SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 13-016
District Docket Nos. XIV-2010-0414E, XIV-2010-0417E, XIV-2010-465E, and XIV-2010-0466E

and

Docket No. DRB 13-036
District Docket Nos. XIV-2011-0464E, XIV-2012-0080E, XIV-2012-0156E, XIV-2012-0257E, and XIV-2012-0371E

IN THE MATTERS OF	:	
JOHN EDWARDS TIFFANY	:	Decision
AN ATTORNEY AT LAW	:	

Argued: July 18, 2013

Decided: August 19, 2013

HoeChin Kim appeared on behalf of the Office of Attorney Ethics (DRB 13-016).

Respondent failed to appear, despite proper service.[1]

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

[1] Service was made by overnight delivery at the address to the individual designated by respondent during a telephone conversation with Chief Counsel, Office of Board Counsel.

These matters came before us on a recommendation for a censure filed by Special Master Eric S. Solotoff (DRB 13-016) and on a certification of default filed by the Office of Attorney Ethics ("OAE"), pursuant to R. 1:20-4(f) (DRB 13-036).

The OAE five-count complaint in DRB 13-016 charged respondent with having violated RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(b) (failure to keep a client informed about the status of a matter and to comply with requests for information), RPC 1.4(c) (failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions about the representation), RPC 3.2 (failure to expedite litigation), and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) (count one); RPC 1.3 and RPC 1.15(b) (failure to promptly deliver property to a client) (count three)[2]; RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.4(c), RPC 3.2, RPC 8.4(c), R. 1:21-1A(a)(3) (professional corporation required to maintain malpractice insurance), and R. 1:21-1A(b) (professional corporation required to file a certificate of insurance with the Clerk of the Supreme Court) (count four); and R. 1:21-1(a) and RPC 5.5(a)(1) (failure to maintain a bona fide law office) (count five).

[2] At the ethics hearing, the OAE withdrew the allegations of count two of the complaint.

The five-count complaint in DRB 13-036 charged respondent with having violated RPC 1.1(a), RPC 1.3, RPC 1.4(a) (lawyer shall inform a prospective client of how, when, and where the client may communicate with the lawyer), RPC 1.4(b), RPC 1.5(a) (unreasonable fee), RPC 1.5(b) (failure to set forth in writing the basis or rate of the fee), RPC 3.3(a)(5) [mistakenly charged as RPC 3.3(a)(1)] (failure to disclose a material fact to a tribunal), RPC 3.4(c) (knowing disobedience of an obligation under the rules of a tribunal), RPC 5.5(a)(1) (practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction), RPC 8.1(b) (failure to cooperate with disciplinary authorities), RPC 8.4(b) (criminal act), RPC 8.4(c), and RPC 8.4(d) (conduct prejudicial to the administration of justice) (count one); RPC 3.3(a)(5), RPC 8.1(b), RPC 8.4(c), and RPC 8.4(d) (count two); RPC 3.4(c), RPC 5.5(a)(1); RPC 8.1(b), RPC 8.4(b), RPC 8.4(c), and RPC 8.4(d) (count three); RPC 1.1(a), RPC 1.3, RPC 1.4(a), RPC 1.4(b), RPC 1.5(a), RPC 3.3(a)(5) [mistakenly charged as RPC 3.3(a)(1)], RPC 3.4(c), RPC 5.5(a)(1), RPC 8.1(b), RPC 8.4(b), RPC 8.4(c), and RPC 8.4(d) (count four); and RPC 3.3(a)(5) [mistakenly charged as RPC 3.3(a)(1)], RPC 3.4(c), RPC 5.3(a), (b), and (c)(1) and (2) (failure to supervise a nonlawyer), RPC 5.5(a)(1), RPC 8.1(b), RPC 8.4(b), RPC 8.4(c), and RPC 8.4(d) (count five).

For respondent's misconduct in both matters, a four-member majority recommends his disbarment.

Respondent was admitted to the New Jersey bar in 1992 and to the New York bar in 1994. He was temporarily suspended, effective October 19, 2011, for failure to comply with a fee arbitration determination and to pay the accompanying monetary sanction that we imposed. In re Tiffany, 208 N.J. 345 (2011). Although, on January 25, 2012, the Court reinstated respondent, In re Tiffany, 208 N.J. 592 (2102), the reinstatement was vacated and he was again temporarily suspended, on February 8, 2012, after the Court learned that the checks issued in payment of the fee arbitration award and the sanction had been returned for insufficient funds. In re Tiffany, 209 N.J. 88 (2012).

On February 8, 2013, respondent received a three month-suspension, in a default matter, for gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, and misrepresentations to two clients. In re Tiffany, 213 N.J. 37 (2013).

Respondent remains suspended to date.

DRB 13-016

At the ethics hearing, respondent did not cross-examine any of the witnesses produced by the presenter and did not offer any

documentary or testimonial evidence, except his own testimony. Although he conceded, during the hearing, that he was guilty of some of the charges in the complaint, in his subsequent brief to the special master, he denied any misconduct. Yet, he urged the special master to impose a "private reprimand".[3] The OAE recommended a censure.

The Dages/Boam Matter

On May 21, 2003, Arthur Dages and Chris Boam retained respondent to represent them in litigation arising from their employment by the New Jersey State Police. Pursuant to two separate written fee agreements, each providing for a $7,500 non-refundable retainer and a contingent fee based on the amount of the recovery, Dages and Boam each paid respondent $7,500. Although respondent sent letters to the State Police and the Department of Law and Public Safety, his efforts to resolve the dispute, without resorting to litigation, were not successful.

On June 3, 2004, respondent filed a complaint in Sussex County against the State of New Jersey on behalf of Dages and Boam. On October 26, 2004, respondent sent a letter to the court, asking that a default judgment be entered against the

[3] In 1994, private reprimands as a form of discipline were eliminated and replaced by admonitions. R. 1:20-9(d)(3) provides that there shall be no private discipline.

State. When asked, at the ethics hearing, whether he had obtained a default before seeking a default judgment, respondent claimed that his office manager, Brooke Murphy, a nonlawyer, had told him that a default had been entered. While respondent was an associate of Michael Critchley, Esq., he had met Murphy, who had worked in the insurance claims business for about twenty-five years. At some point, respondent hired Murphy to be his office manager.

On January 8, 2005, the court issued to respondent a notice that the complaint would be dismissed without prejudice, on March 9, 2005, for lack of prosecution, unless action required by the court rules was taken. Respondent did not recall receiving that notice.

On March 18, 2005, the Honorable William J. McGovern, III, J.S.C., granted the State's motion to transfer venue from Sussex County to Mercer County. Although respondent did not recall receiving the order transferring venue, he acknowledged that a copy of it was in the client file that he provided to the OAE, during the investigative stage of this matter. Respondent also insisted that the State had not served him with its motion to transfer venue. After he learned that venue had been transferred, however, he did not request a copy of proof of service of the motion.

On April 1, 2005, the complaint was dismissed for lack of prosecution. Although respondent received notice of the dismissal, he did not disclose it to his clients. By letter dated August 10, 2005, Deputy Attorney General Randall Weaver informed respondent that he had been assigned to handle the case and that he had learned from the civil division that it had been dismissed on April 1, 2005. By handwritten note on that letter, respondent instructed Murphy to "find out what this is about".

Respondent did not file a motion to reinstate the complaint at that time. He claimed that Murphy had been trying to get it reinstated by sending letters to the clerk's office. Meanwhile, respondent had telephone conversations with Weaver about the case. Although Weaver indicated that he would consent to the reinstatement, respondent did not send a consent order to him.

On January 20, 2006, almost ten months after the dismissal of the complaint, respondent sent a letter to the Mercer County Court Clerk, asking that the complaint be reinstated and that default judgment be entered against the State. On April 3, 2006, he sent another letter to the clerk's office, again requesting reinstatement of the complaint. By letter of April 17, 2006, the team leader replied that the complaint had been dismissed for lack of prosecution, on April 1, 2005, and could not be restored based on a letter.

Several weeks later, on May 4, 2006, Weaver sent a letter to respondent, indicating that he had received a copy of the team leader's April 17, 2006 letter; that it had referred to prior letters that respondent had sent to the court; that he had not received copies of those letters; that, in August 2005, he had sent a letter to respondent to make sure that he was aware of the complaint's dismissal; that, at that time, he indicated to respondent that he would consent to the complaint's reinstatement; and that his position on reinstatement remained the same. In addition, Weaver asked respondent to keep him advised of his attempts to reinstate the complaint so that he could file an answer once the complaint had been restored. Respondent did not send Weaver a consent order.

On July 3, 2006, respondent again sent a letter to the clerk's office demanding the reinstatement of the complaint and arguing that its dismissal had been the result of an error on the court's part. At the ethics hearing, respondent was asked why he had sent that letter, given the prior letters indicating that the clerk's office could not reinstate the complaint based only on a letter request from respondent and given Weaver's willingness to consent to the reinstatement. Respondent replied that he should have sent a consent to Weaver and that he should have taken a more active role in the case. He explained that he

had reviewed letters that Murphy drafted and, in his haste, he had not focused on the case.

Respondent admitted that he had delegated too much responsibility to Murphy and that he should have been more actively engaged in his cases. Indeed, he conceded that he "basically turned the file over to Mr. Murphy and said take care of it".

On August 13, 2007, more than one year after Weaver had indicated his willingness to consent to the reinstatement of the complaint, respondent asked Deputy Attorney General Melanie Armstrong, to whom the case subsequently had been assigned, to consent to the reinstatement. Respondent could not explain his delay in sending consent papers to the State, admitting that there was "no excuse for it".

In an August 22, 2007 letter to respondent, Armstrong remarked that Weaver's consent to reinstate the complaint, which had been given more than one year previously, had not been indefinite. She asserted that, without adequate reason for the delay, she would not agree to the restoration of the complaint.

