SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 13-069
District Docket Nos. XIV-2011-0331E; XIV-2011-0590E; XIV-2012-0333E; and XIV-2012-0334E

IN THE MATTER OF	
SAMUEL RAK	
AN ATTORNEY AT LAW	Decision

Decided: November 7, 2013

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 Office of Attorney Ethics (OAE), pursuant to R. 1:20-4(f). A four-count complaint charged respondent with gross neglect (RPC 1.1(a)); lack of diligence (RPC 1.3); failure to communicate (RPC 1.4(b)); practicing law while suspended (RPC 5.5(a)); conduct involving fraud, dishonesty, deceit or misrepresentation (RPC 8.4(c)); and engaging in conduct prejudicial to the administration of justice (RPC 8.4(d)). We determine to recommend respondent's disbarment.

Respondent was admitted to the New Jersey bar in 1985. In 2010, he was reprimanded in a default matter for gross neglect, lack of diligence, failure to communicate with a client, and failure to cooperate with the ethics investigation. In re Rak, 203 N.J. 381 (2010).

Effective April 8, 2011, the Supreme Court suspended respondent for three months in a second default for misconduct in two matters: gross neglect; pattern of neglect; lack of diligence; failure to communicate with a client; and failure to cooperate with ethics investigators. In re Rak, 205 N.J. 261 (2011). He has not applied for reinstatement.

On December 8, 2011, respondent was suspended from the practice of law before the United States District Court for the District of New Jersey (USDNJ), based on the April 8, 2011 suspension above.

Effective June 7, 2013, respondent received a second three-month suspension in a third default for failure to cooperate with the ethics investigation and for failure to file the required R. 1:20-20 affidavit following his 2011 three-month suspension. His suspension is presently in force.

Service of process was proper in this matter. On January 8, 2013, the OAE sent a copy of the complaint to respondent by

certified and regular mail, to his home address and to his office address, 135 Fort Lee Road, Leonia, New Jersey 07605.

The certified mail sent to both addresses was returned marked as unclaimed. The regular mail sent to both addresses was not returned.

On February 7, 2013, the OAE sent to respondent a letter informing him that, unless he filed an answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted and that, pursuant to R. 1:20-4(f) and R. 1:20-6(c)(1), the record in the matter would be certified directly to us for imposition of discipline. The letter was sent to respondent's home and office addresses, by regular mail. Neither mailing was returned to the OAE.

Respondent did not file an answer to the complaint.

I. The Kojian Matter

According to count one of the complaint, on June 4, 2009, Greg Kojian retained respondent to file a bankruptcy petition on his behalf. Kojian paid respondent a total of $2,300 in several installments, until the legal fee was paid in full.

Although respondent contacted Kojian's creditors and convinced them not to pursue their collection matters, he failed to file the bankruptcy petition.

In September 2010, Kojian sold his house and then directed respondent to file the bankruptcy petition. Respondent failed to do so.

Respondent never advised Kojian that, on April 8, 2011, he was suspended from the practice of law. In August 2011, Kojian's sister-in-law informed Kojian of respondent's suspension.

On September 14, 2011, Kojian filed an ethics grievance. About a week later, on September 23, 2011, respondent provided Kojian with a copy of his bankruptcy file. Pleased with the work that respondent had performed in his behalf, Kojian did not request a refund.

Kojian was not harmed as a result of respondent's failure to file the bankruptcy petition.

The complaint alleged that respondent's failure to file Kojian's bankruptcy petition constituted gross neglect and a lack of diligence and that his failure to notify Kojian of his suspension from the practice of law, as required by both R. 1:20-20(b)(10) and the Court's March 9, 2011 order, constituted conduct prejudicial to the administration of justice.

II. The Feliciano/Smith Matter

According to count two of the complaint, on July 31, 2009, Elizabeth Feliciano and Shawn Smith retained respondent to file

a joint bankruptcy petition in their behalf, and paid him a $2,500 retainer for that purpose. Respondent failed to file their bankruptcy petition.

Sometime in 2010, respondent requested Feliciano to pay his retainer. When Feliciano advised him that they had already done so, respondent replied that their petition had been filed. That representation was false, as respondent had not filed the petition.

By early 2011, Feliciano had grown frustrated by respondent's lack of progress and left telephone messages for him, demanding a refund of the retainer. Respondent returned neither those calls nor the retainer.

