

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 17-062
District Docket Nos. XIV-2015-0508E
and XIV-2015-0512E

IN THE MATTER OF
ADAM KENNETH BLOCK
AN ATTORNEY AT LAW

Decision

Decided: August 18, 2017

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).
The complaint charged respondent with having violated RPC
3.3(a)(1) and (5) (lack of candor toward a tribunal); RPC 5.5(a)(1)
(practicing while administratively ineligible and practicing while
suspended); RPC 8.1(b) (failure to respond to a lawful demand for
information from a disciplinary authority); RPC 8.4(c) (conduct
involving dishonesty, fraud, deceit or misrepresentation); and RPC
8.4(d) and R. 1:20-20 (failure to file an affidavit of compliance).

For the reasons detailed below, we determine to impose a three-year suspension.

Respondent was admitted to the New Jersey bar in 1993 and to the New York bar in 1993.¹

On March 7, 2013, respondent received a reprimand for practicing while ineligible, based on his failure to pay the annual attorney assessment to the New Jersey Lawyers' Fund for Client Protection (the Fund). In re Block, 213 N.J. 80 (2013). That matter also proceeded on a default basis.

On February 14, 2014, respondent was censured for the same violation, again, on a default basis. In re Block, 217 N.J. 21 (2014).

On November 20, 2014, respondent received a second censure. In that case, no additional discipline was imposed for his underlying conduct of practicing while ineligible, because that misconduct took place during the same timeframe as the prior matter

¹ On November 20, 2013, the New York Supreme Court, Appellate Division, First Judicial Department suspended respondent and other attorneys who failed to file biennial registration statements in violation of New York Judiciary Law § 468-a. Presumably, to date, respondent remains suspended in New York. See, <http://law.justia.com/cases/new-york/appellate-division-first-department/2014/6276.html>.

for which he was censured. Based, however, on the fact that respondent had defaulted for the third time, he received an additional censure for multiple failures to cooperate with disciplinary authorities. In re Block, 220 N.J. 33 (2014).

Finally, on September 10, 2015, respondent was suspended for six months, also in a default matter, for gross neglect, lack of diligence, and failure to communicate in one client matter. Further, while representing that client, respondent was ineligible to practice law. He also failed to cooperate with disciplinary authorities. In re Block, 222 N.J. 609 (2015). He remains suspended to date.

Service of process in this matter was proper. On November 2, 2016, the OAE sent a copy of the complaint to respondent, in accordance with R. 1:20-7(h), at all nine of his last known addresses, by both regular mail and certified mail, return receipt requested. Six of the certified mail envelopes were returned marked "Return to Sender - Unable to Forward," one was returned marked "Not deliverable as addressed," and one was returned marked "Return to sender - Unclaimed." The last envelope was not returned, but a member of the firm at that address called the OAE to indicate that the firm had had no contact with respondent. The regular mail to each of the addresses was returned, marked just as the certified

mail had been for each of the addresses, except for one, which was marked "Return - Moved Fall 2014."

Additionally, the OAE e-mailed a copy of the complaint to respondent, sending it to an e-mail address he previously had used. The OAE received no delivery failure notification.

Finally, the OAE caused notice of the filing of the complaint to be published in the New Jersey Law Journal and the Union County Local Source, a newspaper serving the geographic area encompassing respondent's last known addresses.

The time within which respondent may have answered has expired. As of the date of the certification of the record, no answer had been filed by or on behalf of respondent.

We now turn to the allegations of the complaint. On August 24, 2015, the Court entered an order declaring respondent administratively ineligible for his failure to pay the Fund. Thereafter, on October 9, 2015, he was suspended from the practice of law. On November 17, 2015, Mitchell Steinhart, Esq., filed a grievance against respondent. The OAE wrote to respondent multiple times, utilizing various addresses, requesting a written response to the grievance.

The grievance asserted that, at some point in 2015, respondent represented C.Q. in a matter initiated by a complaint

that Steinhart had filed on behalf of the Bergen County Board of Social Services and the Division of Child Protection and Permanency. The complaint was filed to establish a child support order on behalf of a minor child. On September 28, 2015, respondent appeared on behalf of C.Q. at a hearing before a child support hearing officer. By doing so, respondent practiced law while administratively ineligible.