Respondent admitted that, as of August 2007, he had not informed either Dages or Boam that their complaint had been dismissed. He further conceded that neither he nor Murphy had

sent to the clients copies of any of the letters discussed above.

On January 17, 2008, almost five months after receiving Armstrong's letter, respondent filed a formal motion to vacate the dismissal of the complaint and reinstate it to the trial calendar. Although the clerk's office received Armstrong's reply to the motion, her pleading was not delivered to the Honorable Bill Mathesius, J.S.C., who granted respondent's motion, noting, on the February 15, 2008 order, that the motion had been unopposed. Respondent did not contact Judge Mathesius to inform him that the motion had been opposed.

On March 5, 2008, after receiving the February 15, 2008 reinstatement order, respondent sent a letter to the clerk's office, requesting entry of default against the State for failure to file an answer to the complaint. The clerk's office sent a notice to respondent that the March 5, 2008 letter had been deemed non-conforming, because respondent had failed to attach a certification and a proof of mailing. At the ethics hearing, when asked whether he had cured those deficiencies, respondent replied that he had no recollection of having sent the letter requesting entry of default.

On March 20, 2008, Armstrong filed a motion for reconsideration of the restoration of the complaint, based on

the fact that the judge had not received her opposition to respondent's motion. On April 2, 2008, Geraldine Galvani, Esq., an attorney with whom respondent shared office space, submitted a letter opposing Armstrong's motion.

Judge Mathesius then entered an April 11, 2008 order vacating the February 15, 2008 order and denying respondent's motion to reinstate the complaint. Respondent did not recall having advised Dages or Boam that the complaint had not been reinstated.

On May 1, 2008, respondent filed a motion for reconsideration, asking the court to vacate the April 11, 2008 order and to reinstate the complaint. Judge Mathesius denied respondent's motion on June 20, 2008. Respondent admitted that Dages and Boam were not advised of the outcome of this motion.

On August 4, 2008, respondent filed an appeal of the June 20, 2008 order denying his motion for reconsideration. In accordance with a scheduling order issued by the Appellate Division Clerk, respondent's brief was due on January 5, 2009. The record does not indicate that the appeal was dismissed. Because, however, a July 20, 2009 order reinstated the appeal, it must have previously been dismissed. Also on July 20, 2009, another scheduling order was entered, requiring respondent to file a brief by August 19, 2009.

On September 19, 2009, the appeal was again dismissed for failure to file a timely brief. Respondent did not recall having moved to vacate the September 19, 2009 dismissal.

Respondent conceded that, although he had received $15,000 from Dages and Boam, he did not keep time records, did not issue invoices to them, and did not know whether their retainers had been exhausted.

Dages, who was the primary contact person, testified that, after the complaint was filed, he had difficulty getting in touch with respondent to ascertain the status of the matter. Respondent took months to reply to Dages' e-mails and telephone messages. Boam, too, complained that respondent had not kept him informed of the status of his case. Boam learned from Dages, not respondent, that the complaint had been dismissed and was not aware that respondent had tried to reinstate it or had filed an appeal.

The record contains dozens of e-mails to respondent from Dages, and a lesser number from Boam, requesting information about their case and complaining about respondent's lack of communication. For example, on March 11, 2004, Boam sent the following e-mail to respondent:

> John,
>
> It has been almost 3 months since [Dages] or myself have heard from you. Neither one of

> us are expecting any miracles from you, but if you could at least have the common courtesy to let us know what is happening. I don't know about [Dages], but I depleted almost half of my savings account to put down as a retainer to you. It might not seem like a lot of money to you but to me it was my life savings and I would appreciate it to know what that is getting me. Please be kind enough to let us know where we stand in this situation.
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> [Ex.C-42.]

Similarly, on January 11, 2010, Dages sent the following e-mail to respondent:

> John,
>
> Well, it's been about a year since you have been kind enough to give us an update on our case. Are you continuing to represent us? It would be nice to hear from you. I would really like to know the status of our case. Is our case still alive or has it been dismissed? Last I heard, and it was from Brooke, not our attorney, was the case was dismissed and you were appealing that decision. Any info would be appreciated -- a one liner email, phone call, post card any form of communication would be nice. We are not making any unreasonable demands. Just want to know what is going on. Don't you think we deserve that?
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> [Ex.C-48.]

At the onset of the representation, respondent did not inform Dages that most of the communications with his office would be through Murphy. Moreover, Dages learned from a disciplinary official, after he had filed the grievance against

respondent, that Murphy was respondent's office manager. Until then, he did not know what position Murphy held at respondent's office.

Respondent acknowledged that he should have kept his clients informed of certain developments in the case. For instance, on May 5, 2005, respondent informed Dages, by e-mail, that venue had been transferred to Mercer County. Respondent admitted that, at that time, he should have disclosed to Dages that the complaint had been dismissed on April 1, 2005. Respondent claimed that he did not disclose the dismissal because he was optimistic that the complaint would be reinstated. Thereafter, although Boam asked respondent, in a September 23, 2005 e-mail, for an update, respondent did not tell him that the complaint had been dismissed.

On August 9, 2006, Murphy sent an e-mail to Dages, indicating that respondent was waiting for the State to file an answer and had default papers prepared, in the event the State failed to do so. Respondent allowed Murphy to use his e-mail account and did not review the e-mails that Murphy sent. Respondent admitted that, at the time the August 9, 2006 e-mail was sent, the complaint had been dismissed. Respondent also conceded that, as the attorney, he was responsible for all e-mails that Murphy sent.

In February 2007, respondent apologized to Dages about his lack of accessibility, assuring him that he would rely less on Murphy to communicate with Dages and would be more communicative himself.

Dages did not learn, until 2009, that the complaint had been dismissed in 2005 and that respondent never explained to him the reason for the dismissal. In a July 13, 2009 e-mail to Murphy, Dages confirmed his understanding that the appeal was limited to the venue issue. When Murphy mentioned, in his reply of the same date, that the complaint had been dismissed, Dages replied that he was "in shock" and asked how the case had been dismissed.

Notwithstanding the dismissal of the complaint, in 2008 and 2009 respondent sent e-mails to Dages, indicating that he was involved in negotiations with the State and that a settlement was imminent. On December 8, 2008, Dages sent an e-mail to respondent, mentioning respondent's statement that "the judge said he wanted to see you and the DAG back in his office the first or second week of December" and asking for an update. That same day, respondent replied that he had directed Murphy to obtain that information. On December 11, 2008, in reply to further inquiries from Dages, respondent informed him that there

would be discussions about a possible settlement, later in the week or the following week.

Respondent continued to lead Dages and Boam to believe that he was engaged in settlement negotiations. On December 18, 2008, he sent an e-mail to them, indicating that the judge had not been available that week to preside over settlement discussions. The next day, he sent them another e-mail about settlement strategy. On January 15, 2009, respondent advised both clients that he had tendered a settlement offer to the State and was awaiting its reply. He further noted that he was still preparing for trial and was expecting to learn very shortly which judge would be assigned to their case. As noted above, in January 2009, respondent had an appeal pending in the Appellate Division.

On March 20, 2009, respondent notified Dages and Boam, by e-mail, that the State had not outright rejected his settlement offer, that the settlement process was ongoing, that he was continuing to prepare for trial, and that he was drafting a motion for summary judgment.

On January 25, 2010, Dages filed a grievance against respondent because he found respondent's lack of communication "intolerable". In addition, he claimed that respondent had relocated his office twice, from Bloomfield to Newark, and from

Newark to North Bergen, without informing Dages of his new address. Respondent admitted that he had not told either Dages or Boam of his new office addresses.

According to Dages, he could have accepted the result, if his case had been heard on the merits. He could not, however, accept a dismissal of his claim because his attorney had failed to do his job.

Although Dages filed a claim with the New Jersey Lawyers' Fund for Client Protection (CPF), that claim was denied on March 20, 2013.

The Abramov Matter

On an unknown date, Gidon Abramov retained respondent to represent him in a criminal matter in federal court, in Brooklyn, New York. On March 5, 2008, Abramov was convicted of racketeering and conspiracy to transport stolen goods in foreign commerce. Upon Abramov's arrest, in November 2004, the Federal Bureau of Investigation (FBI) had confiscated his personal property, including $500 in cash, a gold chain, a silver wedding ring, a watch, a wallet, his driver's license, and several credit cards. At Abramov's sentencing, in March 2008, the FBI turned over his property to respondent.

On May 22, 2008, Abramov sent a letter to the judge who had heard his case, asking for her assistance in obtaining his

property from respondent. In that letter, Abramov alleged that respondent had indicated his intention to keep the cash. According to Abramov, respondent's legal fees had been fully paid. The judge replied that she could not order respondent to return his property, suggesting that Abramov file a grievance against respondent.

In his grievance, Abramov claimed that he had written to respondent numerous times, demanding the return of his property, and had tried to contact him by telephone. According to Abramov, respondent never replied to his letters and failed to answer his telephone. Abramov further alleged that respondent has not replied to his current attorney's efforts to contact him about the return of his belongings. Abramov asserted, in the grievance, that most of the confiscated items were gifts and held sentimental value to him.

On February 7, 2011, Abramov provided the OAE with a written authorization for respondent to turn over his property to his brother, Dmitri Abramov. According to Abramov, although a meeting was arranged between Dmitri and respondent to transfer the property, respondent failed to appear at the meeting and failed to return Dmitri's subsequent telephone calls.

On March 5, 2012, Abramov produced an FBI receipt for some of his property, including cash in the amount of $588 and two

credit cards. According to Abramov, this is only a partial list of his belongings.

At the ethics hearing, Abramov, who testified by telephone from a federal correctional institute, implored respondent to return his property to him.

For his part, respondent testified that he had retained a bag of items that he believed contained Abramov's property, and that he had directed Murphy to make arrangements with Dmitri to return the property. Murphy had reported to respondent that, because Dmitri was hostile, Murphy was not comfortable meeting with him.