On May 25, 2011, over a month after respondent was suspended, he filed the joint petition as the attorney of record. Although Feliciano received a copy of the petition, neither she nor Smith had reviewed or signed it prior to its filing.

Respondent advised his clients that their attendance at a July 20, 2011 meeting of creditors hearing was not required and that he would appear in their stead. This representation was false. The debtors' appearance was required at the hearing and respondent had previously requested an adjournment of the hearing.

Respondent also advised his clients that they need not attend the hearing on its rescheduled date of August 19, 2011. That representation was also false, respondent having already requested a second adjournment.

Neither respondent nor his clients appeared at the September 9, 2011 rescheduled hearing. Respondent failed to inform his clients of the hearing date. On October 18, 2011, the trustee's motion to dismiss the petition was granted.

In March 2012, Feliciano and Smith retained Justin Gillman, Esq. to take over their bankruptcy matter. Respondent forwarded to Gillman his client file and $1,800 of the $2,300 retainer.

Respondent never advised his clients that, during a portion of the representation, he had been suspended from the practice of law.

The complaint charged that respondent's inaction in the handling of the Feliciano/Smith bankruptcy matter amounted to gross neglect, a lack of diligence, and a failure to communicate with the client; that his false representations to Feliciano constituted conduct involving fraud, dishonesty, deceit or misrepresentation; that his failure to notify his clients of his suspension amounted to conduct prejudicial to the administration of justice; and that his filing of the bankruptcy petition, which falsely indicated that Feliciano and Smith had reviewed and signed it, constituted conduct involving fraud, dishonesty,

deceit or misrepresentation and conduct prejudicial to the administration of justice.

III. The Stubbs Matter

On May 25, 2011, respondent filed a chapter 7 bankruptcy petition for Debra Stubbs. At respondent's request, a June 30, 2011 hearing was rescheduled for July 25, 2011. He arranged for another attorney to appear on the adjourned date, and the hearing took place on July 25, 2011. Thereafter, the bankruptcy trustee classified it as a "no asset" case and declared the estate fully administered.

On September 10, 2011, Stubbs completed a post-credit counseling course, a requirement for obtaining a discharge in bankruptcy. She gave her certificate of completion to respondent, who failed to file it with the bankruptcy court. As a result, on October 11, 2011, Stubbs' case was closed without a discharge.

Between October 11 and November 9, 2011, Stubbs made numerous telephone calls to respondent in order to obtain information about the case, but respondent failed to return her calls. When she finally spoke to respondent, on November 10, 2011, he assured her that he would rectify the problem within ten days.

Hearing nothing after the ten-day period expired, Stubbs telephoned respondent's office. His secretary informed her that respondent would be in the office on November 25, 2011. Although Stubbs traveled to his office on that date for a meeting with him, respondent failed to appear.

Stubbs persisted in her attempts to communicate with respondent, with no success. On January 12, 2012, she filed a grievance against him. She learned about his suspension, from OAE personnel, during their investigation of her grievance. Respondent never advised Stubbs that he had been suspended from the practice of law.

Stubbs ultimately filed a pro se motion to reopen her case, at a cost of $260 in filing fees. In April 2012, her motion was granted and she received her bankruptcy discharge.

According to the complaint, respondent was guilty of a lack of diligence; failure to communicate with a client; failure to advise Stubbs of his suspension, as required by R. 1:20-20(b)(10) and the March 9, 2011 Court order; and conduct prejudicial to the administration of justice.

IV. The Rosales Matter

In March 2011, Lynn Rosales retained respondent to represent her in Fort Lee Municipal Court for a traffic summons. She paid respondent a flat fee of $350. Thereafter, respondent failed to advise Rosales of his April 8, 2011 suspension from the practice of law. On May 12, 2011, respondent sent a letter of representation to the municipal court, entering a not guilty plea for Rosales.

On July 14, 2011, respondent appeared in Fort Lee Municipal Court on Rosales' matter. The judge informed him that, until reinstatement, he was suspended from the practice of law.

Thereafter, respondent obtained numerous postponements of the case, without advising Rosales of the adjournments. Instead, respondent misrepresented to her that the matter had not yet been rescheduled.

