SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 13-098
District Docket No. XIV-2012-0044E

IN THE MATTER OF	
DEBBIE ANN CARLITZ	
AN ATTORNEY AT LAW	

Decision

Argued: September 19, 2013

Decided: December 3, 2013

Melissa Urban appeared for the Office of Attorney Ethics.

Respondent did not appear, despite proper service.

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

This matter was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (OAE), based on respondent's consensual disbarment in Pennsylvania. The OAE recommended that respondent be suspended for six months and that she not be reinstated in New Jersey until she is reinstated in Pennsylvania. Because respondent did not submit a reply to the

OAE's motion or appear at oral argument, she did not make known her position on the level of discipline to be imposed. We determine to impose a censure.

Respondent was admitted to the New Jersey and Pennsylvania bars in 1987. In 2009, she received a reprimand, in New Jersey, arising out of a motion for reciprocal discipline, based on her consensual suspension for one year and a day in Pennsylvania. In re Carlitz, 198 N.J. 3 (2009).[1] In that case, she practiced law while ineligible to do so for failure to comply with that Pennsylvania's continuing legal education (CLE) requirements.

Respondent's Pennsylvania suspension and New Jersey reprimand followed an October 26, 2007 Joint Petition in Support of Consent purportedly executed by respondent and the Pennsylvania disciplinary authorities. According to that joint petition, respondent had continued to represent a client (Diane Wanat) in a Pennsylvania matter, after having been placed on inactive status for her failure to comply with Pennsylvania's CLE requirements.

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[1] On September 17, 2013, the OAE filed a motion to vacate the Supreme Court order, for the reasons stated below.

The record in the matter now before us reveals that respondent's paralegal, Bonnie Sweeten, had intercepted and concealed from respondent the petition for discipline, the equivalent of our formal ethics complaint, sent to respondent by the Pennsylvania ethics authorities. Sweeten explained her actions in an affidavit, the partial contents of which are contained in an August 25, 2009 Joint Stipulations of Fact and Law between respondent and the Pennsylvania disciplinary authorities:

> 12. I showed the Petition [Petition for Discipline] to Jeffrey Solar, Esq., a criminal defense lawyer who knew me and knew Ms. Carlitz. I told Jeffrey that Ms. Carlitz was unavailable but wanted him to handle the matter. Throughout Mr. Solar's negotiation with the Office of Disciplinary Counsel, he only spoke to me and never consulted with Ms. Carlitz.
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> 13. I signed Ms. Carlitz's name to the Joint Petition for Discipline on Consent and did not show it to her. I did not understand the significance of what I had done and I did not discuss it with Mr. Solar.

14. I never showed any documents relating to this matter to Ms. Carlitz.

[OAEb;Ex.C¶27.][2]

On March 3, 2009, after respondent learned from another attorney that she had been suspended, she filed a petition with the Supreme Court of Pennsylvania to vacate the suspension. That court determined that respondent had not consented to discipline, and, on December 1, 2009, entered an order granting her motion. By a second order of even date, the Supreme Court of Pennsylvania accepted respondent's disbarment by consent, which was made retroactive to January 1, 2009.

The present matter is based on respondent's August 24, 2009 statement of resignation in Pennsylvania. The resignation document stated, in part:

> [Respondent] is aware that there are presently pending investigations into allegations that she has been guilty of misconduct, the nature of which have been made known to her by her receipt, review, and execution of a Joint Stipulations of Fact and Law . . . .

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[2] "OAEb" refers to the OAE's March 28, 2013 brief submitted to us in support of the motion for reciprocal discipline.

> She acknowledges that the factual allegations as contained in Exhibit A are true.
>
> She submits the within resignation because she knows that she could not successfully defend herself against the allegations of professional misconduct set forth in the attached exhibit.[3]
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> [OAEb;Ex.B¶4-¶6.]

