Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 20-135
District Docket Nos. XIV-2019-0254E and
XIV-2019-0567E

In the Matter of	:
Ihab Awad Ibrahim	:
An Attorney at Law	:

Decision

Argued: October 15, 2020

Decided: April 26, 2021

Steven J. Zweig appeared on behalf of the Office of Attorney Ethics.

Anthony C. Gunst, IV, appeared on behalf of respondent.

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

This matter was before us on a disciplinary stipulation between the Office of Attorney Ethics (the OAE) and respondent. In connection with multiple client matters, respondent stipulated to having violated RPC 1.1(a) (gross neglect);

RPC 1.3 (lack of diligence); RPC 1.4(b) (failure to communicate with the client); RPC 1.5(b) (failure to set forth in writing the basis or rate of the fee); RPC 1.15(a) (negligent misappropriation, failure to safeguard client funds, and commingling); RPC 1.15(d) (failure to comply with the recordkeeping provisions of R. 1:21-6); RPC 3.3(a)(1) (false statement of material fact or law to a tribunal); RPC 3.2 (failure to expedite litigation); RPC 7.1(b) and RPC 7.3(b)(5) (failure to comply with the attorney advertising Rules); RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation); and RPC 8.4(d) (conduct prejudicial to the administration of justice).

For the reasons set forth below, we determine to impose a two-year suspension, with a condition.

Respondent earned admission to the New Jersey bar in 2013. He currently maintains a law practice in Jersey City, New Jersey.

In 2017, respondent was reprimanded for negligent misappropriation of client funds and recordkeeping infractions. In re Ibrahim, 230 N.J. 216 (2017). In 2018, he was censured for failure to communicate in writing the basis or rate of the fee and improper communication with a person he knew was represented by counsel. In re Ibrahim, 236 N.J. 97 (2018).

On June 5, 2020, the Court again censured respondent for failure to set forth in writing the basis or rate of his fee and for misleading attorney

advertising content on his website. In re Ibrahim, 242 N.J. 147 (2020). The Court imposed conditions that (1) respondent remove the misleading content from his website; (2) complete six hours of courses in ethics and law office management; and (3) practice law under the supervision of a proctor for a period of two years. Id.

The following facts are taken from the April 28, 2020 disciplinary stipulation.

The Rooplall Ramcharitar Matter

On March 15, 2016, Rooplall Ramcharitar retained respondent, via a contingent fee agreement, to prosecute a medical malpractice and wrongful death action against doctors who had treated his wife, Bibi Ramcharitar, prior to her death. In case management orders dated November 29, 2016 and March 30, 2017, the assigned trial judge, in Superior Court of New Jersey, Hudson County, ordered that respondent complete depositions of parties and fact witnesses by May 15, 2017; serve his final expert report by July 15, 2017; provide three available dates for the deposition of his expert; and complete the deposition of his expert by November 15, 2017. The judge further required that the parties complete all discovery by November 15, 2017.

On August 8, 2017, after missing the deadline to serve his final expert report in Ramcharitar's case, respondent filed a motion to extend discovery and to permit his filing of an expert report, falsely certifying that the lead plaintiff's attorney had left his firm "suddenly and without warning" on July 14, 2017, the day before the deadline. Moreover, respondent claimed that his marriage had taken place on the very date of the deadline, and that he was on his honeymoon, and unavailable, from July 16 through August 2, 2017.

On August 17, 2017, attorneys representing two of the defendant doctors filed a motion for summary judgment and dismissal of Ramcharitar's complaint, citing case law that held that Ramcharitar's case could not be proven without expert testimony regarding deviation from the applicable standard of care. A week later, the defense also opposed respondent's motion for an extension of time to serve the plaintiff's expert report, emphasizing the November 15, 2017 discovery end date, and respondent's multiple, prior adjournments of the deposition of one of the defendant doctors.

Thereafter, on August 29, 2017, the defense filed another motion to dismiss a portion of Ramcharitar's complaint, asserting that respondent had admittedly failed to provide the general letters of administration required to authorize his client to file suit on behalf of the estate of his wife, Bibi.