Ultimately, respondent's office advised Rosales that the case had been scheduled for a date in December 2011, which was not true. In the meantime, in November 2011, Rosales received a notice, presumably from the motor vehicle authorities, that her driver's license was being suspended. At a subsequent meeting to discuss the notice, respondent told Rosales that he could not represent her, without explaining why. Respondent offered to refer her to an attorney friend and to transfer the retainer to

that attorney. When Rosales declined that proposal, respondent returned her entire retainer to her.

During the period of his suspension, respondent represented clients in the following cases: (1) on June 6, 2011, he entered an appearance and a not guilty plea in Westampton Municipal Court for Rufino Cruz-Espinal; (2) on June 20, 2011, he entered his appearance and a not guilty plea in Leonia Municipal Court for Ladislav Habina, Jr.; and (3) on June 22, 2011, he entered his appearance in Fort Lee Municipal Court for Marianne Belvedere.

In addition to performing legal services for the above three clients while suspended, respondent failed to complete all three representations. Belvedere pleaded guilty, proceeding pro se. Cruz-Espinal and Habina retained new counsel.

The complaint charged that respondent practiced law while suspended, engaged in conduct prejudicial to the administration of justice, failed to keep Rosales advised about the status of her matter, and made misrepresentations to her about her case.

The facts recited in the complaint support the charges of unethical conduct. Respondent's failure to file an answer is deemed an admission that the allegations of the complaint are true and that they provide a sufficient basis for the imposition of discipline R. 1:20-4(f)(1).

In the Kojian matter, respondent's failure to file a bankruptcy petition constituted gross neglect and a lack of diligence, violations of RPC 1.1(a) and RPC 1.3. Because, however, respondent's representation pre-dated his December 8, 2011 suspension in the USDNJ, there was no impropriety involved in his practicing in bankruptcy court during the times mentioned in the complaint. Therefore, we dismiss the allegation that this conduct was prejudicial to the administration of justice.

In addition, respondent's inaction in the Feliciano/Smith bankruptcy matter amounted to gross neglect and a lack of diligence. He also failed to reply to his clients' repeated requests for information about the status of their matter, a violation of RPC 1.4(b). Respondent violated RPC 8.4(c) by misrepresenting that his clients' presence at scheduled bankruptcy hearings was not necessary, when it was, and by failing to disclose to them that he had obtained adjournments of those hearings. He also misrepresented on bankruptcy forms that Feliciano and Smith had reviewed and signed the bankruptcy petition, when they had not done so. The latter conduct also violated RPC 8.4(d), conduct prejudicial to the administration of justice.

Once again, there was no impropriety in respondent's failure to advise Feliciano and Smith of his New Jersey suspension, because the representation took place in federal

court, and pre-dated his suspension there. We, thus, dismiss the RPC 8.4(d) and R. 1:20-20(b)(10) charges.

In the Stubbs matter, respondent lacked diligence by failing to furnish the bankruptcy court with Stubbs' certificate of completion of a credit counseling course required for her to obtain a discharge of her debts. He also failed to adequately communicate with Stubbs. In this matter, the representation in federal court continued beyond his December 8, 2011 suspension there. As such, he is guilty of having engaged in conduct prejudicial to the administration of justice, by failing to inform Stubbs of his suspension in the USDNJ. He, thus, violated RPC 1.3, RPC 1.4(b), and RPC 8.4(d).

In the Rosales matter, respondent failed to communicate with his client in a traffic case and lied to her about the status, in violation of RPC 1.4(b) and RPC 8.4(c).

Finally, respondent practiced law while suspended, by making appearances on behalf of four municipal court clients – Rosales, Cruz-Espinal, Habina, Jr., and Belvedere – after he was suspended from the practice of law, a violation of RPC 5.5(a).

In sum, respondent is guilty of having made appearances in four municipal court matters while he was suspended from the practice of law. He also made misrepresentations to clients in two matters and to a bankruptcy court in one of those matters.

Finally, he engaged in a combination of gross neglect, lack of diligence, and failure to communicate with his clients in three of the matters. He, thus, violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 5.5(a), RPC 8.4(c), and RPC 8.4(d).

