SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 11-433
District Docket No. VII-2010-0008E

IN THE MATTER OF	
MARK H. JAFFE	
AN ATTORNEY AT LAW	

Decision

Argued: March 15, 2011

Decided: May 29, 2012

Thomas A. Cunniff appeared on behalf of the District VII Ethics Committee.

Joseph J. Benedict 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 recommendation for discipline (reprimand) filed by the District VII Ethics Committee (DEC). Respondent was charged with having violated RPC 3.3(a)(1) and RPC 3.3(a)(5), (b), and (d). We determine to impose a reprimand.

Respondent was admitted to the New Jersey bar in 1988. In 1998, he received a reprimand for violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4 (failure to communicate with client), and RPC 8.1(b) (failure to cooperate with disciplinary authorities). In re Jaffe, 154 N.J. 136 (1998).

The conduct that gave rise to this matter was as follows:

In 2009, Herbert Joseph,[1] of Albany, New York, retained respondent to represent Matilia Charles, an employee at Princeton University, to defend her in connection with a reciprocal misdemeanor criminal charge, in Princeton Borough Municipal Court (the Borough Court). Joseph paid respondent a $500 fee for the representation. According to respondent,

> A. I got a phone call out of the blue from Mr. Joseph saying that he is Haitian and one of his friends was also Haitian, was in a kitchen at Princeton where she serves as a chef or cleaning person and she apparently picked up a towel, a work towel, and each worker has a towel and you're not supposed to touch the towel because you wipe your hands and face on it, and she used this towel and was confronted by Mr. Peegler who

[1] Also referred to as "Hebert" in the record.

got angry at her and then pushed her.

Q. You got this information from whom?

A. A man by the name of Herbert Joseph who said he is acting out of concern for her as a friend and wanted to retain me to represent her because Judge Goldman in court had recommended me as the lawyer they should contact.

Q. Did he speak in terms of the language problems of the case?

A. He said she speaks limited English, she has been here for maybe 30, 40 years.

Q. What was her native language?

A. Creole.

[T100-4 to T101-2.][2]

Charles had attended an initial court hearing without an attorney, on June 19, 2009, but notified the judge that she wanted to retain counsel. Respondent testified that, once he undertook the representation, Joseph became the "go to" person for communications about the Charles matter.[3]

---

[2] "T" refers to the June 8, 2011 DEC hearing transcript.

[3] Respondent was unsure if Joseph was a friend or a nephew. Joseph alternately referred to himself as a nephew or son-in-law.

Respondent testified that his office is next to the Princeton University campus and located only blocks from Charles' workplace. Thus, he stated, it should have been easy for Charles to visit him at the office.

On June 25, 2009, respondent sent a letter to the court, stating that he represented Charles and requesting discovery. Thereafter, the matter was set down for a pre-trial conference, to take place on July 13, 2009.

On July 13, 2009, Joseph traveled from Albany to Princeton to translate for Charles at the pre-trial conference. Although respondent gave neither Charles nor Joseph any advance notice of this circumstance, he sent another attorney to "cover" for him at the hearing. In an August 12, 2009 email to respondent, Joseph complained that the stand-in attorney had been unfamiliar with the case and that respondent should have notified them that he would not be attending the pre-trial conference that day.

Respondent conceded that he never replied to Joseph's email and testified that he must have had a "last minute" conflict that had prevented him from attending the pre-trial conference.

Over the next several months, respondent communicated with Joseph largely by email. In fact, respondent advised Joseph that

email was his preferred method of communication, because he checked his email on a daily basis.

On October 2, 2009, respondent sent Joseph an email indicating that he needed to meet with Charles in order to strategize for the trial. The email read as follows:

> If I do not meet with the party before the trial I will be UNABLE to present a great case. I will only try this case if I have the party's full cooperation. If I do not have that cooperation I cannot defend her and will withdraw as counsel.
>
> [Ex.P-8.]

On October 5, 2009, Joseph replied, also by email:

> I concur with the fact that you need to meet with the Defendant before trial, also, if you need to meet with the witnesses that also can be arrange [sic]. Since I leave [sic] in Albany, NY it is quite a ride. You stated before that you are available some Saturdays.
> Let us know you [sic] availabilities so we can arrange to meet.
>
> [Ex.P-7.]

Although respondent replied to Joseph's email that same day, he did not offer any times when he would be available for a meeting. Rather, he told Joseph to contact him later in the week. Respondent made no further attempt to schedule a meeting.

