Supreme Court of New Jersey
Disciplinary Review Board
Docket Nos. DRB 19-226 and 19-237
District Docket Nos. VI-2017-0002E and
XII-2017-0026E

In the Matters of

Ihab Awad Ibrahim

An Attorney at Law

Decision

Argued: October 17, 2019

Decided: January 17, 2020

Anthony J. Vignier appeared on behalf of the District VI Ethics Committee.
Thomas G. Russomano appeared on behalf of the District XII Ethics Committee.

Respondent waived appearance for oral argument.

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

These matters were consolidated for our review and disposition. The first was before us on a recommendation for a censure filed by the District VI Ethics

Committee (DEC-VI). The formal ethics complaint charged respondent with violating RPC 1.5(a) (charging an unreasonable fee); RPC 1.5(b) (failing to communicate in writing the rate or basis of the fee); and RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice).

The second was before us on a recommendation for a reprimand filed by the District XII Ethics Committee (DEC-XII). The formal ethics complaint charged respondent with violating RPC 7.1(a)(4)(iii) and (iv) (making false or misleading communications about the attorney's legal fee).

For the reasons set forth below, we determine to impose a three-month suspension, with conditions.

Respondent earned admission to the New Jersey bar in 2013. He currently is a sole practitioner, with his primary office in Jersey City, New Jersey. On August 1, 2017, he was reprimanded for negligent misappropriation of client funds and recordkeeping infractions. In re Ibrahim, 230 N.J. 216 (2017). On December 6, 2018, he was censured for failing to communicate in writing the rate or basis of the fee and engaging in improper communication with a person he knew was represented by counsel. In re Ibrahim, 236 N.J. 97 (2018).

District Docket No. VI-2017-0002E (DRB 19-226)

In September 2016, M.T. met respondent at a New Brunswick hookah bar to discuss a family law matter involving his estranged wife, L.K., against whom M.T. had been granted a temporary restraining order (TRO). M.T. claimed that, at the time of their meeting, he was represented by other counsel. Respondent disputed M.T.'s assertion, claiming that respondent personally had referred M.T. to his eventual counsel. M.T. alleged that, prior to their meeting, respondent had provided advice to L.K., in respect of the TRO, specifically, how to retaliate against M.T. by making false claims of domestic violence. M.T. claimed that respondent's advice to L.K. had resulted in M.T.'s arrest on domestic violence charges.[1] Respondent denied providing any such advice to L.K., testifying that, although she had come to his law firm for advice, he had not provided advice, because she was not able to pay a legal fee. Ultimately, M.T. was granted a final restraining order (FRO) against L.K., and the criminal charges against him were dismissed. M.T. later dropped the FRO against L.K., during the pendency of their divorce proceedings.

M.T. claimed that, during the hookah bar meeting, respondent admitted that he had advised L.K. to make the domestic violence allegations, but then offered

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[1] Respondent was not charged with having violated any RPCs in respect of this alleged misconduct.

to attempt to resolve matters between M.T. and L.K., for a fee of $5,000. Again, respondent denied advising L.K. in any fashion, and claimed that he attempted to resolve matters between the couple only after M.T. had begged him to do so, citing a text message he had sent to the couple, contemporaneously with his and M.T.'s meeting. M.T. maintained that he had countered respondent's fee proposal with $2,500, that respondent agreed, and that respondent then called L.K., from the hookah bar, but she would not agree to reconcile with M.T., instead expressing a desire to pursue a divorce. Respondent believed that M.T. intended to retain him, but recognized that, after he had contacted L.K. and attempted mediation, he could not represent M.T., due to a conflict of interest.

According to M.T., when L.K. rejected respondent's reconciliation proposal, he saw himself back at "square one." Therefore, he asked respondent to advise him in respect of L.K.'s domestic violence allegations, which respondent admittedly agreed to do, at the same meeting in the hookah bar, for a fee of $1,000. Respondent memorialized his advice to M.T. that night. Respondent claimed that, the day after the hookah bar meeting, he sent M.T. a text message setting forth the $1,000 fee, but he produced no proof of that text message. In respect of their meeting, M.T. did not believe that respondent had represented him or L.K., denied having received the text message, but admitted that he had agreed to pay respondent the $1,000 fee.

