SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 07-249
District Docket No. XIV-07-162E

IN THE MATTER OF	
ANTHONY N. THOMAS	
AN ATTORNEY AT LAW	

Decision

Argued: October 18, 2007

Decided: November 29, 2007

Richard J. Engelhardt appeared on behalf of the Office Ethics Committee.

Respondent did not appear, despite proper service.

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

This matter came before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (OAE), based on respondent's one-year and a day suspension in Pennsylvania. In a group of seven cases, respondent grossly neglected several matters, failed to communicate with his clients, failed to account for unearned fees, commingled client and personal funds, and failed to return unearned fees to clients.

The OAE recommends a one-year suspension. We agree with that recommendation.

Respondent was admitted to the New Jersey and the Pennsylvania bars in 2000. He has no prior discipline.

On August 23, 2006, the Pennsylvania Office of Disciplinary Counsel and respondent entered into a Joint Petition in Support of Discipline on Consent, in which respondent admitted violating rules corresponding to New Jersey RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(b) and (c), (failure to communicate with the client and to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation), RPC 1.5(b) (failure to set forth, in writing, the basis or rate of the fee), RPC 1.15(a) (failure to safekeep property), RPC 1.15 (b) (failure to promptly deliver property to client or third party), RPC 1.16(d) (failure to protect client's interests upon termination of representation), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and RPC 8.4(d) (conduct prejudicial to the administration of justice).

On January 30, 2007, the Pennsylvania Supreme Court granted the motion and suspended respondent for one year and a day. Respondent did not notify the OAE of his suspension, as required by R. 1:20-14(a)(1).

Respondent stipulated the following facts and RPC violations:

Williamson Matter
C-05-209

On or about August 7, 2002, Barry D. Williams was indicted on drug charges in the U.S. District Court for the Middle District of Pennsylvania, Docket No. 1:02-CR-00187.

On or about September 26, 2002, Barry Williamson's mother, Patricia Williams, paid respondent the sum of $1,800 of a $7,500 retainer for respondent to represent Mr. Williamson.

The following day, September 27, 2002, respondent sent Mrs. Williamson a fee letter relating that she had agreed to pay an initial retainer of $7,500, that if respondent expended more than 50 hours on the case she agreed to pay additional fees at the rate of $150 per hour, and that the fees did not include appellate work, other actions, or out of pocket costs.

On or about October 3, 2002, Mrs. Williamson paid respondent an additional $10,000 as respondent had advised her that if her son's case went to a jury trial and lasted a week, respondent's total fees would probably be $11,800 – the amount she had paid. If the case did not go to trial, respondent advised Mrs. Williamson that she would be due a refund.

On October 10, 2002, respondent entered his appearance for Mr. Williamson.

On January 23, 2003, Mr. Williamson entered a plea of guilty to the charges.

Over a year later, on January 29, 2004, Mr. Williamson was sentenced to a term of imprisonment for 20 years.

At some point after the guilty plea, Mrs. Williamson called respondent and requested a refund since the case had not gone to trial. Respondent contended that he had earned the entire amount that she had paid. Not knowing what she could do, Mrs. Williamson did not pursue the issue.

According to financial records provided by respondent, he deposited the $11,800 into his IOLTA account but paid himself a total of $12,790 relative to Mr. Williamson. It is unknown whose funds used to pay the $990 difference.

On or about February 2, 2004, Mr. Williamson pro se filed a Notice of Appeal.

On February 10, 2004, an amended judgment was entered reducing Mr. William's sentence to 16 years incarceration.

On or about April 7, 2004, Mr. Williamson filed a CJA Form 23 Financial Affidavit which the Third Circuit Court of Appeals treated as a motion for the appointment of counsel.

By Order of June 17, 2004, respondent was appointed to represent Mr. Williamson in his appeal.

On or about July 29, 2004, the Court issued a Rule to Show Cause, returnable August 9, 2004, directing respondent to show cause why respondent failed to order the transcript and file the requisite case opening documents. Respondent did not timely respond.

