SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 05-060
District Docket Nos. IIIB-03-001E; IIIB-03-003E; IIIB-03-004E; IIIB-03-016E; IIIB-03-017E; IIIB-03-018E; IIIB-03-019E; IIIB-03-020E; IIIB-03-021E; and IIIB-03-022E

IN THE MATTER OF

JOSEPH J. LaROSA

AN ATTORNEY AT LAW

Decision

Argued: May 19, 2005

Decided: August 2, 2005

Michael S. Rothmel, Michael Taylor, and Michael A. Bonamassa appeared on behalf of the District IIIB Ethic Committee.

Joel B. Korin, Esq. appeared on behalf of respondent.

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

This matter was before us on a recommendation for discipline (five-month suspension), filed by Special Master Victor Friedman, J.S.C. (ret.).

Respondent was admitted to the New Jersey bar in 1993. On November 25, 2003, he received an admonition for inadvertently

engaging a juror in an ex parte conversation, after a trial. In the Matter of Joseph J. LaRosa, Docket No. 03-039 (DRB November 25, 2003).

The matters before us consist of cases from ten different clients, all of which were brought to the attention of ethics authorities by a disgruntled former employee -- and respondent's former best friend -- William Pricoli.

The allegations are contained in five complaints, presented to the special master over ten hearing days by three separate presenters. In all, twelve witnesses, including respondent, testified during the proceedings. Nine of the matters contain allegations that respondent charged excessive fees, failed to supervise employees and engaged in a pattern of neglect. They are cited below as the "excessive fee cases." The tenth matter alleged a conflict of interest.

The record here is unwieldy and, considering respondent's numerous admissions in his answers to the ethics complaints, largely amounted to a "fishing expedition" for the presenters.

In one case, respondent admitted collecting an excessive fee, by charging the client a forty percent contingent fee in a personal injury case where only a thirty-three and one-third percent rate is allowed. R. 1:21-7(c). In the remaining fee cases, respondent admitted improperly computing his fee on the

gross recovery or award to the client, without first deducting expenses, as required by R. 1:21-7(d), or charging clients for expenses associated with his office overhead that are not compensable under the New Jersey rules.

The Excessive Fee Cases

I. The Roseann Portner Complaint – IIIB-03-004E

On February 2, 1995, Roseann Portner retained respondent to recover for injuries she sustained in a slip-and-fall. The accident occurred in New Jersey, where Ms. Portner lived at the time. She moved to Philadelphia during the pendency of her case.

Contemporaneously with the retention, she executed respondent's contingent fee agreement, which entitled him to a forty percent contingent fee. According to respondent, Porter was mistakenly given a Pennsylvania form agreement by someone on his staff; he routinely charged a forty percent contingent fee in Pennsylvania cases, where that practice is allowed. Respondent was aware that New Jersey allowed a maximum one-third fee arrangement. Respondent thought that the mistake may have been made during "intake," when several members of his staff would have been working on the file.

Respondent also recalled that Portner lived in Philadelphia when the case was settled for $10,000, and believed that he may

have overlooked the error at settlement because she had a Pennsylvania address at that time. As soon as respondent became aware of the mistake, via the ethics grievance, he sent Portner a check for the $646.67 difference, on September 18, 2002, along with a check for $344.55, representing accrued interest on that amount.

The complaint alleged violations of R. 1:21-7 and RPC 1.5(a) (excessive fee).

II. The Willis Complaint – IIIB-03-001E

In 1996, Nicole Willis (alternately mentioned in the record as "Wills") retained respondent to represent her with regard to injuries she sustained in a slip-and-fall. The case was settled in Willis' favor for $26,000. When computing his fee, respondent improperly used the gross settlement amount, instead of a figure net of expenses, in contravention of RPC 1.5(c) and R. 1:21-7.

In his answer, respondent admitted that he had taken an improper fee in the matter, explaining that a member of his staff may have made the mistake when computing the amounts for distribution; the amounts appeared to have been based on Pennsylvania practice, where the gross figure may be utilized in fee computations.

Respondent further stated that the mistake was inadvertent on his part, and that he did not notice the error when disbursing the funds.

Finally, on October 23, 2003, respondent sent Willis a revised settlement statement acknowledging the error, and enclosing checks for $604.79 and $116.74, representing the difference between the gross and net computations, as well as accrued interest.