On October 19, 2009, Joseph sent respondent an email to "touch base" with him and to advise him that he would be out of the country "from November 6 to November 12. Just in case you w [sic] planning a meeting with us."

On November 5, 2009, the court sent respondent a trial notice for November 19, 2009.

At 12:41 a.m. on November 12, 2009, respondent sent a facsimile letter to the court, dated November 10, 2009, about the Charles matter. Respondent was scheduled to appear before Judge Goldman on an unrelated matter later that morning and hoped to address the Charles matter at that time. Respondent's letter stated:

> I will be filing a motion to withdraw as counsel for Ms. Charles since she has refused to meet with me to help me prepare a proper defense for her. When I appeared in court several weeks ago I stressed to her that I had to meet with her in order for me to help understand what the facts were in her case. She has had no contact - via fax, email letter or phone since that last Court date. I will be filing the motion this week and mailing it to her.
>
> I also have plans to be out of state from Wednesday November 18th to November 21st. I will be in Kansas City Missouri during that period.
>
> I feel it highly unlikely that Ms. Charles will see me in the next week or so. Although

> I was retained by a family friend - I have never seen Ms. Charles in my office and she has never sat down with me to review her matter! I have communicated with a family friend who agrees that Ms. Charles must meet with me. However, she refuses to do so. If I am appear [sic] on the 19th I would only be making an application to withdraw as her lawyer since she has been totally uncooperative. I must first have her full cooperation and her help before I can feel comfortable proceeding to an actual hearing.
>
> She also has expressed the fact that she will not agree to pay for the interpreter.
>
> [Ex.P-9.]

As respondent had hoped, Judge Goldman addressed his letter that day, treating it as a motion to withdraw from the case:

> THE COURT: The Charles case? That's on for Monday?
>
> [RESPONDENT]: Thursday, but I will be out of -- I'll be in Missouri that day. But the problem is the client has never come to see me from (indiscernible) -- that's the reason why she never became aware of what's happening, because I don't know what's happening. I'm going through a third party. She hasn't been to see me, she doesn't fax, e-mail. I mean, I'm right on campus. I'm in
>
> walking distance of where she works, but she never comes to see me and —
>
> THE COURT: I'm going to allow you to withdraw in that case. I looked at that this afternoon before I came on the bench. We're going to leave it on so that she'll have to come. She needs to show up, it's on for

> trial. But, I'll grant your application to withdraw. And if you want to send her a letter saying that, you know, because she has failed to communicate with you, you have -- I have granted your motion, but the case is still on for trial, and copy the Court with that.
>
> [RESPONDENT]: Thank you. Also just to caution the Court though, I did -- you remember the last time we were here, she was very adamant, she is not going to she refuses to take [sic] from an interpreter. So I'm just giving you a heads up, she's rather an emotional person.
>
> THE COURT: I appreciate that. I think I gleaned that, she's been here several times.
>
> [RESPONDENT]: Thank you, Your Honor, may I be excused?
>
> THE COURT: Yes. Have a good day.
>
> [RESPONDENT]: Thank you.
>
> [Ex.P-11,2-3 to 3-10.]

At the DEC hearing, respondent was asked why he did not take steps to clarify his position in court. He replied, "I don't argue with a judge. She is the queen. She says it, I don't argue with her."

Respondent admittedly failed to disclose to Judge Goldman that, although Charles had not contacted him, Joseph had been in constant communication with him about the case. He also failed to notify Joseph and Charles of his plan to address the judge

about the case on November 12, 2009. In addition, he did not send Charles or Joseph a copy of his November 10, 2009 letter to the court.

As it turned out, respondent failed to abide by the judge's November 12, 2009 directive that he advise Charles and Joseph, by letter, that he had been relieved as counsel. Respondent testified that he did not do so because he "was fed up at that point."

On November 19, 2009, the trial went ahead without respondent. Joseph traveled from Albany to Princeton to be present with Charles and act as translator. The trial transcript makes it clear that Joseph and Charles were surprised at respondent's absence, only to learn from Judge Goldman that she had allowed him to withdraw from the case. The judge explained that she had done so on the basis of respondent's November 10, 2009 letter, which stated that Charles had been totally uncooperative, failing to make herself available to meet with respondent to discuss the case.