M.T. believed that respondent was acting unfairly and was "playing on both sides" of his marital woes. According to M.T., at no point did respondent provide him with a writing setting forth the basis of his claimed $1,000 fee. Respondent asserted that the text message satisfied the requirement. In November 2016, respondent sent four letters to M.T., demanding payment of his $1,000 fee for "case consultation." In the second letter to M.T., respondent enclosed a fee arbitration request form.

In February 2017, after M.T. had filed a November 2016 fee arbitration request and a December 2016 ethics grievance against respondent, respondent's secretary called M.T., seeking to arrange a meeting between the parties. Although his divorce attorney advised otherwise, M.T. agreed to meet with respondent at a doughnut shop in Bayonne. The meeting resulted in an agreement signed by respondent and M.T., whereby M.T. agreed to pay $500 to respondent, in full satisfaction of his claim for legal fees. The agreement stated that M.T. had filed the ethics grievance "wrongfully," instead of seeking fee arbitration. M.T. claimed that, despite the terms of the agreement, he paid no sum to respondent. In turn, respondent testified that M.T. paid him $500, in cash, when they executed the agreement.

In his verified answer to the formal ethics complaint and during the ethics hearing, respondent claimed that M.T. had refused to honor their agreement for

legal fees, and that respondent's attempts to settle with him were in respect of the fee dispute only, not the ethics grievance. M.T. agreed that the ethics grievance was neither discussed nor negotiated during the February 2017 meeting.

Respondent asserted that his $1,000 fee was reasonable, because it was undisputed that he and M.T. spent six hours together at the hookah bar and at dinner, and because respondent's normal rate for family law matters is $350 per hour. Respondent maintained that, because M.T. was a member of his church, he charged him only $200 per hour, for five hours, with one hour provided free of charge.

The DEC-VI found clear and convincing evidence that respondent violated all the charged ethics violations: RPC 1.5(a), RPC 1.5(b), and RPC 8.4(d). Specifically, the DEC-VI determined that respondent sought a $1,000 fee from M.T., after having spent five hours with him at a hookah bar, and one additional hour with him at a restaurant, during which time they discussed M.T.'s family law matters and unsuccessfully attempted to facilitate his reconciliation with L.K. The DEC-VI noted that respondent had not previously represented M.T., and found that respondent had failed to set forth the basis of his fee in writing, rejecting respondent's proffer that he had texted the fee information to M.T. the next day.

Based on those facts, the DEC-VI found that respondent sought an unreasonable fee and failed to set forth in writing the basis or rate of his fee, in violation of RPC 1.5(a) and (b).

Finally, the DEC-VI found that respondent's intent in respect of the February 2017 doughnut shop meeting with M.T. was to enter into an agreement resulting in the dismissal of M.T.'s ethics grievance. The panel, thus, found that respondent had violated RPC 8.4(d).

The DEC-VI found respondent's prior discipline, which included a prior violation of RPC 1.5(b), to constitute an aggravating factor, and cited, in mitigation, that respondent spent five hours with M.T. The DEC-VI recommended the imposition of a censure.

District Docket No. XII-2017-0026E (DRB 19-237)

During the relevant time, respondent maintained a law firm website that set forth ranges of fees for legal services and hourly rates. Respondent stipulated that the website included ranges of fees for diverse types of legal work, couched as "Firm Specials," which advertised services such as asylum for $2,499 "and up," and bankruptcy for $1,299 "and up." Respondent admitted that the "Firm Specials" did not specifically describe the scope of legal services that would be performed in return for the communicated fee, and, thus, "do not include a

reasonable disclosure of all relevant variables and considerations so that the statement would not be misunderstood or be deceptive," as RPC 7.1(a)(4)(iii) requires. Respondent further conceded that the website also advertised a "special" hourly fee of $199 "and up," but did not communicate that "the total charge could vary according to the number of hours devoted to the matter," or that "the hourly rate charged could vary for the services of different [law firm employees] who may be assigned to the matter," as RPC 7.1(a)(4)(iv) requires.

In his proffered defense of the charges against him, respondent testified that he had paid a "reputable" company thousands of dollars to design his website. He claimed he was not aware, until he was alerted by the DEC investigator, that his website contained erroneous references to the Cochran Law Firm (the law firm that prominent Johnnie Cochran had founded), and to his firm being a "licensed property and casualty insurer." Respondent admitted that, although he has no experience in respect of estate planning, bankruptcy, intellectual property, corporate law, white collar criminal defense, or immigration, he advertised expertise and legal services in respect of those types of cases, as part of his "Firm Specials."

