

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 14-379  
District Docket No. XI-2013-0019E

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IN THE MATTER OF :  
:   
GEORGE P. STASIUK :  
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AN ATTORNEY AT LAW :  
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Decision

Decided: July 28, 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 default filed by the District XI Ethics Committee (DEC), pursuant to R. 1:20-4(f). The amended complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to fully inform a prospective client how, when and where the client may communicate with the lawyer), RPC 1.4(b) (failure to keep a client reasonably informed about the status of a matter), RPC 1.5(a) (unreasonable fee), RPC 1.16(d) (failure to return an unearned fee), RPC 8.1(b) (failure to cooperate with an ethics investigation), and

RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). We determine to impose a censure.

Respondent was admitted to the New Jersey bar in 1990. He has no prior discipline.

Service of process was proper in this matter. On June 5, 2014, the DEC sent a copy of the complaint to respondent's home address listed in the attorney registration records, via certified and regular mail. The certified mail was returned unclaimed. The letter sent by regular mail was returned marked "unable to forward."

On July 10, 2014, the DEC sent a second letter to respondent, by regular mail, to the same home address, advising him that, unless he filed an answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the complaint would be amended to include a charge of a willful violation of RPC 8.1(b), and the record would be certified directly to us for the imposition of sanction. The regular mail envelope was returned marked "unable to forward."

Because all mail sent to respondent's home address was returned, the DEC published a notice of the filing of the complaint in The Record, a local newspaper, and in the New Jersey Law Journal.

As of November 14, 2014, the date of the certification of the record, respondent had not filed an answer.

In May 2012, Rose Kardashian retained respondent in connection with a claim for alleged workplace age and "ethnicity discrimination." She paid respondent \$900, after which he prepared and filed an "initial notice" with the Division on Civil Rights.

When conditions at Kardashian's place of employment failed to improve, she paid respondent an additional \$6,500. \$5,000 represented a "nonrefundable" retainer and \$1,500 was for costs.

According to the complaint, after receiving the \$6,500 from Kardashian, respondent failed "to perform any further services," making "no effort to represent [Kardashian] after he was paid." Moreover, because of the "complete lack of work performed," "the amount of the fee must be deemed excessive," violations of RPC 1.1(a), RPC 1.3, and RPC 1.5(a).

Kardashian's many attempts to contact respondent thereafter were unsuccessful, prompting her to request fee arbitration. In April 2013, respondent appeared at Kardashian's home and told her that he had been ill and had been contacted by the committee, (presumably, the district fee arbitration committee). He also told her that he was ready to proceed, presumably with

her discrimination claim. Thereafter, Kardashian "never heard from him again."

According to the complaint, respondent "disappeared" after Kardashian paid him, from which it could reasonably be inferred that he failed to communicate to her "where he could be found." Additionally, respondent never informed Kardashian about the status of her case, violations of RPC 1.4(a) and (b), respectively.

On August 27, 2013, without respondent's participation in the proceeding, the District XI Fee Arbitration Committee awarded Kardashian the full \$6,500. Respondent was ordered to pay that amount within thirty days. He did not do so. According to the complaint, respondent's failure to comply with the fee arbitration award violated RPC 1.16(d).<sup>1</sup>

In addition, the complaint alleged that respondent "was completely unresponsive" to the DEC investigator. The complaint provides no further information about respondent's alleged failure to cooperate with the investigator, but a December 20, 2013 e-mail from the investigator to respondent was appended to the certification of the record. In it, the investigator claimed to have been unsuccessful in several attempts to reach

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<sup>1</sup> Although we ordinarily do not refer to fee arbitration matters due to their confidential nature, we do so here because the complaint addressed it.

respondent to obtain information about the grievance. The complaint alleged that respondent's failure to cooperate with the DEC investigation violated RPC 8.1(b). The complaint is silent about the correctness of respondent's e-mail address.

Finally, the complaint charged that respondent took Kardashian's funds under the "false pretense" that he would perform legal services for her, a "fraudulent" act, in violation of RPC 8.4(c).

Respondent's failure to file an answer 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)(1). Nevertheless, each charge must contain sufficient facts to support a finding of unethical conduct. The facts recited in the complaint support some, but not all, of the charged ethics violations.

Kardashian retained respondent to pursue a workplace discrimination action, apparently earning the \$900 to file an initial notice. Thereafter, Kardashian paid respondent an additional \$6,500 for future fees and costs of suit. Yet, respondent took no further action on his client's behalf. Indeed, he apparently vanished, in the process, failing to keep Kardashian apprised of the status of his efforts, or lack

thereof, on her behalf. In all, those actions violated RPC 1.1(a), RPC 1.3, and RPC 1.4(b).

