DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

RICHARD J. HUGHES JUSTICE COMPLEX
P.O. BOX 962
TRENTON, NEW JERSEY 08625-0962
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May 7, 2014

Mark Neary, Clerk
Supreme Court of New Jersey
P.O. Box 970
Trenton, New Jersey 08625-0962

Re: In the Matter of Hany S. Brollesy
Docket No. DRB 14-028
District Docket No. XIV-2013-0298E

Dear Mr. Neary:

The Disciplinary Review Board has reviewed the motion for discipline by consent (three-month suspension or such lesser discipline as the Board may deem warranted) filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-10(b). Following a review of the record, the Board determined to grant the motion. In the Board's view, a three-month suspension is the appropriate discipline for respondent's gross neglect, a violation of RPC 1.1(a), lack of diligence, a violation of RPC 1.3, failure to communicate with his client, a violation of RPC 1.4(b), and conduct involving dishonesty, fraud, deceit or misrepresentation, a violation of RPC 8.4(c).

Specifically, in April 2012, respondent was retained to file an E-2 Visa application for Meda Pharmaceuticals (Meda). Although he filed the application, he took no further action in the case.

Also, despite several inquiries by the client, from August 2012 through the end of September 2012, respondent failed to keep the client informed about the status of the matter.

Subsequently, in an apparent attempt to cover up his misdeeds, respondent not only lied to his client, but forged a document that purported to be an official letter from a United States Embassy. He also forged the signature of an alleged U.S. Consul on that document.

The sanction imposed on attorneys who have lied to clients or supervisors and have forged documents to conceal their mishandling of legal matters has covered a broad spectrum, depending on the extent of the wrongdoing, the harm to the clients or others, and mitigating circumstances. See, e.g., In re Bedell, 204 N.J. 596 (2011) (reprimand for attorney who represented two passengers for injuries sustained in an automobile accident; after the clients refused settlement offers for their injuries, the attorney fabricated individual releases for both clients, reflecting the offered amounts ($17,500 and $15,000); he then signed the clients' names, attempting to mimic their signatures, and signed his own name as a witness to the signature on each release, knowing that neither client had signed it; in addition, the attorney took the jurat on both releases, falsely indicating that his clients had personally appeared before him and signed the documents; when the clients later confirmed with the attorney their rejection of the settlement offers, the attorney failed to inform them that he had sent the executed releases on which he had forged their signatures, witnessed them, and affixed jurats; mitigation included the attorney's admission of wrongdoing and lack of prior discipline); In re Yates, 212 N.J. 188 (2012) (three-month suspension for attorney who allowed the statute of limitations to expire on a medical malpractice claim and hid that fact from the client and his firm by stalling any communications with the client, until eventually fabricating a $600,000 settlement agreement; in mitigation, the attorney had a thirty-year career with no disciplinary record and admitted his wrongdoing by entering into a stipulation with the OAE); In re Bosies, 138 N.J. 169 (1994) (six-month suspension for misconduct in four matters, including pattern of neglect, lack of diligence, failure to communicate with clients, failure to abide by discovery deadlines contained in a court order, failure to abide by the clients' decisions concerning the representation, and pattern of misrepresentations; for a period of five months the attorney engaged in an elaborate scheme to mislead his clients that, although he had subpoenaed a witness, the witness was not cooperating; to "stall" the client, the attorney prepared a motion for sanctions against the witness, which he showed the

client but never filed with the court; he then informed the client that the judge had declined to impose sanctions; thereafter, the attorney traveled three hours, round trip, to opposing counsel's office, with his client, to a non-existent deposition, feigned surprise when the witness did not appear, and then traveled to the courthouse purportedly to advise the judge of the witness's failure to appear at the deposition; the six-month suspension was predicated on his pattern of deceit); In re Morell, 180 N.J. 153 (2004) (reciprocal discipline matter; one-year suspension for attorney who told elaborate lies to the client about the status of the case and fabricated documents, including a court notice and a settlement statement for his clients' signature); In re Weingart, 127 N.J. 1 (1992) (two-year suspension, all but six months suspended, for lack of diligence, failure to communicate, dishonesty and misrepresentation, and conduct prejudicial to the administration of justice; the attorney lied to his client about the status of the case and prepared and submitted to his client, to the Office of the Attorney General, and to the Administrative Office of the Courts a fictitious complaint to mislead the client that a lawsuit had been filed); and In re Penn, 172 N.J. 38 (2002) (three-year suspension in a default matter for attorney who failed to file an answer in a foreclosure action, thereby causing the entry of default against the client; thereafter, in order to placate the client, the attorney lied that the case had been successfully concluded, fabricated a court order, and signed the name of a judge; the attorney then lied to his adversary and to ethics officials; the attorney also practiced law while ineligible).

Yates (three-month suspension) stands out as analogous to the instant matter. There, the attorney forged a settlement document to cover up his failure to file a complaint in a medical malpractice matter. He not only forged the agreement, but created extremely high expectations for the client by claiming that the settlement was for a huge sum of money ($600,000). Similarly, here, the client was led to believe that respondent had obtained visa approval for a top-level executive to begin working in the United States, a relatively large expectation.

The six-month and longer suspension cases cited above involve much more serious conduct, such as fabrications and lies in multiple matters, generally over the course of years, as well as additional misconduct not present here.

In mitigation, the Board considered that respondent has no disciplinary history in twenty years at the bar and that he readily admitted his misconduct, including having entered into a stipulation with the OAE. Accordingly, the Board determined that a three-month suspension is the proper form of discipline in this matter.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated February 11, 2014;

2. Stipulation of discipline by consent, dated February 10, 2014;

3. Affidavit of consent, dated January 30, 2014;

4. Ethics history, dated May 5, 2014.

Very truly yours,

Ellen A. Brodsky
Chief Counsel

EAB/lg
c: Bonnie C. Frost, Chair
Disciplinary Review Board (via e-mail; w/o enclosures)
Charles Centinaro, Director
Office of Attorney Ethics (w/o enclosures)
Christina Blunda Kennedy, Deputy Ethics Counsel
Office of Attorney Ethics (w/o enclosures)
Hany S. Brollesy, respondent