During the ethics hearing, respondent asserted a constitutional issue, claiming that the charges underlying this matter were barred under the doctrine of double jeopardy, because his website advertising had been examined in

connection with a prior disciplinary matter that resulted in dismissal of the charges. In support of that assertion, respondent submitted into evidence records from the prior disciplinary matter. The DEC-XII panel members countered that they had reviewed the records of the prior disciplinary hearing, and determined that the prior ethics matter had not addressed the website-related infractions that were before the panel.

In respect of mitigation, respondent stated "if I wanted to trick anyone into anything, I would have put it into smaller fonts. I know my lack of knowledge does not equate to me having intent."

The DEC-XII determined that respondent's website advertising violated RPC 7.1(a)(4)(iii) and (iv). Specifically, the DEC-XII found that respondent had stipulated that his website contained misleading statements about the costs of legal services, without providing the required disclosures, expressly set forth in the RPC, of the variables that could increase costs to clients.

The DEC-XII found no mitigating circumstances. In aggravation, the DEC-XII emphasized that respondent had neither rectified nor removed his website, although he was on prolonged notice of its defective content; had denied that he had violated any RPC, despite stipulating to the material facts set forth in the formal ethics complaint; had falsely represented that the charges underlying the

complaint had been previously adjudicated; and had a significant ethics history in a short time at the bar.

Citing applicable precedent, but recommending enhanced discipline due to the significant aggravation found, the DEC-XII recommended that respondent receive a reprimand.

As of the date of oral argument before us, respondent's website continued to display the misleading content.

Following a de novo review of the record, we are satisfied that the DEC-VI's and DEC-XII's finding that respondent's conduct was unethical is fully supported by clear and convincing evidence. Specifically, in the first presentment matter, the DEC-VI finding that respondent violated RPC 1.5(b) is supported by clear and convincing evidence. We determine to dismiss, however, the allegations that respondent violated RPC 1.5(a) and RPC 8.4(d), for insufficient evidence.

First, in respect of the RPC 1.5(b) allegation, respondent claimed, without evidence, that he memorialized his $1,000 fee via a text message to M.T., sent the day after their hookah bar meeting. Respondent failed to produce evidence of that text message, but produced a different text message to M.T. and L.K., from the same twenty-four hour period, that he relied on as part of his defense. M.T. denied having received the text message concerning the fee, but admitted that he had agreed to pay respondent a $1,000 fee for legal advice regarding the defense

of domestic violence allegations that L.K. had made against him. Respondent had not previously represented M.T. Accordingly, he was required to provide M.T. with a writing setting forth the rate or basis of the fee.[2] Respondent failed to do so, and, thus, violated RPC 1.5(b).

In contrast, there is insufficient evidence to support the additional charges that respondent is guilty of charging an unreasonable fee or of engaging in conduct prejudicial to the administration of justice. In respect of the RPC 1.5(a) allegation, it is undisputed that respondent and M.T. spent approximately six hours together, at the hookah bar and the restaurant, during which period they discussed M.T.'s matter and memorialized respondent's legal advice regarding the pending domestic violence allegations. Respondent asserted that he charged M.T. only $200 per hour, with one of the six hours provided for free, because M.T. was a member of respondent's church. M.T. testified, unequivocally, that he agreed to pay respondent a $1,000 fee for his advice. We, thus, determine that there is insufficient evidence to conclude that respondent's fee was unreasonable. Accordingly, we dismiss the RPC 1.5(a) charge.

Similarly, there is insufficient evidence to conclude that respondent attempted to negotiate the dismissal of M.T.'s pending ethics grievance, which,

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[2] Moreover, Rule 5:3-5(a) requires written fee agreements in civil family actions.

if substantiated, would constitute a per se violation of RPC 8.4(d). Although it is true that respondent requested the February 2017 doughnut shop meeting subsequent to M.T.'s filing of both a fee arbitration request and an ethics grievance, both M.T. and respondent testified that the ethics grievance was not discussed in connection with the parties' negotiation of respondent's fee. Indeed, M.T. claimed that, even though their settlement agreement stated that he paid $500 to respondent as part of their accord, he had, in fact, paid nothing to respondent, and had attended the settlement meeting against the advice of his own counsel. We, thus, conclude that respondent did not try to persuade M.T. to dismiss the ethics grievance. Accordingly, we dismiss the RPC 8.4(d) charge.

