating factors. However, we have considered, in aggravation, that respondent failed to return Chambers' filing fee and that her lack of diligence put Chambers' freedom in jeopardy. Respondent's inaction could have caused Chambers' detention or, worse yet, his deportation. We, therefore, conclude that, notwithstanding respondent's lack of a disciplinary history, these aggravating circumstances warrant increasing the otherwise appropriate discipline (admonition) to a reprimand. We also determine to require respondent to reimburse Chambers' $545 filing fee in the immigration matter.

Member Doremus did not participate.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Bonnie Frost, Chair

By: _____
for Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Joan O. Pinnock
Docket No. DRB 13-043

Argued: June 20, 2013

Decided: August 9, 2013

Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Frost			X			
Baugh			X			
Clark			X			
Doremus						X
Gallipoli			X			
Yamner			X			
Zmirich			X			
Total:			6			1

Julianne K. DeCore
Chief Counsel