SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 08-041
District Docket Nos. IV-05-12E and IV-06-23E

IN THE MATTER OF	
CLIFFORD VAN SYOC	
AN ATTORNEY AT LAW	

Decision

Argued: May 15, 2008

Decided: July 8, 2008

Ernest Alvino appeared on behalf of the District IV Ethics Committee.

Counsel for respondent waived appearance.

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

This matter came before us on a recommendation for a reprimand filed by Special Master John McFeeley, III, based on respondent's gross neglect, lack of diligence, and failure to

communicate with the client in two matters. We determine to reprimand respondent for his misconduct.

Respondent was admitted to the New Jersey bar in 1980. At the relevant times, he practiced law in Cherry Hill. In 2003, respondent received an admonition for lack of diligence in a matter where, for a nine-month period, he failed to review his clients' file. In the Matter of Clifford Van Syoc, DRB 03-013 (April 24, 2003).

This disciplinary matter arose out of respondent's handling of cases on behalf of two clients: Tyrone Nock and Christopher Halscheid. Both suits alleged retaliation on the part of their employer, the Winslow Township Police Department (the police department). Nock's claim was asserted under the Law Against Discrimination (LAD), while Halscheid's was based on the Conscientious Employee Protection Act (CEPA).

In each disciplinary matter, respondent was charged with gross neglect (RPC 1.1(a)), lack of diligence (RPC 1.3), and failure to communicate with the client (RPC 1.4(b)). In the Nock matter, he also was charged with having engaged in a pattern of neglect (RPC 1.1(b)) and withdrawing from the representation of the client without notice (RPC 1.16(d)) and at a time when withdrawal could not be accomplished without a

material adverse effect on the client's interests (RPC 1.16(b)(1)).

The disciplinary cases were consolidated for hearing, which took place on August 16, 2007. There, the parties stipulated that, in both matters, respondent violated RPC 1.1[1], RPC 1.3, and RPC 1.4 (no subsection specified). The RPC 1.16(b) and 1.16(d) charges were "abandoned." We set forth the facts of each matter separately.

The Tyrone Nock Matter – District Docket No. IV-05-012

In March 2000, Tyrone Nock retained respondent to represent him and his wife in a LAD race discrimination and retaliation claim against the department.[2] Respondent filed a complaint on Nock's behalf in the Superior Court of New Jersey, Law Division, Camden County. By April 2, 2002, the court had granted summary judgment to all defendants.

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[1] Counsel did not identify which paragraph(s) of the rule applied. Therefore, we assume that they meant to include both gross neglect and pattern of neglect, as charged in the Nock matter.

[2] Nock's wife's claim was for loss of consortium. Because the principal claim belonged to Nock, we will refer to the claim in the singular.

Thereafter, Nock called respondent's office and told "a young lady by the name of Dee" that he wanted to appeal the decision. Nock later received a copy of the notice of appeal, which respondent had filed on his behalf in June 2002. Nock wanted the appeal pursued to its conclusion.

According to the Appellate Division scheduling order, Nock's brief was due to be filed in September 2002. Neither respondent nor anyone from his office informed Nock of this fact. On October 16, 2002, the Appellate Division dismissed the appeal for failure to timely file a brief.

Between June and October 16, 2002, no one from respondent's office contacted Nock about the appeal, either by telephone or in writing. Neither respondent nor anyone from his office notified Nock of the dismissal. Instead, in May 2003, Nock's friend, Christopher Halscheid, whom respondent represented in a CEPA action against the department, informed Nock that the appeal had been dismissed for failure to file a brief.

Between the filing of the appeal (June 2002) and Halscheid's statement to Nock (May 2003), Nock heard nothing from respondent or anyone from his office. During this time, Nock believed that his appeal was pending.

After Nock learned that his appeal had been dismissed, he wrote a letter to respondent on June 5, 2003, inquiring about the status of the appeal. Nock received no response. On June 25, 2003, Nock wrote another letter to respondent, informing him that he would be picking up his file on July 3, 2003.

On July 1, 2003, respondent wrote to Nock, informing him that his firm would not be releasing the file to him on July 3, because there was insufficient time to comply with the request. Respondent added that, first, his firm would require reimbursement of its out-of-pocket expenses and the assurance from substitute counsel that its lien "for the reasonable value of the services rendered" would be honored. The letter also claimed that "we" have "made repeated attempts to contact you via telephone and left messages, none of which have been returned."

