

Respondent was admitted to the New Jersey bar in 1993. He has no business address. He was on the Supreme Court's list of ineligible attorneys, due to nonpayment of the annual attorney assessment to the New Jersey Lawyers' Fund for Client Protection (CPF), from September 26, 2005 to June 12, 2006 and from September 27, 2007 to December 11, 2012. On September 30, 2013, he became ineligible again.

On March 7, 2013, respondent received a reprimand, in a default matter, for practicing while ineligible, contrary to RPC 5.5(a).

Service of process was proper in this matter. On December 13, 2012, the DEC sent a copy of the formal ethics complaint to respondent, at the billing address on file with the CPF, by regular and certified mail, return receipt requested. The certified letter was returned to the DEC, marked "unclaimed." The letter sent by regular mail was not returned to the DEC. In a December 15, 2012 email to the DEC investigator, respondent acknowledged service of the complaint and stated, "I will reply."

On January 24, 2013, the DEC sent a letter to respondent, at the same address, by regular and certified mail, return receipt requested. The letter directed respondent to file an

answer within five days and informed him that, if he failed to do so, the DEC would certify the record directly to us for the imposition of sanction. The certified letter was returned to the DEC, marked "unclaimed." The letter sent by regular mail was not returned to the DEC.

At some point, in late January or early February 2013, the DEC secretary gave respondent a two-week extension to file an answer. As of March 20, 2013, respondent had not done so. On that date, the DEC certified this matter to us as a default.

The first count of the complaint charged respondent with having violated RPC 5.5(a). The complaint alleged that, on September 24, 2007, respondent was placed on the Supreme Court's list of ineligible attorneys, due to nonpayment of the annual attorney assessment to the CPF.¹ He remained ineligible until December 11, 2012. Nevertheless, on August 1, 2011, he entered an appearance in the Long Branch Municipal Court, on behalf of Kevin Gilliard and Donte M. Gilliard, under individual summonses. On August 24, 2011, respondent entered another

¹ The complaint mistakenly referred to respondent's status as suspended, rather than ineligible.

appearance, in the same court, as a result of another summons issued against Kevin Gilliard.

In addition, on June 6, 2012, respondent entered an appearance in the Plainsboro Township Municipal Court, on behalf of Samantha Connelly and Warren Salonga. Finally, on an unspecified date, but during the time that he was on the ineligible list, respondent entered an appearance in the Paramus Municipal Court, on behalf of Felix Maldonado.

The second count of the complaint charged respondent with having violated RPC 8.1(b). The complaint alleged that, on September 13, 2012, a grievance filed by the DEC was mailed to respondent's then office address, in Union City, via certified and regular mail. Both letters were returned to the DEC. In addition, respondent did not return the investigator's messages left at the telephone number listed on respondent's letterhead.

After the DEC had hired a process server to deliver the complaint to respondent, he contacted the DEC investigator, on October 15, 2012. On that same date, the DEC sent another letter to respondent, this time to the Rutherford address, via certified mail. Respondent accepted the certified letter on December 8, 2012.

Respondent also provided his email address to the DEC investigator, who sent some documents to respondent at that address. On September 25, 2012, respondent replied to the investigator's email and stated that he would submit a timely reply to the allegations in the grievance. Despite several of extensions of time, by December 10, 2012, respondent had not replied to the grievance.

The facts recited in the complaint support 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).

RPC 5.5(a) prohibits a lawyer from practicing law in a jurisdiction "where doing so violates the regulation of the legal profession in that jurisdiction." In 2011 and 2012, respondent represented clients in three different New Jersey municipal courts, despite the fact that he had been ineligible to practice law since 2007. Respondent's conduct, thus, violated RPC 5.5(a).

RPC 8.1(b) prohibits an attorney from knowingly failing to respond to a lawful demand for information from a disciplinary authority. In this case, respondent received the grievance,

knew that he was required to submit a reply to it, stated that he would do so, requested and was granted a number of extensions to reply to the grievance, and failed to do so. He, therefore, violated RPC 8.1(b).

There remains for determination the quantum of discipline to be imposed for respondent's violations of RPC 5.5(a)(1) and RPC 8.1(b).

Practicing law while ineligible, without more, is generally met with an admonition, if the attorney is unaware of the ineligibility or advances compelling mitigating factors. See, e.g., In the Matter of Robert B. Blackman, DRB 10-137 (June 18, 2010) (attorney practiced law while ineligible for failure to file the IOLTA registration statement for three years; the attorney did not know that he was ineligible); In the Matter of Matthew George Connolly, DRB 08-419 (March 31, 2009) (attorney ineligible to practice law rendered legal services; the attorney's conduct was unintentional); In the Matter of William C. Brummell, DRB 06-031 (March 21, 2006) (attorney practiced law during a four-month period of ineligibility; the attorney was unaware of his ineligible status); In the Matter of Frank D. DeVito, DRB 06-116 (July 21, 2006) (attorney practiced law while ineligible, failed to cooperate with the OAE, and committed

