SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket Nos. DRB 14-136 and 14-137
District Docket Nos. VB-2013-0016E
and VB-2013-0017E

IN THE MATTERS OF	
HUGO L. MORAS	
AN ATTORNEY AT LAW	

Decision

Decided: November 7, 2014

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

These matters were before us on certifications of default filed by the District VB Ethics Committee (DEC), pursuant to R. 1:20-4(f). They were consolidated for our review and the imposition of one form of discipline for respondent's conduct in both matters. We determine to impose a one-year suspension for the aggregate of respondent's violations.

Respondent was admitted to the New Jersey bar in 1975. Effective April 5, 1993, he was suspended for six months for

issuing a trust account check to a friend to set aside a foreclosure judgment. Although the friend gave respondent two checks in repayment, one of them was dishonored. As a result, client funds held in respondent's trust account were invaded. Relying on the friend's promise to make good on the check, respondent did not stop payment on the trust account check. The shortage was not made up until four years later, when respondent deposited his own funds to cure the shortfall. Respondent also commingled personal and client funds, by leaving earned legal fees in his trust account, and violated the recordkeeping rules. In re Moras, 131 N.J. 483 (1993). He was reinstated to the practice of law on November 3, 1993. In re Moras, 134 N.J. 223 (1993).

In 1997, respondent received a reprimand. There, respondent's business account check, issued to pay a medical bill incurred by a client, bounced because respondent's secretary stole $650 from his trust account and, thereafter, tried to disburse $650 from respondent's business account to cover the bill. Respondent was found guilty of failure to safekeep property, failure to supervise a non-lawyer employee, and deficient recordkeeping practices. In re Moras, 151 N.J. 500 (1997).

On July 7, 2005, respondent was again reprimanded, on a motion for discipline by consent, for failure to keep a client reasonably informed about the status of the matter and failure to set forth, in writing, the basis or rate of his fee. In re Moras, 184 N.J. 232 (2005).

On March 13, 2013, respondent was suspended for three months for failing to maintain a business account, failing to perform monthly reconciliations of his trust account records, failing to promptly disburse client balances from his trust account, failing to maintain appropriate receipts and disbursements journals, and authorizing office staff to sign trust account checks. In re Moras, 213 N.J. 52 (2013). Respondent remains suspended to date.

On two occasions, in 1996 and 1997, respondent was temporarily suspended, although not for disciplinary reasons. The suspensions stemmed from respondent's failure to comply with his child support obligations. R. 1:20-11A. The suspensions lasted fifteen and twenty-seven days, respectively.

I. DRB 14-136

The complaint charged respondent with violations of RPC 1.1(a) and (b) (gross neglect and pattern of neglect), RPC 1.3 (lack of diligence), RPC 1.4(b) (failure to communicate with the

client), and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

Service of process was proper in this matter. On February 13, 2014, the DEC sent a copy of the complaint, by certified and regular mail, to respondent's home address. The certified mail receipt card was signed by one "F. DeBeau." The regular mail was not returned.

On March 21, 2014, the DEC sent respondent a letter to the same home address, by certified and regular mail, advising 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, the record would be certified directly to us for the imposition of discipline, and the complaint would be deemed amended to charge a willful violation of RPC 8.1(b). The certified mail receipt was returned with an illegible signature. The regular mail was not returned.

Respondent did not file an answer within the prescribed time.

According to the complaint, in 2008, Tony Mennicucci retained respondent to represent him in connection with personal injuries sustained in an accident. Respondent failed to file suit on Mennicucci's behalf for "at least" the next five years.

On several occasions during that time period, Mennicucci telephoned respondent for status updates about the matter, but respondent never returned those calls. On a date not specified in the complaint, Mennicucci retained another lawyer to handle the personal injury matter.

The complaint also charged respondent with a failure to cooperate with the ethics investigation of this matter.

The facts recited in the complaint support most of 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).

In 2008, Mennicucci retained respondent to file a lawsuit for injuries sustained in an accident. For over five years thereafter, respondent failed to take any action to advance his client's claim, never filing a complaint, as the client expected. Respondent's inaction constituted gross neglect and a lack of diligence, violations of RPC 1.1(a) and RPC 1.3, respectively. So complete was respondent's inaction that Mennicucci was compelled to seek new counsel.

Respondent also failed to reply to his client's repeated requests for information about the case, a violation of RPC 1.4(b).

Finally, respondent did not cooperate with the ethics investigator, a violation of RPC 8.1(b).

On the other hand, the RPC 1.1(b) charge cannot be sustained. A pattern of neglect requires at least three instances of neglect. In the Matter of Donald M. Rohan, DRB 05-062 (June 8, 2005) (slip op. at 12-16). Three acts of neglect are not present here, or in the matter below, or in respondent's prior disciplinary matters. Therefore, we dismiss this charge.

II. DRB 14-137

The complaint charged respondent with violations of RPC 1.1(a), RPC 8.1(b), and RPC 3.3(a), presumably (1) (false statement of material fact to a tribunal).

