SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 16-362
District Docket No. XII-2013-0052E

IN THE MATTER OF	
RICHARD J. VAPNAR	
AN ATTORNEY AT LAW	

Decision

Argued: February 16, 2017

Decided: June 23, 2017

Richard Botos appeared on behalf of the District XII Ethics Committee.

Richard J. Vapnar appeared pro se.

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 one-year suspension, filed by the District XII Ethics Committee (DEC). The complaint charged respondent with four counts of RPC 1.1(a) (gross neglect), one count of RPC 1.1(b) (pattern of neglect), four counts of RPC 1.3 (lack of diligence), four counts of RPC 1.4(b) (failure to communicate with the client), four counts of RPC 1.4(c) (failure to explain the matter to the extent reasonably necessary to permit

the client to make an informed decision regarding the representation), one count of RPC 3.3(a)(1) (lack of candor toward a tribunal), three counts of RPC 4.2(a) (presumably 4.1(a)(1)) (making a false statement of material fact or law to a third person), one count of RPC 8.1(a) (knowingly making a false statement in connection with a disciplinary matter), and three counts of RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). We determine to impose a one-year suspension.

Respondent was admitted to the New Jersey bar in 1999. He has no history of discipline.

Between January 2000 and August 2012, respondent was an associate at the Law Offices of Stephen Steinberg, P.C. Currently, respondent is a sole practitioner in Maywood, New Jersey. In October 2013, just over a year after respondent left the firm, Steinberg filed an ethics grievance against respondent, alleging professional misconduct. The allegations focused on respondent's handling of four client matters while he was employed by Steinberg.[1] Respondent was listed as the primary

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[1] Following the grievance Steinberg filed against respondent, the DEC initiated an ethics grievance against Steinberg alleging
(footnote cont'd on next page)

attorney in the retainer agreements for each of these matters, as well as for most client matters within the firm.

The Cerbone Matter

Respondent represented the plaintiffs in litigation in Superior Court, Law Division, Middlesex County captioned as Rita and Antonio Cerbone v. Gohil, MID-L-7639-09. Originally, the matter had been scheduled for arbitration; however, it was removed, and a trial was scheduled for October 3, 2011. On October 6, 2011, following a motion for summary judgment, the complaint was dismissed, without prejudice, because respondent had failed to appear for trial or to oppose the motion. Although the order indicated that the motion had been unopposed, respondent claimed that the order was erroneous because he had filed a cross-motion opposing summary judgment and requesting an extension of the discovery period. He admitted, however, that no one from his office appeared in court, on October 6, 2011.

(footnote cont'd)

that he failed to supervise respondent and subsequently filed a formal complaint against him on that basis. The DEC heard that matter simultaneously with respondent's. The DEC found no unethical conduct on Steinberg's part and, therefore, dismissed the complaint against him.

Despite the complaint's dismissal, respondent's file for the Cerbone matter contained a copy of a letter, dated January 12, 2012, from respondent to the court, requesting that the matter be scheduled for arbitration. The letter indicated that a copy of it had been sent to defense counsel, Lynn Hershkovits-Goldberg, who denied having received it. The file contained similar letters dated April 23, May 14, May 31, June 27, and August 3, 2012.[2] Notably, the August 3, 2012 letter, which respondent signed, attached a check for a filing fee and a motion to compel arbitration. Hershkovits-Goldberg testified that she neither received any of those letters or the motion to compel arbitration nor had she been notified by the court, or otherwise, that anyone was attempting to schedule the matter for arbitration.

Respondent admitted that he had not sent the August 3, 2012 motion to his adversary, even though it was his responsibility to do so. Rather, he testified that he presumed it had been sent. Eventually, Hershkovits-Goldberg did receive a similar motion that Steinberg filed, on October 12, 2012, in an effort

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[2] Five of the six letters contain two case captions, the Cerbone matter, as well as the Segarra matter, which is discussed below.

to restore the case to arbitration. After Steinberg received Hershkovits-Goldberg's opposition, he withdrew the motion, presumably learning, for the first time, the procedural history of the matter. Subsequently, on April 23, 2013, Steinberg filed a motion to reinstate the complaint. On May 20, 2013, Hershkovits-Goldberg filed opposition to that motion.[3]

Ian Ratzlaff, Assistant Civil Division Manager in Middlesex County, testified before the DEC regarding documents filed with the court. He provided a screenshot from the court's case management system showing a record of documents from the Cerbone case, including any associated fees, and how and when they were paid. The court file did not contain a copy of the August 3, 2012 motion to compel arbitration or its cover letter. There was also no record of the receipt of the check for the filing fee. Respondent had no explanation for the court's failure to receive the motion.

Respondent admitted that he never informed his clients that their case had been dismissed. They did not learn of the dismissal for at least eleven months, and only after Steinberg assumed responsibility over the matter and contacted them.

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[3] The record does not indicate the outcome of that motion.

Respondent did not admit, however, that he violated RPC 1.4. He also continued to stand by his claim that he had opposed the motion for summary judgment with a cross-motion to reopen discovery, even though the court had no record of its filing and no order disposing of his motion had been issued.

Further, respondent insisted that he had called the court to follow up, was told that he would receive a return phone call, and made additional calls to the court, all to no avail. Respondent denied having received notice that his adversary's motion for summary judgement had been granted. Ultimately, he admitted that he did not know what happened, that he had let the matter remain unaddressed, and that he had been irresponsible.

Similarly, respondent asserted in his answer to the amended complaint that he had never seen the order dismissing the complaint. He claimed that, although he had sent documents to the court, they were destroyed when the court archived its files.

Eventually, during his testimony, however, respondent admitted that the only purpose of the January 12, 2012 letter requesting arbitration was to give the appearance to Steinberg that the case was progressing in the normal course if Steinberg were to inspect the file. Upon further questioning, respondent admitted that he had not sent any of the six letters to the

court or to his adversary after the Cerbone matter had been dismissed. He further admitted that, as of the dates on those letters, he knew they would not be sent, and that they were created to mislead Steinberg into believing that the Cerbone matter was proceeding.

Additionally, throughout the DEC hearing, respondent denied having concealed from Steinberg any mail from a court. Later, however, respondent admitted that he did intentionally hide mail to prevent Steinberg from reviewing it. He explained that he did so in order to rectify issues in cases without Steinberg's discovery of them.