Respondent's most serious misconduct involved his representation of four clients in their municipal court matters after he was suspended from the practice of law. The level of discipline for practicing law while suspended ranges from a lengthy suspension to disbarment, depending on the presence of other misconduct, the attorney's disciplinary history, and the presence of aggravating or mitigating factors. See, e.g., In re Bowman, 187 N.J. 84 (2006) (one-year suspension for attorney who, during a period of suspension, maintained a law office where he met with clients, represented clients in court, and acted as Planning Board solicitor for two municipalities; prior three-month suspension; extremely compelling mitigating circumstances); In re Marra, 170 N.J. 411 (2002) ("Marra I") (one-year suspension for attorney who practiced law in two cases while suspended and committed substantial recordkeeping violations, despite having previously been the subject of a random audit; on the same day that the attorney received the one-year suspension, he received a six-month suspension and a three-month suspension for separate violations, having

previously received a private reprimand, a public reprimand, and a three-month suspension); In re Lisa, 158 N.J. 5 (1999) (one-year suspension for attorney who appeared before a New York court during his New Jersey suspension; in imposing only a one-year suspension, the Court considered a serious childhood incident that made the attorney anxious about offending other people or refusing their requests; out of fear of offending a close friend, he agreed to assist as "second chair" in the New York criminal proceeding; there was no venality or personal gain involved; the attorney did not charge his friend for the representation; prior admonition and three-month suspension); In re Hollis, 154 N.J. 12 (1998) (one-year suspension for attorney who, in a default matter, continued to represent a client during his period of suspension; the attorney had been suspended for three years on two occasions; no reasons given for only a one-year suspension); In re Wheeler, 140 N.J. 321 (1995) ("Wheeler I") (two-year suspension for attorney who practiced law while serving a temporary suspension for failure to refund a fee to a client; the attorney also made multiple misrepresentations to clients, displayed gross neglect and pattern of neglect, engaged in negligent misappropriation and in a conflict of interest, and

failed to cooperate with disciplinary authorities);[1] In re Marra, 183 N.J. 260 (2005) ("Marra II") (three-year suspension for attorney found guilty of practicing law in three matters while suspended; he also filed a false affidavit with the Court stating that he had refrained from practicing law during a prior suspension; the attorney had received a private reprimand, two three-month suspensions, a six-month suspension, and a one-year suspension also for practicing law while suspended); In re Cubberley, 178 N.J. 101 (2003) (three-year suspension for attorney who solicited and continued to accept fees from a client after he had been suspended, misrepresented to the client that his disciplinary problems would be resolved within one month, failed to notify the client or the courts of his suspension, failed to file the affidavit of compliance required by R. 1:20-20(a), and failed to reply to the OAE's requests for information; the attorney's disciplinary history included an admonition, two reprimands, a three-month suspension, and two six-month suspensions); In re Wheeler, 163 N.J. 64 ("Wheeler II") (2000) (three-year suspension for attorney who handled

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[1] In that same order, the Court imposed a retroactive one-year suspension on the attorney, on a motion for reciprocal discipline, for his retention of unearned retainers, lack of diligence, failure to communicate with clients, and misrepresentations.

three matters without compensation, with the knowledge that he was suspended, holding himself out as an attorney, and failing to comply with Administrative Guideline No. 23 (now R. 1:20-20) relating to suspended attorneys; prior two-year suspension for practicing while suspended); In re Kasdan, 132 N.J. 99 (1993) (three-year suspension for attorney who continued to practice law after being suspended and after the Court expressly denied her request for a stay of her suspension; she also failed to inform her clients, her adversary and the courts of her suspension, deliberately continued to practice law, misrepresented her status as an attorney to adversaries and to courts where she appeared, failed to keep complete trust records, and failed to advise her adversary of the whereabouts and amount of escrow funds; prior three-month suspension); In re Beltre, 130 N.J. 437 (1992) (three-year suspension for attorney who appeared in court after having been suspended, misrepresented his status to the judge, failed to carry out his responsibilities as an escrow agent, lied to us about maintaining a bona fide office, and failed to cooperate with an ethics investigation; prior three-month suspension); In re Walsh, Jr., 202 N.J. 134 (2010) (disbarment for attorney who, in a default, practiced law while suspended by attending a case conference and negotiating a consent order on behalf of five