On September 8, 2017, respondent filed opposition to the defense's motions for summary judgment, blaming the defense for the repeated adjournments of the deposition of one of the defendant doctors, which, he claimed, made it impossible to complete the plaintiff's expert report. Respondent again falsely represented that the lead attorney on the case had suddenly left his firm, and that respondent had been absent on his honeymoon.

Also on September 8, 2017, the court denied respondent's motions to extend discovery and to submit the plaintiff's expert report late, determining that neither plaintiff's change in counsel nor respondent's honeymoon explained or excused the missed expert report deadline or respondent's failure to seek an extension prior to the expiration of the deadline.

By letter to the court dated September 11, 2017, the defense refuted respondent's prior assertion that the defense had been responsible for the repeated adjournments of the deposition of one of the defendant doctors and represented that the adjournments had been at respondent's request. Moreover, the defense maintained that the lead plaintiff's counsel had left respondent's firm in April – not July – 2017, and emphasized that, in July 2017, respondent had been actively engaged in addressing his own New Jersey disciplinary matter, despite his claims regarding the impact that his marriage and honeymoon had on his practice of law.

At the September 15, 2017 hearing on the summary judgment motions, the defense argued that respondent repeatedly had requested last-minute adjournments of the deposition of one of the defendant doctors, and that he had failed to request extensions of time before missing the deadlines imposed in the court's case management order. The court ruled in favor of the defendants, dismissing Ramcharitar's complaint, with prejudice.

Five days later, respondent filed a motion for reconsideration of the court's summary judgment ruling. In his supporting certification, he claimed that defense counsel had manipulated him and, once again, requested permission to serve the plaintiff's expert report late. The defense opposed his motion. On October 27, 2017, after hearing oral argument, the court denied respondent's motion for reconsideration, remarking that he had made ad hominem attacks on at least two of the defendants' attorneys in an effort to convince the court that his failure to serve the expert report was not his fault. The court summarily rejected respondent's arguments, finding his motion to be meritless and disingenuous.

On June 21, 2018, the OAE interviewed Ramcharitar, who stated that respondent had not charged him any legal fees to handle the case, but had misrepresented to him that the court had dismissed the lawsuit because the evidence was not in their favor. Respondent failed to inform Ramcharitar that

the case had been dismissed due to respondent's failure to comply with the case management order and expert and discovery deadlines.

Robert Clark, Esq., the former plaintiff's counsel, confirmed during a November 11, 2018 OAE interview that he had left respondent's firm in April 2017, after transferring Ramcharitar's case to a newly-hired attorney. Clark further informed the OAE that respondent could have retained as an expert either of the doctors whom Clark had consulted in connection with obtaining the required affidavit of merit for the case.

Based on the above facts, respondent admitted that, in connection with his handling of Ramcharitar's case, he was guilty of gross neglect; lack of diligence; failure to communicate with his client; failure to expedite litigation; false statement of material fact or law to a tribunal; multiple instances of conduct involving dishonesty, fraud, deceit or misrepresentation; and conduct prejudicial to the administration of justice.

The Renee Azer Matter

During the relevant timeframe, respondent maintained his attorney trust account (ATA) and attorney business account (ABA) at TD Bank.

In 2017, Renee Azer retained respondent to represent her in a landlord-tenant claim that her landlord was failing to provide her with running water and

heat. Although respondent previously had not represented Azer, he failed to provide her with a writing setting forth the basis or rate of his fee. On October 23, 2017, respondent settled Azer's case for $3,000, which the landlord agreed to pay in three installments of $1,000, on November 1 and December 1, 2017, and on January 1, 2018.

Respondent improperly deposited the first $1,000 installment from the landlord in his ABA but deposited the second and third installments in his ATA. He subsequently issued two checks to himself, each for $333.33, and two checks to Azer, each for $666.67; he did not send a third check to Azer, in connection with the landlord's third $1,000 installment, claiming that Azer "went missing in action," and the first two checks he had sent to her had been returned to his office. Ultimately, respondent provided to Azer a check for $2,000.01, representing her two-thirds of the $3,000 settlement amount.