The Segarra Matter

Respondent represented the plaintiff in a personal injury matter docketed as Nancy Segarra v. Kevin and June Koch. Robert Helwig represented the Koches, the owners of a dog who had charged Segarra, a postal worker, causing her to fall backward and sustain injuries. In March 2010, Helwig filed a motion to dismiss the complaint for failure to provide discovery. Despite a previous order to do so, respondent failed to obtain an executed medical authorization form from his client. On March 19, 2010, Helwig's motion was granted and the matter was dismissed, without prejudice. Subsequently, respondent filed a

motion requesting that plaintiff's pleadings be restored and that summary judgment be granted in her favor. On January 14, 2011, the court denied that motion.

Respondent explained that, after the court initially dismissed the matter, without prejudice, Helwig did not file the secondary motion to dismiss, with prejudice, that was due within sixty days. Respondent, therefore, assumed that the matter remained pending. He further presumed that, although the court had denied his summary judgment motion, it had restored his pleadings based on the way the court stamped the order. Specifically, the court's "DENIED" stamp did not touch the section of his proposed form of order addressing restoration of the pleadings.

As noted above in the Cerbone matter, beginning April 23, 2012, respondent drafted five letters to the court. These five letters were the same as five of the six letters in Cerbone and were captioned for both the Cerbone and Segarra matters. Although the letters indicated that a copy had been sent to counsel, Helwig testified that he never received the letters. Respondent testified that, in addition to having sent the letters, he had called the court because he thought discovery was concluded on both the Cerbone and Segarra matters. The presenter challenged that assertion, pointing out that

respondent already had admitted, in connection with the Cerbone matter, that he had not sent the letters to the court or his adversary and that he never intended to do so. Respondent admitted that his testimony did not make sense. In addition to this inconsistency, in his written response to the grievance, and in his amended answer to the complaint, respondent insisted that these letters and the accompanying motion had been sent to his adversaries and the court.

Respondent admitted that he never informed Segarra that the complaint had been dismissed, explaining that he could not have done so because he did not know the case was closed. This statement clearly conflicts with respondent's admission that he had created the above referenced letters to hide the dismissal from Steinberg.

Eventually, a motion to compel arbitration in the Segarra case was filed. On November 16, 2012, the motion was denied and the order noted that the case was still closed. On February 8, 2013, following a motion filed by Richard Maron, the associate who replaced respondent after he left the Steinberg firm, the pleadings were restored and an additional thirty days of discovery were afforded the parties.

As previously noted, respondent testified that he did not recall ever hiding from Steinberg any documents received from a

court. Later, however, respondent admitted that he had intentionally hid mail to prevent Steinberg from seeing it and from discovering problems in cases that respondent wanted to address himself.

The Bronco Matter

Respondent represented the plaintiff in a personal injury matter entitled Michael Bronco v. Home Depot, based on Bronco's, injuries incurred during a visit to one of Home Depot's stores.

By letter dated December 8, 2011, Home Depot requested that respondent provide more specific answers to interrogatories. Prior thereto, however, the court had entered an order compelling more specific answers. In a January 19, 2012 reply, respondent represented to Home Depot that he would be providing more specific answers. He admitted at the DEC hearing that, at the time he sent that letter, he knew that he would not comply with the discovery request.

Home Depot filed a motion to dismiss the complaint, with prejudice. Although the motion originally was returnable April 27, 2012, it was carried twice because respondent continued to request more time to provide discovery responses. On Monday, May 14, 2012, respondent informed the court that he had the opportunity to meet with his client, Bronco, over that past

weekend. That client meeting was not logged in his Lawyer's Diary, which was respondent's usual practice.

Respondent represented to the court that Bronco was aware that the matter previously had been dismissed, without prejudice; that Bronco promised to provide the outstanding discovery that week; and that, although Bronco was aware that the instant motion to dismiss with prejudice was occurring at that very moment, Bronco was not in attendance. Respondent informed the court that his inability to comply with discovery demands was the result of Bronco's lack of cooperation. The court dismissed the matter, with prejudice, relying on respondent's claim that his client was uncooperative.

The Bronco client file contained a copy of a motion to vacate the dismissal, returnable on April 27, 2012, the original return date of Home Depot's motion to dismiss the complaint, with prejudice. Respondent admitted that the motion to vacate was never filed, however. The placement of the motion to vacate in the Bronco file created the impression for a third party reviewing that file that that motion had been heard on April 27, 2012.

During his DEC testimony, respondent stood by his statements to the court that the complaint had been dismissed because Bronco failed to provide more specific answers to

interrogatories. Respondent also claimed that Bronco wanted the case dismissed because collection of a monetary judgment was unlikely. Further, respondent asserted that he had informed Steinberg of the complaint's dismissal.

Respondent testified that, as he recalled, after the Bronco complaint had been dismissed, without prejudice, in March 2012, he filed a motion to restore it. Home Depot filed another motion to dismiss the complaint for Bronco's failure to submit medical authorizations. Respondent claimed that he had sent the authorizations to Home Depot with a request that the motion to dismiss be withdrawn. Instead, the complaint was dismissed. Respondent insisted that, although he filed another motion to restore, his own search of the court records failed to uncover any evidence of such a filing.

One year after Bronco's complaint had been dismissed, he testified before the court in connection with the motion to restore his matter. The court found credible his testimony that he was never informed about the motion to dismiss without prejudice. Consistent with his testimony in court, Bronco testified before the DEC that respondent had never informed him that the complaint had been dismissed. He learned of the status of the matter from Steinberg only after respondent left the firm. Bronco denied that he had discussed discovery with

respondent. Rather, he simply provided respondent with documents as Bronco received them.

According to Bronco, the last time he spoke with respondent was at Bronco's deposition, on August 25, 2011. Bronco adamantly denied having expressed a desire to have the complaint dismissed. He had lost his company because of his injuries, was receiving welfare benefits, and held Home Depot directly responsible. He wanted his day in court and wanted a jury to decide the matter.

Bronco, however, admitted that he had discussed with respondent the fact that any settlement he received likely would be disbursed to the state to satisfy a workers' compensation lien against Bronco. Indeed, Bronco's $9,000 settlement with Home Depot was paid to the state pursuant to its lien.

As in the prior matters, respondent admitted that he intentionally hid mail from Steinberg to conceal problems with respondent's cases. Due to the increasingly negative reactions of Steinberg toward the end of respondent's tenure with the firm, respondent decided not to tell Steinberg "bad news" because he was afraid of Steinberg's reaction. Consequently, respondent failed to inform Steinberg about the dismissal in the Bronco matter.