Nock steadfastly maintained that, between October 16, 2002 (the date that the appeal was dismissed) and July 1, 2003, he had received no communication of any kind from respondent or from his firm. During the same time, Nock had no information about the status of respondent's health, the law on retaliation and discrimination claims, or the management of respondent's

office -- the facts on which respondent based his defense to the disciplinary charges.

The Christopher Halscheid Matter – District Docket No. IV-06-23

Halscheid retained respondent to represent him in a retaliation action against the police department. As with Nock, respondent filed a lawsuit on Halscheid's behalf, which was dismissed in 2002. With Halscheid's consent, in June 2002, respondent filed a notice of appeal from the dismissal, which Halscheid expected to be followed through its conclusion.

The Appellate Division scheduling order required a brief to be filed by November 4, 2002. Yet, between the filing of the notice of appeal, in June 2002, and the due date for the filing of the brief, Halscheid heard nothing from respondent's office about the status of the appeal. During the same time, Halscheid had no information about the status of respondent's health, the law on retaliation and discrimination claims, or the management of respondent's office.

Halscheid's appeal was dismissed, on December 26, 2002, for failure to file a brief. Halscheid learned of the dismissal during a meeting with respondent, in May 2003. Halscheid requested the meeting after he had received some invoices from

respondent's firm. During the meeting, Halscheid and respondent negotiated the amount that Halscheid would pay and Halscheid wrote a check. When Halscheid gave the check to respondent, respondent informed him that his appeal had been dismissed.

According to Halscheid, respondent stated that he had been unable to file the necessary paperwork on time because of health problems. However, he assured Halscheid that the appeal could be reinstated, provided him with a copy of a motion that he had filed in another case, and told Halscheid that the same motion would be filed on his behalf. Among the motion papers were documents that, in Halscheid's understanding, supported respondent's claimed health problems.

On June 3, 2003, respondent wrote to Halscheid and informed him that he expected to file the motion for reconsideration with the Appellate Division in July 2003. When Halscheid heard nothing from respondent, he called the office and requested a meeting with him. Halscheid was told that respondent was busy but "they would get [him] in there." Still, Halscheid heard nothing. Shortly thereafter, Halscheid called "the state" and learned that his appeal remained dismissed.

Respondent admitted that he had failed to file a brief on behalf of Nock and Halscheid and to keep both clients informed

about the status of their appeals, including their dismissal. He explained that, during the time in question, his office was understaffed; he was the only attorney in the office and labored under a rigorous trial schedule involving complex cases; and he suffered from severe chest pain, the cause of which took some time to diagnose. Moreover, respondent claimed, his clients ultimately would not have prevailed on appeal as a matter of law. We discuss this last point first.

Respondent's testimony on the merits of his clients' appeals was somewhat inconsistent. Respondent testified that he had agreed to represent Nock and Halscheid in their actions against the police department because he believed that they "were on the right side of the case, on the right side of the facts." According to respondent, at the time both clients' complaints were dismissed, he believed that they had "meritorious cases," although "under the law they couldn't recover." Specifically, respondent testified, their claims were governed by Hancock v. Borough of Oaklyn, 347 N.J. Super. 350 (App. Div. 2002), which, in CEPA cases, required, as a condition

of recovery, that the employee either be discharged or demoted as a result of his or her actions.[3] Neither Nock nor Halscheid had been discharged or demoted. Nevertheless, respondent, who represented the plaintiff in Hancock, had persuaded the Supreme Court to grant certification on this issue, which it did on July 12, 2002. Hancock v. Borough of Oaklyn, 174 N.J. 191 (2002).

Respondent explained that, in making the determination to prosecute an appeal from a decision where the case law does not clearly demonstrate a likelihood of success, he files the notice of appeal, obtains the transcripts, and then reviews them. At the time the appellate brief was due in the Nock matter, respondent was the only lawyer in his firm. Respondent filed the notice of appeal, reviewed the transcripts, and concluded that "it was a tough road to hoe, if not an impossible road to hoe, because of the way the law was being interpreted." He made the decision not to file a brief and instructed someone on his staff to communicate the decision to Nock because "the client had the right to go ahead and have me do that or to hire other attorneys." Respondent conceded, however, that his instruction

[3] Nock's case was not based on CEPA.

was not carried out and that Nock was never informed of this decision or consulted on the issue.