On or about August 16, 2004, respondent filed an appeal on behalf of Mr. Williamson docketed to No. 04-1343, challenging the validity of the sentence.

On or about August 8, 2004, respondent belatedly filed a response to the court's July 29th Rule and blamed his lack of action upon "an apparent deliberate and malicious attempt to disrupt counsel's business."

Subsequently, respondent filed a request for the transcript and case opening documents and by Order dated November 23, 2004, the Court discharged its July 29th RTSC.

Meanwhile, on November 11, 2004, a briefing notice was issued directing that

respondent's brief and appendix be filed by December 8, 2004.

Respondent failed to file a brief and appendix by December 8, 2004, nor did he seek an extension of time during which to file them.

By order dated December 29, 2004, respondent was directed to Show Cause in writing on or before January 10, 2005, why he failed to file Mr. Williamson's brief and appendix. The order also directed that respondent file nine copies of his brief and appendix, as well as a motion for permission to file the brief and appendix out of time.

Respondent failed to comply with or otherwise respond to the Court's order of December 29, 2004.

By Order dated February 8, 2005, the Court noted that respondent had failed to comply with its order of December 29th and directed that if respondent did not file a brief and appendix by February 28, 2005, an order would be entered directing him to personally appear before the Court in Philadelphia.

Respondent did not file a brief and appendix by February 28, 2005.

By Order dated March 7, 2005, respondent was directed to personally appear before the Court in Philadelphia at 9 a.m. on Tuesday, April 5, 2005.

By Order dated March 17, 2005, the date when respondent was scheduled to appear was changed to April 6, 2005, at 9:15 a.m.

On April 6, 2005, respondent appeared before Judge Ambro as scheduled and attempted to explain that his failures were the result of someone hacking into his computer, breaking into his office, interrupting and intercepting his telephone calls, totally disrupting the operation of his law office.

At the conclusion of the April 6th proceeding, Judge Ambro removed respondent

from the CJA List of Attorneys and as Mr. Williamson's counsel, and imposed a fine of $150 to be paid within 10 days as a result of his failure to advise the Court in writing of why he could not comply with its various orders.

On or about May 3, 2005, following a call from the Clerk's Office, respondent belatedly paid the fine of $150.

Branche-Dinkins Matter
C3-05-388

On or about September 25, 2004, Patsy A. Branche-Dinkins met with respondent and a female assistant by appointment to discuss criminal charges she believed would be filed against her son, Cremne Branche, in the near future. Mr. Branche was then incarcerated at SCI Camp Hill on a parole detainer.

On or about October 5, 2004, Ms. Branche-Dinkins met with respondent and respondent's assistant for the second time and paid respondent a retainer of $500. Respondent agreed to meet with her son and asked that he call respondent at respondent's office to discuss his case.

While respondent provided a written receipt for the $500, even though respondent had not previously represented Ms. Branche-Dinkins or her son, he failed to communicate in writing to either of them the basis or rate of his fees.

Thereafter, Cremne Branche tried numerous times to call respondent but no one was available to take his calls.

Respondent did not visit Mr. Branche at SCI Camp Hill.

On or about November 2, 2004, when her son had been unable to communicate with respondent, Ms. Branche-Dinkins began calling respondent's office and leaving messages for respondent to return her calls.

On or about November 20, 2004, respondent finally returned one of Ms. Branche-Dinkins' calls and promised to visit with her son, who at that time had been transferred to SCI Greene in Waynesburg, PA. Respondent advised Ms. Branche-Dinkins that respondent had to go to SCI Greene on another case and would meet with her son at that time.

However, respondent did not thereafter meet with Mr. Branche.

By letter dated January 14, 2005, Ms. Branche-Dinkins indicated that she had been unsuccessfully trying to contact respondent the past six weeks but that respondent had failed to return any of her calls. She asked that respondent contact her as soon as possible and indicated that if she did not hear from respondent within five business days, she would contact the bar association. Respondent did not respond.