On August 1, 2017, the Court ordered respondent, in connection with his disciplinary matter resulting in a reprimand, to provide the OAE with monthly reconciliations of his ATA, on a quarterly basis. On July 10, 2018, respondent submitted to the OAE three-way reconciliations of his ATA for December 2017 through April 2018. Although the reconciliations documented the deposit of the last two $1,000 settlement installments on behalf of Azer, and his issuance of two checks for $333.33 to his firm, the reconciliations did not reflect the deposit

of the November 2017, $1,000 settlement installment. The OAE, thus, directed respondent to provide his ledger card for the Azer matter to the OAE by August 27, 2018.

On August 27, 2018, respondent provided to the OAE his ledger card for Azer, which had been amended to reflect the third $1,000 settlement installment and the issuance of the $2,000.01 ATA check to Azer. The next day, respondent admitted to the OAE that he had mistakenly deposited the first $1,000 settlement installment in his ABA and that, by the time he had prepared the Azer client ledger card, he had forgotten about that erroneous deposit.

On August 29, 2018, the OAE directed respondent to further explain why he had deposited the first $1,000 settlement installment in his ABA, to submit ATA reconciliations for June through August 2018, and to provide the OAE with Azer's contact information. On October 2, 2018, respondent explained that he erroneously deposited the first $1,000 settlement installment in his ABA, instead of his ATA, and that, when he realized his mistake, he had left personal funds in his ATA to ensure that Azer's $2,000 ATA check cleared.

When Azer negotiated her $2,000.01 check, however, respondent's ATA held only $1,333.34 of her funds and $250 of his personal funds; the balance of his ATA comprised funds held for two other clients. Thus, when Azer cashed her check, the trust funds for the two other clients were invaded.

Based on the above facts, respondent admitted that, in connection with his handling of the Azer matter, he violated RPC 1.5(b), RPC 1.15(a) (multiple instances), and RPC 1.15(d).

The Fouad Waked Matter

On a date not set forth in the record, presumably in 2017, Fouad Waked retained respondent to collect an $18,030 debt from a third party. Respondent's client file did not contain a copy of his retainer agreement with Waked. Respondent, thus, admitted that he violated RPC 1.15(d) and R. 1:21-6(c)(1)(I) in respect of the Waked matter.

The Anita Smith Matter

On a date not set forth in the record, presumably in 2017, Anita Smith retained respondent to represent her in connection with a Driving Under the Influence (DUI) matter. Respondent had not previously represented Smith; yet, he failed to provide her with a writing setting forth the basis or rate of his fee.

On February 14 and March 29, 2019, respondent told the OAE that he had charged Smith $500 for his representation of her in connection with the DUI, open container, and failure to exhibit license charges. He was unable to produce any documentation regarding Smith's payment of his legal fee. Respondent,

thus, admitted that he violated RPC 1.5(b) and RPC 1.15(d) in respect of the Smith matter.

The Sjomara Renfurm Matter

On May 1, 2017, Sjomara Renfurm retained respondent to defend her against charges of terroristic threats and simple assault. Respondent charged Renfurm a $1,000 retainer, plus $300 per court appearance. After Renfurm began to fall behind in payments owed toward his fee, respondent increased her required installment payments from $300 to $500. Respondent did not attempt to collect the final $1,000 that Renfurm owed him, due to her financial circumstances.

During a July 2, 2018 OAE interview, Renfurm stated that she paid the initial $1,000 retainer to respondent via credit card; thereafter, respondent told her that she was required to pay him with cash. Renfurm claimed that respondent made five court appearances, charging her $500 per appearance, rather than the $300 set forth in their retainer agreement. Respondent provided her one receipt for a $500 payment, but no receipts for the other payments she made.

Respondent was unable to produce any documentation regarding Renfurm's payments toward his legal fee and, thus, admitted that he violated RPC 1.15(d) in respect of the Renfurm matter.

Additional Recordkeeping Violations

Respondent admitted that he further violated RPC 1.15(d) by failing to reconcile his ATA; failing to maintain adequately descriptive trust disbursements and receipts journals; maintaining ATA funds in excess of the $250 allowed for bank charges; and failing to deposit all client funds in his ATA.