Joseph countered that he had never received a copy of that letter and that respondent's allegation of lack of communication was inaccurate. He told the judge that he had been in constant contact with respondent, via email, throughout the course of the

representation, and that it was respondent who had failed to set up an appointment for all of them to meet. Joseph told the judge the following:

> Last — [respondent] has been in contact with me for the past two or three months. He constantly answered all my e-mail with no problem at all, and roughly two months ago he said he would like to meet with me and sit down because he doesn't speak Creole. I tell him, "Yes, absolutely." And he mentioned it would be best to meet on Saturday or Sunday. I said that's fine, since I live upstate New York [sic], it's almost four and half hours driving, I will come in myself to do that. And when, I believe, Ms. Charles called me and said, "We have the trial date on the 17th and the 19th, today," so I -- about two weeks ago and I sent him an additional note stating, "Is this coming Sunday or Saturday, it's okay for you?" And I did not get anything back from him. But prior to my last e-mail, we constantly in constant communication [sic]. I was not aware he was not going to show up.
>
> [Ex.P-12,5-4 to 20.]

Joseph provided Judge Goldman with the various emails that he had exchanged with respondent over the course of the

representation.[4] So as not to "poison the well" by reading them herself, Judge Goldman referred the emails to the presiding municipal judge. The presiding judge advised her, by letter, that the documents included seventeen distinct email exchanges between respondent and Joseph, from June 22 to November 12, 2009. Of them, five were Joseph's requests for respondent's schedule so that they could meet with Charles to discuss the case. Joseph's final request, dated November 12, 2009, requested a meeting at respondent's office on the weekend immediately preceding the trial date.

On December 17, 2009, Judge Goldman referred the matter to ethics authorities.

For his part, respondent denied that his November 10, 2009 letter to the court should have been treated as a motion to withdraw from Charles' case or that his letter lacked candor. Instead, he claimed, the letter was simply an adjournment request, which described his wish to remain in the case.

---

[4] The court recessed, while Joseph walked to a local public library, accessed his emails and printed them out for the court.

Respondent recalled that Judge Goldman "cut him off," when he tried to explain certain events in the matter, and before he could convey how much he wanted to remain as counsel to Charles. He claimed that, had he not been "cut off," he would have explained to the judge that he would only seek to be relieved as counsel if his client continued to evade him:

> I was cut off in mid sentence [sic] and I was going on for another 20 minutes. You see how I can say a lot when given the opportunity, but Judge Goldman was very clear, she said there are a lot of lawyers here, prosecutors here, and let's move this fast. I took her hint and didn't argue with her.
>
> [T87.]

The presenter pressed respondent further:

> Q. And the judge says, Judge Goldman says she is going to allow you to withdraw, correct?
>
> A She cut me off.
>
> Q But she said that she was going to allow you to withdraw, correct?
>
> A Correct.
>
> Q You didn't tell her you had hoped to stay in, did you?
>
> A I said in my letter I hoped to have her cooperation.
>
> Q But when Judge Goldman said that she was going to allow you to withdraw, you didn't say well, I really am hoping she will show up and I'll stay in, did you?

A Well, when she said I could get out of the case, I was hoping to stay in the case. Attorneys commonly are let out of a case because, if anything, the judge can't do what she did. A judge cannot let you out of a case without two things being done; the person has to be present in court or there has to be a formal motion, so that case wasn't on the calendar, so the judge really didn't let me out of the case, couldn't have let me out of the case because there was no notice to the client.

Q But you didn't say judge, you can't do that, you didn't try and stop her, did you?

A I don't argue with a judge. She is the queen. She says it, I don't argue with her.

Q And you didn't think you had to appear the next Thursday, did you?

A No.

[T63-16 to T64-20.]

When asked if he thought that his letter could have fairly been construed as a motion to withdraw, respondent replied that it was merely an adjournment request. He acknowledged only that Judge Goldman had taken it upon herself to deem it as a motion and blamed her for not "following court rules," instead treating his letter as a motion to be relieved as counsel.

Respondent was asked if he had ever communicated to Charles, in writing, the need to meet face-to-face, lest he withdraw from the case. Respondent conceded that he had never sent his client any letters during the representation.

Respondent presented mitigation for his actions, including the testimony of five witnesses and several character letters. The witnesses and letters were consistent in their assessment of respondent as a person of good character and an honest attorney. In addition, respondent sought credit for having helped Charles with her matter, after he was relieved as counsel.