Respondent could not dispute Nock's testimony that, between October 2002 and June or July 2003, respondent's office had no communication with him. Thus, he conceded, the statement in the July 1, 2003 letter to Nock that the firm had made repeated attempts to contact him was not accurate. According to respondent: "I have no proof whatsoever of communicating with him and if he says we didn't, I'm not disputing that." Respondent stated that he was embarrassed, disappointed in himself, and sorry for what had happened."[4]

In the Halscheid matter, respondent claimed that he fully intended to file an appellate brief and that, therefore, his failure to do so was unintentional. Respondent stated that, because Halscheid's claim was asserted under CEPA, and the Supreme Court had granted certification in Hancock, there was the potential for the Court to extend the law to include cases in which the plaintiff was neither demoted nor discharged, which

[4] Respondent's associate, James Burden, drafted the July 1, 2003 letter to Nock and signed the letter over respondent's name.

was what had happened to the plaintiff in Hancock and to Halscheid.

According to respondent, he failed to file the appellate brief on Halscheid's behalf because he "wasn't thinking about my practice as much as I was my health. It was my error." Respondent's failure to follow through with the filing of the motion for reconsideration of the order dismissing the appeal also was a matter of neglect.

Ultimately, the Supreme Court dismissed the Hancock appeal on the ground that "certification was improvidently granted." Hancock v. Borough of Oaklyn, 177 N.J. 217 (2003). Thus, according to respondent, neither Nock nor Halscheid would have prevailed on their appeals.

After an off-the-record discussion at the DEC hearing, the presenter stated that he had "no objection and will stipulate to the underlying claims." The context of his statement suggests that the stipulation was that there was no ground for a successful appeal in either Nock's or Halscheid's case.

Respondent also testified about the professional and personal difficulties that were a part of his life at the time that he represented Nock and Halscheid. In April 2002, his only associate, James Burdens, resigned from the firm, leaving

respondent to try all the cases and handle other case-related matters, such as motions and depositions.[5] Prior to Burden's resignation, other associates and staff had departed from the firm.[6] According to respondent, "that is why unfortunately Mr. Halscheid and Mr. Nock and I are here today because of me getting behind the eight ball and overwhelmed in that period of time because frankly I had too much on my plate and I goofed up."

Respondent testified that, prior to that, when his office was fully staffed, he was able to personally notify his clients as to whether there was merit to filing an appeal, whether an appeal would be filed, and, in the case of an actual appeal, whether the client had prevailed or lost. However, by April 2002, he began to delegate the notification procedure due to the understaffing. At the time, he was involved in a large corruption case in Atlantic City, while maintaining the rest of his heavy caseload.

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[5] Burden returned several months later.

[6] The exodus was precipitated by a sexual harassment claim that one of respondent's former associates had filed against him.

Respondent testified that, in addition to having a heavy caseload, he was suffering emotionally as the result of the loss of most of his staff and Burden. The stress led to his experiencing severe chest pain. By August 2002, while in the midst of the Atlantic City trial, he was exhausted, and his "life was threatened in open court by the mayor." The case was declared a mistrial in September 2002.

Thereafter, his heavy caseload continued to the point where he was listed for trial in multiple counties. This required his personal attorney (who also represents him in this proceeding) to contact the assignment judges to adjust his trial dates. From September 2002 through the beginning of 2003, he tried case after case. In fact, on the day that Nock's appeal was dismissed, he began what was projected to be a ten-week trial in Camden County. That case was twice declared a mistrial.

Respondent underwent a stress test in the spring of 2002, an ultrasound in July 2002, and a cardiac catheterization in October or November 2002, but no medical problem was uncovered. Although respondent considered retiring, "people were begging [him] not to stop."

His chest pain continued throughout the fall of 2002. He continued to try lengthy cases through the summer of 2003.

The motion for reconsideration that respondent had shown to Halscheid at their May 2003 meeting was filed in a matter called Ames in March 2003. According to respondent, the motion was granted on May 6, 2003, but, ultimately, the appeals to the Appellate Division and the Supreme Court were not successful. Respondent intended to file a similar motion on behalf of Halscheid. He directed Burden to draft the papers.

The motion was never filed. Respondent believed that the draft was placed "in a pile of stuff for [him] to look at" at the end of the day but, because he was on trial and getting only four or five hours of sleep each night, he "must have not seen it in the pile and didn't finalize it and didn't get filed and for that I'm deeply sorry and apologize to Chris."

Respondent explained that he had no reason to deliberately fail to file the motion. "In terms of time and effort I had lots of money invested in Chris's case and there was no reason, no incentive, nothing but detriment for me not filing that, not to mention the embarrassment and having Chris upset with me."