Repeated Violations of Attorney Advertising Rules

On May 2, 2019, the Committee on Attorney Advertising (CAA) received four grievances concerning improper postcard solicitations that respondent had sent to prospective clients. Previously, on October 22, 2015, the CAA had cautioned respondent concerning his improper postcard advertising and had given him the opportunity to come into compliance with the Rules. Respondent's 2015 violations of the attorney advertising Rules included his creation of unjustified expectations about results he could achieve, in violation of RPC 7.1(a)(2); his failure to inform recipients how he had obtained their information or to recite the specific charge the recipient faced, in violation of CAA Opinion 29; his failure to advise recipients that, if they already had retained counsel, they should disregard his postcard, in violation of RPC 7.3(b)(5)(ii); his failure to include on the postcard the word "advertisement," in capital letters, in violation

of RPC 7.3(b)(5); and his failure to include on the postcard required boilerplate notices, in violation of RPC 7.3(b)(5)(iii) and (iv).

The CAA's October 2015 letter stated that the committee would forego formal discipline if respondent agreed to immediately cease using the improper postcards and to conform any future solicitations to the advertising Rules. Based on respondent's November 5, 2015 certification, representing that he had complied with the CAA's directives, the CAA dismissed the matter.

In 2019, respondent mailed postcards that were substantially the same as the improper 2015 solicitations and, thus, again violated the advertising Rules. During a September 10, 2019 demand audit, respondent admitted to the OAE that he had, once again, violated the attorney advertising Rules, as the CAA alleged.

On September 19, 2019, respondent provided to the OAE a copy of a new postcard he wanted to use for solicitation of clients. On November 14, 2019, the CAA informed the OAE that respondent's proposed, new postcard conformed to the advertising Rules.

Recommended Discipline

The OAE and respondent further stipulated that respondent's history of discipline, including previous identical recordkeeping violations, constituted an aggravating factor. The parties proffered no mitigation in that stipulation.

Based on applicable disciplinary precedent, the OAE urged us to impose a three-month suspension, or such lesser discipline as we deem appropriate.

In his September 28, 2020 brief to us, despite the procedural history of this case and the aggravation cited in the stipulation, respondent asserted that his conduct is wholly undeserving of a term of suspension. First, he argued that the conduct under scrutiny in this matter "occurred years ago," during the same general time frame of his misconduct in his most recent matters, for which he was censured.[1] Second, he emphasized that his misconduct was that of a "young and inexperienced attorney," who did not earn admission to the bar until 2013. Third, he asserted that a suspension would "reverse" what the Court has ordered and unravel respondent's proctorship arrangement. Finally, respondent maintained that a term of suspension would serve only to punish him and would not protect the public.

[1] We determined to impose a three-month suspension for the totality of respondent's misconduct in those matters. The Court disagreed and imposed a censure with a proctor. In re Ibrahim, 242 N.J. 147 (2020).

In mitigation, respondent asserted that he has shown remorse for his misconduct, has demonstrated a willingness to accept responsibility for his misconduct and to learn from it, and has fully cooperated with disciplinary authorities.

Following a review of the record, we are satisfied that the facts contained in the stipulation clearly and convincingly support all but one of respondent's admitted ethics violations.

Specifically, in the Ramcharitar matter, respondent, without a valid excuse, failed to meet a court-imposed deadline to serve the plaintiff's expert report and to conduct depositions, and failed to obtain and produce the general letters of administration necessary to successfully prosecute the lawsuit. As a result, the defendants' motions for summary judgment were granted, and Ramcharitar's case was dismissed, with prejudice. Respondent, thus, violated RPC 1.1(a), RPC 1.3, and RPC 3.2.

Making matters worse, in a desperate and dishonest attempt to avoid the dismissal of the case, respondent repeatedly lied to his adversary and to the trial court, including via false certifications, concerning the reasons for his failure to comply with discovery deadlines, and, thus, repeatedly violated RPC 3.3(a)(1) and RPC 8.4(c). That same misconduct wasted judicial resources, because the court was required to hold hearings and make findings of fact as to whether

respondent's representations were truthful and meritorious. Moreover, respondent then filed a motion for reconsideration, despite having brazenly lied to the court in connection with the court's prior holding.[2] He, thus, repeatedly violated RPC 8.4(d).