An e-mail from the ethics investigator to respondent evidences attempts to call respondent to discuss the ethics investigation with him. There is no indication, however, that the investigator sent any letters to respondent or that respondent received e-mail at that address. Therefore, there is no factual basis for a finding that respondent failed to cooperate with the investigation. We find, however, that his failure to answer the amended complaint constituted a violation of RPC 8.1(b). In its July 10, 2014 "five-day" letter to respondent, the DEC amended the complaint to include an RPC 8.1(b) charge for his failure to answer the complaint.

Finally, with regard to RPC 1.16(d), after receiving \$6,500 from his client to pursue her discrimination claim, respondent performed no further legal services on her behalf. The entire amount was, therefore, unearned. Respondent's failure to return an unearned fee, forcing the client to petition for fee arbitration, constituted a violation of RPC 1.16(d).

We dismissed the remaining charged violations. RPC 1.4(a) addresses an attorney's obligation to inform a prospective client of how, when, and where the client may communicate with

the attorney. Here, Kardashian was an actual, not a prospective, client. We dismissed the charge as inapplicable.

RPC 1.5(a) prohibits attorneys from charging unreasonable fees. The amended complaint contains no factual allegations to sustain a finding that the amount of respondent's fee was unreasonable for the work, had he actually performed those services. Rather, respondent performed no legal services and failed to return the fee, conduct addressed by the RPC 1.16(d) charge. We, thus, dismissed the RPC 1.5(a) charge as inapplicable here.

The amended complaint also charged respondent with conduct involving fraud by obtaining \$6,500 from his client, under the "false pretense" that he would provide legal services to her. We found no factual support for that nefarious scenario. It is possible that, when respondent accepted the fee, he intended to perform legal services for Kardashian. Thus, we dismissed the RPC 8.4(c) charge as well.

In all, respondent is guilty of having violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.16(d), and RPC 8.1(b).

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 Robert A. Ungvary, DRB 13-099 (September 30, 2013) (admonition for attorney who, in a civil rights action, permitted the complaint to be dismissed for failure to comply with discovery, then failed to timely prosecute an appeal, resulting in the appeal's dismissal; the attorney also failed to inform the client of his decision not to pursue the appeal or of the appeal's dismissal); In the Matter of James E. Young, DRB 12-362 (March 28, 2013) (admonition imposed on attorney who failed to file any pleadings in a workers' compensation claim and failed to appear at court-ordered hearings, resulting in the petition's dismissal with prejudice for lack of prosecution; for the next five or six years, the attorney failed to inform the client of the dismissal and failed to reply to the client's repeated requests for information; the attorney later paid the client the amount he estimated the claim was worth (\$8,500)); In the Matter of Edward Benjamin Bush, DRB 12-073 (April 24, 2012) (attorney admonished for failure to reply to his client's numerous telephone calls and letters over an eleven-month period and for lack of diligence in handling the client's matter); In the Matter of James M. Docherty, DRB 11-029 (April 29, 2011) (admonition for attorney who filed an appearance in his client's federal civil



rights action and chancery foreclosure matter; had a pending motion in the federal matter adjourned; was unable to demonstrate what work he had done on behalf of his client, who had paid him \$10,000; failed to communicate with his client; and failed to reply to the disciplinary investigator's requests for information about the grievance); In re Uffelman, 200 N.J. 260 (2009) (reprimand for attorney guilty of 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); 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); and 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).

Ordinarily, an admonition is the appropriate sanction for an attorney's failure to promptly return the unearned portion of a fee. See, e.g., In the Matter of Larissa A. Pelc, DRB 05-165

(July 28, 2005) and In the Matter of Stephen D. Landfield, DRB 03-137 (July 3, 2003).

In aggravation, respondent caused financial harm (\$6,500) to his client. The Office of Attorney Ethics has no record, to date, of respondent's refund of the \$6,500 to Kardashian. As noted above, Uffelman received a reprimand based on harm to the client. In addition, respondent allowed this matter to proceed to us as a default. In a default matter, the appropriate discipline is enhanced to reflect the attorney's failure to cooperate with disciplinary authorities as an aggravating factor. In re Kivler, 193 N.J. 332 (2008).

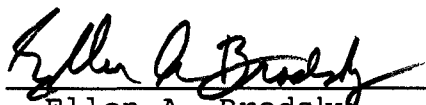
In mitigation, respondent has no prior discipline, since his 1990 admission to the bar. We find that factor insufficient, however, to overcome the harm caused to the client and the default posture of this proceeding. We determine that a censure is the appropriate sanction for the totality of respondent's misconduct.

Member Hoberman 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  
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 George P. Stasiuk  
Docket No. DRB 14-379


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Decided: July 28, 2015

Disposition: Censure

<b>Members</b>	Disbar	Suspension	Censure	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