Respondent's misconduct in the matter now before us is interwoven with events that took place in connection with Sweeten's cover-up. Respondent had originally been investigated by Pennsylvania disciplinary authorities for her failure to satisfy Pennsylvania's CLE requirements. She was one-half hour short of the required credit hours for 2004. A late fee was assessed and she was given sixty days to comply with, or receive an exception from, the CLE requirements. According to the notice, respondent's failure to comply or obtain an exception within ninety days of the date of the notice would result in her name being placed on the Supreme Court of Pennsylvania's list of involuntarily inactivated attorneys.

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[3] The details of respondent's misconduct giving rise to her resignation are discussed below, in relation to an August 25, 2009 "Joint Stipulations of Fact and Law."

Respondent's office received the February 25, 2005 ninety-day notice, as well as a second, May 31, 2005 notice, informing her that the list would be sent to the Supreme Court of Pennsylvania on or about June 30, 2005. Respondent admitted having received the May 31, 2005 document.

On July 26, 2005, the Supreme Court of Pennsylvania transferred respondent to inactive status, effective August 25, 2005, pursuant to Pennsylvania CLE rules. On July 28, 2005, respondent's "agent" accepted delivery of a letter from the Supreme Court of Pennsylvania enclosing a copy of the July 26, 2005 order.

Respondent alleged that she was not aware of her inactive status, which was listed on the websites of the CLE Board and Pennsylvania Disciplinary Board. She admitted that she should have known that she was ineligible to practice law in Pennsylvania because she had received the May 31, 2005 notice from the CLE Board.

Despite her inactive status, respondent continued to maintain her law office and staff, including paralegal Bonnie Sweeten. Although she failed to file a 2005-2006 Pennsylvania Attorney's Annual Fee Form, she completed and mailed, on August 21, 2006, a 2006-2007 Pennsylvania Attorney's Annual Fee Form.

Notwithstanding respondent's claim that she had not known of her inactive status, on the form, she asked to be placed on active status and enclosed a law firm operating account check made payable to "Lawyer Assessment," for $175. The check was captioned "LAW OFFICE OF DEBBIE CARLITZ, DEBBIE CARLITZ & BONNIE SWEETEN, 826 BUSTLETON PIKE SUITE 301, FEASTERVILLE, PA 19053, (215) 953-1544" and bore Sweeten's signature. Respondent admitted having authorized Sweeten to issue that check.

On August 24, 2006, the CLE Board returned the check to respondent, accompanied by a letter explaining that she had not complied with that board's rules. It also advised her that practicing law while on inactive status was a violation of the RPCs. Respondent denied having received that letter.

On August 30, 2007, the Pennsylvania Office of Disciplinary Counsel (ODC) filed a petition for discipline, alleging that respondent had engaged in the unauthorized practice of law, following her transfer to inactive status, by continuing to represent clients in the Court of Common Pleas.

On September 12, 2007, Sweeten accepted service of the petition for discipline. On September 19, 2007, ODC received an acceptance of service form acknowledging receipt. The form bore a signature purporting to be that of respondent.

Thereafter, Jeffrey Robert Solar, Esq., acting (according to respondent) without respondent's knowledge or authority, corresponded with ODC regarding a Joint Petition in Support of Discipline on Consent, under Pa.R.D.E. 215(d). On October 24, 2007, ODC received from Solar a completed joint petition, which bore a signature purporting to be respondent's. The ODC then filed the petition with the Pennsylvania Disciplinary Board.

Based on the joint petition that Sweeten signed, the Supreme Court of Pennsylvania suspended respondent, on March 26, 2008, for one year and a day.

According to that matter's Joint Stipulations of Fact and Law, respondent "did not personally receive or review any other correspondence the CLE Board, the Disciplinary Board or the Court sent until May 2008." Respondent stipulated that it was her mentor, Edward Shensky, Esq., who first learned, from the Pennsylvania Disciplinary Board website, sometime before the summer of 2008, that respondent had been suspended. When he telephoned her about it (at a time not specified in the record), she was surprised, claiming to know nothing about a suspension. Shensky told respondent to access the Pennsylvania Disciplinary Board's website. He heard typing and a "shocked response," after which respondent terminated the call.

