SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 10-026
District Docket Nos. XB-09-0011E
and XB-09-0012E

IN THE MATTER OF	:
ALFRED V. GELLENE	:
AN ATTORNEY AT LAW	:

Decision

Argued: April 15, 2010

Decided: May 26, 2010

Michael C. Gaus appeared on behalf of the District XB Ethics Committee.

Edward J. Gilhooly appeared on behalf of respondent.

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

This matter came before us on a recommendation for discipline (reprimand), filed by the District XB Ethics Committee ("DEC"). The six-count complaint charged respondent with violating RPC 1.1(a) (gross neglect), RPC 1.1(b) (pattern of neglect), RPC 1.3 (lack of diligence), RPC 1.4(b) (failure to keep a client reasonably informed about the status of the matter and to promptly comply with reasonable requests for information), RPC 3.4(c) (knowingly disobeying an obligation

under the rules of a tribunal), and RPC 8.4(d) (conduct prejudicial to the administration of justice). We determine that a reprimand is the proper discipline for respondent.

Respondent was admitted to the New Jersey bar in 1979. He maintains a law practice in Denville, New Jersey.

Respondent was privately reprimanded in 1990 for gross neglect, pattern of neglect, and lack of diligence in defending an action brought against his client and the client's several corporations. Respondent failed to provide answers to interrogatories, causing the answer to be stricken and a default judgment to be entered against the client. Respondent also failed to tell the client whether he would pursue a collection matter for him and failed to incorporate the client's new company. In another matter, for ten months, respondent failed to file a complaint for a name change. In the Matter of Alfred V. Gellene, DRB 89-046 (January 5, 1990).

Respondent received another private reprimand in 1991. He was retained to pursue several matters for a client. In the first, a fire loss claim, he failed to supply answers to interrogatories, resulting in the dismissal of the complaint. He also failed to inform the client of the dismissal and failed to have the complaint reinstated. In another matter, he failed to diligently pursue the client's case after it was remanded to the

Construction Board of Appeals, and failed to keep the client reasonably informed about its status. In the Matter of Alfred V. Gellene, DRB 91-095 (May 31, 1991).

In 2009, respondent was admonished for lack of diligence and failure to provide a client with a writing setting forth the basis or rate of the fee in a criminal appeal. There, respondent delayed the transfer of the client's case to him from the Public Defender's Office, who had represented him at trial. In imposing only an admonition, we considered compelling mitigating circumstances. In the Matter of Alfred V. Gellene, DRB 09-068 (June 9, 2009).

For the most part, respondent admitted the allegations of the complaint in this matter. At the DEC hearing he testified about the circumstances in his life, including his bouts with depression, which, he claimed, prevented him from properly pursing three appeals for two clients, one of which was a criminal appeal.

I. The Sinnhoff Matter[1]

Sometime before May 2008, respondent was designated by the New Jersey Public Defender's Office to represent Michael

[1] The record contains different spellings of this name.

Sinnhoff in the appeal of his criminal conviction. The appellate brief had to be filed by May 20, 2008. The appellate court extended the filing date to August 21, 2008. Respondent failed to file the brief by that date. The Honorable Dorothea O'C. Wefing, P.J.A.D., who referred this matter to the Office of Attorney Ethics ("OAE"), outlined respondent's derelictions in a January 29, 2009 letter to the OAE:

> On November 13, 2008, I issued an order to show cause directing Alfred Gellene, Esq. to appear before me on January 6, 2009, to show cause why sanctions should not be imposed upon him for failure to file a brief on behalf of his client. The order provided that Mr. Gellene need not appear if a brief were filed. . . .
>
> Mr. Gellene did not file a brief by the return date of the order to show cause. He appeared before me on January 6, 2009, and assured me that he would file his brief no later than January 9, 2009. I accepted Mr. Gellene's representation but informed him that if he did not file a brief by that date, he would be sanctioned two hundred dollars.
>
> Mr. Gellene, despite his representation, did not file his brief by January 9, 2009, and made no attempt to communicate with either the Office of the Public Defender or with me. On January 12, 2009, I issued a further order imposing the two hundred dollar sanction upon Mr. Gellene and imposing a further sanction of twenty dollars per day for each day beyond January 9, 2009, that he failed to file a brief. . . .
>
> When Mr. Gellene still failed to file a brief, and did not communicate with either the Office of the Public Defender or myself, I issued a further order to show cause on January 16, 2009, directing Mr. Gellene to

> appear before me on January 27, 2009, to show cause why further sanctions should not be imposed upon him. . . . Mr. Gellene did not appear in response to the order to show cause and did not communicate with the Public Defender's Office or with me.
> I am informed by representatives of the Office of the Public Defender that Mr. Gellene has not responded to any of their many telephone messages. And a brief has yet to be filed on behalf of his client.
>
> [Ex.1.]