On or about April 8, 2005, Ms. Branche-Dinkins was successful in speaking to respondent's assistant who promised that respondent would contact her. However, respondent did not do so.

On or about April 13, 2005, a three count indictment was filed in the U.S. District Court for the Middle District of Pennsylvania captioned United States of America v. Cremne Branch, No. 1:05-CR-00146.

By letter dated April 19, 2005, Ms. Branche-Dinkins complained to respondent about his failure to return her numerous messages, his failure to ever visit her son, stated that his services were no longer needed, and requested a refund of her $500. Respondent did not respond.

By Order of May 17, 2005, the District Court found that Cremne Branch was unable to afford counsel and appointed a Federal Public Defender to represent him.

By letter dated May 18, 2005, Ms. Branche-Dinkins again requested that respondent refund the $500 she had paid respondent.

Respondent failed to either refund any portion of the retainer respondent had been paid in advance or account to Ms. Branch-Dinkins for how respondent believes he had earned it.

Harris-Betsill Matter
C3-05-479

In January 2004, respondent was retained by Mary Harris-Betsill to represent her "in the matter related to a breach of contract action following the non-completion of home improvements by contractor, Dana Wallace," confirmed by engagement letter dated January 5, 2004.

Respondent's engagement letter called for payment of an initial retainer of $1,000, which Ms. Betsill paid in installments.

Initially and until he resigned from respondent's firm on or about July 30, 2004, Attorney Jeffrey John Wood satisfactorily handled Ms. Betsill's legal matter.

At the time Mr. Wood resigned from respondent's firm, the next step to proceed with Ms. Betsill's claim was to file a complaint against the contractor with a District Justice seeking over $6,000 in damages. Respondent never initiated such a suit because he erroneously believed that the claim had been resolved.

When Mr. Wood resigned from respondent's firm, Ms. Betsill's file and representation remained with respondent.

Respondent never advised Ms. Betsill that Mr. Wood had left respondent's firm and she believed that Mr. Wood was responsible for her legal matter and had been unsuccessfully attempting to contact him since the summer of 2004.

Ms. Betsill repeatedly called respondent's office number and, when she was able, left messages for a return call.

Respondent never returned any of Ms. Betsill's calls and has had no communication with her since Mr. Wood left respondent's firm over a year previously.

Respondent took no action to proceed with Ms. Betsill's legal matter since Mr. Wood left respondent's firm over a year previously.

Miller Matter
C3-05-747

On March 23, 2001, Gregory Samuels (a/k/a Godfrey Miller, hereafter "Mr. Miller") was convicted of Murder and Possession of Instruments of Crime in the Court of Common Pleas, Philadelphia, No. 0006-0908.

On or about November 14, 2002, the Superior Court affirmed Mr. Miller's conviction.

On November 7, 2003, Mr. Miller filed a pro se PCRA [post-conviction relief application], and new counsel was appointed.

In or about April 2004, Mr. Miller's mother, Ruby D. Gibbs, hired National Legal Professional Associates (hereafter "NLPA") of Cincinnati, Ohio, to assist Mr. Miller in doing legal research in support of his PCRA.

By letter dated April 14, 2004, H. Wesley Robinson of NLPA confirmed a telephone conversation with respondent during which respondent had agreed to represent Mr. Miller in his PCRA for a fee of $4,000. Mr. Robinson provided respondent with Mr. Miller's and his mother's names, addresses, and phone numbers and suggested that respondent write to them to confirm his representation. He also provided respondent with a copy of preliminary research NLPA had prepared.

By letter to respondent dated May 5, 2004, NLPA indicated that it hoped he had been in contact with Ruby Gibbs and finalized his representation; that Mr. Miller's former counsel had failed to file a Petition for Allowance of Appeal; that Mr. Miller wanted respondent to supplement his PCRA with his issues as well as issues proposed by NLPA; and, offered whatever assistance respondent might desire.