Respondent acknowledged that Abramov had been requesting the return of his property since 2008. He could not explain why the property had not been returned to Abramov.

The Consolazio Matter

In October 2001, Francine Consolazio retained respondent to represent her in New York in connection with an injury resulting from a fall on an escalator in a parking garage. On May 6, 2004, respondent filed a complaint, in New York, on Consolazio's behalf.

At some point, respondent visited Consolazio's house, telling her that "everything looked good" and that the case was

proceeding. In June 2005, Murphy contacted Consolazio to get information about her case. Thereafter, respondent stopped returning her telephone calls.

On August 17, 2006, Consolazio sent a letter to respondent, by certified mail, complaining that his office phone was not working and that she was concerned about his failure to keep her informed about her case. Although respondent signed the certified mail receipt, Consolazio did not hear from him. Respondent acknowledged that his signature appeared on the certified mail receipt.

Thereafter, Consolazio investigated the matter and learned from the court's website that her complaint had been dismissed. She then received from the court copies of two orders – one, dated January 25, 2005, dismissing one of the defendants from the case and the other, dated June 14, 2005, dismissing her complaint. Neither respondent nor anyone from his office had informed Consolazio that her complaint had been dismissed.

Consolazio then retained Shelley Stangler, Esq., who filed a legal malpractice complaint against respondent, on September 26, 2007. According to that complaint, Consolazio's lawsuit had been dismissed because respondent had failed to appear at a preliminary conference and had failed to comply with a discovery order.

On March 22, 2010, Consolazio obtained a $280,000 default judgment against respondent, who had failed to appear in the matter. Because respondent failed to maintain malpractice insurance, Stangler was not able to collect on the judgment.

For his part, respondent claimed that he had referred Consolazio's case to another attorney, a Mr. Meltzer, to handle the defendant's motion to dismiss the complaint. He admitted that he should have disclosed to Consolazio that he was not "ideally suited to litigate the case" and that another attorney, who was experienced in New York practice, was going to assume the representation. He further conceded that he should have obtained a substitution of attorney to remove any doubt that Meltzer had assumed the representation. He claimed that, because he believed that Meltzer was handling the case, he did not tell Consolazio that her complaint had been dismissed.

Respondent admitted that he had not filed a substitution of attorney, that there was no writing documenting Meltzer's representation of Consolazio, that Meltzer had not taken any action in the case, and that he should have told Consolazio about the dismissal of her complaint. Respondent was the only attorney of record. According to respondent, for unknown reasons, he did not learn of the dismissal of the complaint

until "a couple of years after the fact". He took no action to reinstate Consolazio's complaint.

Although respondent was personally served with the malpractice complaint, he had no recollection of having received service. He claimed that, when he considered filing a motion to vacate the malpractice judgment, he learned that the one-year period within which to do so had lapsed. The presenter, however, pointed out that, on October 4, 2010, the OAE had served respondent with Consolazio's grievance, to which a copy of the malpractice judgment had been attached; respondent, thus, had received a copy of the March 22, 2010 malpractice judgment well before the one-year period had lapsed.

With respect to his failure to maintain malpractice insurance, respondent claimed that he had obtained a policy through Commerce Insurance Company, in 1999, when he established his solo practice. He further alleged that, in 2006 or 2007, after that policy lapsed, he replaced it with one issued by the Hartford Insurance Company. He did not know whether he had malpractice insurance at the time that he was served with Consolazio's malpractice lawsuit.

In an April 28, 2011 interview, during the investigation of the grievances filed against respondent, he represented to the OAE that he had malpractice insurance, promising to send proof

of such coverage. Although respondent determined from Murphy that he probably did not have malpractice insurance, he failed to so inform the OAE.

R. 1:21A(b) requires attorneys who practice as a professional corporation to provide the Supreme Court Clerk's Office with a certificate of insurance. Instead of complying with this rule, respondent submitted a copy of a bill from the Hartford, dated July 10, 2007. He did not know whether that bill had been paid or whether he had proof of insurance.

On June 19, 2007, the Supreme Court Clerk's Office notified respondent that he would be subject to disciplinary action, unless he filed a certificate of insurance. Similar letters were sent to respondent on October 15, 2007, May 28, 2009, July 14, 2009, and August 9, 2011.

The Bona Fide Office Matter

In May 2009, while respondent was sharing office space with Paul Bergrin, an attorney in Newark, the FBI raided Bergrin's office. As a result, respondent had to vacate the property. Thereafter, respondent entered into a verbal agreement with Don Gardner, Esq., to obtain office space in North Bergen. Respondent claimed that, although he was not occupying it, he used that address, until the spring or summer of 2010, to comply

with the bona fide office rule. He admitted that he had not advised every client of his North Bergen address. He further acknowledged that he had not placed a sign outside of the North Bergen office to indicate that he maintained his law practice there.

On October 4, 2010, the OAE sent correspondence to respondent, by certified mail, concerning the Dages grievance. That letter, sent to the North Bergen address, was received by Murphy, who, on the return receipt, handwrote a post office box in Woodland Park as the new address.

On October 15, 2010, the OAE sent another letter to respondent, indicating that the United States Postal Service had informed the OAE that most of its letters sent to respondent at the North Bergen address had been forwarded to another address. According to respondent, because several attorneys were sharing space at the office in North Bergen, he had obtained a post office box as a more convenient way to collect his mail.

On December 15, 2010, the OAE sent a letter to respondent's home address in New York, indicating that his North Bergen office address and telephone number were no longer valid. Respondent told the special master that, at some point, he began sharing space with an attorney in Hackensack. He had not, however, notified the CPF of his Hackensack address, until the

OAE suggested that he do so, during the April 28, 2011 interview.

Respondent admitted that, with respect to the bona fide office issue, "there was a period of time in 2010 where it was a little shaky".

At the conclusion of the ethics hearing, the special master found all of the presenter's witnesses to be credible.

In the Dages/Boam matter, the special master found that respondent engaged in gross neglect and a lack of diligence, violations of RPC 1.1(a) and RPC 1.3, by allowing the clients' complaint to be dismissed, even after the deputy attorney general had given him an opportunity to reinstate it. The special master noted that the complaint had been dismissed in the first place because respondent had failed to pursue the matter. The special master observed that, according to respondent's own testimony, he had paid little attention to the matter and little attention to what Murphy was or was not doing with it, particularly concerning communicating with clients.

The special master determined that respondent violated RPC 1.4(b) and (c) by failing to keep his clients informed about the progress of the matter and by permitting his office to misrepresent its status, in an attempt to conceal his gross neglect. The special master also found that respondent took no

action to expedite the litigation, after he filed the complaint, a violation of RPC 3.2.

The special master found that both respondent and Murphy misrepresented the status of the litigation to Dages and Boam and failed to timely advise them that the complaint had been dismissed, a violation of RPC 8.4(c).

In the Abramov matter, the special master determined that respondent violated RPC 1.3 and RPC 1.15(b) by failing to return his client's property to him at all, let alone promptly, as required by the rules.

As to the Consolazio matter, the special master found that respondent violated RPC 1.1(a) and RPC 1.3 by allowing the client's personal injury complaint to be dismissed with prejudice, by failing to take any action of substance, after filing the complaint, and by failing to assure that the case had been transferred to new counsel, once respondent recognized that he could not handle the matter properly.

The special master determined that respondent violated RPC 1.4(b) and (c) by failing to keep Consolazio informed about her matter, especially by failing to disclose to her that the complaint had been dismissed, RPC 3.2 by failing to expedite litigation, and RPC 8.4(c) by misrepresenting the status of the matter to Consolazio.

The special master found that respondent violated both R. 1:21-1A(a)(3) and R. 1:21-1A(b) by practicing as a professional corporation without professional liability insurance and by failing to file a certificate of insurance with the Clerk of the Supreme Court of New Jersey.

Finally, the special master found that, from May 2009 to April 2011, respondent failed to maintain a bona fide office, a violation of RPC 5.5(a) and R. 1:21-1(A).

As noted above, the special master recommended that respondent receive a censure. Relying on In re Panitch, ___ N.J. ____ (2010), the special master found that respondent's repeated violations, particularly those related to dishonesty, mandated that he receive more than a reprimand.

Following a de novo review of the record, we are satisfied that the special master's finding that respondent was guilty of unethical conduct is supported by clear and convincing evidence. Indeed, respondent virtually admitted most of the violations.

In the Dages/Boam matter, after filing the complaint, respondent admittedly turned the case over to Murphy, his office manager, who was not a lawyer, was not equipped to handle legal files, let alone a complex one, and should not have been entrusted to do so.

Respondent botched the case almost at its inception. First, he requested the court to enter a default judgment against the State, before he had obtained a default.

Second, he ignored the court's January 8, 2005 notice that the complaint would be dismissed, in March 2005, for lack of prosecution, if he failed to take certain action. He did nothing.

Third, he took no action concerning the State's motion to transfer venue. Although he claimed that he had not received the motion, he neither requested proof of service nor made any effort to vacate the order, after he learned that the motion had been granted.

Fourth, after he received the April 1, 2005 notice that the complaint had been dismissed, he failed to file a timely motion to reinstate it. Instead, he merely left Murphy instructions to "find out what this is all about."

Fifth, and most inexplicably and inexcusably, he failed to send a consent order to Deputy Attorney General Weaver, who had informed him, on at least two occasions, that he was amenable to the complaint's reinstatement.

Sixth, he repeatedly sent letters demanding that the court clerk reinstate the complaint, despite the clerk's explicit

notice to him that a letter was an insufficient and inappropriate vehicle for obtaining such relief.

Seventh, after Deputy Attorney General Armstrong (Weaver's successor) indicated that she would not agree to the reinstatement of the complaint without an adequate reason for respondent's delay in requesting it, respondent failed to supply Armstrong with any explanation.