Service of process was proper in this matter. As in DRB 14-136, on February 13, 2014, the DEC sent a copy of the complaint in this matter to respondent's home address, by certified and regular mail. The certified mail receipt card was signed by one "F. DeBeau." The regular mail was not returned.

Also as in DRB 14-136, on March 21, 2014, the DEC sent a letter to respondent, at his home address, by certified and regular mail, advising 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, the record would be certified directly to us for the imposition of discipline, and the complaint would be deemed amended to charge a willful violation of RPC 8.1(b). The certified mail receipt was returned with an illegible signature. The regular mail was not returned.

Respondent did not file an answer within the prescribed time.

According to the complaint, on September 9, 2010, respondent filed a Chapter 7 bankruptcy petition for his client, Barbara Bentz. On Schedule B of the petition, which requires a debtor to list assets of the debtor's estate, respondent failed to disclose that Bentz was to inherit property from her mother, who had passed away over two years earlier. Instead of listing Bentz' interest in her mother's estate, he declared "None."

In the same Schedule B, respondent also failed to disclose that Bentz was to inherit from the estate of her deceased aunt.

Once again, instead of disclosing the existence of that interest, respondent indicated "None."

Respondent was aware, prior to filing bankruptcy Schedule B, that Bentz was the beneficiary of the decedents' estates, for he had already performed legal services in connection with Bentz' interest in her mother's estate. In fact, respondent was aware that property would flow from the aunt's estate into Bentz' mother's estate and then to Bentz, as shown by his June 2010 discussions with the attorney for the mother's estate, some three months before he filed Bentz' bankruptcy petition.

According to the complaint, respondent's failure to disclose his client's interest in the estate to the bankruptcy court was misrepresentation that there were "no assets to report." The complaint also charged respondent with gross neglect for his "deliberate falsification" on bankruptcy Schedule B. Finally, the complaint charged respondent with failure to cooperate with the ethics investigation.

The facts recited in the complaint support some of 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).

When representing Bentz in her Chapter 7 bankruptcy case, respondent misled the bankruptcy court by stating, on "Schedule B – Personal Property," that Bentz had no assets. A review of Exhibit B reveals that Question 20 required Bentz to disclose any "contingent and noncontingent interests in the estate of a decedent." Knowing that Bentz was a beneficiary of two related estates, respondent checked off the box for "None," indicating that Bentz had no such interests in a decedent's estate. He also did not cooperate with the ethics investigator.

We dismiss, however, the charge that respondent's "deliberate falsification" on Schedule B amounted to gross neglect (RPC 1.1(a)). Respondent's actions were intentional in nature, rather than neglectful, and a violation of RPC 3.3(a)(1), as set forth above.

Altogether, respondent violated RPC 1.1(a), RPC 1.3, and RPC 1.4(b) in DRB 14-136, RPC 3.3(a)(1) in DRB 14-137, and RPC 8.1(b) in both matters.

Lack of candor to a tribunal has resulted in discipline ranging from an admonition to a long-term suspension. See, e.g., In the Matter of Richard S. Diamond, DRB 07-230 (November 15, 2007) (admonition for an attorney who filed certifications with the family court making numerous references to attached

psychological/medical records, which were actually mere billing records from the client's medical provider; although the court was not misled by the mischaracterization of the documents, the conduct nevertheless violated RPC 3.3(a)(1)); In the Matter of Lawrence J. McGivney, DRB 01-060 (March 18, 2002) (admonition for attorney who improperly signed the name of his superior, an Assistant Prosecutor, to an affidavit in support of an emergent wiretap application moments before its review by the court, knowing that the court might be misled by his action; in mitigation, it was considered that the superior had authorized the application, that the attorney was motivated by the pressure of the moment, and that he brought his impropriety to the court's attention one day after it occurred); In the Matter of Robin K. Lord, DRB 01-250 (September 24, 2001) (admonition for attorney who failed to reveal her client's real name to a municipal court judge when her client appeared in court using an alias; unaware of the client's significant history of motor vehicle infractions, the court imposed a lesser sentence; in mitigation, the attorney disclosed her client's real name to the municipal court the day after the court appearance, whereupon the sentence was vacated); In re Schiff, 217 N.J. 524 (2014) (reprimand for attorney who filed inaccurate certifications of proof in connection

with default judgments; specifically, at the attorney's direction, his staff prepared signed, but undated, certifications of proof in anticipation of defaults; thereafter, when staff applied for a default judgment, at the attorney's direction staff completed the certifications, added factual information, and stamped the date; although the attorney made sure that all credits and debits reflected in the certification were accurate, the signatory did not certify to the changes, after signing, a practice of which the attorney was aware and directed; the attorney was found guilty of lack of candor to a tribunal and failure to supervise non-lawyer employees); In re Manns, 171 N.J. 145 (2002) (attorney reprimanded for misleading the court, in a certification in support of a motion to reinstate the complaint, as to the date the attorney learned of the dismissal of the complaint; the attorney also lacked diligence in the case, failed to expedite litigation, and failed to properly communicate with the client; prior reprimand); In re Hummel, 204 N.J. 32 (2010) (censure, in a default matter, for an attorney found guilty of gross neglect, lack of diligence, failure to communicate with the client, and misrepresentation in a motion filed with the court; the attorney had no disciplinary record); In re Duke, 207 N.J. 37 (2011) (censure for an attorney who failed to disclose his New York disbarment on a form filed with the Board Of Immigration