Respondent retained counsel for his appearance before us. In a brief dated February 24, 2012, counsel urged us to dismiss the complaint. He argued that respondent's letter to the court was correct, because Charles had never been in contact with respondent. Counsel acknowledged that it would have been better for respondent to include in the letter that Joseph, a third party friend, had been in steady communication with him but, according to counsel, that was not critical information for Judge Goldman's purposes.

Counsel conceded that respondent's use of the word "refusal" in the letter had been "inartful" and had led the court to believe that Charles had refused to communicate with him. Counsel also conceded that, when respondent "later that day" saw the email from Joseph, he should have replied to it and should have advised Charles of what had occurred in court.

Nevertheless, counsel urged us to consider that respondent had correctly stated, in his letter and before the judge, that Charles had never been in contact with him. Counsel added that respondent's intention had been to convey to the judge that Charles worked within walking distance of his office, but had never come to see him. Counsel also sought our consideration of the "many character letters" presented in the proceeding below, as evidence that belie a charge that respondent "was disingenuous with the court."

The DEC found that Joseph was Charles' contact for purposes of communicating with respondent about the case. Joseph had made numerous attempts to set up a meeting with Charles and respondent, prior to the trial date.

The DEC also found that respondent sent the November 10, 2009 letter to the court in hopes of discussing an adjournment or withdrawal from the case, when, on November 12, 2009, he appeared before Judge Goldman on an unrelated matter. The DEC concluded that respondent had twice knowingly made a false statement of material fact or law to Judge Goldman, in violation of RPC 3.3(a)(1). The first was contained in his letter, when he stated that Charles had refused to meet with him and that there had been no contact with her "via fax, email, letter, or phone."

The second had occurred in court, when respondent had reiterated those statements before Judge Goldman, on November 12, 2009.

In addition, the DEC determined that respondent failed to disclose material facts to Judge Goldman, knowing that their omission was reasonably certain to mislead her, a violation of RPC 3.3(a)(5). Specifically, respondent's misrepresentations were material to the judge's decision to allow him to withdraw from the case.

The DEC further found that respondent's failure to copy Charles and Joseph on his November 10, 2009 letter to the court violated RPC 3.3(d), addressing a lawyer's duty, in ex parte communications with a court, to inform the judge of all relevant facts known to the lawyer that would allow the judge to make an informed decision.

Finally, the DEC concluded that respondent violated RPC 3.3(b), because he "had a continuing obligation to be truthful with the Tribunal, and he failed to tell the Court about the November 12, 2009, email from Mr. Joseph, specifically requesting a meeting to prepare for Trial."

The DEC recommended the imposition of a reprimand, without citing case law in support of that recommendation.

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

The charges against respondent stem from a November 12, 2009 letter that he sent to the Borough Court, shortly before the trial in the Charles matter. Respondent claimed, throughout the ethics proceedings below, that the letter was solely an attempt to adjourn the matter, based on his plan to be out of state, on personal business, on the trial date. While the letter mentioned an adjournment, the language in it and, later, respondent's verbal exchange with Judge Goldman, in court, establish that respondent alternately sought to be relieved as counsel. Respondent's letter was "priming the pump" for withdrawal, by claiming non-cooperation from the client. Even giving respondent the benefit of the doubt, that is, that he would have gotten around to asking for an adjournment, once at the hearing, the crux of the impropriety was the misrepresentations that formed the basis for respondent's request to the court, be it to adjourn or withdraw.

Respondent sent his letter in the wee hours of November 12, 2009, shortly before he was scheduled to appear before Judge Goldman, on an unrelated matter. He claimed that his letter was

truthful and, thus, not misleading. In fact, it was both untruthful and misleading. RPC 3.3(a)(1) states that a lawyer "shall not knowingly make a false statement of material fact or law to a tribunal." The letter stated that respondent had no contact with Charles, "via fax, email, letter, or phone since the last Court date." That statement was untrue, inasmuch as respondent had communicated extensively with Charles through Joseph, whom respondent always considered as Charles' contact for the case. Respondent's letter did not disclose to the judge that Joseph, who had paid respondent's fee, was his contact person for Charles and had communicated with him on a regular basis, via email.

It was also untrue that Charles had "refused to meet with [respondent]" to prepare for trial, as stated in the letter. Five of Joseph's emails, as reviewed by the presiding municipal judge, were attempts to schedule a meeting. The final attempt was delivered to respondent's email in-bin on the afternoon of November 12, 2009, while respondent was in Borough Court, addressing the court about the case.