Respondent also lied to his client, claiming that the case had been dismissed because of a lack of evidence, rather than due to his inaction and misconduct, and, thus, violated RPC 1.4(b) and RPC 8.4(c).

In the Azer matter, respondent failed to provide the client, whom he previously had not represented, a writing setting forth the basis or rate of his fee and, thus, violated RPC 1.5(b). Next, he failed to safeguard Azer's settlement funds by improperly depositing one of her $1,000 settlement checks into his ABA and, when Azer eventually cashed the $2,000.01 check representing her portion of the settlement proceeds, two of respondent's other clients' ATA funds were invaded – a negligent misappropriation of client funds. Respondent, thus, repeatedly violated RPC 1.15(a). For the same conduct, the OAE charged respondent with having commingled client funds in his ABA. We dismiss that RPC 1.15(a) charge, however, as commingling routinely has been defined as the improper maintenance of an attorney's personal funds in the attorney's ATA,

[2] Although the judge determined that respondent's motion for reconsideration of the order granting summary judgment was meritless, the stipulation did not include a charge of a violation of RPC 3.1 (frivolous claim).

and not the deposit of client funds in an ABA. Moreover, the failure to safeguard charge adequately addresses that aspect of respondent's misconduct.

Finally, by failing to maintain an accurate client ledger card in the Azer matter, respondent violated RPC 1.15(d).

In the Waked matter, respondent failed to maintain the fee agreement executed in connection with the representation and, thus, again violated RPC 1.15(d).

Next, in the Smith matter, respondent failed to present Smith, a new client, with a writing setting forth the basis or rate of his fee and, thus, again violated RPC 1.5(b). Additionally, by failing to maintain records of Smith's installment payments of his fee, respondent again violated RPC 1.15(d).

In the Renfurm matter, respondent failed to maintain records of his client's installment payments toward his fee and, thus, again violated RPC 1.15(d).

Moreover, respondent committed additional violations of RPC 1.15(d) by failing to reconcile his ATA; failing to maintain adequately descriptive trust disbursements and receipts journals; maintaining ATA funds in excess of the $250 allowed for bank charges; failing to safeguard client funds; and failing to deposit all client funds in his ATA.

Finally, despite having received warnings from the CAA, in 2015, that his postcard solicitations were in blatant violation of the attorney advertising Rules, respondent mailed substantially similar postcards to prospective clients in 2019. Those solicitations created unjustified expectations regarding his services and failed to conform to the stock notice requirements set forth in RPC 7.1(a)(2), RPC 7.3(b)(5), and CAA Opinion 29. Respondent admitted to the OAE that he had violated the attorney advertising Rules and once again sought assistance to bring his postcard solicitations into compliance.

In sum, we find that respondent violated RPC 1.1(a) (gross neglect); RPC 1.3 (lack of diligence); RPC 1.4(b) (failure to communicate with the client); RPC 1.5(b) (two instances – failure to set forth in writing the basis or rate of the fee); RPC 1.15(a) (multiple instances – negligent misappropriation and failure to safeguard client funds); RPC 1.15(d) (multiple instances – failure to comply with the recordkeeping provisions of R. 1:21-6); RPC 3.3(a)(1) (multiple instances – false statement of material fact or law to a tribunal); RPC 3.2 (failure to expedite litigation); RPC 7.1(b) and RPC 7.3(b)(5) (multiple instances – failure to comply with the attorney advertising Rules); RPC 8.4(c) (multiple instances – conduct involving dishonesty, fraud, deceit or misrepresentation); and RPC 8.4(d) (multiple instances – conduct prejudicial to the administration of justice). We dismiss the charge that respondent further violated RPC 1.15(a)

(commingling) by depositing client funds in his ABA. The sole remaining issue is the appropriate quantum of discipline for respondent's misconduct.

