

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 14-343  
District Docket No. XII-2014-0045E

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IN THE MATTER OF  
ADAM K. BLOCK  
AN ATTORNEY AT LAW

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Decision

Decided: May 15, 2015

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

This matter was before us on a certification of the record filed by the District XII Ethics Committee (DEC), pursuant to R. 1:20-4(f). The six-count complaint charged respondent with violations of RPC 1.1(a) (gross neglect) (count one); RPC 1.3 (lack of diligence) (count two); RPC 1.4(b) (failure to communicate with the client) (count three); RPC 5.5(a)(1) (practicing law while ineligible) (count four); and R. 1:20-3(g)(3) and RPC 8.1(b) (failure to cooperate with disciplinary authorities) (counts five and six). For the reasons detailed

below, we determine to impose a six-month suspension on respondent.

Respondent was admitted to the New Jersey bar in 1993 and to the New York bar in 1994. His current office is in Clifton, New Jersey.

From September 26, 2005 to June 12, 2006; September 24, 2007 to December 11, 2012; September 30, 2013 to May 30, 2014; and August 25 to October 9, 2014, respondent was on the Supreme Court's list of ineligible attorneys, due to nonpayment of the annual attorney assessment to the New Jersey Lawyers' Fund for Client Protection (the Fund).

On March 7, 2013, respondent received a reprimand for practicing while ineligible for failure to pay the annual attorney assessment to the Fund. In re Block, 213 N.J. 80 (2013). That matter proceeded on a default basis. On February 14, 2014, respondent was censured for the same violation, again, on a default basis. In re Block, 217 N.J. 21 (2014). On November 20, 2014, respondent received a second censure. In that case, no additional discipline was warranted for his practicing law while ineligible, because that misconduct took place during the same timeframe as the prior matter for which he was censured. Based on the fact that respondent had defaulted for the third time, he received an additional censure for multiple failures to

cooperate with disciplinary authorities. In re Block, 220 N.J. 33 (2014).

Service of process was proper in this matter. On August 15, 2014, the DEC secretary forwarded a copy of the complaint, by certified and regular mail, to respondent's office address, 89 Linden Lane, Clifton, New Jersey 07013. The certified mail was returned marked "unclaimed." The regular mail was not returned.

On September 5, 2014, respondent telephoned the DEC secretary, requesting an extension of time to file a verified answer to the complaint. The DEC secretary granted respondent's request, extending the deadline to answer the complaint to September 15, 2014. In a September 5, 2014 fax to the DEC secretary, respondent memorialized the extension.

Despite the grant of an extension, respondent failed to file a verified answer to the complaint. On September 24, 2014, the DEC secretary sent a "five-day" letter to respondent at his office address, via certified and regular mail, informing him that, unless he filed a verified answer to the complaint within five days, the allegations of the complaint would be deemed admitted, the record would be certified to us for the imposition of discipline, and the complaint would be deemed amended to charge a willful violation of RPC 8.1(b). Neither the certified mail nor the regular mail were returned.

On October 10, 2014, respondent requested, by telephone, a second extension of time to file a verified answer. Again, the DEC secretary agreed to extend the deadline until October 15, 2014. Respondent memorialized this extension in an October 20, 2014 e-mail to the DEC secretary. In his e-mail, respondent acknowledged receipt of the complaint.

Despite the second extension, respondent failed to file a verified answer to the complaint. Consequently, on September 28, 2014, the DEC secretary certified the record to us.

The conduct that gave rise to this matter was as follows: On November 2, 2012, Oleg Apposov, Susanna Nieto, and Janet Banham retained respondent in connection with a lawsuit filed against them by their landlord. The initial retainer agreement, signed by Janet Banham only, provided that, in exchange for a \$200 fee, respondent would provide one consultation in the landlord-tenant dispute. The retainer agreement also provided that an additional fee of \$75 would be required for every court appearance by respondent.

Subsequently, respondent recommended that his clients file an answer and counterclaim for monetary damages. A second retainer agreement was executed on December 3, 2012, whereby the clients paid respondent an additional \$600 fee. Pursuant to the second retainer agreement, respondent agreed to vacate a default

judgment entered against the clients, due to his failure to appear at a November 26, 2012 trial, and to "handle all related litigation proceedings concerning the within matter."

Respondent successfully vacated the default judgment. A new trial date was set for January 29, 2013. When respondent again failed to appear at trial, another default judgment was entered against the clients.