On March 28, 2016, respondent represented B.R. in a family action and sent a letter to the court, requesting an adjournment of his client's matter. Respondent's letter identified his office address in Moonachie, New Jersey. At the time he sent this letter, respondent was suspended from the practice of law. Steinhart, who was opposing counsel in this matter as well, notified the OAE.

On April 13, 2016, the OAE sent a letter to respondent at the Moonachie address. The regular and certified mail were both returned, marked undeliverable. Hence, the complaint alleged, respondent either misrepresented his address to the court or failed to cooperate with the OAE by not responding to the requests submitted to this address, or both.

In a separate matter, on January 5, 2016, respondent entered guilty pleas on behalf of his clients Q.C., E.G., and J.H.R., in connection with matters in the Lyndhurst Municipal Court. At the

time, respondent was both suspended from the practice of law and administratively ineligible to practice law. The OAE, however, became aware of the representation prior to respondent's appearance and, on December 26, 2015, wrote to the Municipal Prosecutor regarding respondent's status. In reply to the court's specific questions, respondent claimed that his license was active as of January 1, 2016. Relying on his assurance, the court allowed respondent to appear before it.

As noted, on October 9, 2015, the Court suspended respondent from the practice of law. On January 29, 2016, the OAE wrote to respondent, advising him of his duty to comply with R. 1:20-20. As of the date of the complaint, respondent had failed to file the affidavit of compliance in accordance with R. 1:20-20.

Finally, on April 28, 2016, respondent contacted the OAE investigator assigned to this matter, stating that he was aware of the grievance, but was unable to respond due to his hospitalization at that time. He refused to provide the OAE investigator with an address where he could be reached. Respondent again spoke with the investigator in August 2016, but failed to provide a written response to the grievance or, again, an address where he could be contacted.

* * *

The complaint alleges sufficient facts to 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).

Before respondent entered guilty pleas on behalf of his clients in the Lyndhurst Municipal Court, he assured the court that, as of January 1, 2016, he was eligible to practice law in New Jersey. He was not. By so doing, respondent violated RPC 3.3(a)(1) and (5).

In addition to his appearance before the Lyndhurst Municipal Court, respondent appeared on behalf of his client, C.Q., on September 25, 2015, regarding a child support order, and sent a letter to the court on behalf of his client, B.R., on March 28, 2016, during the course of a family matter. Respondent represented C.Q. while he was administratively ineligible, and represented B.R., Q.C., E.G., and J.H.R. while he was suspended from the practice of law, in violation of RPC 5.5(a)(1).

The complaint charged that respondent violated RPC 8.1(b) by his failure to reply, in writing, to Steinhart's grievance, despite the OAE's demand that he do so. Respondent was aware of the

grievance, as evidenced by his having informed the investigator, in April 2016, that he could not reply to it, due to his hospitalization. He again contacted the investigator in August 2016. Despite these communications, respondent never replied to the grievance in writing and refused to provide the OAE with his correct address, in violation of RPC 8.1(b).

Further, as noted, respondent misrepresented his eligibility to practice to the Lyndhurst Municipal Court. He also misrepresented his mailing address in a letter to the court on April 13, 2016, in connection with his representation of B.R. By so doing, respondent violated RPC 8.4(c).

Finally, a suspended attorney is required to file with the OAE Director, within thirty days of the Court's order, an affidavit of compliance with R. 1:20-20 and the Court's order. By the very terms of the Rule, respondent's failure to do so violated both RPC 8.1(b) and RPC 8.4(d).

In sum, respondent violated RPC 3.3(a)(1) and (5); RPC 5.5(a)(1); RPC 8.1(b); RPC 8.4(c); and RPC 8.4(d) and R. 1:20-20.

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 aggravating or mitigating factors. See, e.g., In re Brady, 220