As previously noted, on March 3, 2009, respondent filed a petition for review with the Supreme Court of Pennsylvania. Claiming that she had not entered into the discipline on consent, she requested the Supreme Court of Pennsylvania to vacate the suspension and to remand the matter for a disciplinary hearing.

On May 11, 2009, the Supreme Court of Pennsylvania remanded the matter for a hearing. On August 27, 2009, in lieu of a hearing, the parties filed joint stipulations of fact and law with the hearing committee.

On September 3, 2009, the hearing committee recommended that the suspension be vacated and the matter remanded for a disciplinary hearing on the petition for discipline. After a September 10, 2009 hearing, the Pennsylvania Disciplinary Board affirmed the hearing committee's recommendation.

Following an investigation of allegations of unethical conduct, in addition to those included in the earlier, vacated matter, the Pennsylvania disciplinary authorities concluded that respondent had committed numerous ethics violations. Thereafter, respondent entered into a Disbarment by Consent, for which the OAE now seeks reciprocal discipline.

As previously noted, respondent and the Pennsylvania authorities executed a second Joint Stipulations of Fact and Law, on August 25, 2009, containing 128 paragraphs. It addressed the misconduct for which respondent consented to disbarment. In it, she admitted numerous violations of the RPCs.

Specifically, respondent had allowed Sweeten access to her trust account checkbook for an IOLTA account, maintained at TD Bank in the name of "LAW OFFICES OF DEBBIE CARLITZ TRUST ACCOUNT." On December 26, 2008, Sweeten issued a check for $115,334.88 to "Anna Waldron, a Minor, and Yvonne Waldron, her guardian." TD Bank dishonored the check because it had been drawn on insufficient funds.

Respondent also failed to inform her clients about her transfer to inactive status and to submit a statement of compliance within ten days of the effective date of the transfer order, as required by Pa. R.D.E. 217(e).

In addition, respondent admitted that, in four matters, she practiced law at a time when she should have known that she was on inactive status. In the first matter, Wanat, from October 25, 2004 through January 2006, respondent prosecuted a trespass action on behalf of her clients. She wrote letters to opposing counsel, conducted discovery, deposed two witnesses, and

communicated with parties to the action and to the court, as though she were properly licensed to practice law.

In the second matter, Everitt, from July 2005 through June 2008, respondent prosecuted a civil action in Northampton County, Pennsylvania on behalf of her client.

In the third matter, Miller, in August 2005, while on inactive status, respondent filed, a complaint and plaintiff's response, conducted discovery, communicated with an insurance carrier and various attorneys for defendants, retained expert witnesses, and used letterhead indicating that she was properly licensed to practice in Pennsylvania.

In the fourth matter, Encarnacion, from December 30, 2005 through September 2008, respondent actively prosecuted a civil action in the Northampton Court of Common Pleas, including having taken depositions, on September 20, 2007, in connection with the case.

On September 30, 2008, respondent sent a letter to the Encarnacions stating that, for "personal reasons, I have decided to terminate my career in the practice of law." She told them that she had asked her "former employer and mentor, Edward Shensky" to take over her cases. She requested that they contact her office to arrange a meeting with Shensky.

Respondent also failed to properly supervise Sweeten and to take measures to ensure that Sweeten's actions, as a nonlawyer, were compatible with those of respondent, as a lawyer. For example, on December 27, 2007 and June 23, 2008, Sweeten appeared via telephone at status conferences before two different judges in the Encarnacion matter, when respondent was on inactive status. Sweeten also attended telephonic status conferences before a Judge Freedberg on three occasions: August 1, 2007, November 2, 2007, and January 2, 2008. Sweeten told Judge Freedberg that the law office was awaiting expert reports, and that the parties were continuing settlement discussions.

On May 22, 2008, respondent's adversary presented to respondent a written settlement offer of $125,000, which referenced earlier settlement negotiations conducted with Sweeten. Sweeten had failed to identify herself as respondent's paralegal. Based on Sweeten's conduct, respondent's adversary believed that Sweeten was a Pennsylvania attorney. Respondent denied any knowledge of Sweeten's participation in status conferences.