With respect to Nock, respondent stated that he "never heard from Mr. Nock ever orally or in writing asking me to do a motion for reinstatement." Respondent communicated with Halscheid regularly, who often spoke on behalf of himself and

Nock, as there was a "joint privilege." Respondent stated that, if Nock had told him that he wanted to file a motion for reinstatement, he would have had "no reason not to do that." Nevertheless, according to respondent, by the time he heard from Halscheid, presumably in May 2003, respondent had "reached the legal opinion, which [he] thought would be communicated to Mr. Nock in '02, that [sic] chances of winning his appeal were pretty remote."

As for Halscheid's appellate brief, respondent stated that he did not recall reviewing the transcripts during the summer. However, the same analysis applied to his and Nock's appeals.[7] He could not dispute Halscheid's claim that, between December 2002 and May 2003, his office had no communication with Halscheid.

Respondent could not dispute Halscheid's claim that, after the May 2003 meeting, he was not contacted by respondent's firm and advised that the motion had not been filed.

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[7] There was considerable testimony on whether the state of the law was such that respondent had "a non-frivolous argument for the extension, modification, or reversal of existing law" on appeal. R. 1:4-8(a)(2). Ultimately, however, respondent concluded that neither client would have prevailed on appeal.

Between June 1, 2002 and September 2003, respondent's health problems did not require him to be admitted to the hospital or confined to his home. He continued to practice law during that time.

The special master who heard these disciplinary matters did not write a report. Instead, he read his decision into the record on an unknown date. He found that respondent had violated all the stipulated RPCs.

With respect to the mitigating factors, the special master acknowledged that respondent tried the kinds of cases that most attorneys would not undertake, that he had staffing problems, a heavy trial schedule, and health issues. However, the special master noted, respondent was neither hospitalized for the health problems nor ordered to refrain from practicing law. Indeed, "he continued to practice law and to try cases in spite of the health problems and problems with the staffing in his office." Moreover, the decision in In re Palmieri, 75 N.J. 488 (1978), "obligated" an attorney to "establish an office procedure so that both he and his clients are kept informed of pending matters."

According to the special master, a reprimand was the minimum discipline for the stipulated RPC violations. He

acknowledged that respondent had cooperated with disciplinary authorities, admitted to his wrongdoing, expressed remorse for his misconduct.

The special master rejected respondent's contention that the appeals had no merit due to the state of the law at the time. The special master found that respondent still was obligated to call the clients and inform them of that fact, rather than simply let their appeals be dismissed without their consent. The special master simply could not find that the questionable merits of the claim could be considered in mitigation.

In aggravation, the special master considered that respondent had informed Halscheid that he would file the motion to reinstate the appeal, but did not; that he did not reply to Nock's June 5, 2003 letter in a timely fashion; and that, when he replied to Nock's June 25, 2003 letter, he made no mention of the appeal. Moreover, the special master noted, on April 24, 2003, respondent received an admonition for failing to communicate with a potential client. According to the special master, this "cause[d him] some concern because the grievance was under investigation during the very time period when Respondent was neglecting the Nock and Halscheid matters and

should have alerted Respondent to review all of the matters in his office to ensure that clients were being properly informed."

After weighing the aggravating and mitigating factors, the special master recommended that respondent receive a reprimand for his stipulated misconduct.

Following a de novo review of the record, we are satisfied that, as the parties stipulated, the clear and convincing evidence established that respondent violated RPC 1.4(a) in both matters. With respect to the RPC 1.4 violations, the complaints charged respondent with having violated RPC 1.4(b). However, this was likely a mistake. The complaints were filed after the change to RPC 1.4, in 2004. At the time of respondent's misconduct (2002-03), that rule provided:

> (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
>
> (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

When the rules were changed in 2004, RPC 1.4(a) became RPC 1.4(b). The Nock complaint alleged that respondent failed to "advise Nock of the imminent dismissal of the appeal," "advise Nock of the appeal's dismissal" and "respond to [his] demand for

case status." The Halscheid complaint alleged that respondent failed to "advise Halscheid of the imminent dismissal of the appeal." These facts would support a charge of former RPC 1.4(a), which was in effect at the time of the misconduct. Therefore, we assume that the charges were meant to be of former RPC 1.4(a).[8]

In each of these cases, the notice of appeal was dismissed due to respondent's failure to file an appellate brief. Respondent failed to consult with either client about the prospect that his appeal may be dismissed. Respondent failed to seek the consent of both clients to either not file the brief or dismiss the appeal. He failed to inform either client that their respective appeals had been dismissed. Respondent also failed to respond to his clients' telephone calls, and he failed to respond to Nock's June 5, 2003 letter.