By letter dated February 25, 2009, respondent admitted to Judge Wefing that he had not filed a brief on Sinnhoff's behalf and requested that the order imposing sanctions against him be vacated based on mitigating circumstances described in his letter to the judge. In April 2009, the judge vacated the order imposing sanctions.

Respondent returned the file to the Public Defender's Office and the matter was assigned to another attorney. The case was never dismissed.

Respondent blamed his inability to file a brief in the matter on depression. He claimed that, at the time that the brief was due, he was "beginning to really enter into a very serious bout of depression" and it was becoming more and more difficult for him to concentrate.

II. The Markoglu Matters

Anesti Markoglu retained respondent to represent him in connection with two civil appeals.

1. The Federated Financial Corp. Matter

In the Federated Financial Corp. V. Ernest Markoglu and Archmiedes USA Electric matter, Markoglu had been sued by a credit card company. He had appeared pro se at the trial and a judgment had been entered against him.

In May 2008, Markoglu retained respondent to pursue an appeal in the matter. Respondent claimed that, initially, he did not want to take the case because of his depression and because, even if Markoglu prevailed, it would be in the form a retrial, rather than a verdict in his favor. Respondent added that the costs to Markoglu would ultimately be greater than the amount he had lost. According to respondent, however, Markoglu was "very eager" to have him pursue his case. Respondent agreed to do so. On May 30, 2008, respondent filed a notice of appeal, case information statement, and transcript request. According to Markoglu, respondent had told him that he had a "very strong case," because the court had improperly permitted telephonic testimony at the trial.

At an unspecified date, respondent attended a settlement conference in Camden and instructed Markoglu to wait by the telephone, should his input be necessary. Respondent reached a tentative settlement in the matter, without consulting with Markoglu. After the settlement conference, respondent sent Markoglu a copy of the agreement, which he rejected, electing, instead, to pursue the appeal. Thereafter, on October 14, 2009 scheduling order by the Appellate Division directed the filing of Markoglu's brief by November 24, 2009.

Respondent stated that he had encouraged Markoglu to settle the case for a couple of reasons, including financial considerations. Specifically, Markoglu's attorney's fees would have been less, if the case settled. The amount in controversy was small, approximately $3,000. Respondent noted that, even if Markoglu prevailed on appeal, that victory would not offset his legal fees, should the case be retried. Also, respondent thought that Markoglu would lose in a retrial. Therefore, respondent's goals were to settle the case to reduce the attorney's fees, compromise the amount of Markoglu's debt, and expand his payment schedule.

Respondent claimed that he had discussed the settlement with Markoglu at length and had forwarded the proposed settlement to him. Initially, they had discussed proposed

changes to the settlement but, in the end, Markoglu had chosen to pursue the appeal.

Markoglu claimed that, after he had rejected the settlement, his repeated efforts to contact respondent had been unsuccessful. He had no communication with respondent for five or six months.

On July 5, 2009, Markoglu's appeal was dismissed for failure to file a timely brief.[2] Because respondent would not return Markoglu's telephone calls, Markoglu went to respondent's office with the notice of dismissal in hand. According to Markoglu, respondent told him that he would take care of it.

Afterwards, Markoglu looked to other sources for assistance with his legal problems and was directed to the DEC. On February 10, 2009, Markoglu filed the grievance in this and the Meola matter (below) and supplemented the grievances on February 18, 2009. He also contacted the Appellate Division to obtain information on the procedure for filing pro se motions to restore his appeals. Subsequently, on February 17, 2009, Markoglu filed a pro se motion to restore his appeal.