To further enable Sweeten to engage in the unauthorized practice of law, respondent used letterhead identifying her paralegal as "Bonnie A. Siner," Sweeten's maiden name.

Respondent also failed to promptly close her office, allowing Sweeten access to clients and opposing counsel.

Respondent admitted that her actions in these matters violated former Pennsylvania RPC 1.15(a) (failure to safeguard client funds), RPC 1.4(b) (failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation),[4] RPC 5.3(a) (failure to supervise a nonlawyer), RPC 5.3(b) (a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer), RPC 5.5(a) (practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction), RPC 7.1(a) (making a false communication about the lawyer or lawyer's services), RPC 7.5(a) (using a firm name, letterhead or other professional designation that violates RPC 7.1), RPC 8.4(a) (violating or attempting to violate the RPCs), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit, or

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[4] In New Jersey, RPC 1.4(c).

misrepresentation),[5] and RPC 8.4(d) (conduct prejudicial to the administration of justice).

Following a review of the record, we determine to grant the OAE's motion for reciprocal discipline.

Pursuant to R. 1:20-14(a)(5), another jurisdiction's finding of misconduct shall conclusively establish the facts on which it rests, for purposes of a disciplinary proceeding in this state. We, therefore, adopt the findings of the Supreme Court of Pennsylvania.

Reciprocal disciplinary proceedings in New Jersey are governed by R. 1:20-14(a)(4), which provides:

> The Board shall recommend imposition of the identical action or discipline unless the Respondent demonstrates, or the Board finds on the face of the record upon which the discipline in another jurisdiction was predicated that it clearly appears that:
>
> (A) the disciplinary or disability order of the foreign jurisdiction was not entered;
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> (B) the disciplinary or disability order of the foreign jurisdiction does not apply to the Respondent;
>
> (C) the disciplinary or disability order of the foreign jurisdiction does not remain in

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[5] The Pennsylvania disciplinary documents do not explain the basis for this charged violation.

> full force and effect as the result of appellate proceedings;
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> (D) the procedure followed in the foreign matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
>
> (E) the unethical conduct established warrants substantially different discipline.

A review of the record does not reveal any conditions that would fall within the ambit of subparagraphs (A) through (D). However, with regard to section (E), New Jersey discipline for respondent's misconduct would differ substantially from that imposed in Pennsylvania under her consent to disbarment, which entitles her to apply for reinstatement after five years.

Respondent is guilty of several violations in four client matters that she undertook to prosecute, when she should have known that she was ineligible to practice law. She was aware that she had not completed her Pennsylvania continuing legal education requirements and was subsequently placed on the list of inactive attorneys in that state for that failure. Because she forged ahead in the Wanat, Everitt, Encarnacion, and Miller matters, respondent is guilty of having violated RPC 5.5(a).

Moreover, respondent conceded that, in those four matters, she failed to explain the matters to the clients to the extent reasonably necessary for them to make informed decisions about

the representation, in violation of the Pennsylvania equivalent of our RPC 1.4(c).

Respondent also violated RPC 5.3(a), inasmuch as she failed to have in place, in her law office, reasonable measures or systems to ensure that paralegal Sweeten's conduct was compatible with her own professional obligations as a lawyer. Instead, Sweeten had the "run of the office," taking actions reserved for attorneys, such as engaging in teleconferences with judges and adversaries, without disclosing to the courts, the parties and others, that she was not a licensed attorney. RPC 5.3(b) required respondent, as Sweeten's direct supervisor, to take reasonable measures to ensure that Sweeten's conduct was compatible with respondent's own professional obligations as a lawyer. Her failure to do so constitutes a violation of RPC 5.3(b).

Respondent's business account checks also contained information that could mislead the reader to believe that Sweeten" was an attorney: "LAW OFFICE OF DEBBIE CARLITZ, DEBBIE CARLITZ & BONNIE SWEETEN, 826 BUSTLETON PIKE SUITE 301, FEASTERVILLE, PA 19053 (215) 953-1544." In addition, respondent's law firm letterhead identified her paralegal as "Bonnie A. Siner," Sweeten's maiden name. The letterhead, thus,

could lead a person to conclude that "Bonnie Sweeten" was an attorney in the office, while paralegal "Bonnie Siner" was a different person altogether. Respondent's actions in this regard violated RPC 7.1(a) and RPC 7.5(a).