Eighth, respondent allowed almost five months to lapse, after learning of Armstrong's position, before he filed a motion to reinstate the complaint.

Ninth, after Judge Mathesius initially granted the motion to reinstate the complaint, respondent promptly sent a letter asking the clerk to enter default against the State for failure to file an answer. Respondent did so, despite Weaver's courtesy in consenting to reinstate the complaint and despite Weaver's request that respondent keep him (and, by implication, his successor) informed of the progress in obtaining reinstatement of the complaint, so that Weaver could file an answer to it. The clerk informed respondent that his request was deficient, because he had failed to attach a certification and a proof of mailing.

Tenth, rather than filing a reply to Armstrong's motion for reconsideration of the order reinstating the complaint,

respondent arranged for Galvani, an attorney with whom he shared office space, to do so. Although it is not likely that the outcome would have been different, if respondent had prepared the reply himself, he should not have delegated that responsibility to an attorney who was not familiar with the case.

Eleventh, respondent permitted his appeal of Judge Mathesius' order to be dismissed by the Appellate Division, not once, but twice.

Moreover, during the almost seven-year period of respondent's representation of Dages and Boam, he failed to inform his clients of significant events in the case, such as its dismissal; failed to reply to their numerous and increasingly frantic attempts to contact him to ascertain the status of their matter; and twice relocated his office, without informing them of his new contact information. An e-mail from Dages, sent to respondent shortly before he filed the grievance against respondent, noted that he had not heard from respondent in almost one year. By failing to keep in touch with his clients for such an extended period and by twice relocating, without providing his new address and telephone number, respondent virtually abandoned Dages and Boam. Indeed, Dages explained that he had filed the grievance because he found respondent's lack of communication "intolerable."

Furthermore, beyond failing to communicate with his clients, respondent repeatedly misrepresented to them the status of their matter, leading them to believe that the case remained pending in the court and that settlement discussions with the State were taking place. At the time of these misrepresentations, the complaint had been dismissed for four years and an appeal was then pending in the Appellate Division, which was subsequently dismissed. Dages' reaction, in July 2009, upon learning that his complaint had been dismissed in 2005, was, understandably, one of "shock." By failing to explain to his clients the developments in their case, respondent precluded them from making informed decisions about how to proceed in the matter.

In the Dages/Boam matter, thus, we find respondent guilty of gross neglect, lack of diligence, failure to communicate with clients, failure to expedite litigation, and misrepresentation, violations of RPC 1.1(a), RPC 1.3, RPC 1.4(b) and (c), RPC 3.2, and RPC 8.4(c).

As to the Abramov matter, respondent, without explanation, failed to return his client's property. Respondent did not dispute that he had received various items of Abramov's property and that he continued to retain those items. According to respondent, Murphy had told him that he was not comfortable

meeting with Abramov's brother, the agent that Abramov had designated to receive his belongings. Respondent, however, could have, and should have, made other arrangements to return the property to his client. His failure to do so violated RPC 1.3 and RPC 1.15(b).

Respondent's action and inaction in the Consolazio matter mirrored his conduct in the Dages/Boam case. After filing a personal injury complaint in New York, respondent took no steps to advance the matter. As a result, the complaint was dismissed — initially, as to only one of the defendants and, ultimately, as to the entire case.

Respondent then failed to return Consolazio's telephone calls or reply to her letter, notwithstanding his undisputed receipt of the certified mail that she had sent to him. He also failed to inform her that the complaint had been dismissed, instead, misrepresenting to her (directly, or through Murphy, or both) that the case was proceeding. By failing to inform Consolazio about the complaint's dismissal, he denied her the opportunity to make an informed decision about the case.

At the ethics hearing, respondent claimed that he had transferred the Consolazio matter to another attorney. This explanation was not credible. Respondent identified the purported other attorney, Meltzer, by last name only and

produced no writing, such as a substitution of attorney, to document that "Meltzer" had assumed the representation. Moreover, respondent was not authorized to assign responsibility for the case to another attorney without Consolazio's consent, which he had not obtained.

In addition, respondent failed to maintain malpractice insurance, which was required by the rules because he practiced as a professional corporation. Although he claimed that he had insurance, he produced no document establishing that he had ever maintained it. He also failed to submit the required certificate of insurance to the Clerk of the Supreme Court of New Jersey.

In the Consolazio matter, thus, we find violations of RPC 1.1(a), RPC 1.3, RPC 1.4(b) and (c), RPC 3.2, RPC 8.4(c), R. 1:21-1A(a)(3), and R. 1:21-1A(b).

Finally, respondent failed to maintain a bona fide office. R. 1:21-1 provides that

> [a] bona fide office is a place where clients are met, files are kept, the telephone is answered, mail is received and the attorney or a responsible person acting on the attorney's behalf can be reached in person and by telephone during normal business hours to answer questions posed by the courts, clients or adversaries and to ensure that competent advice from the attorney can be obtained within a reasonable period of time. . . . An attorney who practices law in this state and fails to maintain a bona fide office shall be deemed to be in violation of RPC 5.5(a).

Respondent admitted that, after the office space that he had been sharing with Bergrin was no longer available, he used an address in North Bergen in an attempt to comply with the bona fide office rule. He conceded that he used a post office box for his mail, that he had not advised all of his clients of his change of address, and that no outside sign indicated that he maintained an office at that location. Furthermore, he admitted that, in 2010, his compliance with the bona fide office rule was "a little shaky." We find, thus, that he failed to maintain a bona fide office, as described in R. 1:21-1, a violation of RPC 5.5(a)(1).

DRB 13-036

Service of process was proper in this default matter. On December 11, 2012, the OAE sent the formal ethics complaint to respondent's home address, in Staten Island, New York, by regular and certified mail. Although the copy sent by certified mail was returned to the OAE stamped "unclaimed," the copy sent by regular mail was not returned.

On January 8, 2013, the OAE sent to respondent, by regular and certified mail, a subsequent letter to the same address to which the complaint had been sent. The letter informed respondent that, if he did not file an answer within five days

of the date of the letter, the allegations of the complaint would be deemed admitted and the record would be certified directly to us for the imposition of discipline. The certified mailing was returned stamped "unclaimed". The regular mail was not returned.

Respondent did not file an answer to the complaint. The OAE certified the record directly to us for the imposition of discipline, pursuant to R. 1:20-4(f).

The Parrish Matter

In May 2010, Derrick Parrish retained respondent to represent him in a criminal matter pending in Ocean County. Although respondent did not set forth the basis or rate of his fee, in writing, Parrish paid respondent a $7,500 retainer.

On July 26, 2010, Parrish was incarcerated in Ocean County Jail. Respondent failed to appear at an April 25, 2011 status conference. On that same date, the Honorable Francis R. Hodgson, Jr., J.S.C., sent a letter to respondent, indicating that respondent had failed to appear at each of the six status conferences previously scheduled in that case – January 3, January 10, January 18, February 28, April 4, and April 25, 2011. Judge Hodgson pointed out that his staff had been unable to reach respondent or leave a message for him at three different telephone numbers, that Parrish had asserted in court

that he and his family likewise were unsuccessful in their attempts to contact respondent, and that Parrish had been incarcerated since July 26, 2010. Judge Hodgson's letter cautioned respondent that, if he failed to appear at the June 13, 2011 conference, an order to show cause would be issued, requiring respondent to demonstrate why he should not be held in contempt.

Although respondent failed to appear at the June 13, 2011 conference, Judge Hodgson did not issue an order to show cause. On September 19, 2011, however, the court relieved respondent as counsel for Parrish.

In his June 21, 2011 ethics grievance, Parrish asserted that respondent never visited him, while he was incarcerated, failed to appear in court on at least ten occasions, did not provide him with any discovery or information about his case, and tried to coerce him into accepting a plea bargain.

On October 4, 2011, the OAE served respondent, at his Hackensack office address, with a copy of the grievance, requiring a reply within ten days and the production of a copy of his retainer agreement and his client file. Because respondent failed to reply to that letter, the OAE sent him another letter, dated October 21, 2011, directing that he respond within five days.

On December 2, 2011, after respondent's October 19, 2011 temporary suspension, the OAE sent copies of its prior letters and enclosures to his home address and directed that he submit a reply within five days. In the December 2, 2011 letter, the OAE warned respondent that his continued failure to cooperate with its investigation could subject him to a complaint charging him with violating RPC 8.1(b).

On December 6, 2011, respondent requested that the time for him to reply to the grievance be extended to December 24, 2011. The OAE granted his request. Although he was suspended at that time, respondent's letter to the OAE was sent on his office stationery, indicating that he was admitted to practice law in New Jersey.

On January 3, 2012, the OAE notified respondent that it would conclude the Parrish investigation without his input and that he would be subject to a complaint charging him with violating RPC 8.1(b). In a January 9, 2012 e-mail to the OAE, respondent claimed that he had missed the December 24, 2011 deadline because he had injured his ankle. He requested a further extension until January 20, 2012, which was granted.

Respondent failed to submit a reply by his second self-imposed deadline. In a February 1, 2012 letter, the OAE informed respondent that it would conclude the Parrish investigation

without his input and that he would be charged with a violation of RPC 8.1(b).

On February 21, 2012, Murphy informed the OAE, in a telephone call, that respondent wanted to provide a sworn statement. Although Murphy was told that respondent had to provide a written reply, before he could give a sworn statement, respondent failed to submit a written reply. Six months later, during the August 2012 hearing in DRB 13-016, respondent indicated that he wanted to submit a reply to all pending ethics grievances against him, including Parrish.

On August 31, 2012, the OAE provided respondent with a copy of all pending grievances and gave him a ten-day deadline for replying to them. Respondent failed to reply to any of the grievances or to produce any of the requested documents.