On March 3, 2009, respondent also filed a motion to restore the appeal, together with a certification noting the

[2] Although the order of dismissal is dated January 5, 2009, it is stamped filed on July 5, 2009.

debilitating depression from which he suffered and that prevented him from properly handling this and other matters. He certified that his depression had worsened from September 1 to November 30, 2008, due to financial pressures and his juvenile son's continuing substance abuse problems.

On March 31, 2009, the Appellate Division granted respondent's motion to vacate the dismissal, reinstated the appeal, and directed the filing of the brief on or before April 20, 2009. On April 20, 2009, respondent filed the brief and appendix in the matter.

2. **The Meola Matter**[3]

In 2008, Markoglu filed a pro se lawsuit against his neighbor and a tree removal company, seeking compensation for damages to his garage (Anesti Markoglu v. Federick Meola and Greenwood Tree Experts). After Markoglu lost at the trial level, he filed a pro se appeal, ordered transcripts, and retained respondent to prepare the appellate brief. On November 20, 2008, aware of the scheduling requirements, respondent filed a substitution of attorney form.

[3] This name is also spelled Maiola in the record.

From November 2008 to January 22, 2009, when the appeal was dismissed for failure to timely file a brief, Markoglu had heard nothing from respondent about his case. When Markoglu went to respondent's office to confront him with the dismissal of both of the appeals, respondent told him that he would take care of the problems.

On February 10, 2009, respondent filed a notice of motion and supporting certification, seeking to have the Meola appeal reinstated. Respondent's certification cited his personal circumstances as the reason for having failed to file a timely brief. On February 11, 2009, Markoglu also filed a pro se motion to reinstate the Meola appeal.

Markoglu testified that he was devastated by the dismissal of his appeals. He was frustrated with the judicial system and felt that he had not obtained justice. He added that, if respondent were unable to pursue his appeals, respondent should have notified him that he was experiencing problems. Ultimately, however, after respondent filed the appellate briefs, Markoglu was satisfied with them. Although Markoglu sympathized with respondent's problems, he felt that "business [was] business."

According to Markoglu, after respondent succeeded in having the appeals restored, respondent failed to inform him that oral

argument had been scheduled. At the DEC hearing, Markoglu stated:

> Just earlier, when I saw him, I shake his hand, he told me, "Did you see my letter?" "We have a November, some kind of briefing." I said, "You never send me a letter, you never called me, I have no idea." And he said, "I will send you--" [sic]
> . . . .
> He just told me earlier, an hour ago [that something is coming up].
>
> [T34-18 to 25.][4]

Respondent testified about the circumstances in his life, during the relevant time, some of which he had raised in his prior ethics matter. In the summer of 2008, respondent had been dealing with his son's drug addiction for a period of years. His son had been in a juvenile drug-treatment facility and was released from the facility in August 2008. His eldest daughter was attending New York University, but is currently on a leave of absence because of financial problems. Respondent was unable to contribute towards her college education.

According to respondent, he has suffered from depression for most of his adult life. He had been treated by a psychiatrist, Dr. Rao, who had prescribed medications for his condition: Wellbutrin, Resperdal, Lamictal, and two other

[4] T refers to the transcript of the October 19, 2009 DEC hearing.

medications. He stopped taking the medications, sometime in 2006, for several reasons: (1) he thought he was functioning properly; (2) there were side effects to the medications and, therefore, he did not want to be on them for the rest of his life; and (3) he lost his medical insurance and could no longer afford to pay for the medications out-of-pocket.

As to the Sinnhoff appeal, respondent explained that he was struggling to prepare the brief; he did it in small pieces. He had completed the statement of facts, the procedural history, and some research on the legal issues. He estimated that he had approximately one-to-two days' worth of work left on it. He conceded that it was something that could have been easily finished, had he the ability to do so. He "erroneously believed that [he] could overcome [his] mental state, and just get down to it and do it," but he was unable to complete it. He added that he had understood what was involved, had the physical ability to do it, but he felt like he was "frozen in action." When he tried to concentrate, he could not because his "mind was dispersed." He then realized that he needed help and contacted Dr. Rao. He again began his medication therapy. After the medications took effect, he was able to resume working. At first, he could complete only basic tasks. After a few weeks, he

was better able to concentrate and regained confidence in his abilities.

Respondent succeeded in having both of Markoglu's appeals restored and filed briefs in both appeals. By letter dated March 15, 2010, respondent's attorney notified us that, in the Federated Financial Corp. case, the Appellate Division had ordered a reversal and remand, and that, in the Meola matter, it had affirmed the dismissal below.

