

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 14-114  
District Docket Nos.  
XIV-2012-0545E; XIV-2012-0546E;  
XIV-2012-0547E; XIV-2012-0548E;  
XIV-2012-0549E; XIV-2012-0550E;  
XIV-2012-0551E; XIV-2012-0552E;  
XIV-2012-0553E

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IN THE MATTER OF :  
: ANITA LANG WALCH :  
: AN ATTORNEY AT LAW : Supplemental Decision

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Decided: February 18, 2015

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

This matter was originally before us at our November 21, 2013 session, on a recommendation for discipline (nine-month suspension) filed by Special Master Bernard A. Kuttner. The ten-count amended complaint charged respondent with violations of 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 client reasonably informed), and RPC 1.4(c) (failure to explain matter to client to allow client to make informed decisions regarding the

representation) in nine client matters. The complaint also charged a violation of RPC 8.4(c) (conduct involving fraud, dishonesty, deceit, or misrepresentation) in one of the matters. The Office of Attorney Ethics (OAE) withdrew the tenth count, alleging that respondent had made a false statement to disciplinary authorities (RPC 8.1(a)). Respondent stipulated to all of the allegations of the complaint.

The OAE recommended a censure. The Board determined to impose a six-month suspension and to require respondent to show proof of fitness, prior to reinstatement, and to reimburse the New Jersey Lawyers' Fund for Client Protection (the Fund) for any monies paid to the grievants.

In our December 19, 2013 decision, we noted that, in two client matters, respondent had filed a bankruptcy petition; in one of those matters, she had attended a creditor's meeting; and, in three of those matters, she had prepared petitions, but had failed to file them.

On April 10, 2014, the Court remanded the case to us for

[s]upplementation of the record with evidence regarding respondent's restitution to her clients for unearned retainers and fees paid and reimbursement of [the Fund] for claims paid, and, thereafter, for reconsideration of the discipline to be imposed, including conditions of restitution

and reimbursement, based on the record as supplemented.

On May 23, 2014, we remanded the case to the special master for the supplementation of the record, as directed by the Court. The special master was asked to take the necessary action to determine to what extent, if any, respondent had (1) made restitution to her clients for unearned retainers and fees and (2) reimbursed the Fund for any claims paid.

On July 21, 2014, the special master submitted his supplementation of the record. He reiterated that, prior to the ethics hearing, respondent had refunded \$900 to clients (\$600 to client Davis and \$300 to client Coaxum). He noted that the Fund had paid \$7,599 on five claims against respondent. A review of the Fund's report shows, however, that only \$4,099 pertained to clients in this disciplinary matter (Torres, Cruz, and Burza).<sup>1</sup>

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<sup>1</sup> The special master found that a total of \$14,899 remains unreimbursed to clients. He arrived at this number by adding all the fees paid by the clients and then deducting the \$900 that respondent had refunded to two clients, plus the \$7,599 paid by the Fund. Again, this total includes clients outside this matter.

After a review of the special master's supplementation of the record, we determine to reaffirm our previous decision. The special master's report revealed no new information. Specifically, there is no indication that respondent accepted a fee, but performed no legal work. To the contrary, respondent and the OAE stipulated that respondent did some work on each of those cases, including, but not limited to, preparing bankruptcy petitions, communicating with her clients via telephone and office conferences, and engaging in numerous telephone calls with the clients' creditors.

We did not initially recommend the blanket refund of all fees collected because there was evidence that respondent had performed some work on the clients' behalf. When a respondent has done some work on a matter, a fee arbitration committee is the proper venue for the issue of a fee refund, should the client opt for such relief. Only when it is clear that no work at all has been performed may we require an attorney to fully refund the fee.

We have been informed that the Court approved this policy in 2013.

Consistent with the approach approved by the Court, a footnote in our prior decision in this matter stated as follows:

We refrain from requiring that respondent disgorge the fee to the clients, only because there is evidence that she did some work for them, as opposed to none. We require that a retainer be refunded to the client only when no work at all has been performed. When some, but not all, of the work has been done, the issue of an appropriate refund should be handled by a fee arbitration committee.

The special master's new report offered no new details on whether there were matters in which respondent collected a fee, but performed no legal services.

Respondent submitted a letter-brief, on September 26, 2014, in reply to the special master's supplementation of the record. In it, she again presented a dire picture of her financial straits (she earns \$17,000 a year in a sales job and cannot even pay her rent on time). She expressed a willingness to make whatever fair reimbursement is required of her, but stressed that, at this time, this is essentially impossible.


In light of the foregoing, we reaffirm our prior position, as follows: (1) because the record fails to establish that respondent did no work for the clients -- and, in contrast, shows that she did perform a number of services, albeit insufficient -- we, consistent with the policy approved by the Court, are not requiring a full refund of the retainer because the reasonableness of a fee in cases where the attorney has

performed some work for the client, is the province of fee arbitration committees; (2) no petition for reinstatement should be entertained without proof that respondent reimbursed the Fund for the claims paid to clients Cruz, Burza, and Torres (\$4,099); (3) respondent must provide proof of fitness as attested by a mental health professional approved by the OAE before reinstatement; and (4) respondent should receive a six-month suspension.

Member Gallipoli did not participate in the prior Walch matter and, therefore, abstained from voting in the current matter. Members Rivera, Singer, and Hoberman abstained.

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:   
Ellen A. Brodsky  
Chief Counsel

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SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of Anita L. Walch  
Docket No. DRB 14-114


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Decided: February 18, 2015

Disposition: Six-month suspension

<i>Members</i>	Disbar	Six-month Suspension	Reprimand	Dismiss	Abstained	Did not participat
Frost		X				
Baugh		X				
Clark		X				
Gallipoli					X	
Hoberman					X	
Rivera					X	
Singer					X	
Yamner		X				
Zmirich		X				
Total:		5			4	

  
Ellen A. Brodsky  
Chief Counsel