In or about May 2004, NLPA sent respondent a check for $2,500 as part of respondent's total fee of $4,000. The check was improperly deposited into respondent's operating or attorney account.

On or about September 23, 2004, appointed counsel filed a *Finley* letter with the Court indicating he felt Mr. Miller's PCRA was without merit.

Respondent was sent a copy of that letter.

On October 1, 2004, the Court sent out Notice pursuant to Pa.R.Crim.P. 907 that it intended to dismiss the PCRA, giving Mr. Miller 20 days to respond.

Respondent was aware of this notice and the need to take prompt action.

By letter dated October 14, 2004, NLPA sent respondent a check for $1,500 to cover the balance of respondent's $4,000 fee, advised respondent that Mr. Miller was not satisfied with the *Finley* letter, and that he wanted respondent to file the supplement that NLPA had prepared as a Supplemental PCRA.

Respondent deposited the $1,500 into his IOLTA account.

While respondent had been paid his entire fee of $4,000, he believed he had been paid only $1,500 and took no action on Mr. Miller's behalf and had no communication with him.

On November 23, 2004, Mr. Miller's PCRA was dismissed.

By letter dated December 13, 2004, Pam Grimm, Case Manager with NLPA, wrote to respondent and requested that respondent contact Mr. Miller and his mother as to the status of the PCRA. Respondent failed to do so.

Following the dismissal of his PCRA, Mr. Miller and his mother repeatedly complained to NLPA and demanded the refund of the $4,000 respondent had been paid.

By letter February 11, 2005, Ms. Grimm wrote to respondent advising that she had received additional correspondence from Ruby Gibbs concerning the $4,000 that she had paid to NLPA which had been forwarded to respondent, that Mr. Miller and his mother were extremely upset that respondent had taken no action on Mr. Miller's behalf, and requesting that respondent contact Ms. Gibbs directly. Respondent failed to take any action, including refunding the $4,000 fee respondent had been paid but did not earn.

In March 2005, Mr. Miller filed a claim with the Dauphin County Bar Association. Despite the association's efforts to have respondent cooperate, respondent failed to respond or take any action to refund the $4,000 in unearned fees.

By depositing the $2,500 respondent received from NLPA on Mr. Miller's behalf into respondent's operating or attorney account, respondent improperly commingled Mr. Miller's funds with his own.

Respondent failed to maintain accurate records of his receipt and disbursement of the $4,000 he received from NLPA on behalf of Mr. Miller and converted those funds to his own use or the use of someone other than Mr. Miller.

On June 15, 2006, the Lawyer's Fund for Client Security granted Ruby Gibbs' application for $4,000.

Hawkins Matter
C3-06-48

On or about June 15, 2001, Monroe Hawkins was found guilty by a jury of various drug related offenses in the case of U.S.A. v. Monroe Hawkins, No. 1: CR-01-025-01, United States District Court, Middle District, PA, the Hon. William W. Caldwell presiding.

At the time of trial, Mr. Hawkins was represented by the Federal Public Defender.

Respondent was privately retained by Mr. Hawkins and entered his appearance of record on April 18, 2002.

Respondent represented Mr. Hawkins at sentencing on July 24, 2002. Mr. Hawkins was sentenced to 240 months imprisonment each on two counts and to 48 months and 60 months on the other two counts, to run concurrently, with supervised release for 10 years thereafter.

On or about August 26, 2002, Mr. Hawkins was delivered to FCI-Rat Brook, New York, to serve his sentence.

No post-trial motions or direct appeal was filed.

On July 24, 2003, respondent filed a motion for an extension of time during which to file a §2255 Motion.

The court granted respondent until August 22, 2003 to file a §2255 Motion.

Respondent failed to file such a motion and failed to communicate that fact to his client.

Despite requests for information from Mr. Hawkins, respondent had no further communication with him.

By letter to Judge Caldwell dated October 27, 2005, Mr. Hawkins asked the Court for a copy of the §2255 Motion Mr. Hawkins believed respondent had filed.