The presenter attempted to impeach respondent's credibility by raising questions about his failure to properly disclose his ethics history in an earlier ethics matter. The presenter's objective was to establish that respondent's explanations in this matter were not truthful.

Respondent's counsel tried to exclude respondent's ethics history. However, that information is properly before us. Moreover, the private reprimand letters put respondent on notice that they were part of his permanent record and that they would be considered, if he became the subject of further discipline.

The DEC found that respondent's failure to timely file three appellate briefs constituted gross neglect, pattern of neglect, and lack of diligence, violations of RPC 1.1(a), RPC 1.1(b), and RPC 1.3, respectively. It also found that respondent

failed to keep Markoglu informed about the status of his matters and failed to comply with his requests for information.

While the DEC found that respondent's failure to appear at the orders to show cause on sanctions for his failure to file a brief violated RPC 3.4(c), it did not find that respondent violated RPC 8.4(d).

Although respondent did not provide any medical evidence, the DEC accepted as true his assertions that he was suffering from depression during the relevant time frame and considered it as mitigation. The DEC was also sympathetic to respondent's other personal problems. The DEC likewise took into account the presenter's arguments, including that respondent's difficulties with depression have been "repeatedly cited as mitigating circumstances pertaining to prior findings of unethical behavior."

The DEC concluded that a suspension would serve no real utility in protecting the public or restoring confidence in the bar. Instead, it would create a severe hardship on respondent and his family. The DEC, thus, recommended that he be reprimanded and that he submit quarterly status reports for a two-year period, from a psychologist/psychologist approved by us, attesting to his continued fitness to practice law and confirming that he is under active care and taking appropriate

medication for his depression. The DEC further recommended that respondent practice under the supervision of a proctor for a one-year period.

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

Respondent failed to timely file two appellate briefs. His inaction resulted in the dismissal of the two civil appeals. The third appeal, a criminal matter, had to be reassigned to another attorney. Respondent's conduct in this regard violated RPC 1.1(a) (gross neglect) and RPC 1.3 (lack of diligence). Furthermore, because respondent neglected all three matters, he is also guilty of pattern of neglect (RPC 1.1(b)). To find a pattern of neglect, at least three instances of neglect must have occurred. In the Matter of Donald M. Rohan, DRB 05-062 (June 8, 2005) (slip op. at 12-16).

Respondent was also charged with failure to communicate with his client in the Federated Financial matter. Although there is evidence that there was some sort of communication, Markoglu testified that respondent did not return a number of his telephone calls. For a period of five-to-six months, Markoglu did not hear from respondent. Finally, out of

necessity, Markoglu had to go directly to respondent's office to communicate with him.

Respondent also failed to inform Markoglu that his appeal had been dismissed and, as of the date of the DEC hearing, had not informed Markoglu that his restored appeal had been scheduled for oral argument. A client should not have to go to such great lengths to obtain information about his or her case. Therefore, we find that respondent violated RPC 1.4(b) (failure to communicate with the client) as well.

Also, by failing to appear on the return date of Judge Wefing's order to show cause and failing to notifying the court that he would not appear, respondent violated RPC 3.4(c) (knowingly disobeying the rules of a tribunal) and RPC 8.4(d) (conduct prejudicial to the administration of justice), contrary to the DEC's conclusion.

The only issue left for determination is the proper quantum of discipline for respondent's violations of RPC 1.1(a), RPC 1.1(b), RPC 1.3, RPC 1.4(b), RPC 3.4(c), and RPC 8.4(d). The following cases are helpful in fashioning the appropriate form of discipline for the aggregate of respondent's ethics infractions and personal circumstances.