With respect to the RPC 8.4(d) charges, respondent engaged in conduct prejudicial to the administration of justice by practicing law in four matters, while on the inactive list and by using misleading letterhead.

Additionally, respondent violated former Pennsylvania RPC 1.15(a) (failure to safeguard client funds). She improperly gave Sweeten access to the trust account checkbook. In December 2008, Sweeten issued a trust account check for $115,344.88 to Anna Waldron, a minor, and Yvonne Waldron, her guardian. Respondent's bank dishonored the check, as the trust account was overdrawn. Respondent, thus, failed to safeguard client funds, a violation of RPC 1.15(a). Respondent also admittedly failed to adhere to several Pa.R.D.E. rules regarding her recordkeeping practices.

We further find that, by violating the Rules of Professional Conduct, respondent was guilty of a violation of RPC 8.4(a). Because, however, the Pennsylvania disciplinary documents did not address RPC 8.4(c), we make no finding with respect to that rule.

In sum, respondent violated the Pennsylvania equivalent of RPC 1.4(c), former Pennsylvania RPC 1.15 (a), RPC 5.3(a) and (b), RPC 5.5(a), RPC 7.1(a), RPC 7.5(a), RPC 8.4(a), and RPC 8.4(d).

In New Jersey, reprimands have been imposed for practicing while ineligible (comparable to practicing law while on inactive status in Pennsylvania), if the attorney has also committed other ethics improprieties or if the attorney is aware of the ineligibility, but practices law nevertheless. Here, both are true. Respondent is guilty of other misconduct and acknowledged that she should have known of her ineligibility, but continued to practice. See, e.g., In re Davis, 194 N.J. 555 (2007) (in a reciprocal discipline matter, the attorney had been suspended in Pennsylvania for one year and a day; he had been aware of his inactive status and practiced law nevertheless; the attorney sought, thereafter, to conceal the representation from the continuing legal education authorities by filing false certifications in 2002 and 2003, stating that he had not represented any Pennsylvania clients and had no cases pending in Pennsylvania; he also falsely indicated to his adversary that he had been previously unaware of the change in status; mitigating factors included: the attorney had no prior discipline; only one

Pennsylvania client was involved; and the attorney was remorseful and fully cooperated with ethics authorities in both Pennsylvania and New Jersey); In re Coleman, 185 N.J. 336 (2005) (attorney who, although aware of his inactive status in Pennsylvania, signed more than 250 pleadings in that state, misrepresented to his adversary that he was permitted to sign pleadings, and displayed a lack of candor during the Pennsylvania disciplinary proceedings); and In re Perrella, 179 N.J. 499 (2004) (attorney advised his client that he was on the inactive list in Pennsylvania and then practiced law; the attorney filed pleadings, engaged in discovery, appeared in court, and used letterhead indicating that he was a member in good standing of the Pennsylvania bar).

Here, respondent also failed to supervise her paralegal, for which attorneys are typically admonished or reprimanded. See, e.g., In re Bardis, 210 N.J. 253 (2012) (admonition imposed as a result of failure to reconcile and review attorney records, thereby enabling an individual who helped with office matters to steal $142,000 from the attorney's 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 re Mariconda, 195 N.J. 11 (2008) (admonition for attorney who delegated his recordkeeping responsibilities to his brother, a paralegal, who then 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; the paralegal forged a client's name on a retainer agreement, a release, and two settlement checks; 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 recurrence); In the Matter of Lionel A. Kaplan, DRB 02-259 (November 4, 2002) (attorney admonished for failure to supervise his bookkeeper, resulting 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 the Matter of William H. Oliver, Jr., DRB 98-475 (February 22, 1999)