The Moon Freight Matters

Respondent represented Yasin Muhammad[4] and Moon Freight Line Service Corp. (Moon Freight) in an action filed, in 2010, in Superior Court, Law Division, Middlesex County by Hammad Raza, captioned as Raza v. Moon Freight Line Service Corp. and Yasin Muhammad (the 2010 action). On January 31, 2012, respondent filed a complaint in Superior Court, Chancery Division, Middlesex County, entitled Moon Freight Line Service Corp. v. Hammad Raza and Kashif Chaudry (the 2012 action). Rule 4:5-1(b)(2) sets forth an attorney's continuing obligation to notify courts and all parties of any related actions or controversies. Although respondent disclosed the 2010 litigation when he filed the complaint in 2012, he failed to notify the parties and the court in the 2010 litigation that he had filed the 2012 action.

The 2010 action was scheduled for trial on February 22, 2012 before the Honorable Philip L. Paley, J.S.C. Judge Paley testified at the DEC hearing that respondent had appeared in court, on February 22, 2012, but the trial was carried to the

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[4] The name appears in the record as "Mohammad" and "Muhammed." He is also referred to as "Mr. Yasin."

next day. On February 22, 2012, respondent represented to Judge Paley, that his client, Muhammad, was on the way and that he had spoken with him by telephone. At the DEC hearing, however, when asked by the presenter whether respondent had told Muhammad about the hearing on February 22, 2012, respondent testified that he "left a message."

Judge Paley also testified at the DEC hearing that, when respondent appeared before him on February 22, 2012, he never disclosed that, just one month earlier, he had filed another complaint involving the same parties.

Because the defendants had not arrived and because plaintiff Raza had traveled from North Carolina for the February 22, 2012 hearing, Judge Paley asked whether all parties would be available for trial the next day. Although his clients were not at the hearing, respondent agreed to start the trial the following day.

Judge Paley further testified that, on the morning of February 23, 2012, respondent called his chambers, stating that he was sick and staying home for the day. Judge Paley replied that the case already had been carried and was ready for trial. The matter proceeded as a default that morning, with plaintiff Raza testifying as the only witness.

Respondent maintained that he had called Judge Paley from home at 8:55 a.m. to explain that he was sick and would not be at trial. He admitted that he eventually went to the office that day to work. Steinberg, however, testified that he called his office that morning at 9:03 a.m. and spoke directly with respondent. Because respondent lived at least a thirty-minute drive from the office, Steinberg posited that respondent could not have called Judge Paley from home; rather, he was already in the office when he made the call.

Respondent claimed that he eventually went to the office on February 23, 2012, because Steinberg was out of town and no other attorney would have been present. Respondent asserted that he was unable to perform his duties, and believed that, if he had appeared in court, the outcome for his clients would have been worse than the result of his failing to appear. He explained that he believed that he would have had an opportunity to rectify any negative outcome stemming from an absence based on illness. Respondent acknowledged that Judge Paley had informed him on the phone that morning that he potentially would be entering default, and that respondent could subsequently move to vacate the default based on his illness. Nonetheless, respondent never filed such a motion.

Muhammad also failed to appear on February 23, 2012. When asked whether he had notified his client of the trial set for February 22, 2012, respondent replied that he had "sent a letter" and had asked Muhammad to stay in touch by telephone, and therefore, "he had notice." In respect of the trial scheduled for February 23, 2012, respondent claimed that he had left Muhammad a message that he was sick and would not appear. Respondent could not explain his client's failure to appear.

Respondent admitted that he did not learn of the amount of the default judgment entered against his client until six months after it had been entered.[5] He also admitted that he had not told Muhammad about the default judgment. In fact, Muhammad did not learn of the judgment entered against him, until Steinberg told him, on August 23, 2013, eighteen months later.

As noted above, on January 31, 2012, respondent filed a complaint on behalf of Moon Freight in the Chancery Division. On August 28, 2012, six months after default had been entered in the 2010 action, the Honorable Frank M. Ciuffani, P.J.S.C., held a case management conference for the 2012 action. The transcript of the case management conference erroneously listed Steinberg,

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[5] The record does not reflect the amount of this judgment.

rather than respondent, as appearing on behalf of the plaintiff. Further, throughout the conference, the court regularly addressed counsel as "Mr. Steinberg." Although, respondent appeared before the court, he never corrected the mistake about his identity.

At the case management conference, the court asked respondent when he had become aware of the 2010 matter, pending in the Law Division. Respondent replied that he had learned of the 2010 matter only a couple of months previous, after he had filed the 2012 action. He then asked the court, "does that matter?" As previously mentioned, however, when respondent filed the 2012 complaint, he had certified that another action was pending. Respondent admitted at the DEC hearing that his response to the court was a mistake that should have been corrected.

At the DEC hearing, the presenter asked respondent why he allowed Judge Ciuffani to refer continually to him as "Mr. Steinberg." Respondent claimed that he tried to correct Judge Ciuffani once, but was interrupted, and never had another opportunity before the matter was concluded. Respondent further gave the nonsensical reply that he failed to correct the court because he "moved," but was asked another question. Respondent added that he did not consider it important and that the entire

scenario had begun oddly because no appearances were requested at the outset of the case management conference.

During his testimony, respondent eventually admitted that, although he had told Judge Ciuffani that he became aware of the 2010 action only a couple of months prior to the hearing, he was aware of the 2010 action as early as December 2011, when he brought Muhammad into the firm as a client. Respondent denied, however, a lack of candor to the court, and claimed that he simply had given an incorrect answer to the judge's question. When challenged again, respondent admitted that he knew, at the time he made that representation to Judge Ciuffani, that the information he gave was incorrect. Respondent also admitted that, early on, Steinberg had directed him to consolidate the 2010 and 2012 actions, but that he never did so.

In his written reply to Steinberg's grievance against him, respondent represented that Steinberg was fully aware of the status of Muhammad's case. In support of that contention, respondent asserted that Steinberg made a "rare" court appearance before Judge Ciuffani. Respondent was then asked whether, in this ethics matter, he had tried to take advantage of the mistake in the transcript identifying Steinberg, instead of respondent, as the attorney appearing before Judge Ciuffani. Respondent replied:

> No, I did not. I had no -- I had no access to any of the case files that were at issue in this case other than what was attached to Mr. Steinberg's complaint and other than what I was able to get from the court myself, and when I reviewed this, I made a mistake in that I -- in that Mr. Steinberg was indicated as having gone to court and I thought that he may have gone to court at that time. It wasn't intentional on my part because I just didn't -- I recollect that he had gone to court on something around that time. When I had seen the court complaint, the court indication of his appearance, I thought it might have been this, and that is why that was put there.
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> [3T198-6 to 20.][6]

Respondent admitted that he would like to withdraw that portion of his response to the grievance.