Appeals; the attorney also failed to adequately communicate with the client and was guilty of recordkeeping deficiencies; prior reprimand; the attorney's contrition and efforts at rehabilitation justified only a censure); In re Clayman, 186 N.J. 73 (2006) (censure for an attorney who misrepresented the financial condition of a bankruptcy client in filings with the bankruptcy court to conceal information detrimental to the client's Chapter 13 bankruptcy petition; although the attorney had made a number of misrepresentations in the petition, he was one of the first attorneys to be reported for his misconduct by a new Chapter 13 trustee who had elected to enforce the strict requirement of the bankruptcy rules, rather than permit what had been the "common practice" of bankruptcy attorneys under the previous trustee; the attorney had an unblemished disciplinary record, was not motivated by personal gain, and did not act out of venality); In re Trustan, 202 N.J. 4 (2010) (three-month suspension for an attorney who, among other things, submitted to the court a client's case information statement that falsely asserted that the client owned a home and drafted a false certification for the client, which was submitted to the court in a domestic violence trial); In re Coffee, 174 N.J. 292 (2002) (on motion for reciprocal discipline in matter where attorney received a

one-month suspension in Arizona, three-month suspension for an attorney who submitted a false affidavit of financial information in his own divorce case, followed by his misrepresentation at a hearing that he had no assets other than those identified in the affidavit); In re Lyle, 172 N.J. 563 (2002) (three-month suspension for an attorney who falsely stated in his complaint for divorce that he and his wife had been separated for eighteen months; we rejected as a mitigating factor the attorney's purported treatment for depression at the time of the misconduct); In re Paul, 167 N.J. 6 (2001) (three-month suspension for an attorney who made misrepresentations to his adversary in a deposition and in several certifications to a court); In re Girdler, 171 N.J. 146 (2002) (six-month suspension, in a default matter, for an attorney who violated RPC 3.3(a)(1) when, in a certification to the court, he claimed that some defendants had been served with his complaint, when they had not; the attorney's failure to serve the defendants resulted in the dismissal of the complaint; deficiencies in an amended complaint were never corrected, resulting in further dismissals; gross neglect, lack of diligence, failure to communicate with the client, failure to cooperate with an ethics investigation and misrepresentations to the client also found; prior private

reprimand and public reprimand); In re Telson, 138 N.J. 47 (1994) (six-month suspension for an attorney who concealed a judge's docket entry dismissing his client's divorce complaint; the attorney obtained a divorce judgment from another judge without disclosing that the first judge had denied the request, then denied his conduct to a third judge, only to admit to this judge one week later that he had lied because he was scared); In re Cillo, 155 N.J. 599 (1998) (one-year suspension for an attorney who, after misrepresenting to a judge that a case had been settled and that no other attorney would be appearing for a conference, obtained a judge's signature on an order dismissing the action and disbursing all escrow funds to his client; the attorney knew that at least one other lawyer would be appearing at the conference and that a trust agreement required that at least $500,000 of the escrow funds remain in reserve); and In re Kornreich, 149 N.J. 346 (1997) (three-year suspension for an attorney who had been involved in an automobile accident and then misrepresented to the police, to her lawyer, and to a municipal court judge that her babysitter had been operating her vehicle; the attorney also presented false evidence in an attempt to falsely accuse the babysitter of her own wrongdoing).

Respondent's conduct was similar to that of Girdler, who received a six-month suspension for lack of candor in a certification to a court, gross neglect, lack of diligence, failure to communicate with the client, and failure to cooperate with disciplinary authorities. Both respondent and Girdler defaulted by not filing an answer to the complaint. In fact, here, respondent defaulted twice. Like respondent, Girdler had a disciplinary record (a private reprimand and a public reprimand).

What makes this case more serious than Girdler, however, is respondent's significant disciplinary history. Respondent's initial foray into the discipline system in 1993 netted him a six-month suspension; in 1997, he received a reprimand; in 2005, he was once again reprimanded; and, on March 13, 2013, he was suspended for three months. To date, he has not sought reinstatement.

Based on respondent's egregious disciplinary record, we conclude that more severe sanction than the six-month suspension imposed in Girdler is warranted. We determine to impose a one-year prospective suspension on respondent for the combination of his conduct in these two default matters.

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: Ellen A. Brodsky
Ellen A. Brodsky
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matters of Hugo L. Moras
Docket Nos. DRB 14-136 and DRB 14-137

Decided: November 7, 2014

Disposition: One-year prospective suspension

Suspension	Disbar	One-year Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Frost		X				
Baugh		X				
Clark		X				
Gallipoli		X				
Hoberman		X				
Rivera		X				
Singer		X				
Yamner		X				
Zmirich		X				
Total:		9				

Ellen A. Brodsky
Chief Counsel