In respect of the second presentment matter, the DEC-XII finding that respondent violated RPC 7.1(a)(4)(iii) and (iv) is supported by clear and convincing evidence. Respondent not only stipulated that his website failed to contain the express disclosures the RPC requires, corroborating screen captures of the website were admitted into evidence. Moreover, respondent's claims of double jeopardy in respect of his prior disciplinary proceedings and his attempt to place blame on the website designer are completely meritless. Therefore, we find by clear and convincing evidence that respondent is guilty of violating RPC 7.1(a)(4)(iii) and (iv). Alarmingly, as of the date of oral argument before us, the

defective content on respondent's website remained unchanged and available for public consumption.

In sum, we find that respondent violated RPC 1.5(b) and RPC 7.1(a)(4)(iii) and (iv). We determine to dismiss the allegations that he violated RPC 1.5(a) and RPC 8.4(d). The sole issue left for our determination is the proper quantum of discipline for respondent's misconduct.

Violations of that RPC 1.5(b) typically result in an admonition, even if accompanied by other, non-serious ethics offenses. See, e.g., In the Matter of John L. Conroy, Jr., DRB 15-248 (October 16, 2015) (attorney failed to provide the client with a writing setting forth the basis or rate of his fee when he drafted a will, living will, and power of attorney, and processed a disability claim for a new client, a violation of RPC 1.5(b); lack of diligence, failure to communicate with the client, practicing law while administratively ineligible, and failure to cooperate with an ethics investigation also found; no prior discipline in forty-year legal career) and In the Matter of Osualdo Gonzalez, DRB 14-042 (May 21, 2014) (attorney failed to set forth in writing the basis or rate of the fee, a violation of RPC 1.5(b); failure to communicate with the client, and failure to abide by the client's decisions concerning the scope of the representation also found; no prior discipline).

We must, however, add to our disciplinary calculus respondent's egregious website advertising infractions. Admonitions and reprimands have been imposed on attorneys who, in their quest to solicit clients, make false or misleading communications in their general advertising campaigns. See, e.g., In the Matter of Jean D. Larosiliere, DRB 02-128 (March 20, 2003) (admonition for allowing the name of a law school graduate to appear on the letterhead in a manner indicating that the individual was a licensed attorney, and allowing a California lawyer not admitted in New Jersey to sign letters on the firm's letterhead with the designation "Esq." after the attorney's name; the attorney also lacked diligence and failed to communicate with a client); In the Matter of Ernest H. Thompson, Jr., DRB 97-054 (June 5, 1997) (admonition for misleading statements in a targeted direct mail solicitation flyer sent to an individual whose residence was about to be sold at a sheriff's sale); In the Matter of Bryan F. Ferrick, DRB 97-307 (October 28, 1997) and In the Matter of Ronald Kurzeja, DRB 97-308 (October 28, 1997) (companion cases; admonitions for attorneys who sent targeted direct mail solicitation letters to residential property owners to solicit tax appeal clients; the letters contained a number of false and misleading statements, which created an unjustified expectation about the results the attorneys could achieve on the prospective clients' behalf); In re DiCiurcio, 212 N.J. 109 (2012) and In re DiCiurcio II, 212 N.J. 110 (2012) (companion cases; reprimands for

attorneys who sent direct mail solicitation letters that violated RPC 7.1(a)(1); one misled a recipient that she could lose her driver's license for a traffic violation, three other letters failed to include required language that violated Attorney Advertising Guidelines and an opinion from the Committee on Attorney Advertising); In re Mennie, 174 N.J. 335 (2002) (reprimand for attorney who placed a Yellow Pages advertisement that listed several jury verdict awards, including one for $7 million, even though that award had been set aside on the ground that it was "grossly excessive;" attorney placed similar ads, a week apart, in the Asbury Park Press, which misrepresented the combined number of years that the attorney and one of his partners had been practicing law); In re Kubiak, 165 N.J. 595 (2000) (reprimand imposed on attorney who ran misleading advertisements for "Divorce Center"); In re Garces, 163 N.J. 503 (2000) and In re Grabler, 163 N.J. 505 (2000) (companion cases; attorneys reprimanded for making false and misleading statements in a Yellow Pages advertisement that included the designation certified civil and criminal trial attorney, when neither attorney was so certified; the ad also included the statement "largest recovery in the shortest time," in violation of RPC 7.1(a)(1) and RPC 7.1(a)(2) and (3)); and In re Caola, 117 N.J. 108 (1989) (reprimand for attorney who sent a targeted, direct mail solicitation letter misrepresenting the number of years he was in practice, his status in the law firm, and the number and types of cases he handled).