By Order of November 3, 2005, respondent was directed to file a response within 10 days as to why no §2255 Motion had been filed.

As it appeared to the Court that respondent did not receive a copy of its Order of November 3, 2005, by Order of November 30, 2005, respondent was granted another ten days during which to state why no §2255 Motion had been filed and to provide any other information respondent believed relevant to Mr. Hawkins' letter.

Respondent failed to file a response.

By letter dated January 6, 2006, Judge Caldwell directed that respondent personally appear before him on Tuesday, January 17, 2006, to show cause why he should not be held in contempt.

On January 17, 2006, respondent personally appeared before Judge Caldwell and offered "a number of unspecific and unsatisfactory excuses," which caused Judge Caldwell to remove respondent as counsel and appoint Dennis E. Boyle, Esquire.

Robertson and Haines Matters
C3-06-469

On December 1, 2003, respondent was appointed to represent Justin J. Robertson to pursue a direct appeal of his first degree murder conviction in Dauphin County, Commonwealth v. Robertson, CP-22-CR-0004048-202.

The appeal was docketed in the Superior Court to No. 1902 MDA 2003. By Order dated December 15, 2003, respondent was given until December 29, 2003, to file a concise statement of matters complained of on appeal.

On December 29, 2003, respondent filed a Motion for Continuance.

By order dated January 7, 2004, respondent was given until February 1, 2004, to file a

concise statement of matters complained of on appeal.

Respondent filed the Statement of Matters complained of on appeal on February 3, 2004.

On April 6, 2004, the Superior Court dismissed the appeal for failure of the respondent to file a brief and directed respondent to certify that he had notified the Appellant of the dismissal within ten days.

On April 16, 2004, the Superior Court received the respondent's certification that he had notified appellant of the dismissal of his appeal due to respondent's failure to file a brief.

On May 6, 2004, an Application to Reinstate Appeal was filed; but it was denied by the Superior Court on May 11, 2004, without prejudice to Appellant's rights under the Post Conviction Relief Act.

On November 23, 2005, Mr. Robertson filed a PCRA pro se and new counsel was appointed for him on December 2, 2005.

On March 20, 2006, new counsel filed an Amended Petition for Post Conviction Relief seeking to have Mr. Robertson's direct appeal rights reinstated.

The Commonwealth conceded that respondent had been ineffective in failing to file a brief with the Superior Court.

By Order of the Dauphin County Court dated May 25, 2006, Mr. Robertson's direct appeal rights were reinstated.

On April 22, 2004, respondent was appointed conflicts counsel for the defendant in the Dauphin County case captioned Commonwealth v. Christopher T. Haines, No. CP-22-CR-0001001-2004. Mr. Haines was charged with first degree murder, criminal conspiracy, and carrying a firearm without a license.

Following a jury trial, Mr. Haines was found guilty of all charges and was sentenced on

> March 11, 2005, to life imprisonment on the first degree murder count and imprisonment of 10 to 20 years on the firearms charge.
>
> Despite the fact that respondent knew that Mr. Haines desired to appeal his convictions, as respondent had resigned his position as conflicts counsel, respondent did not file a direct appeal nor insure that the Court appointed other counsel to do so.
>
> On August 18, 2005, Mr. Haines filed a PCRA petition pro se and new counsel was appointed August 22, 2005.
>
> On November 21, 2005, new counsel filed a Motion for Reinstatement of Appellate Rights, Nunc Pro Tunc, pursuant to the Post Conviction Relief Act.
>
> At the PCRA Hearing held on December 23, 2005, the respondent testified that he did not file an appeal even though he knew Mr. Haines wanted to appeal his convictions.
>
> The Court concluded that respondent had provided ineffective assistance of counsel in failing to pursue his client's appellate rights and granted the PCRA.
>
> [OAEbExA¶2-¶111.][1]

The Pennsylvania disciplinary authorities did not make specific findings of misconduct for each of the client matters. Rather, the joint petition stated that

> [r]espondent's misconduct in these seven disciplinary matters primarily involves neglect, Incompetence [sic], and lack of communication. However, in the Branch-Dinkins and Miller Matters, Respondent was paid advanced fees of $500 and $4,000,

[1] OAEb denotes the OAE's brief in support of its motion for reciprocal discipline.