The JnBaptiste Matter

On April 15, 2011, the OAE filed with us a motion for respondent's temporary suspension, as a result of his failure to comply with a $2,500 fee arbitration award in favor of Johny and Francine JnBaptiste. On May 17, 2011, the OAE withdrew the motion, based on Murphy's representation that a check that had inadvertently been mailed to an incorrect address for JnBaptiste had been re-sent to their correct address.

On July 5, 2011, Francine JnBaptiste notified the OAE that respondent's check had been returned for insufficient funds. On July 28, 2011, the OAE filed a second motion for respondent's temporary suspension, which was granted. The Court temporarily suspended respondent, effective October 19, 2011.

On January 12, 2012, Murphy, on respondent's behalf, sent business account check number 3091, in the amount of $2,500, to Johny JnBaptiste and business account check number 3111 to the Office of Board Counsel, in the amount of $500, in payment of a sanction imposed by the Court.

Also on January 12, 2012, respondent submitted to the Court a motion to be reinstated to the practice of law. In support of the motion, respondent attached a certification in which he represented that he had paid both the fee arbitration award and the sanction. Based on Francine JnBaptiste's confirmation that she had received check number 3091 and on respondent's representation that there were sufficient funds in his attorney business account to cover that check, the OAE did not oppose respondent's motion for reinstatement. On January 25, 2012, the Court reinstated respondent to the practice of law.

On February 7 2012, however, the OAE notified the Court that both checks had been returned for insufficient funds. Accordingly, on February 8, 2012, the Court vacated its order

reinstating respondent and ordered him temporarily suspended until payment of the fee arbitration award and the sanction, by either certified check or money order.

Respondent's bank statement indicated that, on January 11, 2011, the day before checks numbered 3091 and 3111 were issued, the sum of $3,000 was wired to respondent's business account. Although, after that deposit, the balance in that account would have been sufficient to cover the checks issued in payment of the fee arbitration award and the sanction, respondent made a series of purchases and cash withdrawals, between January 12 and January 31, 2012, thereby depleting the balance in its entirety and causing the checks to be dishonored.[4]

Specifically, on January 17, 2012, the balance in respondent's business account was $434.89. The complaint alleged that, although respondent knew, by January 17, 2012, that he had insufficient funds in his business account to cover checks numbered 3091 and 3111, he failed to disclose that deficiency to the Court, resulting in his reinstatement.

In a February 22, 2012 letter, the OAE informed respondent of its investigation of this matter; directed him to explain why his representations that checks numbered 3091 and 3111 fulfilled his obligations in the fee arbitration matter were not violative

[4] As of January 31, 2012, respondent's business account balance was in a negative status ($68.91).

of the RPCs; and instructed him to provide his business account records. Respondent did not reply to this letter or to a subsequent letter, dated March 15, 2012, giving him another five days to answer and informing him that his continued failure to cooperate could result in the filing of a complaint charging him with a violation of RPC 8.1(b).

Upon learning of respondent's new home address in Staten Island, the OAE sent a letter to that address, on June 19, 2012, directing respondent to reply to it by June 25, 2012. Respondent did not reply or produce the requested documents. As noted above, on August 31, 2012, pursuant to respondent's request during the hearing in DRB 13-016, the OAE provided respondent with another opportunity to reply to all pending ethics grievances, cautioning him that his failure to do so could subject him to the filing of a complaint charging him with violating RPC 8.1(b).

Respondent neither replied to the OAE's letters nor produced any of the requested documents.

The Morris County Prosecutor Referral

In 2011, respondent represented an unnamed party, who had reported an internal affairs matter to the Morris County Prosecutor's Office (MCPO). On October 20, 2011, respondent

spoke, by telephone, with MCPO Detective Steven Murzenski. On December 7, 2011, he appeared with his client for an interview with Murzenski.[5] On both occasions, respondent held himself out as the complainant's lawyer, notwithstanding his October 19, 2011 suspension.

On March 20, 2012, the OAE provided respondent with a copy of the MCPO referral letter and requested a reply within ten days, as well as certain records concerning the client matter. Respondent did not reply to that letter or to a follow-up letter that the OAE sent on April 9, 2012. The OAE sent additional letters to respondent, on April 23, June 19, and August 31, 2012, notifying him that his failure to reply would subject him to the filing of a complaint charging him with a violation of RPC 8.1(b). Respondent did not reply to any of those letters.

The Portillo Matter

On February 11, 2011, Sergio Portillo retained respondent to defend his son, Jermy Portillo, against a first degree charge of armed robbery, pending in Superior Court in Union County. Sergio paid $4,000 of respondent's requested $7,000 retainer.

[5] Although the complaint alleged that the telephone conversation took place on October 12, 2011, the MCPO's February 23, 2012 letter to the OAE makes it clear that the telephone conversation occurred on October 20, 2011.

On June 27, 2011, respondent's "representative" notified Sergio that respondent would not continue to represent Jermy, unless Sergio paid the $3,000 retainer balance within three days. Three days later, on June 30, 2011, respondent went to Sergio's residence and obtained a $3,000 check from him. Although respondent appeared at Jermy's arraignment, he then adjourned all other court dates. Thereafter, he failed to communicate with either Sergio or Jermy.

During a January 17, 2012 status conference, the Honorable William A. Daniel, J.S.C., informed Jermy and Sergio that respondent's license to practice law had been suspended. Neither Jermy nor Sergio had been aware of respondent's suspension, having received no communication from him, after September 2011.

Jermy had retained other counsel, Martin Matlaga, Esq., to represent him in the criminal matter. Matlaga had attended the January 17, 2012 status conference.

On April 7, 2012, the Portillos filed a claim against respondent with the CPF.[6] The claim was supported by a letter from Matlaga, indicating that, according to Sergio, once respondent obtained the full retainer, "he disappear [sic]. Never shows up to court. Doesn't answer his phone. I went to his

[6] On March 20, 2013, the CPF honored the Portillos' claim, reimbursing them $7,000.

office and people told me he doesn't work at that place. They told me Mr. Tiffany uses that place as a mailing address. He was lacking of communication." The letter indicated that respondent also failed to return Matlaga's telephone calls.

In a May 14, 2012 letter to respondent, the OAE enclosed a copy of the Portillos' CPF claim, directing him to reply and to produce certain records, within ten days. Upon learning of respondent's new Staten Island address, the OAE sent similar letters to respondent on June 19, 2012 and, again, on August 31, 2012 (based on respondent's request, at the hearing in DRB 13-016, for copies of all pending grievances against him). Those letters notified respondent that his failure to reply could subject him to the filing of a complaint charging him with a violation of RPC 8.1(b). Respondent failed to submit a reply to the OAE.

The Wade Clark Mulcahy Referral

On April 12, 2011, respondent filed a personal injury complaint, on behalf of Kenneth Murphy, in Superior Court in Union County, as well as an amended complaint, on May 18, 2011. The Wade Clark Mulcahy law firm (WCM) represented two of the defendants in that litigation.

On October 13, 2011, WCM attorney Robert Cosgrove sent a letter to respondent, reminding him of his failure to provide discovery. Respondent did not notify Cosgrove of his imminent temporary suspension, to be effective October 19, 2011. On November 4, 2011, Cosgrove filed a motion to compel discovery, based on respondent's failure to reply to his discovery request.

By letter dated November 7, 2011, after the effective date of his temporary suspension, respondent reminded defense counsel of his own discovery demand. That letter appeared on respondent's office stationery, listing both the Hackensack street address and the Woodland Park post office box.

On November 15, 2011, respondent submitted to the Honorable Frederic S. Kessler, A.J.S.C., an opposition to Cosgrove's motion to compel discovery. On December 16, 2011, Judge Kessler granted the motion. WCM served a copy of the order on respondent, on December 29, 2011.

On January 3, 2012, respondent provided WCM with discovery, pursuant to Judge Kessler's order and raised the possibility of settling the case. By letter dated January 6, 2012, WCM informed respondent that it could not reach him because his telephone had been disconnected. WCM further discussed a potential settlement.

Thereafter, someone identified as Maryanne Stewart sent letters dated January 16, January 30, February 7, February 22

(two letters), and June 1, 2012 to defense counsel in connection with the Murphy litigation, on respondent's letterhead, signing those letters "For the Firm".

On June 25, 2012, Cosgrove notified the OAE that respondent was actively handling a personal injury matter, while his license to practice law was suspended. By letter dated August 3, 2012, the OAE sent a copy of the WCM referral letter to respondent, directing him to reply and to provide certain documents within ten days. Respondent did not reply or produce the requested documents.

On August 23, 2012, the OAE telephoned respondent's office, asking for Maryanne Stewart. Respondent, who answered the telephone, replied that Stewart was not an attorney, but was the secretary of Brooke Murphy, respondent's office manager. When respondent confirmed that the telephone number was his business number, the OAE questioned why that number was active, during his suspension. Respondent replied that the telephone number had been his cell phone number since 1999.

On August 31, 2012, the OAE provided respondent with a copy of all pending grievances, as he had requested, and notified him that his failure to reply to them would subject him to the filing of a complaint charging him with a violation of RPC

8.1(b). Respondent failed to reply or provide any of the requested documents.

The facts recited in the complaint support most of the charges of unethical conduct. Respondent's failure to file an answer is deemed an admission that the allegations of the complaint are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).

In the Parrish matter, after respondent failed to appear at six status conferences and could not be reached by court staff, Judge Hodgson ordered him to attend a rescheduled conference, under threat of contempt. Respondent failed to appear at the rescheduled conference, resulting in an order relieving him of the representation.

In addition, respondent did not contact Parrish, while he was incarcerated, did not provide Parrish with discovery or other information about his case, did not prepare a writing explaining his fee, and charged Parrish $7,500, although he took little, if any, action on his behalf.

After the Parrish grievance was filed, respondent failed to reply to it, notwithstanding six letters from the OAE, giving him every opportunity to do so.