(admonition for failure to supervise a non-lawyer employee, a violation of RPC 5.3(a); specifically, whenever emergent circumstances would arise, the attorney would allow an office subordinate to execute certain portions of bankruptcy petitions if the attorney had already obtained preliminary information from the respective client and the client had signed the second page of the petition attesting to the accuracy and truthfulness of the entire petition); In re Deitch, 209 N.J. 423 (2012) (reprimand for attorney's failure to supervise his paralegal-wife and for 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 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 failure to supervise a paralegal, allowing the paralegal to sign trust account checks, and displaying gross neglect in a real estate matter by failing to secure a discharge of mortgage for eighteen months after it was satisfied); 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); In re Moras, 151 N.J. 500 (1997) (lawyer reprimanded for failure to adequately supervise his secretary, who stole $650 in client funds; the attorney also failed to maintain required records; the attorney made restitution); and In re Hofing, 139 N.J. 444 (1995) (reprimand for failure to supervise the bookkeeper, who embezzled almost half a million dollars in client funds; although unaware of the bookkeeper's theft, the attorney was found at fault because he had assigned all bookkeeping functions to one person, had signed blank trust account checks, and had not reviewed any trust account bank statements for years; mitigating factors included the attorney's lack of knowledge of the theft, his unblemished disciplinary record, his reputation for honesty among his peers, his cooperation with the OAE and the prosecutor's office, his quick

action in identifying the funds stolen, his prompt restitution to the clients, and the financial injury that he sustained). But see In re Stransky, 130 N.J. 38 (1992) (one-year suspension for attorney who completely delegated the management of his attorney accounts to his wife/secretary/bookkeeper and improperly authorized her to sign trust account checks; over the course of one year, the attorney's wife embezzled $32,000 in client funds; the Court found that the attorney was "completely irresponsible in the management of his attorney accounts and totally abdicated his fiduciary responsibilities to his clients;" no mitigating factors noted).

Typically, attorneys who fail to adequately communicate with their clients are admonished. See, e.g., In the Matter of David A. Tykulsker, DRB 12-040 (April 24, 2012); In the Matter of Neil George Duffy, III, DRB 09-311 (March 10, 2010); In the Matter of Shelley A. Weinberg, DRB 09-101 (June 25, 2009); and In the Matter of Marc A. Futterweit, DRB 08-356 (March 20, 2009).

Recordkeeping irregularities ordinarily are met with an admonition, as long as they have not caused a negligent misappropriation of clients' funds. See, e.g., In the Matter of Thomas F. Flynn, III, DRB 08-359 (February 20, 2009); In the

Matter of Jeff E. Thakker, DRB 04-258 (October 7, 2004); In the Matter of Arthur G. D'Alessandro, DRB 01-247 (June 17, 2002); and In the Matter of Marc D'Arienzo, DRB 00-101 (June 29, 2001).

Admonitions are also the usual result for the use of misleading letterhead or practicing under a misleading law firm name. See, e.g., In the Matter of Raymond A. Oliver, DRB 09-368 (May 24, 2010) (attorney used improper letterhead listing two attorneys as associates of the firm and three attorneys as of counsel, two of whom were judges, violations of RPC 7.1(a) RPC 7.5(a) and RPC 8.4(d)); In the Matter of Paul L. Abramo, DRB 08-209 (October 20, 2008) (attorney failed to remove former partner's name on letterhead after the association had terminated); In the Matter of Carlos A. Rendo, DRB 08-040 (May 19, 2008) (attorney used misleading letterhead that failed to indicate the jurisdictional limitations on attorneys not licensed to practice law in New Jersey); and In the Matter of Ellan A. Heit, DRB 04-138 (May 24, 2004) (attorney used letterhead that did not reveal that she was of counsel to a New York lawyer, who was not admitted in New Jersey, resulting in a client believing that she had retained the New York lawyer, instead of Heit, to represent her in a matrimonial matter; Heit also improperly shared a fee with the New York lawyer). But see

In re Felsen, 172 N.J. 33 (2002) (reprimand for sole practitioner who improperly used the trade name "Law Advisory Group" and placed a telephone book advertisement containing false and misleading statements about his qualifications and experience, as well as those of other attorneys with whom he had no association).