In March 2013, the clients notified respondent, via e-mail, that the court had been trying to reach him about their matter. Respondent replied that he had been incarcerated from February 22, 2013 to March 13, 2013. Although he assured his clients that he would get their case reinstated, he failed to take any action to that end. The clients then successfully filed a pro se motion to reinstate their case. A new trial was scheduled for June 2013.

Before the new trial date, respondent attempted to convince the clients to dismiss their counterclaim against their landlord, representing to them that, in turn, their landlord had agreed to dismiss the pending eviction proceedings against them. After the clients rejected respondent's proposal, he told them he would no longer represent them. The clients proceeded with their case on their own, eventually settling it during mediation.

Following respondent's apparent withdrawal from the representation, the clients asked him to refund their retainer. Respondent refused, arguing that he had performed all of the work for which he had been retained. Disagreeing with respondent's position, the clients again requested a refund, but respondent did not answer their telephone calls or their e-mails.

After the clients filed a grievance against respondent, the DEC investigator sent respondent three letters, between October 17, 2013 and November 18, 2013, requesting a written reply to the grievance. Additionally, the DEC investigator attempted to contact respondent via telephone, with no success.

The facts recited in the complaint support the charges of unethical conduct. Respondent's failure to file a verified answer to the complaint is deemed an admission that the allegations of the complaint are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f).

In November 2012, the clients retained respondent to defend them against a lawsuit filed by their landlord. Despite the clients' payment of two separate retainer fees, totaling \$800, respondent twice failed to appear on scheduled trial dates, resulting in the entry of two default judgments against his clients. He successfully vacated the first default judgment.

Although he agreed to file a motion to vacate the second default judgment, he never took any action in that regard. To the contrary, he apparently negotiated a settlement with the landlord, without the input of his clients, and, when they refused to accept the deal, he unilaterally terminated the representation.

Respondent's failure to appear at two trial dates, combined with his failure to attempt to vacate the final default judgment against his clients due to his failure to appear on the trial date, constituted gross neglect, a violation of RPC 1.1(a), and lack of diligence, a violation of RPC 1.3. Respondent's unilateral negotiations with the landlord after the final default judgment had been entered, combined with his failure to reply to the clients' phone calls and e-mails, constituted failure to keep a client reasonably informed about the status of a matter and to promptly comply with the clients' reasonable requests for information, a violation of RPC 1.4(b).

Also, the complaint supports the conclusion not only that respondent was ineligible to practice law when he agreed to represent the clients in this matter in November 2012, but that he knew of his ineligibility. Six months earlier, in May 2012, respondent had admitted to the judge presiding over a divorce matter that he knew that he was ineligible to practice. Despite

that knowledge, he did not cure this period of ineligibility, which began in September 2007, until December 2012, when he paid the annual attorney assessment to the Fund.

In addition, respondent's failure to pay the annual attorney assessment to the Fund was not an isolated incident or an innocent oversight. Twice respondent was disciplined for having practiced law while ineligible. He was reprimanded in 2013 and censured in 2014. He was declared ineligible on four different occasions, with one of the ineligibility periods extending over five years. We find that the circumstances amply show that respondent knew of his ineligibility. Thus, when he agreed to represent the clients in the case at hand, he did so knowing that he was practicing law while ineligible, a violation of RPC 5.5(a).

Respondent's knowing improper representation of these clients does not conclude his ethics violations in this matter. He continued his alarming trend of non-responsiveness towards ethics authorities by defaulting once again in this case, constituting yet another violation of RPC 8.1(b) and a fourth default in a disciplinary proceeding. His conduct reveals an egregious pattern of failure to cooperate with ethics authorities, which may only be couched as utter disdain for the disciplinary process.



The only remaining issue is the appropriate quantum of discipline to be imposed.