We find that respondent engaged in gross neglect and a lack of diligence, failed to keep a client reasonably informed about

the status of a matter, failed to set forth, in writing, the basis or rate of his fee, failed to cooperate with disciplinary authorities, and engaged in conduct prejudicial to the administration of justice (by repeatedly failing to appear at status conferences), violations of RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.5(a), RPC 1.5(b), RPC 8.1(b), and RPC 8.4(d).

The RPC 1.4(a) charge, however, is not supported by the allegations of the complaint. That rule addresses an attorney's obligation to inform prospective clients of how, when, and where the client may communicate with the attorney. Here, there is no indication that Parrish was not given that information.

In addition, we find that the complaint does not support the charge that respondent's fee was unreasonable. The complaint alleged that respondent charged a $7,500 retainer to represent Parrish in a criminal matter. There is no clear and convincing evidence that that fee was unreasonable. After accepting the retainer and failing to fulfill the terms of the representation, respondent should have returned the unearned portion of the retainer. Although his failure to do so may be deemed a violation of RPC 1.16(d) (refunding unearned fee upon termination of representation), the complaint did not charge respondent with a violation of that rule. We, therefore, do not find a violation of RPC 1.16(d).

Moreover, the complaint does not contain sufficient allegations to support a finding that respondent violated RPC 3.3(a)(1), RPC 3.4(a), RPC 5.5(a)(1), RPC 8.4(b), or RPC 8.4(c) in the Parrish matter. These charges appear to be based on the proposition that the letter to the OAE, on respondent's law office letterhead, requesting an extension of time to reply to the Parrish grievance, established that he engaged in the practice of law, while he was suspended. Respondent was defending himself in the course of a disciplinary proceeding, not representing a client. He cannot be found to have engaged in the practice of law, under these circumstances.

Although respondent did not comply with R. 1:20-20, which requires suspended attorneys, among other things, to refrain from using any stationery suggesting that they maintain a law office or that they are entitled to practice law, he was not charged with any ethics infractions, based on his failure to comply with R. 1:20-20. We, thus, dismiss the charges that respondent violated RPC 1.5(a), RPC 3.3(a)(5), RPC 3.4(a), RPC 5.5(a)(1), RPC 8.4(b), and RPC 8.4(c).

As to the JnBaptiste matter, respondent had many opportunities to satisfy the fee arbitration award. Although the OAE initially filed a motion for respondent's temporary suspension, on April 15, 2011, it withdrew the motion, based on

the representation of respondent's office manager, Murphy, that the check first had been sent to the wrong address and later had been sent to the correct address. After the client reported that the check had not been honored, the OAE again filed a motion for respondent's temporary suspension, which was granted, effective October 19, 2011.

On January 12, 2012, respondent submitted to the Court a motion for reinstatement, certifying that he had satisfied both the fee arbitration award and the sanction. Respondent's January 25, 2012 reinstatement proved to be short-lived, however, as both of the checks were returned for insufficient funds. As a result, on February 8, 2012, the Court vacated the reinstatement order and temporarily suspended respondent. Again, respondent failed to reply to the OAE's letters requesting information and documents in connection with that matter.

By failing to disclose to the Court that the checks that he had issued to satisfy the JnBaptiste fee arbitration award and the sanction had been returned for insufficient funds, knowing that the Court would be misled thereby, in considering his motion for reinstatement, respondent violated RPC 3.3(a)(5), RPC 8.4(c), and RPC 8.4(d). He also violated RPC 8.1(b) by failing to reply to the OAE's letters.

In the Morris County Prosecutor referral matter, respondent blatantly practiced law while he was suspended. As previously noted, respondent was temporarily suspended, from October 19, 2011 through January 25, 2012, and again from February 8, 2012 to the present. Yet, on October 20 and December 7, 2011, he had discussions with a Morris County Prosecutor's Office detective, holding himself out as an attorney representing a complainant in an internal affairs matter. Again, respondent failed to reply to the OAE's attempts to investigate the matter.

Respondent, thus, violated RPC 3.4(c), RPC 5.5(a)(1), RPC 8.1(b), RPC 8.4(b) (pursuant to N.J.S.A. 2C:21-22, engaging in the unauthorized practice of law is a crime of the fourth degree), RPC 8.4(c), and RPC 8.4(d).

In the Portillo matter, respondent repeated the misconduct displayed in the Parrish case, accepting a criminal case and then taking little or no action to defend his client. After agreeing to represent Jermy Portillo and after receiving a $7,000 retainer from Sergio Portillo, respondent failed to meet with Jermy, who was incarcerated; failed to communicate with either Jermy or Sergio; and failed to disclose to either of them that his license to practice law had been suspended. As Sergio lamented, after respondent received his legal fees, he disappeared, did not appear in court, and did not answer his

telephone. Although respondent appeared at Jermy's arraignment, he then arranged to adjourn all other court dates, thus, taking no steps on his client's behalf. He also failed to cooperate with the OAE.

Respondent violated RPC 1.1(a) and RPC 1.3 by failing to take any action on Jermy's behalf; RPC 1.4(b) by failing to communicate with Jermy and Sergio; and RPC 8.1(b) by failing to cooperate with the OAE.

The complaint, however, does not contain sufficient allegations to support a finding that respondent violated RPC 1.4(a), RPC 1.5(a), RPC 3.3(a)(1), RPC 3.4(a), RPC 5.5(a)(1), RPC 8.4(b), RPC 8.4(c) or RPC 8.4(d). RPC 1.4(a), which addresses an attorney's obligation toward prospective clients, does not apply in this case. The complaint did not allege that respondent failed to inform Portillo of his contact information before Portillo retained him. As previously discussed in the Parrish matter, above, we do not find clear and convincing evidence that respondent's $7,000 fee in this matter was unreasonable. Although respondent may have been guilty of failing to return the unearned portion of a retainer, because he was not charged with a violation of RPC 1.16(d), we do not find that he committed that infraction.

The remaining charges appear to be related to an allegation that respondent practiced law while suspended. Respondent's period of suspension began on October 19, 2011. In the Portillo matter, however, there is no indication that he continued to practice law after that date. To the contrary, the complaint alleged that the Portillos received no communication from respondent after September 2011.

The charged violations of RPC 1.4(a), RPC 1.5(a), RPC 3.3(a)(1), RPC 3.4(a), RPC 5.5(a)(1), RPC 8.4(b), RPC 8.4(c) and RPC 8.4(d), thus, are dismissed. As in the Parrish matter, although respondent apparently did not comply with R. 1:20-20, by failing to inform the Portillos that he had been suspended, the complaint did not charge respondent with such misconduct.

Finally, as to the Wade Clark Mulcahy referral matter, respondent again practiced law while his license was suspended. On November 7, 2011, after the entry of the October 19, 2011 order, temporarily suspending his law license, respondent sent a letter, on his office stationery, reminding his adversary of his discovery obligations. On November 15, 2011, he submitted to the court opposition to a motion to compel discovery. Respondent also sent a letter to his adversary, on January 3, 2012, providing discovery and broaching the topic of settling the case.

By practicing law while his license was suspended, respondent violated RPC 3.3(a)(5), RPC 3.4(c), RPC 5.5(a)(1), RPC 8.4(b), RPC 8.4(c), and RPC 8.4(d).

Furthermore, respondent violated RPC 5.3(a), (b), (c)(1), and (c)(2) by permitting a nonlawyer, Maryanne Stewart, to sign six letters "for the firm" on his law office stationery and to send them to defense counsel, leading others to believe that she was an attorney.

Respondent also violated RPC 8.1(b) by failing to cooperate with the OAE.

In both DRB 13-016 and DRB 13-036, respondent was guilty of RPC 1.1(a) in four matters, RPC 1.3 in five matters, RPC 1.4(b) in three matters, RPC 1.4(c) in two matters, RPC 1.5(a) in two matters, RPC 1.5(b) in one matter, RPC 1.15(b) in one matter, RPC 3.2 in two matters, RPC 3.3(a)(5) in two matters, RPC 3.4(c) in two matters, RPC 5.3(a), (b), (c)(1) and (c)(2) in one matter, RPC 5.5(a) and R. 1:21-1(a) (bona fide office rule) in one matter, RPC 5.5(a) (practicing law while suspended) in two matters, RPC 8.1(b) in five matters, RPC 8.4(b) in two matters, RPC 8.4(c) in five matters, RPC 8.4(d) in four matters, R. 1:21-1A(a)(3) in one matter, and R. 1:21-1A(b) in one matter.

The level of discipline for practicing law while suspended, the most serious charge that respondent is facing, ranges from a

lengthy suspension to disbarment, depending on the presence of other misconduct, the attorney's disciplinary history, and aggravating or mitigating factors:

- **One-year suspension:** In re Bowman, 187 N.J. 84 (2006) (during a period of suspension, attorney maintained a law office where he met with clients, represented clients in court, and acted as Planning Board solicitor for two municipalities; prior three-month suspension; very compelling mitigating circumstances); In re Marra, 170 N.J. 411 (2002) (attorney practiced law in two cases while suspended and committed substantial recordkeeping violations, despite having previously been the subject of a random audit; mitigating factors included the attorney's voluntary withdrawal from the representation and his serious health condition; on the same day that the attorney received the one-year suspension, he received a six-month suspension and a three-month suspension for separate violations, having previously received a private reprimand, a reprimand, and a three-month suspension); In re Lisa, 158 N.J. 5 (1999) (attorney appeared before a New York court during his New Jersey suspension; in imposing only a one-year suspension, the Court considered a serious childhood incident that made the attorney anxious about offending other people or refusing their requests; out of fear of offending a close friend, he agreed to assist as

"second chair" in the New York criminal proceeding; there was no venality or personal gain involved; the attorney did not charge his friend for the representation; prior admonition and three-month suspension); and In re Hollis, 154 N.J. 12 (1998) (in a default matter, attorney continued to represent a client during his period of suspension; the attorney had been suspended for three years on two occasions; no reasons given for only a one-year suspension).