> respectively, for which he did no work, and which he has not refunded because of lack of financial resources to do so. [A claim for reimbursement of the $4,000 has been approved by the Lawyers Fund for Client Security.] Further, the Williamson Matter involved the apparent conversion of $990 from his IOLTA account over and above the $11,800 he had been paid in advance and apparently earned. Additionally, his misconduct is aggravated by his failure to comply with Rule 217, Pa.R.D.E., following his transfer to Inactive status. [OAEbExA¶116.][2]

Following a review of the record, we determine to grant the OAE's motion for reciprocal discipline.

Pursuant to R. 1:20-14(a)(5), another jurisdiction's finding of misconduct shall establish conclusively the facts on which it rests for purposes of a disciplinary proceeding in this state. We, therefore, adopt the findings of the Pennsylvania Supreme Court.

Reciprocal disciplinary proceedings in New Jersey are governed by R. 1:20-14(a)(4), which provides:

> The Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record on which the

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[2] Although the record raises the specter of a possible knowing misappropriation, the Pennsylvania Supreme Court made no conclusive finding in this regard, referring to it as an "apparent conversion." In a motion for reciprocal discipline, the facts on which the final adjudication in the sister jurisdiction rests are conclusively established in that jurisdiction's disciplinary proceeding. R. 1:20-14(a)(5). We are, therefore, bound by the facts found in Pennsylvania.

> discipline in another jurisdiction was predicated that it clearly appears that:
>
> (A) the disciplinary or disability order of the foreign jurisdiction was not entered;
>
> (B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;
>
> (C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;
>
> (D) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
>
> (E) the unethical conduct established warrants substantially different discipline.

A review of the record does not reveal any conditions that would fall within the ambit of subparagraphs (A) through (E).

Respondent stipulated that he mishandled seven client cases. In the Williamson case, respondent did not file an appeal on time and later ignored court orders directing him to explain his conduct. As a result, the court removed him from the case and ordered him to pay a $150 within ten days. Respondent did so almost a month later. Furthermore, although he agreed to refund a portion of the fee to the client if the case did not go to trial, he did not do so, despite the client's request.

In the Branche-Dinkins case, respondent did not memorialize the basis or rate of his fee, did not comply with the client's requests for information about the status of the case, did not visit the incarcerated client, as he promised the client's

mother on two occasions, and did not refund the unearned fee to the client.

In the Harris-Betsill matter, respondent did not disclose to the client that the attorney who was handling the case had left respondent's law firm, did not proceed with the matter after that attorney's departure, and did not return the client's telephone calls.

In the Miller case, respondent accepted a $4,000 fee to file a post-conviction relief application, took no action on behalf of the client, ignored the bar association's efforts to obtain an explanation for his conduct, did not communicate with the client, kept no accurate records of the receipt of the $4,000 fee, and did not return the unearned fee to the client, causing the Lawyers' Fund for Client Security to reimburse the $4,000 to the client.

We are unable to find, however, that respondent was guilty of commingling Miller's and personal funds in his operating account. In New Jersey, general retainers may be deposited into the lawyer's business account, unless the client requires that it be separately maintained. In re Stern, 92 N.J. 611, 619 (1983). Similarly, the record does not provide any support for the joint petition's statement that respondent "converted those

funds to his own use or the use of someone other than Mr. Miller."

In the Hawkins case, despite being granted an extension to file a post-conviction motion, respondent failed to file it, did not reveal this fact to the client, did not reply to the client's requests for information about the matter, did not comply with a court order directing him to explain his failure to file the motion, and was eventually removed from the case by court order.