We also consider, in mitigation, the absence of prior discipline. Although respondent received a reprimand in 2009, it was premised on her suspension in Pennsylvania, which was later vacated, based on Sweeten's forgery of respondent's name on a consent to discipline. Respondent, thus, has no prior discipline in a twenty-six year career.

The OAE cited, as aggravating factors, the number of respondent's violations in Pennsylvania, the number of clients that her conduct directly affected, and the period of time, spanning several years, over which her infractions took place.

As previously noted, the OAE recommended a six-month suspension, primarily citing In re Block, 186 N.J. 266 (2006), In re Alexion, 181 N.J. 322 (2004), In re Pollan, 143 N.J. 305 (1996) and In re Bosies, 138 N.J. 169 (1994) in support of that sanction. In addition, the OAE urged that respondent not be

permitted to apply for reinstatement until she is reinstated in Pennsylvania, a process that will take a minimum of five years.

We find that the OAE cases cited in support of a six-month suspension are not applicable here. Specifically, in In re Block, supra, 186 N.J. 266 the attorney failed to set forth in writing the basis or rate of his fee (RPC 1.5(b)) in two matters, engaged in conduct prejudicial to the administration of justice (RPC 8.4(d)) and failed to file an affidavit of compliance with R. 1:20-20, a violation of RPC 8.1(b); Block also engaged in gross neglect (RPC 1.1(a)), lack of diligence (RPC 1.3), and failure to protect the client's interests upon termination of representation (RPC 1.16(d)). More important was Block's significant disciplinary history consisting of a reprimand, one-year suspension, and two temporary suspensions, the first for failing to pay a fee arbitration award and the second for failing to pay disciplinary costs. These very serious aggravating factors are nowhere to be found in respondent's case.

In In re Alexion, supra, 181 N.J. 322, the attorney received a six-month suspension, based on a Pennsylvania reciprocal discipline matter. He was guilty of gross neglect, lack of diligence, failure to communicate with the client,

failure to return a client file, failure to set aside an expert-witness fee from settlement proceeds, failure to promptly deliver funds to a third party, misrepresentation, trust account overdrafts, and practicing law while ineligible. Alexion, too, had prior discipline in Pennsylvania – a private reprimand and two informal admonitions. His sanction in New Jersey was enhanced, specifically because of the presence of prior discipline.

In In re Pollan, supra, 143 N.J. 305, the attorney received a six-month suspension for misconduct in seven matters, including gross neglect, pattern of neglect, lack of diligence, failure to communicate with the client, failure to turn over a client file, failure to cooperate with ethics authorities, misrepresentation, and recordkeeping violations. This 1996 case may be distinguished from respondent's by the number of client matters and the absence of a misrepresentation here.

Finally, the OAE cited In re Bosies, supra, 138 N.J. 169, where the attorney received a six-month suspension for gross neglect and pattern of neglect in four matters, failure to abide by the scope of the representation, lack of diligence, failure to communicate, and misrepresentation. The suspension was premised on the attorney's intricate web of escalating lies to a

client and the pattern of neglect, neither of which are present here.

In conclusion, respondent is guilty of two separate offenses, each of which would, on its own, warrant the imposition of a reprimand: practicing law while on inactive status and failing to supervise non-attorney staff. In addition, she failed to communicate with a client, used misleading letterhead and business account checks, engaged in conduct prejudicial to the administration of justice, and failed to safeguard client funds. We conclude that a censure sufficiently addresses the totality of respondent's misconduct.

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: Isabel Frank
Isabel Frank
Acting Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Debbie Ann Carlitz
Docket No. DRB 13-098

Argued: September 19, 2013

Decided: December 3, 2013

Disposition: Censure

Members	Disbar	Suspension	Censure	Dismiss	Disqualified	Did not participate
Frost			X			
Baugh			X			
Clark			X			
Doremus			X			
Gallipoli			X			
Yamner			X			
Zmirich			X			
Total:			7			

Isabel Frank
Acting Chief Counsel