N.J. 212 (2015) (one-year retroactive suspension imposed on attorney who, after a Superior Court judge had restrained him from practicing law, represented two clients in municipal court, and appeared in a municipal court on behalf of a third client, after the Supreme Court had temporarily suspended him; the attorney also failed to file a R. 1:20-20 affidavit following the temporary suspension; significant mitigating factors were considered, including the attorney's diagnosis of a catastrophic illness and other circumstances that led to the dissolution of his marriage, the loss of his business, and the ultimate collapse of his personal life, including becoming homeless, and, in at least one of the instances of his practicing while suspended, his desperate need to financially support himself; prior three-month suspension); 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, and who represented clients in court, and acted as planning board solicitor for two municipalities; prior three-month suspension; extremely compelling circumstances considered in mitigation); In re Marra, 170 N.J. 411 (2002) ("Marra I") (one-year suspension for practicing law in two cases while suspended and 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 reprimand, and a three-month suspension); In re Wheeler, 140 N.J. 321 (1995) (two-year suspension imposed on attorney who practiced law while serving a temporary suspension for failure to refund a fee to a client; the attorney also was guilty of multiple misrepresentations to clients, gross neglect and pattern of neglect, negligent misappropriation, a conflict of interest, and failure to cooperate with disciplinary authorities);² 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; the attorney 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, a 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

² 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.

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 Rule 1:20-20(a), and failed to reply to the OAE's requests for information; the attorney had an egregious disciplinary history: an admonition, two reprimands, a three-month suspension, and two six-month suspensions); 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) (attorney disbarred on a certified record for practicing 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, 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; in yet another matter, the attorney continued to represent a client in a criminal matter after the attorney's suspension; the attorney also made misrepresentations to a court and was convicted of stalking a woman with whom he had had a romantic relationship; prior private reprimand, admonition, two three-month suspensions, and two six-month suspensions); and In re Costanzo, 128 N.J. 108 (1992) (attorney disbarred for practicing 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 reprimand).

Similar to the attorney in Cubberley, supra, (three-year suspension) respondent continued to represent clients after he was suspended, failed to notify the clients and the courts of his suspension, failed to file the affidavit of compliance required by Rule 1:20-20(a), failed to reply to the OAE's requests for information, and has an egregious ethics history.

In addition, in the face of a specific challenge to the status of his license, respondent brazenly misrepresented to the court that his license was active as of January 1, 2016. He further misrepresented to the court the address from which he practiced.

Lack of candor to a tribunal has resulted in discipline ranging from an admonition to a long-term suspension. Suspensions, however, typically are imposed in cases involving affirmative misrepresentations. See, e.g., 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 failure to appear; mitigating factors considered); 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); 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).

Based on the totality of respondent's misconduct and the above-cited cases, we determine that a three-year suspension is the appropriate quantum of discipline for respondent's misconduct. In reaching that determination, we considered several factors.

Specifically, in mitigation, we considered respondent's letter to the court, dated March 28, 2016, in which respondent disclosed that he had spent the previous week in a psychiatric unit for "severe depression and suicidal ideations." Upon his discharge, respondent's doctor prescribed new medications and instructed him not to perform legal services for one week, due to severe anxiety.

In aggravation, respondent has a significant ethics history. In 2013, he received a reprimand for practicing while ineligible. In 2014, he received a censure for the same violation. Later in 2014, he received a second censure. Although the allegations of that complaint included more examples of his having practiced while ineligible, we determined not to issue further discipline on that charge, because the conduct occurred at the same time as the conduct underlying his previous censure. Respondent received this second censure, however, based on his failure to cooperate with disciplinary authorities. All of these matters proceeded by way of default. Then, in 2015, respondent received a six-month suspension for gross neglect, lack of diligence, and failure to communicate in one client matter. Significantly, respondent was representing that client while ineligible to practice law, failed to cooperate with disciplinary authorities, and, once again, as in this case, allowed the matter to proceed by way of default. Respondent's repeated indifference toward the ethics system is intolerable.


In our view, under a totality of the circumstances, respondent's considerable indifference toward the disciplinary system, coupled with his brazen conduct of continuing to practice law, despite being administratively ineligible and suspended by

the Court, and his misrepresentations to the court, warrant the imposition of a three-year suspension.

Vice-Chair Baugh and Member Rivera voted for disbarment. Member Gallipoli did not participate.

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

Disciplinary Review Board
Bonnie C. Frost, Chair

By: 
Ellen A. Brodsky
Chief Counsel


SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Adam K. Block
Docket No. DRB 17-062

Decided: August 18, 2017

Disposition: Three-year suspension

<i>Members</i>	Three-year suspension	Disbar	Did not participate
Frost	X		
Baugh		X	
Boyer	X		
Clark	X		
Gallipoli			X
Hoberman	X		
Rivera		X	
Singer	X		
Zmirich	X		
Total:	6	2	1


Ellen A. Brodsky
Chief Counsel