Respondent's most egregious misconduct was his mishandling of the Ramcharitar matter. Conduct involving gross neglect, lack of diligence, and failure to communicate with clients ordinarily results in an admonition or a reprimand, depending on the number of client matters involved, the gravity of the offenses, the harm to the clients, the presence of additional violations, and the attorney's disciplinary history. See, e.g., In the Matter of Esther Maria Alvarez, DRB 19-190 (September 20, 2019) (admonition for attorney who was retained to obtain a divorce for her client but, for the next nine months, failed to take any steps to pursue the matter, and failed to reply to all but one of the client's requests for information about the status of her case, violations of RPC 1.1(a) and RPC 1.4(b); in another matter, the attorney agreed to seek a default judgment, but waited more than eighteen months to file the necessary papers with the court; although the attorney obtained a default judgment, the court later vacated it due to the passage of time, which precluded a determination on the merits; violations of RPC 1.1(a) and RPC 1.3); In the Matter of Michael J. Pocchio, DRB 18-192 (October 1, 2018) (admonition for attorney who filed a divorce complaint and permitted it to be dismissed for failure to prosecute the action; he also failed to seek reinstatement of the complaint, and failed to

communicate with the client; violations of RPC 1.1(a); RPC 1.3; RPC 1.4(b); and RPC 3.2); In re Burro, 235 N.J. 413 (2018) (reprimand for attorney who grossly neglected and lacked diligence in an estate matter for ten years and failed to file New Jersey Inheritance Tax returns, resulting in the accrual of $40,000 in interest and the imposition of a lien on property belonging to the executrix, in violation of RPC 1.1(a) and RPC 1.3; the attorney also failed to keep the client reasonably informed about events in the case (RPC 1.4(b)); to return the client file upon termination of the representation (RPC 1.16(d)); and to cooperate with the ethics investigation (RPC 8.1(b)); in aggravation, we considered the significant harm to the client and the attorney's prior private reprimand; in mitigation, the attorney expressed remorse and had suffered a stroke that forced him to cease practicing law); and In re Abasolo, 235 N.J. 326 (2018) (reprimand for attorney who grossly neglected and lacked diligence in a personal injury case for two years after filing the complaint; after successfully restoring the matter to the active trial list, the attorney failed to pay a $300 filing fee, permitting the defendants' order of dismissal with prejudice to stand, in violation of RPC 1.1(a) and RPC 1.3; in addition, for four years, the attorney failed to keep the client reasonably informed about the status of the case, in violation of RPC 1.4(b)).

Here, in a desperate attempt to avoid the dismissal of Ramcharitar's lawsuit, respondent repeatedly violated his duty of candor to the tribunal and

lied to his adversaries, misconduct which has resulted in discipline ranging from a reprimand to a long-term suspension. See, e.g., In re Marraccini, 221 N.J. 487 (2015) (reprimand imposed on attorney who attached to approximately fifty eviction complaints, 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); in mitigation, the attorney's actions were motivated by a misguided attempt at efficiency, rather than by dishonesty or personal gain); In re Duke, 207 N.J. 37 (2011) (attorney received a censure for failure to disclose his New York disbarment on a form filed with the Board of Immigration Appeals, a violation of RPC 3.3(a)(5); the attorney also failed to adequately communicate with the client and was guilty of recordkeeping deficiencies; prior reprimand; the attorney's contrition and efforts at rehabilitation justified only a censure); In re Trustan, 202 N.J. 4 (2010) (three-month suspension for attorney who, among other things, submitted to the court a client's case information statement that falsely asserted that the client owned a home, and drafted a false certification for the client, which was submitted to the court in a domestic violence trial; violations of RPC 3.3(a)(1) and (4); other violations included RPC 1.8(a) and (e), RPC 1.9(c), and RPC 8.4(a), (c), and (d)); 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; violations 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 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 [now admonitions]); 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; violations of RPC 3.3(a)(4), RPC 3.4(f), and RPC 8.4(b)-(d)).