On August 29 2012, the day after appearing before Judge Ciuffani, respondent abruptly ended his association with the firm. He did so after Steinberg confronted him with an order of dismissal, with prejudice, in the Pazmino matter (not the subject of the disciplinary matter currently before us). Respondent claimed that although the Pazmino matter was one of the problems, among others, that led to his abruptly quitting that day, the Moon Freight matter was not one of them.

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[6] "3T" refers to the December 4, 2015 DEC hearing transcript.

Eventually, on May 28, 2013, the 2012 Moon Freight action was dismissed, with prejudice. On June 17, 2013, Maron (respondent's replacement) and Steinberg filed a motion for reconsideration of that dismissal. In a written decision denying that motion, the Honorable Martin E. Kravarik, J.S.C., noted that defendant Chaudry had never been served with the complaint and might not have had any actual knowledge of it. Judge Kravarik dismissed the 2012 action because it was duplicative of the 2010 action between the same parties and constituted a waste of judicial resources. He, too, noted that respondent's conduct was inexcusable in this regard.

Finally, once again, respondent intentionally hid mail from Steinberg and failed to inform him of the entry of judgment against his client.

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From February 2012 through March 2013, Joanne Fingerling worked for the Steinberg firm as a legal secretary. During that time, she worked directly with respondent, typing pleadings and correspondence, and managing his calendar.

After respondent left the firm, Fingerling helped Steinberg clean respondent's office, and found many opened and unopened parcels of mail. Although she seemed to agree with the implication that respondent intentionally hid the mail, she

noted that it was well-known throughout that office that he frequently lost or misplaced things. Nonetheless, through this process of cleaning respondent's office, she and Steinberg learned that the cases discussed above had been dismissed.

Fingerling also noted that, although a lot of drinking took place in the office during working hours, she did not believe that respondent ever had "one too many." Confirming Fingerling's assertion, respondent testified that, starting in 2003, he and Steinberg went to lunch every day, where they usually consumed alcohol, unless respondent had a deposition or court appearance in the afternoon. Drinking occurred other times as well, such as for birthdays, and sometimes champagne was served at the regular Friday morning breakfast meetings. According to respondent, even after lunch on some occasions, Steinberg would call him into his office to have "a couple of more drinks" and "[a] lot of drinking went on in the office." In addition, "teatime" took place every day at 4:30 p.m. Respondent and Steinberg would drink in Steinberg's office until 5:30 or 6:00 p.m., when they would leave for the day.

Respondent acknowledged that "teatime" interfered with his workflow and the firm's ability to handle client matters. Respondent explained that lunch would be extended, and when he returned to the office, he refrained from returning phone calls

or talking to people, in case he slurred his words. Instead, he would work on written materials. The amount of time spent at lunch and drinking in the afternoon caused respondent to fall behind in his cases. Respondent summed up the situation, stating:

> I'm in the office, I'm essentially being... [Steinberg's] essentially pouring scotch down my throat in some respects.
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> [3T217:25-3T218:2.]

Respondent explained that he would refrain from time to time but that Steinberg would pressure him. Steinberg would quip, "are you too good to drink with us?" or "why aren't you drinking?" Respondent believed that it was just easier to have a drink with Steinberg than to refrain.

Respondent was admitted to the hospital on one occasion for drinking too much at a party that he attended with Steinberg.

Although respondent never told Steinberg that his workload was too much to handle, he asked for help on occasion, if he needed it with a particular matter. He testified, however, that during his last eighteen months at the firm, his caseload got heavier as Steinberg took on fewer responsibilities, focusing on a single client, and respondent became overwhelmed. Further, the drinking was escalating and Steinberg's temper was getting worse. For example, Steinberg become angry if respondent made

lunch decisions too slowly. Respondent complained that it became a toxic environment.

During this time, respondent's mother fell ill, and he became "depressed about it." He felt pressure in many different ways, and on the day he quit, he just "snapped." He needed to leave for his own sanity, but in retrospect, respondent admitted that he left behind "a mess," although it was not his intent to do so.

Nonetheless, respondent eventually conceded that he quit, in part, because he was overwhelmed and overworked, and, in part, because of the issues with the client cases underlying this ethics matter. He expressed regrets about the way things ended and about the things he should have done, noting that it was a "bad and rough period."

* * *

The DEC found, by clear and convincing evidence, that respondent violated RPC 1.1(a) and (b) with respect to the Moon Freight, Bronco, Cerbone, and Segarra matters. Respondent admitted in his answer to the complaint that all of these matters were dismissed as a direct result of his failure to comply with court orders. In Moon Freight, he admitted that he failed to consolidate the two related actions, failed to appear for trial, and failed to keep his client informed of the adverse

judgment. His failure to consolidate the two actions resulted in the dismissal with prejudice of the second complaint.

The DEC noted that, at the hearing, respondent offered mitigation for his negligence in the Moon Freight matter, which it found not credible. Specifically, respondent claimed that he had been too sick to appear at trial; however, Judge Paley had informed respondent that any illness would not excuse his attendance at trial. Although respondent did not appear for trial, he nevertheless, went to the office that same day. Further, he never moved to vacate the default entered against his client, despite Judge Paley's advice that he could do so, based on his alleged illness.

In the Bronco matter, respondent admitted that he failed to comply with discovery, resulting in the matter's dismissal. Although respondent asserted, in mitigation, that the client wanted the matter to be dismissed, the DEC did not find respondent credible, as Bronco's own testimony before the court and before the DEC directly contradicted that assertion.

In the Cerbone matter, respondent again failed to appear for trial, resulting in dismissal of the client's complaint. In the Segarra matter, respondent failed to obtain an executed medical authorization from his client, despite repeated

instructions from the court to do so, and this failure ultimately led to the dismissal of the client's complaint.

The DEC concluded that respondent inexplicably ignored these four matters to the great prejudice of his clients, and that his conduct violated RPC 1.1(a) and (b). Further, the DEC determined that respondent's gross negligence in these four matters "was a direct byproduct of [his] lack of diligence in representing his clients," in violation of RPC 1.3.