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[8] To be sure, the record would support findings of a violation of former RPC 1.4(b) as well, inasmuch as respondent did not explain the appeal matters to the extent reasonably necessary to permit Nock and Halscheid to make informed decisions on whether they wished to proceed with their appeals. Nevertheless, as indicated above, facts recited in the complaint lead us to conclude that the charges were intended to relate to RPC 1.4(a), rather than RPC 1.4(b).

In addition, respondent stated to Halscheid that he would file a motion for reconsideration of the dismissal of his appeal. However, he never filed the motion and he never told Halscheid that he had not filed the motion. All of these facts establish that respondent violated the former RPC 1.4(a).

As stipulated, respondent violated RPC 1.1(a) and RPC 1.3, but only in the Halscheid matter. These rules prohibit an attorney from grossly neglecting and lacking diligence in the handling of a client's matter. In the Halscheid case, respondent admittedly failed to file the appellate brief and the motion for reconsideration as a result of his neglect and his failure to pay attention to the file. Even though the parties stipulated that neither client would have prevailed on appeal, at the time the appeal was filed respondent did not believe that it lacked merit. The appeal was filed just before the Supreme Court had granted certification in Hancock. If the plaintiff in Hancock had prevailed before the Supreme Court, then, according to respondent, Halscheid's claim would have been revived. Halscheid's interests could be protected while Hancock was pending only by the filing of the brief and, possibly, a stay of the proceeding. By failing to file the brief, respondent denied his client the potential benefit of a favorable decision in

Hancock. The ultimate outcome of the appeal is of no consequence to the determination of respondent's conduct at the time that he failed to file the brief.

We agree with the special master's finding that respondent's neglect and lack of diligence are not mooted by the fact that, ultimately, Halscheid would not have prevailed on reconsideration or appeal because the Supreme Court had de-certified and dismissed the appeal in Hancock. The fact is that, at the time the notice of appeal was filed, and at the time that respondent intended to file the motion for reconsideration, it was his firm belief that Hancock could have been reversed by the Supreme Court, which would render Halscheid's claim viable. Thus, his failure to follow through on his commitment to place his client's interests in a position that would permit him to benefit from that potential ruling violated RPC 1.1(a) and RPC 1.3.

Unlike in Halscheid, respondent's conduct in Noke did not violate RPC 1.1(a) or RPC 1.3, because respondent intentionally failed to file the appellate brief. As a matter of law, an intentional decision not to act is not equivalent to a negligent failure to act. Similarly, respondent could not have lacked diligence in committing an intentional act that, respondent

claimed, was prompted by his realization that to pursue an appeal would have been fruitless in Nock's case.

The pattern of neglect charge also is also unsustainable. A pattern of neglect requires at least three acts of negligence. In the Matter of Rohan, 184 N.J. 287 (2005). As stated, respondent did not neglect the Nock matter. He was not charged with a pattern of neglect in the Halsheid matter. Therefore, respondent could not have violated RPC 1.1(b) in either case.

Finally, the presenter "abandoned" the RPC 1.16(b)(1) and (d) charges. RPC 1.16(b) addresses the conditions that apply when an attorney seeks to withdraw from the representation of the client. RPC 1.16(d) governs an attorney's conduct with respect to the termination of the attorney-client relationship. Although the DEC did not formally amend the complaint to reflect the "abandonment," respondent presumably proceeded with the hearing upon the belief that he could not be found to have violated either rule. Accordingly, it would be fundamentally unfair for us to find that respondent violated either rule. Thus, there is no basis upon which to conclude that respondent violated RPC 1.16(b) or (d).

In sum, respondent violated RPC 1.4(a) in both matters. In Halscheid, he also violated RPC 1.1(a) and RPC 1.3.