Conduct involving gross neglect, 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 re Russell, ____ N.J. ____ (2009) (admonition for attorney guilty of gross neglect and lack of diligence where the attorney's failure to file answers to divorce complaints against her client caused a default judgment to be entered against him; the attorney also failed to explain to the client the consequences flowing from her failure to file answers on his behalf); In the Matter of Keith T. Smith, DRB 08-187 (October 1, 2008) (admonition imposed when attorney's inaction in a personal injury action caused the dismissal of the client's complaint; the attorney took no steps to have it reinstated; also, the attorney failed to communicate with the client about the status of the case); In the Matter of Vincenza Leonelli-Spina, DRB 02-433 (February 14, 2003) (attorney guilty of gross neglect for failing to file an appellate brief on behalf of eleven police officers after a municipality was granted summary judgment in the officers' pursuit of a lawsuit objecting to the promotional examination; the attorney also failed to communicate with the clients); In the Matter of Leonora F. Marshall, DRB 01-207 (September 26, 2001) (admonition for attorney who, after filing a notice of appeal from a criminal conviction, failed to file an appellate

brief, resulting in the dismissal of the appeal); In re Uffelman, 200 N.J. 260 (2009) (reprimand for attorney guilty of gross neglect, lack of diligence, and failure to communicate with the client; although the attorney had no disciplinary record, the reprimand was premised on the extensive harm caused to the client, who was forced to shut down his business for three months because of the attorney's failure to represent the client's interests diligently and responsibly); In re Daly, 195 N.J. 6 (2008) (reprimand for attorney appointed to represent a New York defendant in connection with New York state drug charges, while another attorney represented the same defendant on corresponding federal charges; the attorney failed to obtain a sentence reduction for the defendant despite numerous requests from the defendant and the defendant's other attorney; the attorney acknowledged "blowing off" the case, but explained that many other things were going on in his life, including his hectic law practice and personal problems involving his wife's serious health issues; the attorney was guilty of violating RPC 1.3 and RPC 1.4(b); In re Bullock, 166 N.J. 5 (2001) (reprimand for attorney who timely filed a notice of appeal in his client's personal injury action but failed to timely file a brief or seek an extension in which to do so; after the appellate division dismissed the case, the attorney failed to seek relief from the

order of dismissal; the attorney also failed to inform his client for a period of nineteen months about the dismissal and sent his client misleading letters); and In re Gaffney, 133 N.J. 65 (1993) (reprimand for attorney who failed to file an appellate brief in a criminal matter and failed to reply to various orders of an appellate judge, resulting in a finding that the attorney was in contempt of court; the attorney was found guilty of violating RPC 1.1(a), RPC 1.3, RPC 1.4(a), RPC 3.2, and RPC 8.1(b)).

More severe discipline was imposed on attorneys with disciplinary histories. See, e.g., In re Wood, 177 N.J. 514 (2003) (censure for an attorney who grossly neglected a matter and failed to communicate with his client: the attorney allowed a matrimonial appeal to be dismissed and failed to take any steps to have it reinstated; his ethics history included an admonition and a reprimand in a default matter); In re Nealy, 196 N.J. 152 (2008) (three-month suspension where, in one of two matters, the attorney failed to file an appellate brief, resulting in the dismissal of his client's criminal appeal, and did not inform his client of the dismissal, leading him to believe that the appeal was still pending; in another matter, the attorney failed to take any action to reopen his client's bankruptcy case to obtain a discharge of tax obligations until

after the grievance was filed, more than two and one-half years after he had been retained, and failed to communicate with the client; the attorney violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), and RPC 8.4(c); his ethics history included a private reprimand and two reprimands); and In re Kantor, 178 N.J. 69 (2003) (three-month suspension in a default matter where the attorney filed the notice of appeal in his client's personal injury matter but failed to file the brief, causing the dismissal of the case; the attorney took no further action on the client's behalf, failed to advise her of the dismissal, failed to provide her with a written retainer agreement or otherwise communicate the basis or rate of his fee and, over the course of a two-year period, wrote to her only once and canceled scheduled appointments with her; he also failed to cooperate with disciplinary authorities; prior reprimand and a temporary suspension).

Attorneys who, like respondent, have failed to obey court orders have also been reprimanded. See, e.g., In re Holland, 164 N.J. 246 (2000) (attorney who was required to hold in trust a fee in which she and another attorney had an interest, violated a court order by taking the fee prior to the resolution of the dispute; the attorney also violated the recordkeeping rules; violations of RPC 1.15(c) and (d), RPC 3.4(c), and RPC 8.4(d)); In