In the Robertson case, respondent was retained to file an appeal of a first-degree murder conviction. When respondent failed to file a brief, the appeal was dismissed. Ultimately, the client filed a post-conviction relief application pro se, whereupon new counsel was appointed to represent him. New counsel was successful in having the client's appeal rights reinstated.

Finally, in the Haines matter, respondent, who had been appoint a "conflicts counsel," failed to file an appeal of the client's first-degree murder conviction and other serious charges, despite being aware that the client wished to file an appeal. After respondent resigned as "conflicts counsel," he took no action to ensure that a new attorney would be appointed to file the appeal on the client's behalf. New counsel was

appointed only after the client filed a post-conviction relief application pro se. The court found that respondent had provided ineffective assistance of counsel.

Without elaboration, the Pennsylvania joint petition stated that respondent's conduct was aggravated by his failure to comply with the relevant rules, after being transferred to inactive status.

In the totality, respondent's conduct in the above matters violated rules comparable to New Jersey RPC 1.3, RPC 1.1(a), RPC 1.4(b) and (c), RPC 1.5(b), RPC 1.16(d), and RPC 8.4(d).[3]

Conduct comparable to respondent's has resulted in suspensions ranging from six months to one year. See, e.g., In re LaVergne, 1168 N.J. 410 (2001) (six-month suspension for attorney who mishandled eight client matters; he exhibited lack of diligence in six of them, failure to communicate with clients in five, gross neglect in four, and failure to turn over the

[3] Although respondent admitted having violated RPC 8.4(c), the joint petition does not state sufficient facts to sustain a charge that respondent made misrepresentations to his clients or acted deceitfully. More properly, the stipulated facts show that respondent failed to keep his clients informed about the status of their cases, violations of RPC 1.4(b) and (c). Also, it appears that the charge of a violation of RPC 1.15(b) stems from respondent's failure to return any unearned fees to his clients. The more applicable rule for that conduct is RPC 1.16(d), also mentioned in the joint petition. We, therefore, find that such conduct is more properly encompassed by RPC 1.16(d), instead of RPC 1.15(b).

file upon termination of the representation in three; in one of the matters, the attorney also failed to notify medical providers that the cases had been settled and failed to pay their bills; in another matter, the attorney misrepresented the status of the case to the client; the attorney was also guilty of a pattern of neglect and recordkeeping violations; In re Lester, 148 N.J. 86 (1997) (six-month suspension for attorney who displayed lack of diligence, gross neglect, pattern of neglect, and failure to communicate in six matters, failed to cooperate with the investigation of the grievances, and allowed the disciplinary matter to proceed as a default; in one of the matters, the attorney misrepresented, in a letter to his adversary, that the adversary's secretary had consented to extend the time to file the answer; the attorney had received a reprimand in 1990 for gross neglect in two matters -- at which time the Court noted the attorney's recalcitrant and cavalier attitude toward the district ethics committee -- and another reprimand in 1996 for failure to communicate, failure to supervise office staff, and failure to release a file to a client); In re Pollan, 143 N.J. 305 (1996) (attorney suspended for six months for misconduct in seven matters, including gross neglect, pattern of neglect, failure to communicate with clients, failure to deliver a client's file, misrepresentation,

recordkeeping improprieties, and failure to cooperate with ethics authorities; clinical depression alleged as a mitigating factor); In re Chamish, 128 N.J. 110 (1992) (six-month suspension imposed for misconduct in six matters, including failure to communicate with clients and lack of diligence; in one of the matters, the attorney represented both driver and passenger in a motor vehicle case and then filed suit on behalf of the driver through the unauthorized use of another attorney's name and forgery of the attorney's signature on the complaint); In re Brown, 167 N.J. 611 (2001) (one-year suspension for attorney who, as an associate in a law firm, mishandled twenty to thirty files by failing to conduct discovery, to file pleadings, motions and legal briefs, and to generally prepare for trials; the attorney also misrepresented the status of the cases to his supervisors and misrepresented his whereabouts, when questioned by his supervisors, to conceal the status of matters entrusted to him; the attorney had been reprimanded before; the disciplinary matter proceeded as a default); In re Marum, 157 N.J. 625 (1999) (attorney suspended for one year for serious misconduct in eleven matters, including lack of diligence, gross neglect, failure to communicate with clients, failure to explain the matter to clients in detail to allow them to make informed decisions about the representation,