- **Two-year suspension:** In re Saint-Cyr, 210 N.J. 615 (2012) (attorney practiced law in a divorce matter while temporarily suspended for failure to comply with a fee arbitration award; attorney also exhibited gross neglect and lack of diligence in a separate matter and failed to communicate with the client and failed to cooperate with disciplinary authorities in two matters; all three matters proceeded as defaults; attorney had a prior censure) and In re Wheeler, 140 N.J. 321 (1995) (attorney practiced law while serving a temporary suspension for failure to refund a fee to a client; the attorney also made multiple misrepresentations to clients, displayed gross neglect and pattern of neglect, engaged in negligent misappropriation and in a conflict of interest situation, and failed to cooperate with disciplinary authorities).

- **Three-year suspension:** In re Marra, 183 N.J. 260 (2005) (attorney found guilty of practicing law in three matters while suspended; the attorney also filed a false affidavit with the Court stating that he had refrained from practicing law during a prior suspension; the attorney had received a private reprimand, two three-month suspensions, a six-month suspension, and a one-year suspension also for practicing law while suspended); In re Cubberley, 178 N.J. 101 (2003) (attorney solicited and continued to accept fees from a client after he had been suspended, misrepresented to the client that his disciplinary problems would be resolved within one month, failed to notify the client or the courts of his suspension, failed to file the affidavit of compliance required by R. 1:20-20(a), and failed to reply to the OAE's requests for information; the attorney had an extensive disciplinary history: an admonition, two reprimands, a three-month suspension, and two six-month suspensions); In re Wheeler, 163 N.J. 64 (2000) (attorney handled three matters without compensation, with the knowledge that he was suspended, holding himself out as an attorney, and failing to comply with Administrative Guideline No. 23 (now R. 1:20-20) relating to suspended attorneys; prior two-year suspension for practicing while suspended); and In re Kasdan, 132 N.J. 99 (1993) (attorney continued to practice law after being suspended and after the

Court expressly denied her request for a stay of her suspension; she also failed to inform her clients, her adversary and the courts of her suspension, deliberately continued to practice law, misrepresented her status as an attorney to adversaries and to courts where she appeared, failed to keep complete trust records, and failed to advise her adversary of the whereabouts and amount of escrow funds; prior three-month suspension).

- **Disbarment:** In re Walsh, Jr., 202 N.J. 134 (2010) (in a default, attorney practiced law while suspended by attending a case conference and negotiating a consent order on behalf of five clients and making a court appearance on behalf of seven clients; the attorney was also guilty of gross neglect, lack of diligence, failure to communicate with a client, and failure to cooperate with disciplinary authorities during the investigation and processing of the grievances; in addition, the attorney failed to appear on an order to show cause before the Court; extensive disciplinary history: reprimand in 2006, censure in 2007, and two suspensions in 2008); In re Olitsky, 174 N.J. 352 (2002) (attorney agreed to represent clients in bankruptcy cases after he was suspended, did not advise them that he was suspended, charged clients for the prohibited representation, signed another attorney's name on the petitions without that attorney's consent and then filed the petitions with the

bankruptcy court; in another matter, the attorney agreed to represent a client in a mortgage foreclosure after he was suspended, accepted a fee, and took no action on the client's behalf; the attorney also made misrepresentations to the court and was convicted of stalking a woman with whom he had had a romantic relationship and of engaging in the unauthorized practice of law; prior private reprimand, admonition, two three-month suspensions, and two six-month suspensions); and In re Goldstein, 97 N.J. 545 (1984) (attorney was guilty of misconduct in eleven matters and practiced law while temporarily suspended by the Court and in violation of an agreement with us that he limit his practice to criminal matters). But see In re Kersey, 185 N.J. 130 (2005) (on the OAE's recommendation and our determination, the Court agreed that a reprimand was sufficient discipline for an attorney who was disbarred in New Hampshire for disobeying a court order for the production of his files after a suspension and practicing law while suspended in that state;[7] the attorney filed pleadings with a New Hampshire court and was involved in federal court cases; the attorney asserted -- and we found -- that, in the state case, he was defending against an attorney's fee awarded against him personally and therefore he was acting pro se, as the real party in interest;

[7] In New Hampshire, a disbarred attorney may petition for reinstatement after two years.

in the federal case, there was no evidence that there was a federal court order prohibiting the attorney from practicing in federal courts; prior reprimand).

Another serious charge in this case stems from respondent's misrepresentations to his clients concerning the status of their matters. A misrepresentation to a client requires the imposition of a reprimand. In re Kasdan, 115 N.J. 472, 488 (1989). That may be the result even if the misrepresentation is accompanied by other, non-serious ethics infractions. See, e.g., In re Singer, 200 N.J. 263 (2009) (attorney misrepresented to his client for a period of four years that he was working on the case; the attorney also exhibited gross neglect and lack of diligence, and failed to communicate with the client; no ethics history); In re Wiewiorka, 179 N.J. 225 (2004) (attorney misled the client that a complaint had been filed; in addition, the attorney took no action on the client's behalf and did not inform the client about the status of the matter and the expiration of the statute of limitations); and In re Onorevole, 170 N.J. 64 (2001) (attorney made misrepresentations about the status of the case; he also grossly neglected the case, failed to act with diligence, and failed to reasonably communicate with the client; prior admonition and reprimand).

As to the remaining charges, conduct involving gross neglect (with or without a lack of diligence) and failure to communicate with clients ordinarily results in either an admonition or a reprimand, depending on the gravity of the offenses, the harm to the clients, and the seriousness of the attorney's disciplinary history. See, e.g., In the Matter of Edward Benjamin Bush, DRB 12-073 (April 24, 2012) (attorney admonished for failure to reply to his client's numerous multiple telephone calls and letters over an eleven-month period and who lacked diligence in handling the client's matter); In the Matter of James M. Docherty, DRB 11-029 (April 29, 2011) (admonition for attorney who grossly neglected a federal civil rights and a foreclosure matter and failed to properly communicate with the client; the attorney also failed to cooperate with disciplinary authorities); In the Matter of Ronald M. Thompson, DRB 10-148 (June 23, 2010) (attorney's inaction led to the dismissal of his minor client's complaint and the denial of his motion to reinstate the complaint; the attorney did not inform the minor's parents that the complaint had been dismissed and otherwise failed to keep them adequately informed of the status of the case; the attorney was admonished); In the Matter of Peggy O'Dowd, DRB 09-027 (June 3, 2009) (admonition imposed; in the course of the representation

of three clients, attorney did not adequately communicate with them, in one matter lacked diligence in resolving routine matters to complete the administration of an estate, and in a third matter failed to timely pay the condominium management company, to timely file certain documents, and to provide copies of such documents to the client; mitigation included the attorney's personal circumstances at the time, her ultimate completion of the work for which she had been retained, the lack of permanent harm to the clients, and the attorney's recognition that she had to close her law practice and seek help from another law firm); and In re Tinghino, 210 N.J. 250 (2012) (reprimand for attorney guilty of lack of diligence and gross neglect in one matter; although the attorney was inexperienced in the area of the client's representation, had a clean disciplinary record, set out to make the client whole, reported his conduct to disciplinary authorities, and expressed remorse for his wrongdoing, the aggravating factors required the imposition of a reprimand; specifically, after the client's complaint was dismissed for having been filed in the wrong court, the attorney made numerous misrepresentations to the client about the status of the case, including that there was a settlement offer, fabricated a release for the client's signature, and wrote two letters on behalf of the client stating

that settlement monies would be forthcoming; the attorney's negotiation of his own restitution agreement with the client without advising her to obtain separate counsel was seen as another aggravating factor).

Conduct involving violations of RPC 1.5(b), even when accompanied by other, non-serious ethics offenses, results in an admonition. See, e.g., In the Matter of Myron D. Milch, DRB 11-110 (July 27, 2011) (attorney did not memorialize the basis or rate of the fee in writing, lacked diligence and failed to communicate with his client); In the Matter of Eric S. Pennington, DRB 10-116 (August 3, 2010) (attorney did not timely set forth the basis or rate of the fee in writing); In the Matter of Joel C. Seltzer, DRB 09-009 (June 11, 2009) (in one client matter, the attorney failed to memorialize the basis or rate of his fee, and, in another client matter, failed to promptly deliver funds to a third party); and In the Matter of Alfred V. Gellene, DRB 09-068 (June 9, 2009) (in a criminal appeal, attorney failed to furnish the client with a writing that set forth the basis or rate of his fee; the attorney also lacked diligence in the matter).

Failure to maintain a bona fide office generally results in a reprimand. See, e.g., In re Servin, 164 N.J. 366 (2000) (reprimand for failure to maintain a bona fide office for four

years; prior private reprimand for recordkeeping violations and the commingling of personal and client funds in the trust account); In re Chen, 142 N.J. 479 (1995) (reprimand for failure to maintain a bona fide office and failure to communicate with the client); and In re Kasson, 141 N.J. 83 (1995) (reprimand for failure to maintain a bona fide office).

Admonitions have been imposed in bona fide office cases when mitigating factors are present. See, e.g., In the Matter of Peter E. Hess, DRB 96-262 (September 24, 1996) (admonition for failing to maintain a bona fide office and practicing law while ineligible for failure to pay the annual assessment to the CPF; conduct was confined to one case); and In the Matter of George Guyer Young, III, DRB 95-348 (June 3, 1996) (admonition for failure to maintain a bona fide office; conduct was limited to one matter).