Respondent also blatantly lied to Ramcharitar regarding the reason his lawsuit was dismissed. Standing alone, a misrepresentation to a client requires the imposition of a reprimand. In re Kasdan, 115 N.J. 472, 488 (1989). A reprimand still may be imposed even if the misrepresentation is accompanied by other, non-serious ethics infractions. See, e.g., In re Dwyer, 223 N.J. 240 (2015) (attorney made a misrepresentation by silence to his client, failing to inform her, despite ample opportunity to do so, that her complaint had been dismissed, a violation of RPC 8.4(c); the complaint was dismissed because the attorney had failed to serve interrogatory answers and ignored court orders compelling service of the answers, violations of RPC 1.1(a), RPC 1.3, and RPC 3.2; the attorney also violated RPC 1.4(b) by his complete failure to reply to his client's requests for information or to otherwise communicate with her; the attorney never informed his client that a motion to compel discovery had been filed, that the court had entered an order granting the motion, or that the court had dismissed her complaint for failure to serve the interrogatory answers and to comply with the court's order, violations of RPC 1.4(c)); In re Ruffolo, 220 N.J. 353 (2015) (knowing that the complaint had been dismissed, the attorney assured the client that his matter was proceeding apace, and that he should expect a monetary award in the near future; both statements were false, in violation of RPC 8.4(c); the attorney also 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); and In re Falkenstein, 220 N.J. 110 (2014) (attorney led the client to believe that he had filed an appeal and concocted false stories to support his lies, a violation of RPC 8.4(c); he did so to conceal his failure to comply with his client's request that he seek post-judgment relief, violations of RPC 1.1(a) and RPC 1.3; because he did not believe the appeal had merit, the attorney's failure to withdraw from the case was a violation of RPC 1.16(b)(4); the attorney also practiced law while ineligible, although not knowingly, a violation of RPC 5.5(a)).

In the Ramcharitar matter, in light of (1) the fact that respondent's misconduct caused his client's claim to be dismissed, with prejudice, and (2) his multiple misrepresentations to the court, opposing counsel, and his own client, serious discipline is warranted. Moreover, respondent's client, Ramcharitar, suffered irreparable harm. Based on the precedent of Cillo, a one-year suspension is warranted for respondent's misconduct in connection with the Ramcharitar matter alone.

Respondent, however, committed additional misconduct in connection with the Azer, Waked, Smith, and Renfurm client matters.

Reprimands have been imposed on attorneys who, in addition to violating RPC 1.5(b), have defaulted, have a disciplinary history, or have committed other acts of misconduct. See, e.g., In re Yannon, 220 N.J. 581 (2015) (attorney failed to memorialize the basis or rate of his fee in two real estate transactions, a violation of RPC 1.5(b); discipline enhanced from an admonition based on the attorney's prior one-year suspension); In re Gazdzinski, 220 N.J. 218 (2015) (attorney failed to prepare a written fee agreement in a matrimonial matter; the attorney also failed to comply with the district ethics committee investigator's repeated requests for the file, a violation of RPC 8.1(b), and violated RPC 8.4(d) by entering into an agreement with the client to dismiss the ethics grievance against him, in exchange for a resolution of the fee arbitration between them); and In re Kardash, 210 N.J. 116 (2012) (in a default matter, the attorney failed to prepare a written fee agreement in a matrimonial case).

Generally, a reprimand is imposed for recordkeeping deficiencies and negligent misappropriation of client funds. See, e.g., In re Mitnick, 231 N.J. 133 (2017) (as the result of poor recordkeeping practices, the attorney negligently misappropriated client funds held in the trust account; violations of RPC 1.15(a), and RPC 1.15(d) and R. 1:21-6; significant mitigation included the attorney's

lack of prior discipline in a thirty-five-year legal career); In re Rihacek, 230 N.J. 458 (2017) (attorney found guilty of negligent misappropriation of client funds held in the trust account, various recordkeeping violations, and charging mildly excessive fees in two matters; no prior discipline in more than thirty years at the bar); and In re Cameron, 221 N.J. 238 (2015) (after the attorney had deposited in his trust account $8,000 for the payoff of a second mortgage on a property that his two clients intended to purchase, he disbursed $3,500, representing legal fees that the clients owed him for prior matters, leaving in his trust account $4,500 for the clients, in addition to $4,406.77 belonging to other clients; when the deal fell through, the attorney, who had forgotten about the $3,500 disbursement, issued an $8,000 refund to one of the clients, thereby invading the other clients' funds; a violation of RPC 1.15(a); upon learning of the overpayment, the attorney collected $3,500 from one of the clients and replenished his trust account; a demand audit of the attorney's books and records uncovered various recordkeeping deficiencies, a violation of RPC 1.15(d)).