misrepresentation to clients and to his law partners, and pattern of neglect; the attorney's misconduct spanned a period of eleven years); In re Lawnick, 162 N.J. 113 (1999) (one-year suspension for attorney who agreed to represent clients in six matters and took no action, despite having accepted retainers in five of them; the attorney also failed to communicate with the clients and to cooperate with the investigations of the ethics grievances; the matter proceeded on a default basis; on the same date that the attorney was suspended for six months, the Court suspended him for three months for lack of diligence, failure to communicate with the client, failure to surrender documents and failure to cooperate with the disciplinary authorities; that disciplinary matter also proceeded as a default. In re Lawnick, 162 N.J. 115 (1999)); In re McEnroe, 156 N.J. 433 (1998) (motion for reciprocal discipline; attorney suspended for one year in New Jersey, although suspended for three years in New York, for unethical conduct in the representation of fourteen clients in various legal matters; the misconduct included gross neglect, failure to communicate with clients and failure to refund unearned fees upon withdrawing from representation); and In re Herron, 140 N.J. 229 (1995) (one-year suspension for attorney who engaged in unethical conduct in seven matters; the attorney either grossly neglected them or failed to act with diligence,

failed to maintain the clients informed of the progress of their matters and, in two cases, misrepresented their status to the clients; the attorney also failed to cooperate with disciplinary authorities; in a subsequent matter, In re Herron, 144 N.J. 158 (1996), the Court imposed a one-year retroactive suspension for misconduct in two matters, including gross neglect, lack of diligence, failure to communicate with clients and failure to cooperate with disciplinary authorities; the attorney's conduct in that subsequent matter occurred after he was on notice that his conduct in the prior seven matters was under scrutiny by ethics authorities).

Here, respondent lacked diligence and displayed gross neglect in all seven matters, failed to communicate with his clients in four matters, did not memorialize the basis or rate of his fee in one matter, disobeyed courts orders in two matters, and failed to return unearned fees in three matters. In addition, he exhibited a pattern of neglect in his handling of the cases. We consider respondent's pattern of neglect as an aggravating factor. Respondent's failure to either appear before us or to waive oral argument is another circumstance aggravating his conduct.

The Pennsylvania disciplinary authorities took a dim view of respondent's misconduct in these matters and would have meted

out stricter discipline, if not for respondent's lack of prior discipline, his remorse, a "disruption" in his law office,[4] and his cooperation with ethics authorities.

We, too, find that respondent's overall conduct in connection with these seven client matters was troubling and deserving of a period of suspension. Guided by the above-cited cases, we see no reason to deviate from the one-year suspension imposed by Pennsylvania disciplinary authorities. We, therefore, determine that respondent should be prospectively suspended for a period of one year.

Member Lolla 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
William J. O'Shaughnessy, Esq.

By: _____
for Julianne K. DeCore
Chief Counsel

[4] The joint petition stated that, "during the period of time involved in his misconduct, respondent's office computers and phones had been tampered with by person or persons unknown which significantly interfered with his ability to manage his practice."

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Anthony N. Thomas
Docket No. DRB 07-249

Argued: October 18, 2007

Decided: November 29, 2007

Disposition: One-year suspension

Members	Disbar	One-year Suspension	Reprimand	Dismiss	Disqualified	Did not participate
O'Shaughnessy		X				
Pashman		X				
Baugh		X				
Boylan		X				
Frost		X				
Lolla						X
Neuwirth		X				
Stanton		X				
Wissinger		X				
Total:		8				1

By Julianne K. DeCore
Chief Counsel