recordkeeping violations; compelling mitigating factors justified only an admonition, including the attorney's lack of knowledge of his ineligibility); In the Matter of Richard J. Cohen, DRB 04-209 (July 16, 2004) (attorney practiced law during nineteen-month ineligibility; the attorney did not know that he was ineligible); In the Matter of William N. Stahl, DRB 04-166 (June 22, 2004) (attorney practiced law while ineligible and failed to maintain a trust and a business account; specifically, the attorney filed a complaint on behalf of a client and made a court appearance on behalf of another client; mitigating factors were the attorney's lack of knowledge of his ineligibility, his prompt action in correcting his ineligible status, and the absence of self-benefit; in representing the clients, the attorney was moved by humanitarian reasons); In the Matter of Samuel Fishman, DRB 04-142 (June 22, 2004) (while ineligible to practice law, attorney represented one client in a lawsuit and signed a retainer agreement in connection with another client matter; the attorney also failed to maintain a trust and a business account; mitigating factors were the attorney's lack of knowledge of his ineligibility, his contrition at the hearing, his quick action in remedying the recordkeeping deficiency, and his lack of a disciplinary history); In the Matter of Douglas F.

Ortelere, DRB 03-377 (February 11, 2004) (attorney practiced law while ineligible during periods ranging from one day to eleven months; the attorney also failed to communicate with the client, and delayed the payment of the client's medical expenses as well as the disbursement of the client's share of settlement proceeds; in mitigation, the attorney was suffering from depression at the time of his misdeeds and had no disciplinary history since his 1983 admission to the bar); In the Matter of Juan A. Lopez, Jr., DRB 03-353 (December 1, 2003) (attorney practiced law while ineligible for nine months; no knowledge of ineligibility); and In the Matter of Judith E. Goldenberg, DRB 01-449 and 01-450 (March 22, 2002) (while ineligible to practice law, attorney made two appearances before an immigration court; the attorney also lacked diligence in handling one matter; the attorney was unaware of her ineligibility).

If the attorney is aware of the ineligibility, a reprimand is usually imposed. See, e.g., In re Jay, 210 N.J. 214 (2012) (attorney was aware of ineligibility and practiced law nevertheless; prior three-month suspension for possession of cocaine and marijuana); In re (Queen) Payton, 207 N.J. 31 (2011) (attorney who practiced law while ineligible was aware of her ineligibility and had received a prior admonition for the same

violation); In re Goodwin, 203 N.J. 583 (2010) (attorney practiced law while ineligible, commingled personal and trust funds by depositing the proceeds from the refinance of his residence into his trust account, and was guilty of recordkeeping violations; although there was no evidence that the attorney was aware of his ineligibility, a balancing of the aggravating factors against the mitigating factors justified a reprimand); In re Austin, 198 N.J. 599 (2009) (during one-year period of ineligibility attorney made three court appearances on behalf of an attorney-friend who was not admitted in New Jersey, receiving a \$500 fee for each of the three matters; the attorney knew that he was ineligible; also, the attorney did not keep a trust and a business account in New Jersey and misrepresented, on his annual registration form, that he did so; several mitigating factors considered, including the attorney's unblemished disciplinary record); In re Marzano, 195 N.J. 9 (2008) (motion for reciprocal discipline following attorney's nine-month suspension in Pennsylvania; attorney represented three clients after she was placed on inactive status in Pennsylvania; the attorney was aware of her ineligibility; she was suspended for nine months in Pennsylvania); In re Davis, 194 N.J. 555 (2007) (motion for reciprocal discipline; attorney

suspended for one year and a day in Pennsylvania for representing a client while on ineligible status in that jurisdiction as a non-resident active attorney and later as an inactive attorney; the attorney also misrepresented his status to the court, to his adversary, and to disciplinary authorities; extensive mitigation considered); In re Kaniper, 192 N.J. 40 (2007) (attorney practiced law during two periods of ineligibility; although the attorney's employer gave her a check for the annual attorney assessment, she negotiated the check instead of mailing it to the CPF; later, her personal check to the CPF was returned for insufficient funds; the attorney's excuse that she had not received the CPF's letters about her ineligibility was deemed improbable and viewed as an aggravating factor); In re Coleman, 185 N.J. 336 (2005) (motion for reciprocal discipline following attorney's two-year suspension in Pennsylvania; while on inactive status, the attorney practiced law in Pennsylvania for nine years, signing hundreds of pleadings and receiving in excess of \$7,000 for those services); In re Perrella, 179 N.J. 499 (2004) (attorney advised his client that he was on the inactive list 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); In re Forman, 178 N.J. 5 (2003) (motion for reciprocal discipline; for a period of twelve years, the attorney practiced law in Pennsylvania while on the inactive list; the attorney was suspended for one year and a day in Pennsylvania; compelling mitigating factors considered); In re Lucid, 174 N.J. 367 (2002) (attorney practiced law while ineligible; the attorney had been disciplined three times before: a private reprimand in 1990, for lack of diligence and failure to communicate with a client; a private reprimand in 1993, for gross neglect, lack of diligence, conduct prejudicial to the administration of justice, and failure to cooperate with disciplinary authorities; and a reprimand in 1995, for lack of diligence, failure to communicate with a client, and failure to prepare a written fee agreement); In re Hess, 174 N.J. 346 (2002) (attorney practiced law while ineligible and failed to cooperate with disciplinary authorities; the attorney had received a prior admonition for practicing law while ineligible and failing to maintain a bona fide office in New Jersey); In re Ellis, 164 N.J. 493 (2000) (one month after being reinstated from an earlier period of ineligibility, the attorney was notified of his 1999 annual assessment obligation, failed to make timely payment, was again