The DEC also found that respondent violated RPC 1.4(b) and (c) with respect to the Moon Freight, Bronco, Cerbone, and Segarra matters. Respondent admitted that, in the Moon Freight matters, he failed to communicate the adverse judgment in the first action to his client and that he failed to inform his client that he had not appeared for trial.

In the Bronco matter, the client testified that respondent neither communicated with him regarding discovery in the case nor informed him that his complaint had been dismissed. The DEC found Bronco to be credible in this regard. In the Cerbone and Segarra matters, respondent admitted that he failed to inform his clients that their cases had been dismissed.

The DEC found that respondent's failure to keep his clients informed of major dispositional events in their cases also

deprived them of their right to participate actively in their matters, a violation of both RPC 1.4(b) and (c).

Further, the DEC determined that respondent violated RPC 8.4(c) with respect to the Moon Freight, Bronco, and Cerbone matters. Specifically, the DEC found that respondent engaged in a protracted scheme to hide and misrepresent to his supervising attorney, Steinberg, the true status of those cases. Respondent not only concealed mail from Steinberg, but also created documents to mislead Steinberg about the status of these client matters.

The DEC addressed RPC 4.1(a)(1), which prohibits an attorney from knowingly making a false statement of material fact or law to a third person. Although respondent was untruthful to Steinberg in connection with the handling of the Cerbone and Segarra matters, the DEC found RPC 8.4(c) to be the appropriate charge and, therefore, did not find that respondent violated RPC 4.1(a)(1) or RPC 4.2 (which had been charged in error).

Additionally, the DEC found that respondent violated RPC 3.3(a)(1) in connection with the Bronco matter. Respondent admitted that, at a May 14, 2012 hearing, he represented to the court that the discovery responses were late because the client had not cooperated. At the hearing, however, the evidence

presented established that respondent's representation was not true.

The DEC also determined that respondent violated RPC 8.1(a). During the DEC investigation in the Cerbone and Segarra matters, respondent repeatedly asserted that he had not been aware of various court orders, and pointed to correspondence in the client files in support of that contention. Those letters purportedly demonstrated that respondent had requested hearing dates for arbitration.

Although respondent denied having intercepted mail that would have exposed the adverse judgments of which he claimed to have no knowledge, it became clear at the hearing that he had intercepted and hoarded a significant amount of mail to conceal, from Steinberg and others, the problems that had developed in these matters. Moreover, and glaringly, the DEC noted, respondent eventually admitted, that he never sent the correspondence seeking arbitration dates.

The DEC concluded that respondent's failure to send the letters demonstrated that he had prepared them solely to hide the adverse outcomes in these cases. "Thus, Respondent knew of the adverse judgments, prepared the correspondence to hide the fact of the adverse judgments from Steinberg, and intentionally

misrepresented these facts to the Committee," a violation of RPC 8.1(a).

In aggravation, the DEC considered that respondent's pattern of dishonesty continued for a period of more than one year. Further, respondent lacked candor and made misrepresentations throughout the disciplinary proceeding. Moreover, although respondent admitted many of the facts that established his misconduct, he "demonstrated no remorse or appreciation for the impact his misconduct has had on his clients."

In mitigation, the DEC considered respondent's previously unblemished record since his admission in 1999. It rejected as mitigation, however, respondent's alcohol consumption, noting that, although respondent argued that his alcohol consumption contributed to his misconduct, he denied being an alcoholic or having sought any treatment therefor.

Finally, based on the longstanding nature and the breadth of respondent's misconduct, the "prevalence of dishonesty and misrepresentation, and [his] lack of cooperation and remorse" during the proceedings before it, the DEC unanimously recommended that respondent be suspended from the practice of law for one year.

* * *

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

In connection with the Cerbone matter, the complaint charged respondent with violating RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.4(c), RPC 4.2 (presumably 4.1(a)(1)), RPC 8.1(a), and RPC 8.4(c).

Respondent failed to appear for trial, resulting in a dismissal of the clients' complaint. He then failed to inform his clients that their case had been dismissed and took no action to have it restored. Therefore, respondent violated RPC 1.1(a), RPC 1.3, and RPC 1.4(b).

Respondent's failure to inform his clients that their matter had been dismissed denied them the opportunity to make a determination in respect of whether he was capable of handling the claim to their satisfaction, a violation of RPC 1.4(c).

Likewise, by withholding the information regarding the dismissal, respondent made a misrepresentation by silence. Respondent also made misrepresentations to Steinberg to prevent him from discovering issues in these matters by hiding mail from him and by fabricating letters and motions that he never filed or intended to file. Respondent's purpose was to create the

illusion that the Cerbone matter was progressing in the normal course. In so doing, respondent violated RPC 8.4(c).

Finally, in his amended answer, as well as early in his testimony before the DEC, respondent steadfastly maintained the façade that he had sent to the court and to his adversary the six letters found in the Cerbone client file and the motion to compel arbitration. Finally, he admitted that this was not true and that, at the time he drafted these documents, he knew he would not be mailing them. Instead, he intended to create the illusion for anyone reviewing the file, including the DEC investigator, to whom he sent the letters as support for his defenses, that he was diligently handling his client's matter. Respondent's conduct in this respect violated RPC 8.1(a).

In connection with the Segarra matter, the complaint charged respondent with violating RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.4(c), RPC 4.2 (presumably 4.1(a)(1)), and RPC 8.1(a).

Respondent failed to obtain an executed medical authorization from his client, despite repeated instructions from the court to do so, resulting in the dismissal of Segarra's complaint. Respondent then failed to inform his client of the dismissal or to take any steps to restore the complaint. He, thus, violated RPC 1.1(a), RPC 1.3, and RPC 1.4(b) and (c).

Respondent's failure to inform his client that the matter was dismissed is also a misrepresentation by silence. He also made misrepresentations to Steinberg by his admitted interception of mail to conceal from Steinberg issues in respondent's cases. Further, respondent fabricated letters and motions that he placed in the client file and then never sent, all to create the illusion that the matter was progressing. By so doing, respondent violated RPC 4.1(a)(1).

As stated above in connection with the Cerbone matter, in his answer to the amended complaint, respondent tried to maintain the facade that he had sent to the court and to Helwig the five letters found in the Segarra client file and the motion to compel arbitration. Finally, he admitted that, at the time he drafted these documents, he knew he would not be mailing them, and that he intended to create the false impression that he was diligently handling his client's matter. Because respondent's intended target of this deception was the DEC, he violated RPC 8.1(a).