When Judge Goldman called respondent's unrelated case, on November 12, 2009, she immediately advised him that she had reviewed his letter-request in the Charles matter. She did not

refer to it as an adjournment request. Rather, she stated, "I'll grant your application to withdraw." If we are to believe respondent, he must have known, at that moment, that the judge had "misunderstood" his intent and had erroneously believed that he was seeking to withdraw from the case. If, in fact, respondent truly was seeking only an adjournment, he had an obligation to clarify his position to the court. He needed to correct any misapprehension on the part of the judge. But he did not. The judge then stated, "I have granted your motion" to withdraw and advised respondent that the trial would not be re-scheduled. With a final opportunity to set the record straight, respondent instead thanked the judge and cautioned her, for the upcoming trial without him, that his client was "rather an emotional person."

Respondent attempted to explain his silence on that day as deference to the Judge, taking the position that he could not "argue" with Judge Goldman, the "queen" in the court setting. We find respondent's assertion feeble, at best. Correcting a judge's misunderstanding is essential to the proper functioning of any court. Calmly advising Judge Goldman that he was seeking only an adjournment would have not have been argumentative; it would have been enlightening. Could it be that respondent did

not want to run the risk that, if he pressed the judge for an adjournment, she might deny the request, forcing him to change his travel plans? We do not know that. What we do know is that his actions were consistent with those of an attorney content to be relieved as counsel that day.

Respondent's actions after leaving the court also belie his claimed innocence. He admittedly checked his email every day, but did not reply to Joseph's November 12, 2009 email. Respondent's counsel conceded that, having just been relieved as counsel, respondent should have immediately replied to Joseph's email; he should have notified Charles that he had been relieved as counsel and that she needed to act swiftly to obtain new counsel, for the trial date was unchanged and was just six days away. Yet, respondent conceded that he had ignored Joseph's email, claiming that he was "fed up."

Unquestionably, thus, respondent was guilty of having violated RPC 3.3(a)(1).

Respondent also violated RPC 3.3(a)(5), which addresses an attorney's obligation to disclose information without which it is reasonably certain that a tribunal will be misled. As previously noted, respondent was in constant contact with his client about the matter, through Joseph. His failure to disclose

that information to Judge Goldman was very material and misled her that the client had become virtually uncooperative, the very basis upon which the judge granted respondent's request.

Respondent was also charged with having violated RPC 3.3(d) (in an ex parte proceeding, a lawyer shall inform the tribunal of all relevant facts known to the lawyer that should be disclosed to permit the tribunal to make an informed decision, whether or not the facts are adverse). Respondent's communications with the judge, both in writing and at his November, 12, 2009 court appearance, were conducted without notice to his client. Thus, Charles was denied an opportunity to counter respondent's claim that she was so uncooperative that he should be relieved as counsel. Not only did respondent not disclose to the judge that he had not given Charles notice of his intention to address the court about the case and of what he intended to say to the court, but he hid from the judge facts that would have permitted her to make an informed decision on whether to allow withdrawal. We find that respondent's actions in this regard violated RPC 3.3(d).

Finally, respondent was charged with having violated RPC 3.3(b) (the duties set out in [RPC 3.3(a)] continue to the conclusion of the proceeding and apply even if compliance

requires disclosure of confidential information otherwise protected by RPC 1.6). This subsection of the rule is inapplicable to the facts here, because respondent did not continue with the representation; the duty ended when he was relieved from the case. We, thus, dismiss that charge.

When attorneys are guilty of lack of candor to a tribunal, although suspensions are the most frequent sanctions, the range of discipline is wide, varying from an admonition to a lengthy term of suspension.

Admonitions, reprimands, and censures: In the Matter of Richard S. Diamond, DRB 07-230 (November 15, 2007) (in a matrimonial matter, admonition for attorney who filed certifications with the family court making numerous references to attached psychological/medical records, which were actually mere billing records from the client's medical provider; although the court was not misled by the mischaracterization of the documents, the conduct violated RPC 3.3(a)(1)); In the Matter of Robin K. Lord, DRB 01-250 (2001) (admonition for attorney who failed to reveal her client's real name to a municipal court judge when her client appeared in court using an alias, thus resulting in a lower sentence because the court was not aware of the client's significant history of motor vehicle