clients and making a court appearance on behalf of seven clients; the attorney was also guilty of gross neglect, lack of diligence, failure to communicate with a client, and failure to cooperate with disciplinary authorities during the investigation and processing of these grievances; the attorney failed to appear on an order to show cause before the Court; extensive disciplinary history: reprimanded in 2006, censured in 2007, and suspended twice in 2008); In re Olitsky, 174 N.J. 352 (2002) (disbarment for attorney who agreed to represent four clients in bankruptcy cases after he was suspended, did not advise them that he was suspended from practice in federal court, charged clients for the prohibited representation, signed another attorney's name on the petitions without that attorney's consent and then filed the petitions with the bankruptcy court; in another matter, the attorney agreed to represent a client in a mortgage foreclosure after he was suspended, accepted a fee, and took no action on the client's behalf; the attorney also made misrepresentations to the court, and was convicted of stalking a woman with whom he had had a romantic relationship and engaging in the unauthorized practice of law; prior private reprimand, admonition, two three-month suspensions, and two six-month suspensions); In re Costanzo, 128 N.J. 108 (1992) (disbarment for attorney who practiced law while serving a temporary

suspension for failure to pay administrative costs incurred in a prior disciplinary matter and for misconduct involving numerous matters, including gross neglect, lack of diligence, failure to keep clients reasonably informed and to explain matters in order to permit them to make informed decisions about cases, pattern of neglect, and failure to designate hourly rate or basis for fee in writing; prior private reprimand and public reprimand); and In re Goldstein, 97 N.J. 545 (1984) (disbarment for attorney who practiced law in eleven matters while temporarily suspended by the Court and in violation of an agreement with us that he limit his practice to criminal matters).

But see In re Kersey, 185 N.J. 130 (2005) (on the OAE's recommendation and our determination, the Court agreed that a reprimand was sufficient discipline for an attorney who was disbarred in New Hampshire for disobeying a court order for the production of his files after a suspension and practicing law while suspended in that state;[2] the attorney filed pleadings with a New Hampshire court and was involved in federal court cases; the attorney asserted, and we found, that in the state case he was defending against an attorney's fee awarded against him personally and was, therefore, acting pro se, as the real party

[2] In New Hampshire, a disbarred attorney may petition for reinstatement after two years.

in interest; in the federal case, we found no evidence that there was a federal court order prohibiting the attorney from practicing in federal courts; prior reprimand).

Attorneys who engage in conduct prejudicial to the administration of justice have generally received a reprimand, even if that infraction is accompanied by other, non-serious violations. See, e.g., In re Mason, 197 N.J. 1 (2008); (attorney engaged in conduct prejudicial to the administration of justice: with information gathered during the representation of Marx Toys, the attorney switched sides, to represent a competing entity; he was found guilty of having violated a court order entered after the switch, directing him "not [to] perform any legal work which involves Marx Toys and [not make] any disclosures regarding Marx;" conflict of interest also found); In re Gourvitz, 185 N.J. 243 (2005) (attorney engaged in conduct prejudicial to the administration of justice by repeatedly disregarding several court orders requiring him to satisfy financial obligations to his former secretary, an elderly cancer survivor who sued him successfully for employment discrimination; he had refused to allow her to return to work after her recovery from cancer surgery, because the medical condition had disfigured her face); In re Carlin, 176 N.J. 266 (2003) (attorney failed to comply with two court orders and

failed to comply with mandatory trust and business recordkeeping requirements; attorney was also found guilty of gross neglect, lack of diligence, failure to communicate and failure to deliver funds to a third person); and In re Malfara, 157 N.J. 635 (1999) (attorney failed to honor a bankruptcy judge's order to reimburse the client $500 for the retainer given in a case where he failed to appear at two court hearings, forcing the client to represent himself; gross neglect also found; the attorney also failed to cooperate with ethics authorities during the investigation of the matter).

In addition, misrepresentation to clients requires the imposition of a reprimand. In re Kasdan, 115 N.J. 472, 488 (1989). A reprimand may still be imposed even if the misrepresentation is accompanied by other, non-serious ethics infractions. See, e.g., In re Singer, 200 N.J. 263 (2009); In re Wiewiorka, 179 N.J. 225 (2004); In re Onorevole, 170 N.J. 64 (2001); In re Till, 167 N.J. 276 (2001); and In re Riva, 157 N.J. 34 (1999).

Here, like the attorney in Wheeler I, respondent made misrepresentations to clients and grossly neglected their cases, in addition to practicing law while suspended. In our view, respondent's misconduct alone is not quite as serious as the three-year suspension or disbarment cases, all of which involve

a combination of more severe disciplinary histories and/or additional violations that are not present here.