In the Bronco matter, the complaint charged respondent with violating RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.4(c), RPC 3.3(a)(1), and RPC 8.4(c).

Although respondent admitted that he failed to comply with discovery demands, which resulted in the dismissal of the Bronco

complaint, he blamed Bronco for the dismissal, claiming that Bronco always intended for the matter to be dismissed. Respondent also blamed Bronco during the hearing on the motion to dismiss, misrepresenting to the court that his client was uncooperative. Bronco testified in court and before the DEC in complete contradiction to respondent's version of the facts. Both the court and the DEC found Bronco to be credible. As such, respondent violated RPC 1.1(a), RPC 1.3, and RPC 1.4(b).

Respondent misrepresented to the court that he had been unable to comply with discovery requests because of Bronco's failure to cooperate with him; that he had informed his client of the order dismissing his matter, without prejudice; that he had informed Bronco that the motion to dismiss the complaint, with prejudice, was pending before the court; and that he had discussed outstanding discovery with his client. Respondent's misrepresentations violated RPC 3.3(a)(1). Additionally, his failure to inform his client that his matter had been dismissed was a misrepresentation by silence, a violation of both RPC 1.4(c) and RPC 8.4(c).

Further, respondent made misrepresentations by silence to Steinberg about the status of the Bronco matter, by intercepting mail in order to conceal the fact that the complaint had been dismissed, an additional violation of RPC 8.4(c).

In the Moon Freight matters, the complaint charged respondent with violating RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.4(c), and RPC 8.4(c). Respondent was also charged with violating RPC 1.1(b) in connection with all four client matters giving rise to this ethics matter.

Respondent admitted that he failed to appear for trial in the 2010 matter, and failed to consolidate both matters, notwithstanding Steinberg's direction to do so. Further, although Judge Paley had informed respondent that he could move to vacate the default entered against his client in the 2010 matter, respondent made no such motion, violations of both RPC 1.1(a) and RPC 1.3. Respondent also admitted that he failed to inform his client about the judgment entered against him and failed to inform Muhammad that respondent did not appear for the trial, violations of RPC 1.4(b) and (c) and RPC 8.4(c).

Finally, respondent violated RPC 8.4(c) by taking steps to conceal from Steinberg the deficiencies in this client matter. Respondent admitted that he failed to tell Steinberg about the adverse outcomes and that he intercepted mail to further that deception.

Further, respondent misrepresented his identity when he appeared before Judge Ciuffani. Although the court believed respondent to be Steinberg, respondent took no action to correct

that misapprehension, either during or after the conference. Respondent misrepresented to Judge Ciuffani that he first learned of the 2010 action only a couple of months earlier, when, in fact, he had known of it much earlier. This conduct also violated RPC 8.4(c).[7]

In this matter, respondent was not charged with a violation of RPC 8.1(a). Nonetheless, in his response to the grievance, respondent misrepresented Steinberg's participation in the case management conference, referring to it as a "rare" appearance by him, and used it to support his claim that Steinberg had been aware of the status of the Moon Freight matters. This is further evidence of the web of deceit cast by respondent and of his pattern of dishonesty.

Respondent also committed gross neglect in four client matters, which constitutes a pattern of neglect, a violation of RPC 1.1(b).

In total, respondent committed four violations of RPC 1.1(a) (gross neglect), one violation of RPC 1.1(b) (pattern of neglect),

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[7] Although respondent's misrepresentations to Judge Ciuffani also may constitute a lack of candor toward a tribunal, the complaint did not charge respondent with a violation of RPC 3.3(a)(5) and, therefore, we make no determination in that respect. R. 1:20-4(b).

four violations of RPC 1.3 (lack of diligence), four violations of RPC 1.4(b) (failure to communicate with the client), four violations of RPC 1.4(c) (failure to explain the matter to the extent reasonably necessary to permit the client to make an informed decision regarding the representation), one violation of RPC 3.3(a)(1) (lack of candor toward a tribunal), three violations of RPC 4.1(a)(1) (making a false statement of material fact or law to a third person), one violation of RPC 8.1(a) (knowingly making a false statement in connection with a disciplinary matter), and three violations of RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

Generally, in matters involving misrepresentations to ethics authorities, the discipline ranges from a reprimand to a term of suspension, depending on the gravity of the offense, the presence of other unethical conduct, and aggravating or mitigating factors. See, e.g., In re Sunberg, 156 N.J. 396 (1998) (reprimand for attorney who created a phony arbitration award to mislead his partner and then lied to the Office of Attorney Ethics (OAE) about the arbitration award; mitigating factors included the passage of ten years since the occurrence, the attorney's unblemished disciplinary record, his numerous professional achievements, and his pro bono contributions); In re Homan, 195 N.J. 185 (2008) (censure for attorney who fabricated a

promissory note reflecting a loan to him from a client, forged the signature of the client's attorney-in-fact, and gave the note to the OAE during its investigation of a grievance against him; the attorney told the OAE that the note was genuine and that it had been executed contemporaneously with its creation; ultimately, the attorney admitted his impropriety to the OAE; extremely compelling mitigating factors considered, including the attorney's impeccable forty-year professional record, the legitimacy of the loan transaction listed on the note, and the fact that the attorney's fabrication of the note was prompted by his panic at being contacted by the OAE and his embarrassment over his failure to prepare the note contemporaneously with the loan); In re Bar-Nadav, 174 N.J. 537 (2002) (three-month suspension for attorney who submitted two fictitious letters to the district ethics committee in an attempt to justify his failure to file a divorce complaint on behalf of a client; the attorney also filed a motion on behalf of another client after his representation had ended, and failed to communicate with both clients); In re Rinaldi, 149 N.J. 22 (1997) (three-month suspension for attorney who did not diligently pursue a matter, made misrepresentations to the client about the status of the matter, and submitted three fictitious letters to the ethics committee in an attempt to show that he had worked on the

matter); In re Katsios, 185 N.J. 424 (2006) (two-year suspension for attorney who prematurely released a buyer's deposit he held in escrow for a real estate transaction, to the buyer/client (the attorney's cousin), without the consent of all the parties to the transaction; ordinarily, the misconduct would have warranted no more than a reprimand, but the attorney panicked when contacted by the OAE, and then sought to conceal his misdeed by falsifying bank records and trust account reconciliations to mislead the ethics investigator that the funds had remained in escrow; the special master and Board noted that the cover-up had been worse than the "crime"); In re Silberberg, 144 N.J. 215 (1996) (two-year suspension imposed on attorney who, in a real estate closing, allowed the buyer to sign the name of the co-borrower; the attorney then witnessed and notarized the "signature" of the co-borrower; the attorney stipulated that he knew, at the time, that the co-borrower was deceased; after the filing of the ethics grievance against him, the attorney falsely stated that the co-borrower had attended the closing; on another occasion, the attorney sent a false seven-page certification to the district ethics committee in order to cover up his improprieties); and In re Penn, 172 N.J. 38 (2002) (three-year suspension for attorney who failed to file an answer in a foreclosure action, thereby causing the entry of

default against the client; thereafter, to placate the client, the attorney lied that the case had been successfully concluded, fabricated a court order, and signed the name of a judge; the attorney then lied to his adversary and to ethics officials; the attorney also practiced law while ineligible).