infractions; in mitigation, the attorney disclosed her client's real name to the municipal court the day after the court appearance, whereupon the sentence was vacated); In re Whitmore, 117 N.J. 472 (1990) (reprimand for municipal prosecutor who failed to disclose to the court that a police officer whose testimony was critical to the prosecution of a charge of driving while intoxicated intentionally left the courtroom before the case was called, resulting in the dismissal of the charge); and In re Mazeau, 122 N.J. 244 (1991) (attorney reprimanded for failure to disclose to a court his representation of a client in a prior lawsuit, where that representation would have been a factor in the court's ruling on the attorney's motion to file a late notice of tort claim); and In re Duke, 207 N.J. 37 (204) (censure for attorney who failed to disclose his New York disbarment on a form filed with the Board of Immigration Appeals; the attorney also failed to communicate with the client and was guilty of recordkeeping violations; prior reprimand; the attorney's contrition and efforts at rehabilitation justified only a censure).

Suspensions (three months): In re Georgi, 180 N.J. 525 (2004) (attorney charged an excessive contingent fee, made misrepresentations to his adversary and to the court, counseled

his client to make misrepresentations to the court, made loans to his client without complying with the required safeguards of RPC 1.8(a), engaged in a conflict of interest by arranging for one client to lend money to another client, made misrepresentations to the Office of Attorney Ethics, and violated recordkeeping requirements) and In re Chasan, 154 N.J. 8 (1998) (attorney distributed a fee to himself after representing that he would maintain the fee in his trust account pending a dispute with another attorney over the division of the fee and then misled the court into believing that he had retained the fee in his trust account; the attorney also misled his adversary, failed to retain fees in a separate account, and violated recordkeeping requirements).

Suspensions (six months): In re Forrest, 158 N.J. 429 (1999) (attorney failed to disclose the death of his client to the court, to his adversary, and to an arbitrator; the attorney's motive was to obtain a personal injury settlement; prior private reprimand); In re Jenkins, 151 N.J. 473 (1997) (attorney wrote a decedent's name on a medical authorization form, presented it to a hospital, even though the individual had died a year earlier and also misrepresented his position in the matter); and In re Telson, 138 N.J. 47 (1994) (attorney

concealed a judge's docket entry dismissing his client's divorce complaint, obtained a divorce judgment from another judge without disclosing that the first judge had denied the request, and denied his conduct to a third judge, only to admit to this judge one week later that he had lied because he was scared).

Suspensions (one year or more): In re Cillo, 155 N.J. 599 (1998) (one-year suspension; after misrepresenting to a judge that a case had been settled and that no other attorney would be appearing for a conference, the attorney 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 was involved in an automobile accident and then misrepresented to the police, her lawyer, and a municipal court judge that her babysitter had been operating her vehicle and presented false evidence in an attempt to falsely accuse the babysitter of her own wrongdoing; two members of the Court voted for disbarment).

Respondent's misrepresentations were serious and occurred in a letter and at a court appearance before a judge. On the

other hand, they were confined to a single motion, similar to the admonition and reprimand cases, where the attorneys' misconduct was limited to single instances (failure to reveal a client's true name; failure to disclose absence of critical police officer witness; failure to inform court of prior representation of a party).

Here, respondent's misconduct was more serious than that in Diamond (admonition), where the court was not misled, and Lord (admonition), where the attorney "fessed up" the day after allowing her client's alias name to stand on the record in municipal court. The conduct was more in line with the reprimand cases, Whitmore, and Mazeau, where the attorneys did not immediately correct the misinformation they furnished to tribunals. This case does not contain the additional violations or the degree of outrageous conduct found in the suspension cases.

We are aware that respondent has a prior reprimand, but it is not only remote in time (1998), but for dissimilar misconduct. Therefore, it cannot be said that respondent failed to learn from prior mistakes. In mitigation, respondent provided character witness' testimony and letters in support of his

reputation as a good and honest attorney. On balance, thus, we determine that a reprimand is the appropriate sanction here.

Member Doremus 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
Louis Pashman, Chair

By: Julianne K. DeCore
Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Mark H. Jaffe
Docket No. DRB 11-433

Argued: March 15, 2012

Decided: May 29, 2012

Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Pashman			X			
Frost			X			
Baugh			X			
Clark			X			
Doremus						X
Gallipoli			X			
Wissinger			X			
Yamner			X			
Zmirich			X			
Total:			8			1

Julianne K. DeCore
Julianne K. DeCore
Chief Counsel