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 seriousness of the attorney's disciplinary history. See, e.g., In the Matter of Clifford Gregory Stewart, DRB 14-014 (April 22, 2014) (admonition; attorney who was not licensed to practice law in Washington, D.C. filed an employment discrimination case in the United States District Court for the District of Columbia and obtained local counsel to assist him in handling the matter; after the defendant filed a motion to dismiss the complaint, however, the attorney failed to provide local counsel with a written opposition to the motion until after the deadline for doing so had expired, resulting in the granting of the motion as unopposed; violations of RPC 1.1(a) and RPC 1.3; in addition, the attorney failed to keep his client informed about various filing deadlines and about the difficulty he was having with meeting them, particularly with the deadlines for filing an objection to the motion to dismiss the complaint, violations of RPC 1.4(b) and RPC 1.4(c); we considered the attorney's exemplary, unblemished career of twenty-eight years

at the time of the incident); In the Matter of Robert A. Ungvary, DRB 13-099 (September 30, 2013) (admonition; due to the attorney's failure to comply with discovery, his client's civil rights complaint was dismissed; the attorney's motion to vacate the default was denied and a subsequent appeal was dismissed for his failure to timely prosecute it; the attorney neither informed the client of the dismissal of the appeal nor discussed with him his decision not to pursue it; violations of RPC 1.1(a), RPC 1.3, RPC 1.4(b), and RPC 1.4(c); although the attorney had been admonished previously, we noted that his conduct in the present matter predated the conduct in the prior matter and that the client and his family had continued to use the attorney's legal services, despite his shortcomings in the civil rights matter); In re Burstein, 214 N.J. 46 (2013) (reprimand for attorney guilty of lack of diligence, gross neglect, and failure to communicate with the client; although the attorney had no disciplinary record, the significant economic harm to the client justified a reprimand); In re Kurts, 206 N.J. 558 (2011) (attorney reprimanded for mishandling two client matters; in one matter, he failed to complete the administration of an estate, causing penalties to be assessed against it; in the other, he was retained to obtain a reduction in child support payments but at some point ceased working on

the case and closed his office; the client, who was unemployed, was forced to attend the hearing pro se, at which time he obtained a favorable result; in both matters, the attorney was found guilty of gross neglect, lack of diligence, failure to communicate with the client, and failure to memorialize the basis or rate of his fee; mental illness considered in mitigation; no prior discipline); and In re Uffelman, 200 N.J. 260 (2009) (attorney reprimanded for gross neglect, lack of diligence, and failure to communicate with a 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).

Practicing law while ineligible is generally met with a reprimand, if, like here, the attorney is aware of the ineligibility. See, e.g., In re Moskowitz, 215 N.J. 636 (2013) (attorney practiced law knowing that he was ineligible to do so); In re Jay, 210 N.J. 214 (2012) (attorney was aware of ineligibility and practiced law nevertheless; prior three-month suspension for possession of cocaine and marijuana); In re (Queen) Payton, 207 N.J. 31 (2011) (attorney who practiced law while ineligible was aware of her ineligibility and had received

an admonition for the same violation); and In re Austin, 198 N.J. 599 (2009) (during one-year period of ineligibility, attorney made three court appearances on behalf of an attorney-friend who was not admitted in New Jersey, receiving a \$500 fee for each of the three matters; the attorney knew that he was ineligible; also, the attorney did not keep a trust and a business account in New Jersey and misrepresented, on his annual registration form, that he did so; several mitigating factors considered, including the attorney's unblemished disciplinary record).


Here, in aggravation, we note that respondent has been reprimanded and twice censured. The second censure, in November 2014, was based solely on his third consecutive default in a disciplinary matter, evidencing his penchant for not cooperating with ethics authorities. In the case now before us, respondent requested and was granted two extensions to answer the complaint. Despite those extensions, he proceeded as he had in all of his prior matters. He did not respond to the DEC investigator's initial requests for a reply to the grievance and, after the complaint was served, he failed to answer it. This matter marks his fourth default. "A respondent's default or failure to cooperate with the investigative authorities acts as an aggravating factor, which is sufficient to permit a penalty

that would otherwise be appropriate to be further enhanced." In re Kivler, 193 N.J. 332, 342 (2008).

Respondent's underlying conduct in this matter, as aggravated by his disciplinary record and his continued, alarming pattern of disregard for the disciplinary system, beckons stronger discipline, in the form of a six-month suspension. We so determine.

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 Adam K. Block  
Docket No. DRB 14-343

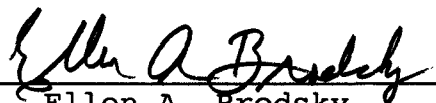
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Decided: May 15, 2015

Disposition: Six-month suspension

<b>Members</b>	Disbar	Six-month Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Frost		X				
Baugh		X				
Clark		X				
Gallipoli		X				
Hoberman		X				
Rivera						X
Singer		X				
Zmirich		X				
Total:		7				1

  
Ellen A. Brodsky  
Chief Counsel