In Sunberg, supra, 156 N.J. 396, the attorney represented a husband and wife in two matters relating to the same automobile accident. The two matters were consolidated for trial; however, both complaints were dismissed before the trial began. In the Matter of Kenneth M. Sunberg, DRB 97-333 (June 8, 1998) (slip op. at 2). One complaint was dismissed for failure to answer interrogatories. Sunberg did not oppose that motion and did not consult with his client before permitting the matter to be dismissed. Sunberg entered into a stipulation of dismissal with prejudice for the second matter, also without consulting his client. Id. at 3.

In a subsequent letter to the client, Sunberg's law partner explained that one matter was dismissed for failure to answer interrogatories; however, he told the client that the second matter had been arbitrated and that the arbitrator had found for the defendant. His statement was based on a phony arbitration award that Sunberg had placed in the client's file. Sunberg explained that, because he feared that his partner would have

misgivings about Sunberg's having stipulated to the dismissal, he created a fictitious arbitration award. Sunberg's intent was to mislead his partner that the matter had been resolved unfavorably through arbitration, rather than dismissed by Sunberg's agreement. Id.

When disciplinary authorities eventually investigated the matter, Sunberg asserted that an arbitrator had determined that there was no cause of action. Upon being shown the stipulation of dismissal that pre-dated the phony arbitration award, Sunberg suggested that his adversary might have agreed to an informal arbitration award. Id. at 4. Eventually, Sunberg confessed that he had created the false award to deceive his partner. Id. at 5.

We determined that Sunberg violated RPC 1.2(a) for not having consulted with his client before taking action in the two matters. More significantly, we determined that Sunberg created the phony arbitration award to mislead his partner to avoid his disappointment in finding that Sunberg had agreed to dismiss the case. Further, Sunberg compounded the conduct by misrepresenting to disciplinary authorities regarding the same fabricated arbitration award, violations of both RPC 8.1(a) and RPC 8.4(c). Id. at 11-12.

The prevailing precedent at the time for similar conduct ranged from a reprimand to a suspension Id. at 13. Censure,

however, was not yet approved by the court as an available form of discipline. Hence, a six-member Board majority voted for a reprimand, after considering several mitigating factors. The majority noted that Sunberg had nineteen years at the bar with no history of discipline, the conduct had occurred ten years prior to our consideration of the matter, the conduct was aberrational and was not done for personal gain, there was no harm to the client, and Sunberg expressed genuine remorse and contrition. One member voted for a three-month suspension. Id. at 14.

In Rinaldi, supra, 149 N.J. 22, the attorney received a three-month suspension for violating RPC 1.3, RPC 1.4, RPC 8.4(c), and RPC 8.4(d). In the Matter of Donald J. Rinaldi, DRB 96-299 (December 18, 1996) (slip op. at 18). Rinaldi misrepresented to his client that he had filed a complaint. After the ethics investigation began, Rinaldi created three fictitious letters in an attempt to convince the DEC that he had performed certain services in the matter. Id. Six Board members voted to impose a three-month suspension, while two members voted for a reprimand. Id. at 20. Again, at the time, censure was not an available form of discipline.

Here, respondent created six fictitious letters contemporaneous to his misconduct while his clients' matters

were pending. Like Sunberg, he did so to mislead his supervising attorney regarding the status of the matters. Like Sunberg and Rinaldi, respondent used the ficticious documents to mislead ethics authorities about the services he had provided to the clients. Although, here, the phony documents existed prior to the inception of the investigation, while in Rinaldi, the documents were created specifically to hinder the investigation into the underlying misconduct, in our view, the timing is not significant. Respondent still attempted to leverage fictitious documents he previously created to deceive Steinberg and the DEC. However, the mitigation that saved Sunberg from a suspension is not present here.

Indeed, respondent's conduct is egregious in this regard and is exacerbated by not only misrepresentations to his clients, but also misrepresentations to the court, including his impersonation of Steinberg on the record, which he also used to mislead disciplinary authorities. Hence, based on Sunberg and Rinaldi, and in consideration of the fact that censure was not an available form of discipline at the time those matters were decided, at a minimum, our starting point for assessing the proper quantum of discipline in this case is a censure.

Generally, misrepresentations to a court and/or lack of candor to a tribunal result in the imposition of discipline ranging from a

reprimand to a suspension. See, e.g., In re Marraccini, 221 N.J. 487 (2015) (reprimand imposed on attorney who attached to approximately fifty eviction complaints she had filed on behalf of a property management company, verifications that had been pre-signed by the manager, who had since died; the attorney was unaware that the manager had died and, upon learning that information, withdrew all complaints; violations of RPC 3.3(a), RPC 8.4(c), and RPC 8.4(d); mitigation considered); 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, a violation of RPC 3.3(a)(1) and RPC 8.4(c); the attorney also lacked diligence in the case, failed to expedite litigation, and failed to properly communicate with the client; prior reprimand; in mitigation, we considered that the conduct in both matters had occurred during the same time frame and that the misconduct in the second matter may have resulted from the attorney's poor office procedures); In re Hummel, 204 N.J. 32 (2010) (censure in a default matter for gross neglect, lack of diligence, failure to communicate with the client, and misrepresentation in a motion filed with the court, a violation of RPC 3.3(a); the attorney had no disciplinary record); In re Monahan, 201 N.J. 2 (2010) (attorney censured for submitting two certifications to a federal district court in