In In re Rakofsky, 223 N.J. 349 (2015), the attorney received a censure for his multiple advertising violations.[3] The attorney had essentially no experience when he opened a law firm, but stated on the firm's website and in a "Yahoo Local advertisement" that he was experienced, had federal and state trial experience, and had handled many more matters than it would have been possible to handle in a single year. In the Matter of Joseph Rakofsky, DRB 15-021 (August 27, 2015) (slip op. at 13). He misrepresented that he had worked on cases involving murder; embezzlement; tax evasion; civil RICO; securities, insurance, and bank fraud, among other serious criminal matters, as well as drug offenses, including drug trafficking. Id. at 5. We found that the attorney had made egregious misrepresentations, in fact, the representations were outright lies. He did not merely inflate his credentials, but fabricated them, and conveyed the impression that he was a "super lawyer." Id. at 25. His firm's letterhead failed to indicate that two of the firm's attorneys were not licensed to practice law in New Jersey. Id. at 13. He also failed to provide a client with a writing setting forth the basis or rate of the fee, failed to maintain a file for the matter, and lacked diligence. Notwithstanding the attorney's lack of an ethics history, his inexperience and youth, the immediate withdrawal of the offending advertising, the correction of

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[3] Rakofsky is one of the grievants in this consolidated matter.

his misleading letterhead, and the lack of harm to his clients, we imposed a censure. Id. at 25.

Here, respondent's combined violations of RPC 1.5(b) and RPC 7.1(a) warrant no less than a reprimand. In aggravation, respondent, who was admitted to the bar only six years ago, has previously been reprimanded and censured for misconduct that occurred prior to the matters at hand. Although a close review of the timeline of those prior disciplinary matters illustrates that respondent cannot be said to have failed to learn from his past mistakes, or was on notice or heightened awareness of his RPC 1.5(b) obligations, we cannot ignore the pervasive and diverse nature of respondent's misconduct in a very short period of time as an attorney admitted to practice law in New Jersey.

Despite his short legal career, respondent has repeatedly demonstrated that he is a danger to the public and to his clientele. There is no mitigation to consider. In further aggravation, he demonstrates a disturbing tendency to attempt to place blame on others, and to operate his law practice on the razor's edge of propriety. The aggravation, thus, clearly outweighs the mitigation, enhancing the appropriate sanction in this case to a censure.

Moreover, despite a prolonged awareness of the impropriety of his misleading website advertising, as of the date of oral argument before us, respondent had neither rectified that content nor removed it from public view. We

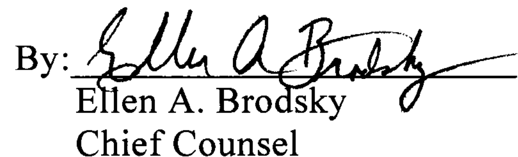
assign substantial aggravating weight to his continuing violation of RPC 7.1(a). On balance, we determine that, in order to protect the public and to preserve confidence in the bar, the otherwise appropriate discipline of a censure must be elevated to a three-month suspension.

Moreover, we also determine that, as conditions precedent to any petition for reinstatement to the practice of law, respondent must remove the misleading content from his website; complete six hours of courses in ethics and law office management, in addition to those required for mandatory continuing legal education; and, to protect respondent's future clients from harm, be required to practice law under a two-year proctorship requirement.

Member Joseph 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
Bruce W. Clark, Chair

By: 
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SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

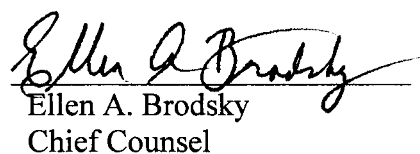
In the Matters of Ihab Awad Ibrahim
Docket Nos. DRB 19-226 and 19-237

Argued: October 17, 2019

Decided: January 17, 2020

Disposition: Three-Month Suspension

Members	Three-Month Suspension	Recused	Did Not Participate
Clark	X		
Gallipoli	X		
Boyer	X		
Hoberman	X		
Joseph			X
Petrou	X		
Rivera	X		
Singer	X		
Zmirich	X		
Total:	8	0	1



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