There are, however, aggravating factors here, not present in Wheeler. Respondent has prior discipline: a 2010 reprimand, in his first default matter for gross neglect, lack of diligence, failure to communicate with a client and failure to cooperate with an ethics investigation; a 2011 three-month suspension for misconduct in two matters, constituting his second and third defaults, for identical misconduct – gross neglect, pattern of neglect, lack of diligence, failure to communicate with a client, and failure to cooperate with ethics investigators; and a 2013 three-month suspension, in a fourth consecutive default matter, for failing to file the required R. 1:20-20 affidavit, following his first suspension in 2011. For respondent's prior disciplinary history alone, enhanced discipline is warranted – a three-year suspension.

Another significant aggravating factor is the default nature of this proceeding. It marks respondent's fifth consecutive default. In fact, not once has respondent ever cooperated with disciplinary authorities in any of his ethics matters, which began to percolate up to us in 2010. In a default matter, the level of discipline imposed is enhanced to reflect the attorney's failure to cooperate with disciplinary

authorities, as an aggravating factor. In the Matter of Robert J. Nemshick, DRB 03-364, 03-365, and 03-366 (March 11, 2004) (slip op. at 6). On that principle, where, as here, a three-year suspension is in order, respondent faces possible disbarment. But there is another, equally compelling reason that respondent should be disbarred.

It is well-settled that an attorney who shows a repeated disdain for the disciplinary system, the courts and his clients, may be disbarred. In In re Kantor, 180 N.J. 226 (2004), the Court disbarred an attorney who had a disciplinary record, abandoned his clients without warning, failed to answer the ethics complaint, failed to explain his misconduct to us, and failed to appear before the Court on its order to show cause. Kantor had previously been reprimanded for making a false statement of material fact or law to a tribunal, offering evidence that he knew to be false, and engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. Three years later, Kantor received a three-month suspension for gross neglect, lack of diligence, failure to communicate with his client, failure to communicate the basis or rate of his fee to the client, in writing, and failure to cooperate with disciplinary authorities in one client matter. He also failed to answer the ethics complaint.

In disbarring Kantor, the Court stated that, in addition to abandoning clients, he had "shown an utter disregard for the disciplinary process as evidenced by his decision not to cooperate with the ethics investigation, to answer the complaint, to submit mitigation evidence to the DRB, or to respond to this Court's Order to Show Cause." Id. at 232. The Court noted that, prior to its own proceeding, Kantor had been cited for failure to cooperate with the OAE investigation and had been disciplined. Finally, Kantor had offered no evidence "in mitigation of his dereliction or in support of his fitness to practice law." Ibid. The Court concluded that "[t]here is nothing in the record to suggest that he is salvageable as an attorney." Ibid. The same is true here.

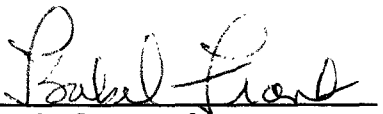
In another, more recent matter, In re Kivler, 193 N.J. 332 (2008), the Court disbarred an attorney who chronically refused to participate in disciplinary proceedings. Kivler had previously received a reprimand in a non-default matter, but thereafter, he received a second reprimand (default); a three-month suspension (default); and a three-year suspension (default). In Kivler's disbarment matter, a fourth consecutive default, he had substantially abandoned several clients. Citing Kantor, supra, we recommended Kivler's disbarment "for his refusal to conform his conduct to the standards governing

attorneys in New Jersey, his repeated refusal to cooperate with disciplinary authorities and participate in the disciplinary process, his abysmal indifference to his clients' welfare, and his utter contempt for all arms of the disciplinary system." In re Kivler, supra, 193 N.J. at 342.

This respondent, too, has displayed an unremitting disdain for the attorney discipline system, never taking step one to protect his license to practice law. Respondent has shown that his license to practice law is unimportant to him. In fact, he even practices law without it. Under the circumstances, we find that his disbarment is warranted, both as a logical enhancement under Nemshick, supra, for this, his fifth consecutive default, and on the basis of his utter disdain for the discipline system, under Kantor and Kivler, supra. We, thus, voted to recommend respondent's disbarment.

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 C. Frost, Chair

By: 
Isabel Frank
Acting Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Samuel Rak
Docket No. DRB 13-069

Argued: September 19, 2013

Decided: November 7, 2013

Disposition: Disbar

Members	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Frost	X					
Baugh	X					
Clark	X					
Doremus	X					
Gallipoli	X					
Yamner	X					
Zmirich	X					
Total:	7					

Isabel Frank
Acting Chief Counsel