Respondent also deliberately violated the attorney advertising Rules. 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 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); 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).

The Court has imposed a censure when an attorney made multiple egregious advertising violations. In re Rakofsky, 223 N.J. 349 (2015). In Rakofsky, 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; and securities, insurance, and bank fraud, among other serious criminal matters, as well as drug offenses, including drug trafficking. Id. at 5.

We found that Rakofsky's misrepresentations were so egregious as to constitute outright lies. Id. at 25. He did not merely inflate his credentials, but fabricated them, and conveyed the impression that he was a "super lawyer." Ibid. 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 his misleading letterhead, and the lack of harm to his clients, we imposed a censure. Id. at 25.

Although not as egregious as Rakofsky's advertising misconduct, which was met with a censure, respondent's deliberate, improper advertising, despite

the CAA's 2015 warning and his resulting, acute awareness of the Rules, warrants the enhancement of the discipline to a term of suspension.

Moreover, there is serious aggravation to consider, and respondent's theories of mitigation do not convince us to impose less than a term of suspension. Specifically, respondent's attempts at mitigation ignore his failure to learn from past mistakes; the irreparable harm he has caused to clients; and the fact that, although protection of the public is the primary purpose of attorney discipline, punishment by way of enhanced, progressive discipline certainly is a tenet of the system.

As stated in our prior decisions examining respondent's misconduct, despite his short legal career, he repeatedly has demonstrated that he is a danger to the public and to his clients. Respondent's history of misconduct illustrates his disturbing tendency to blame others for his own ethical transgressions, and to operate his law practice on the razor's edge of propriety. Although admitted to the bar only seven years ago, respondent has been reprimanded and censured twice. Therefore, progressive discipline is required.

Furthermore, in respect of the negligent misappropriation, recordkeeping, and advertising violations, respondent clearly has demonstrated a failure to learn from his past mistakes. Specifically, he first became acutely aware of his recordkeeping obligations and the concept of negligent misappropriation in

2015, via an OAE demand audit triggered by the overdraft of his attorney trust account. He was reprimanded for that misconduct.

Additionally, respondent ignored a warning and a censure resulting from prior scrutiny of his advertising practices. In 2015, the CAA warned him about the impropriety of his postcard solicitations. In 2017, in connection with his censure matter, he was also put on notice that his website violated attorney advertising Rules. Yet, in 2019, as detailed above, respondent once again violated the advertising Rules by issuing solicitation postcards that were substantially similar to those that the CAA had warned him about four years earlier.

The Court has signaled an inclination toward progressive discipline and stern treatment of repeat offenders. In such situations, enhanced discipline is appropriate. See In re Kantor, 180 N.J. 226 (2004) (disbarment for abandonment of clients and repeated failure to cooperate with the disciplinary system).

On balance, for the totality of respondent's misconduct, we determine that a two-year suspension is the quantum of discipline necessary to protect the public and preserve confidence in the bar. Because such a suspension would end respondent's current proctorship, we impose the condition that, upon reinstatement, respondent practice law under the supervision of a practicing

attorney approved by the OAE for a period of two years and until further Order of the Court.

Vice-Chair Gallipoli voted to recommend to the Court that respondent be disbarred.

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: 
Johanna Barba Jones
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

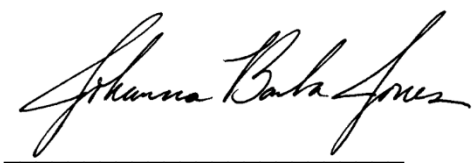
In the Matter of Ihab Awad Ibrahim
Docket No. DRB 20-135

Argued: October 15, 2020

Decided: April 26, 2021

Disposition: Two-Year Suspension

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



Johanna Barba Jones
Chief Counsel