re Milstead, 162 N.J. 96 (1999) (attorney violated a court order by disbursing escrow funds to his client; violations of RPC 1.15(a), RPC 3.4(c), and RPC 8.4(d)); and In re Hartmann, 142 N.J. 587 (1995) (attorney intentionally and repeatedly ignored court orders to pay opposing counsel a fee, resulting in a warrant for the attorney's arrest; the attorney also displayed discourteous and abusive conduct toward a judge, with intent to intimidate her; violations of RPC 3.4(c), RPC 3.5(c), and RPC 8.4(d)). But see In re LeBlanc, 188 N.J. 480 (2006) (censure for attorney's misconduct in three client matters that included failure to abide by a court order and conduct prejudicial to the administration of justice, gross neglect, pattern of neglect, lack of diligence, failure to communicate with the client, failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions about the representation, charging an unreasonably fee, failure to promptly remit funds to a third party, failure to expedite litigation, failure to cooperate with disciplinary authorities, and failure to comply with the rule prohibiting non-refundable retainers in family law matters).

In addition to the precedent cited above, we have considered respondent's mitigating circumstances, as well as his ethics history, which consists of two private reprimands and an admonition. Respondent's mitigating circumstances include his

financial problems, his son's continuing drug problems, and his battle with depression.

In respondent's prior matter before us, In the Matter of Alfred V. Gellene, DRB 09-068 (June 9, 2009) (admonition), he also testified about the mitigating circumstances in his life: his family was struggling financially; his wife was working only part-time; his law practice was very slow; he had to make tuition payments for his oldest daughter to attend New York University; and his fifteen-year-old son, the middle child, had become involved with drugs and was in and out of various inpatient and outpatient drug treatment programs. Respondent added that his son was arrested, then disappeared and when he returned, caused problems in the home. The difficulties with his son took time away from his law practice, drained his energy, and put a strain on his marriage.

In that 2009 case, we imposed only an admonition for respondent's misconduct (RPC 1.3 and RPC 1.5(b)), which occurred around 2004, because we considered his special mitigating circumstances, as well as the fact that he practiced law for thirty years without a significant ethics history and that his two private reprimands had occurred more than eighteen years earlier. In the Matter of Alfred V. Gellene, DRB 09-068 (June 9, 2009).

In 1990, we also considered respondent's difficulties in his business and personal life, when we imposed only a private reprimand for his violations of RPC 1.1(a), RPC 1.1(b), and RPC 1.3, in a matter for which he had been retained in 1986. There, respondent testified about his severe depression, which had been exacerbated by the deaths of his aunt and grandfather and the severe illness of his fiancée. In the Matter of Alfred V. Gellene, DRB 89-046 (January 5, 1990).

The following year, when we imposed another private reprimand, we considered that respondent's misconduct, which occurred around 1987 and violated RPC 1.1(a), RPC 1.3, RPC 1.4(a), and RPC 3.2, was caused in part by his alcoholism. We took into account respondent's attempts to cope with his alcoholism by attending regular meetings with Alcoholics Anonymous and Lawyers Concerned for Lawyers. In the Matter of Alfred V. Gellene, DRB 91-095 (May 31, 1991).

Although, here, respondent proffered his own debilitating depression as a mitigating factor, he failed to submit documentary evidence to substantiate his claim that he suffered from depression for much of his adult life. Thus, we have no basis for a conclusion that respondent's mental health mitigated his misconduct and lessened the discipline otherwise required. However, we find that his testimony about his mental health

raises questions about this ability and fitness to practice law. Therefore, to protect the public, we determine that respondent should provide proof of fitness to practice law, as attested by a mental health professional approved by the OAE, such proof to be provided to the OAE within sixty days of the Court's order.

We further determine that respondent should be treated by such professional until discharged and that he provide to the OAE periodic reports by his doctor.

As to discipline, we find that respondent's misconduct was not as serious as that of LeBlanc's (censure for misconduct in three matters that involved multiple ethics violations), nor did he fail to cooperate with disciplinary authorities, unlike Wood, who received a censure, after having been admonished and reprimanded in a default matter. Therefore, with the above precautions in place, we determine that a reprimand is sufficient discipline in this case.

Member Wissinger did not participate.

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

Disciplinary Review Board
Louis Pashman, Chair

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

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Alfred V. Gellene
Docket No. DRB 10-026

Argued: April 15, 2010

Decided: May 26, 2010

Disposition: Reprimand

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

Julianne K. DeCore
Julianne K. DeCore
Chief Counsel