declared ineligible to practice law, and continued to perform legal work for two clients; he had received a prior reprimand for unrelated violations); In re Kronegold, 164 N.J. 617 (2000) (attorney practiced law while ineligible; an aggravating factor was the attorney's lack of candor to us about other attorneys' use of his name on complaints and letters and about the signing of his name in error); In re Armor, 153 N.J. 358 (1998) (attorney practiced law while ineligible, exhibited gross neglect, failed to communicate with a client, and failed to maintain a bona fide office); and In re Maioriello, 140 N.J. 320 (1995) (attorney practiced law while ineligible for one year, failed to maintain proper trust and business account records in nine matters, exhibited a pattern of neglect and lack of diligence, and failed to communicate with clients in six of the matters; the attorney claimed that he had not received the payment notice from the New Jersey Lawyers' Fund for Client Protection).

Although nothing within the four corners of the ethics complaint suggests that respondent knew that he was ineligible to practice, when he appeared in each of the three municipal courts on behalf of his clients, several undisputed facts justify a finding of knowledge on his part. First, respondent

failed to pay the annual assessment for five years. As established in respondent's prior disciplinary matter, he knew, in 2009, that he was ineligible to practice because he so informed his father, whose law practice he had just joined. In the Matter of Adam Kenneth Block, DRB 12-254 (January 8, 2013) (slip op. at 6). Although respondent's father had promised to pay the CPF fee for the years 2009 and 2010, the father did not follow through. Therefore, respondent remained ineligible and knew that he was ineligible as of 2009.

Second, respondent accepted service of the ethics complaint in the prior disciplinary matter on May 17, 2012. As of that date, thus, he knew that he had eligibility problems. Yet, despite that knowledge, he did nothing to restore his eligibility, and, one month later, he proceeded to appear in court, on behalf of Connelly and Salonga. Given that respondent must have known of his ineligibility when he appeared in court on behalf of these clients, a reprimand is in order for his RPC 5.5(a) violation.

However, there is left for consideration respondent's violation of RPC 8.1(b). If an attorney who violates RPC 8.1(b) has been disciplined before, but the attorney's ethics record is not serious, a reprimand may be imposed. See, e.g., In re Wood,

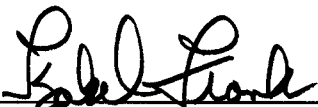
175 N.J. 586 (2003) (attorney failed to cooperate with disciplinary authorities; prior admonition for similar conduct); In re DeBosh, 174 N.J. 336 (2002) (failure to cooperate with disciplinary authorities; prior three-month suspension); and In re Williamson, 152 N.J. 489 (1998) (attorney failed to cooperate with disciplinary authorities; prior private reprimand for failure to carry out a contract of employment with a client in a matrimonial matter and failure to surrender the client's file to a new attorney).

Here, respondent received a reprimand earlier this year for practicing while ineligible. Thus, a reprimand would be the appropriate measure of discipline for respondent's violation of RPC 5.5(a) and RPC 8.1(b) in this matter. See, e.g., In re Hess, supra, 174 N.J. 346. However, because respondent has defaulted in this matter, we determined to enhance the discipline to a censure. In re Kivler, 193 N.J. 332, 342 (2008) ("a respondent's default or failure to cooperate with the investigative authorities operates as an aggravating factor, which is sufficient to permit a penalty that would otherwise be appropriate to be further enhanced").

Member Gallipoli voted to impose a three-month suspension. Member Zmirich did not participate.

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

Disciplinary Review Board
Bonnie C. Frost, Chair

By: 
Isabel Frank
Acting Chief Counsel

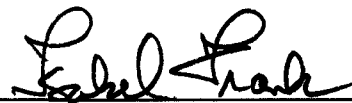
SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Adam K. Block
Docket No. DRB 13-131

Decided: December 4, 2013

Disposition: Censure

<i>Members</i>	Disbar	Three-month Suspension	Censure	Disqualified	Did not participate
Frost			X		
Baugh			X		
Clark			X		
Doremus			X		
Gallipoli		X			
Yamner			X		
Zmirich					X
Total:		1	5		1



Isabel Frank
Acting Chief Counsel