Attorneys who fail to supervise nonlawyer staff are typically admonished or reprimanded. See, e.g., In re Bardis, 210 N.J. 253 (2012) (admonition imposed; as a result of the attorney's failure to reconcile and review his attorney records, an individual who helped him with office matters was able to steal $142,000 from his trust account, causing a shortage of $94,000; mitigating factors were the attorney's deposit of personal funds to replenish the account, numerous other

corrective actions, his acceptance of responsibility for his conduct, his deep remorse and humiliation for not having personally handled his own financial affairs, and the lack of a disciplinary record); In the Matter of Douglas B. Hanna, DRB 10-191 (September 28, 2010) (admonition for attorney who improperly delegated his recordkeeping duties to a bookkeeper who used the office's credit card for her own benefit and embezzled $76,000 in trust funds; the attorney also permitted a non-lawyer employee to sign trust account checks; the attorney's impeccable record of forty years was viewed as mitigation); In re Mariconda, 195 N.J. 11 (2008) (admonition for attorney who delegated his recordkeeping responsibilities to his brother, a paralegal, who forged the attorney's signature on trust account checks and stole $272,000 in client funds); In the Matter of Brian C. Freeman, DRB 04-257 (September 24, 2004) (attorney admonished for failing to supervise his paralegal, who also was his client's former wife, which resulted in paralegal's forging client's name on the retainer agreement and, later, on a release and a $1000 settlement check in one matter and on a settlement check in another matter; the funds were never returned to the client; mitigating factors included the attorney's clean disciplinary record, and the steps he took to prevent a reoccurrence); In the Matter of Lionel A. Kaplan, DRB 02-259

(November 4, 2002) (attorney admonished for failure to supervise his bookkeeper, which resulted in recordkeeping deficiencies and the commingling of personal and trust funds; mitigating factors included the attorney's cooperation with the OAE, including entering into a disciplinary stipulation, his unblemished thirty-year career, the lack of harm to clients, and the immediate corrective action that he took); In re Deitch, 209 N.J. 423 (2012) (reprimand imposed; due to the attorney's failure to supervise his paralegal-wife and also his poor recordkeeping practices, $14,000 in client or third-party funds was invaded; the paralegal-wife stole the funds by negotiating thirty-eight checks made out to herself by either forging the attorney's signature or using a signature stamp; no prior discipline); In re Boyajian, 202 N.J. 333 (2010) (reprimand issued for attorney who engaged in the business of collecting debts owed to his law firm's clients and in the process did not properly supervise his lawyer and non-lawyer employees who for a period of two years and on at least ten occasions operated in violation of the Fair Debt Collections Practices Act); In re Marin, 189 N.J. 207 (2007) (attorney reprimanded for failure to supervise his non-lawyer brother who worked as his office manager and who pleaded guilty to a one-count information charging him with conspiracy to commit mortgage fraud through

the use of interstate wire transmission; specifically, the brother impersonated the attorney and held himself out as a lawyer; the brother's actions included issuing false attorney escrow letters regarding non-existent deposits, creating false second mortgages purporting to represent loans from sellers to purchasers, and preparing "false and fraudulent" settlement statements that did not truthfully describe the receipt and disbursement of funds; the attorney also misrepresented on an HUD-1 form that he had received a real estate deposit and, in another real estate transaction, was guilty of gross neglect and a conflict of interest; no prior discipline since 1989 bar admission); In re Murray, 185 N.J. 340 (2005) (reprimand for failure to supervise non-attorney employees, which led to the unexplained misuse of client trust funds and to negligent misappropriation; the attorney also committed recordkeeping violations); In re Riedl, 172 N.J. 646 (2002) (reprimand for attorney who failed to supervise his paralegal, allowing the paralegal to sign trust account checks; the attorney also grossly neglected a real estate matter by failing to secure a discharge of mortgage for eighteen months after it was satisfied); and In re Bergman, 165 N.J. 560 (2000), and In re Barrett, 165 N.J. 562 (2000) (companion cases; attorneys reprimanded for failure to supervise secretary/bookkeeper/office

manager who embezzled almost $360,000 from the firm's business and trust accounts, and from a guardianship account; the attorneys cooperated with the OAE, hired a CPA to reconstruct the account, and brought their firm into full compliance with the recordkeeping rules; a bonding company reimbursed the losses caused by the embezzlement).

Finally, attorneys who fail to cooperate with disciplinary authorities usually receive admonitions, even in the face of other violations, if there is no ethics history. See, e.g., In the Matter of Douglas Joseph Del Tufo, DRB No. 11-241 (October 28, 2011) (attorney did not reply to the district ethics committee's investigation of the grievance and did not communicate with the client); In the Matter of James M. Docherty, DRB No. 11-029 (April 29, 2011) (attorney failed to comply with disciplinary investigator's requests for information about the grievance; the attorney also violated RPC 1.1(a) and RPC 1.4(b)); and In the Matter of Kevin H. Main, DRB 10-046 (April 30, 2010) (attorney failed to reply to two letters from the ethics investigator seeking his version of the events.

Aggravating and mitigating factors also play a role in determining the appropriate quantum of discipline. Here, respondent advanced no mitigating factors. As to aggravating factors, although respondent was not charged with engaging in a

pattern of neglect, a violation of RPC 1.1(b), we consider that conduct as an aggravating factor. In this case, respondent was guilty of four instances of gross neglect. Pursuant to In the Matter of Donald M. Rohan, DRB 05-062 (June 8, 2005) (slip op. at 12), three instances of neglect establish a pattern of neglect.

We also consider, as an aggravating factor, the repetitive nature of respondent's conduct. He not only displayed a pattern of neglect, but also a pattern of disregard for his clients' well-being, a pattern of misrepresentation, a pattern of disrespect to the courts, and a pattern of disregard to the entire disciplinary system.

In the civil matters – Dages/Boam and Consolazio – respondent virtually turned the cases over to a nonlawyer office manager, resulting in their dismissal. He continually misled his clients into believing that their cases were proceeding, knowing that they had been dismissed. When an attorney falsely represents to a client that a case is proceeding smoothly, public confidence in the bar is undermined. In re Cohen, 120 N.J. 304, 306 (1990). Clients must "not suffer the consequences of being told their case [is] under control when it [is] not." In re Goldstein, 97 N.J. 545, 549 (1984). Such misrepresentation by an attorney is intolerable. "Truthfulness and professionalism are paramount in

an attorney's relationship with the client." In re Kasdan, 115 N.J. 472, 488 (1989).

Similarly, in the two criminal matters — Parrish and Portillo — respondent's gross neglect was particularly serious because, in such matters, clients' liberty is at stake. In the Matter of Walter D. Nealy, DRB 08-009 and 08-010 (June 10, 2008) (slip op. at 20-21) and In the Matter of Philip M. Saginario, DRB 95-066 (July 7, 1995) (slip op. at 7).

Respondent also showed a pattern of disrespect for the courts by failing to appear at six status conferences in Parrish; by practicing law while suspended; by failing to inform the court, in the pending Portillo matter, that his license had been suspended; and by filing a motion for reinstatement, knowing that the checks that he had issued, in payment of a fee arbitration award to a former client and a sanction, would not be honored due to insufficient funds.

Furthermore, respondent showed a pattern of disregard for the entire disciplinary system. He permitted no fewer than five of the complaints to proceed by way of default. He repeatedly failed to reply to the OAE's requests for information and documents in connection with the various ethics investigations, notwithstanding the OAE's liberal granting of numerous opportunities for him to cooperate. Despite being granted every

courtesy, and despite representing that he would reply to the numerous grievances that had been filed against him, respondent failed to fulfill his promises.

Moreover, once the matters were transmitted to the Office of Board Counsel (OBC), respondent continued his pattern of making promises, only to break them. DRB 13-016 originally was scheduled to be heard during our June 20, 2013 session. Despite the fact that the OBC had sent notice of the proceeding and a copy of the file in accordance with R. 1:20-7(h), respondent failed to submit a form indicating whether he intended to appear for, or to waive, oral argument. On June 18, 2013, only two days before the June 20, 2013 session, respondent returned the OBC's telephone call and, despite his attendance at the hearing before the special master, claimed that he had no notice of this disciplinary matter. Respondent requested an adjournment and the mailing of the file to one of the addresses to which it had previously been sent, but to the attention of an individual named Joe Sterner. Respondent represented that he would immediately apply to the appropriate assignment judge for representation by pro bono counsel and would keep the OBC apprised of the status of his application. Respondent's request was granted and the matter was adjourned to July 18, 2013.

Although, pursuant to respondent's request, Sterner was served with the file, respondent failed to honor his promises. He never informed the OBC of the status of his pro bono application. Indeed, there is no evidence that he even submitted the application. While attorneys are permitted to waive appearance at oral argument before us, in this case, respondent obtained an adjournment, representing that he would appear before us at the July 18, 2013 session. Not only did he fail to appear, after having been granted every indulgence, but he also failed to notify the OBC that he would not be appearing at oral argument.

As to the quantum of discipline, we find that respondent's egregious lack of concern for his clients, the courts, and the entire judicial system, as described above, disqualifies him from the privilege of practicing law. There is no place in the legal profession for individuals such as respondent, who engender, in the minds of the public, a lack of confidence in the judicial system. He is precisely the type of attorney from whom the public must be protected. We, thus, determine that the only appropriate sanction for this respondent is disbarment. We so recommend to the Court.

Members Clark and Doremus voted for a three-year suspension. Member Zmirich voted to suspend respondent for one year.

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

Disciplinary Review Board
Bonnie C. Frost, Chair

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

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matters of John E. Tiffany
Docket Nos. DRB 13-016 and DRB 13-036

Argued: July 18, 2013

Decided: August 19, 2013

Disposition: Disbar

Members	Disbar	Three-year Suspension	One-year Suspension	Dismiss	Disqualified	Did not participate
Frost	X					
Baugh	X					
Clark		X				
Doremus		x				
Gallipoli	X					
Yamner	X					
Zmirich			X			
Total:	4	2	1			

Julianne K. DeCore
Julianne K. DeCore
Chief Counsel