support of a motion to extend the time within which to file an appeal; the attorney misrepresented that, when the appeal was due to be filed, he was seriously ill and confined to his home on bed rest and, therefore, was either unable to work or unable to prepare and file the appeal, a violation of RPC 3.3(a)(1); the attorney also practiced law while ineligible); In re Clayman, 186 N.J. 73 (2006) (censure imposed on 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; in mitigation, we observed that, 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; violations of RPC 3.3(a)(1), (2), and (5); RPC 4.1(a)(1) and (2); and RPC 8.4(c) and (d); in mitigation, the attorney also had an unblemished disciplinary record, was not motivated by personal gain, and did not act out of venality); In re Giscombe, 173 N.J. 174 (2002) (three-month suspension imposed on attorney who, in support of a motion for leave to file a notice of claim out of time (nearly a year after her client's

injury and nine months after she had been retained by the client), submitted an affidavit claiming that she had first met with the client recently, as well as a certification of the client making the same assertion; after the motion was opposed, the attorney repeated that misrepresentation and added that the client was unaware of the time restriction for filing a notice, which also was untrue, a violation of RPC 3.3(a)(1); the attorney also violated RPC 1.1(a), RPC 1.3, and RPC 1.4, and RPC 1.6 in another matter; prior private reprimand, admonition, and reprimand); In re Girdler, 171 N.J. 146 (2002) (default; three-month suspension imposed on attorney who, after his client's complaint was dismissed for failure to serve some of the defendants, submitted two certifications falsely stating that the defendants had been served, a violation of RPC 3.3(a); the attorney also misrepresented the status of the case to his client (RPC 8.4(c)), among other acts of misconduct, including gross neglect, lack of diligence, failure to communicate, failure to expedite litigation, and failure to cooperate with disciplinary authorities; prior private reprimand and reprimand); In re D'Arienzo, 157 N.J. 32 (1999) (three-month suspension for attorney who made multiple misrepresentations to a judge about his tardiness for court appearances or his failure to appear; violation of RPC 3.3(a)(1) and RPC 8.4(c); mitigating factors considered); In re Forrest, 158

N.J. 428 (1999) (six-month suspension imposed on attorney who, in connection with a personal injury action involving injured spouses, failed to disclose the death of one of his clients to the court, to his adversary, and to an arbitrator, and advised the surviving spouse not to voluntarily reveal the death; violation of RPC 3.3(a)(5), RPC 3.4(a), and RPC 8.4(c); the attorney's motive was to obtain a personal injury settlement); In re Moras, 220 N.J. 351 (2015) (default; one-year suspension imposed on attorney who exhibited gross neglect and a lack of diligence and failed to communicate with the client in one matter, misled a bankruptcy court in another matter by failing to disclose on his client's bankruptcy petition that she was to inherit property (RPC 3.3(a)(1)), and failed to cooperate with the ethics investigation in both matters; extensive disciplinary history consisting of two reprimands, a three-month suspension, and a six-month suspension); In re Cillo, 155 N.J. 599 (1998) (one-year suspension for 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; violations of RPC 3.3(a)(1) and

(2), RPC 3.5(b), and RPC 8.4(c) and (d); two prior private reprimands); and In re Kornreich, 149 N.J. 346 (1997) (three-year suspension for 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; violation of RPC 3.3(a)(4), RPC 3.4(f), and RPC 8.4(b), (c) and (d)).

Further, a misrepresentation to a client 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 Ruffolo, 220 N.J. 353 (2015) (respondent exhibited gross neglect and a lack of diligence by allowing his client's case to be dismissed, not working on it after filing the initial claim, and failing to take any steps to prevent its dismissal or ensure its reinstatement thereafter; violations of RPC 1.1(a) and RPC 1.3; the attorney also violated RPC 1.4(b) by failing to promptly reply to the client's requests for status updates; finally, his assurances that the client's matter was proceeding apace, knowing that the complaint had been

dismissed, and that he should expect a monetary award in the near future were false, thereby violating RPC 8.4(c)).

Here, although gross neglect, lack of diligence, and failure to communicate also are present, respondent engaged in that misconduct in multiple client matters, thus, establishing a pattern of neglect, which would further enhance that discipline. Respondent's pattern of neglect, however, pales in comparison to his pattern of misrepresentations.

We recognize, in mitigation, that respondent has an otherwise unblemished career in almost seventeen years at the bar. The aggravating factors present here, however, significantly offset this mitigation. Specifically, as noted by the DEC, respondent's pattern of dishonesty persisted for over one year. Moreover, during his testimony before the DEC, respondent lacked candor, made misrepresentations, and, despite admitting many of the facts establishing misconduct, failed to demonstrate any remorse or appreciation for the impact his misconduct had on his clients. Like the DEC, we also reject respondent's implication that alcohol was to blame for his misconduct. Respondent does not claim he is an alcoholic or that he is seeking treatment for any level of dependency. In fact, before us, respondent stated that he does not have a substance

abuse problem and he has not sought treatment for any such problem.

Before us, respondent also argued that his caseload at the time, more than one hundred matters, should also serve as mitigation. We note, however, that respondent was not a new attorney at the time of his misconduct. Rather he was a seasoned professional who either should have been able to manage his caseload more appropriately or recognize that he was in need of assistance and sought out that assistance.

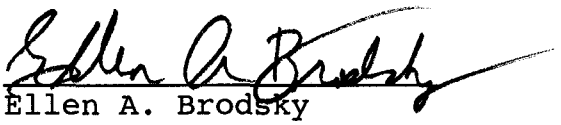
In fashioning the appropriate discipline for the totality of respondent's misconduct, we consider first his misrepresentations to disciplinary authorities, which alone would garner a censure. Based on the misrepresentations respondent made to the court and to his clients, we would enhance that discipline to a three-month suspension. Further enhancement to a six-month suspension is necessary based on respondent's pattern of neglect. Finally, taking into consideration the aggravating factors, including respondent's continued pattern of dishonesty before the DEC during its seven days of hearings, we determine to impose a one-year suspension on respondent for his misconduct.

Additionally, we require respondent to practice under the supervision of a proctor for a period of one year on reinstatement.

Members Gallipoli and Hoberman did not participate. Vice-Chair Baugh, too, would impose a one-year suspension along with a proctorship on reinstatement, but also would require respondent to provide proof of fitness prior to reinstatement.

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
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Richard J. Vapnar
Docket No. DRB 16-362

Argued: February 16, 2017

Decided: June 23, 2017

Disposition: One-year suspension

Members	One-year Suspension	Recused	Did not participate
Frost	X		
Baugh	X		
Boyer	X		
Clark	X		
Gallipoli			X
Hoberman			X
Rivera	X		
Singer	X		
Zmirich	X		
Total:	7		2

Ellen A. Brodsky
Chief Counsel