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 number of client matters involved, the gravity of the offenses, the harm to the clients, and the attorney's disciplinary history. See, e.g., In re Dargay, 188 N.J. 273 (2006) (admonition for attorney guilty of gross neglect, lack of diligence, and failure to communicate with the client; prior admonition for similar conduct); In the Matter of Ben Zander, DRB 04-133 (May 24, 2004) (admonition for attorney whose inaction caused a trademark application to be deemed abandoned on two occasions; the attorney also failed to comply with the client's requests for information about the case; violations of RPC 1.1(a), RPC 1.3, and RPC 1.4(a)); In the Matter of Vincenza Leonelli-Spina, DRB 02-433 (February 14, 2003) (admonition for gross neglect, lack of diligence, and failure to communicate with the client); In the Matter of Jeri L. Sayer, DRB 99-238 (January 11, 2001) (admonition for attorney who displayed gross neglect, lack of diligence, and failure to communicate with the client; a workers' compensation claim was dismissed twice because of the attorney's failure to appear in court; thereafter, the attorney filed an appeal, which was dismissed for her failure to timely file a brief); In the Matter

of Jonathan H. Lesnik, DRB 02-120 (May 22, 2000) (admonition for failure to file an answer in a divorce matter, resulting in a final judgment of default against the client; the attorney also failed to keep the client informed about the status of the case); In the Matter of Paul Paskey, DRB 98-244 (October 23, 1998) (admonition for attorney guilty of gross neglect, lack of diligence, and failure to communicate with the client); In the Matter of Ben Payton, DRB 97-247 (October 27, 1997) (admonition for attorney found guilty of gross neglect, lack of diligence, and failure to communicate with the client; the attorney filed a complaint four days after the expiration of the statute of limitations, and then allowed it to be dismissed for lack of prosecution; the attorney never informed the client of the dismissal; the attorney also failed to reply to the client's numerous requests for information about the case); In re Garbin, 182 N.J. 432 (2005) (reprimand by consent for attorney who failed to send her client a copy of a motion to enforce litigant's rights filed in his divorce action and failed to inform him of the filing of the motion, which proceeded unopposed; the court then found her client in violation of the final judgment of divorce; the attorney also failed to return the file to either her client or new counsel; prior admonition);

In re Aranguren, 172 N.J. 236 (2002) (reprimand for attorney who failed to act with diligence in a bankruptcy matter, failed to communicate with the client, and failed to memorialize the basis of the fee; prior admonition and six-month suspension); In re Zeitler, 165 N.J. 503 (2000) (reprimand for attorney guilty of lack of diligence and failure to communicate with clients; extensive ethics history); In re Gordon, 139 N.J. 606 (1995) (reprimand for lack of diligence and failure to communicate with the clients in two matters; in one of the matters, the attorney also failed to return the file to the client; prior reprimand); and In re Wildstein, 138 N.J. 48 (1994) (reprimand for misconduct in three matters, including gross neglect, lack of diligence, and failure to communicate with clients).

In this case, respondent failed to communicate with the client in both matters, but he grossly neglected and lacked diligence in handling only one of them. Although, under these circumstances, an admonition would be appropriate, there is respondent's prior admonition to consider. Ordinarily, if an attorney has a disciplinary history, we enhance the discipline in a subsequent case on the ground that the attorney has failed to learn from his or her prior mistakes. This is particularly true, as here, if the new violations are the same as or similar

to the prior violations. This is different, however, from a situation where the attorney's prior discipline stems from misconduct that was taking place at around the same time that the misconduct giving rise to the subsequent disciplinary action occurred. In such cases, we view the misconduct in the current disciplinary proceeding with some indulgence on the ground that the subsequent ethics transgressions were part and parcel of the same overall pattern of misconduct. Cf. In the Matter of John A. Tunney, DRB 04-387 (March 3, 2005) (slip op. at 14-15).

In this case, the 2003 admonition was based on conduct that took place in 1999 and 2000. The admonition, however, was not imposed until April 2003. Respondent failed to file the brief in Halscheid in September 2002. At that point, respondent would have known that his prior dilatory practice was under scrutiny and, therefore, he should have paid more attention to his professional conduct and office management. Moreover, respondent promised Halscheid, in May 2003, that he would file a motion for reconsideration in July. By then, the admonition had issued. Therefore, he should have paid particular attention to his practice, especially in the Halscheid matter. For this reason, we enhance the discipline to a reprimand.

Members Baugh and Clark 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 Clifford Van Syoc
Docket No. DRB 08-041

Argued: May 15, 2008

Decided: July 8, 2008

Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Pashman			X			
Frost			X			
Baugh						X
Boylan			X			
Clark						X
Doremus			X			
Lolla			X			
Stanton			X			
Wissinger			X			
Total:			7			2

Julianne K. DeCore
Chief Counsel