With regard to RPC 8.4(c), respondent denied that his conduct as to the fees was intentional. Rather, he claimed, he was unaware at the time that, unlike Pennsylvania, New Jersey required that expenses be deducted before the calculation of the attorney's fee.

The complaint alleged violations of R. 1:21-7, RPC 1.5(c) (excessive fee) and RPC 8.4(c).

III. The Parks, Henderson, Buford, and Moore Complaints

A third complaint alleged that respondent took excessive fees in matters involving four separate clients. The complaint alleged, in each matter, a violation of RPC 1.5(a) (excessive fee), RPC 5.3(b) and (c) (failure to supervise nonattorney employees), RPC 1.1(b) (pattern of neglect), and RPC 8.4, presumably (a) (assisting another in violating the RPCs).

A. The Parks Matters – IIIB-03-016E

In April 1995, and again in November 1995, Nathaniel D. Parks retained respondent to recover for injuries he sustained in two separate automobile accidents. The matters were settled in Parks' favor for $16,000 and $10,000, respectively.

The complaint alleged that respondent improperly computed his fee based on the gross recovery, and charged Parks for expenses not allowed by the rules.

Respondent admitted in his answer that mistakes had been made in the computation of his fee, and that he had charged Parks improperly for some expenses, in violation of the rules.

Respondent provided a copy of his attorney's May 21, 2003 letter to Parks, acknowledging the errors in the case and enclosing two checks ($492.81 and $428.87), representing compensation for the overcharges.

B. The Henderson Matters – IIIB-03-017E

In December 1993, Lisa and Dean Henderson retained respondent to recover for injuries they sustained in an automobile accident. Respondent obtained settlements of their claims in the amount of $8,000 and $8,300 respectively.

In both cases, the complaint alleged that respondent improperly calculated his fee on the gross recovery and improperly charged his clients for "processing" charges.

Respondent admitted in his answer that, in each case, he had mistakenly calculated his fee and had included expense charges that were not permitted in New Jersey.

On May 21, 2003, via his attorney, respondent recalculated the settlement distributions and sent Lisa Henderson refund checks totaling about $155.

On the same day, by separate letter from his attorney, respondent sent Dean Henderson $387, representing his refund for the overcharges.

C. The Buford Matter – IIIB-03-018

In July 1996, Dorothy Buford retained respondent to represent her in a matter arising out of a slip-and-fall.

Respondent settled the matter in Buford's favor for $45,000. However, respondent calculated his fee based on the gross recovery, without first deducting expenses in the case. Respondent also charged Buford for expenses that were not proper under the New Jersey rules.

Respondent admitted in his answer that he had miscalculated his fee, based on the gross recovery, and had mistakenly charged

Buford for expenses not allowed in New Jersey. He attached a copy of his attorney's April 7, 2003 letter to Buford, which contained respondent's check for $519.94, representing a refund of the overcharges.

D. The Moore Matter – IIIB-03-019E

In May 1992, Walter E. Moore retained respondent to represent him in a personal injury suit against several defendants.

Respondent settled the matter in Moore's favor against two of the defendants for a total of $105,000. However, respondent calculated his fee based on the gross recovery, without first deducting expenses. In addition, respondent charged Moore for expenses that are not allowed by the New Jersey rules.

Again, respondent's answer contained his admission that he had miscalculated the fee and expenses in the matter. Respondent attached a copy of his revised calculations and an April 7, 2003 letter from his attorney to Moore, enclosing a check for $998.22, representing the return of the amount overcharged.

IV. The Gaither, Collins, and Cora Complaint

A fourth complaint alleged similar misconduct in matters for three additional clients. The complaint alleged, in each

matter, that respondent violated RPC 1.1(b) (pattern of neglect), RPC 1.5(a) (excessive fee), RPC 5.3(b) and (c) (failure to supervise nonattorney employees), and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

A. The Gaither Matter – IIIB-03-022E

Gloria Gaither retained respondent to represent her in a claim for injuries sustained in a September 10, 1997 automobile accident. In October 1998, respondent settled the matter in Gaither's favor for $25,000.

When computing his fee, respondent improperly used the gross recovery amount, without first deducting expenses. Respondent also charged Gaither for expenses such as telephone, facsimile, and photocopying, which are improper under the rules.

Respondent admitted that he overcharged Gaither by $445.43. He attached to his answer copies of his April 7, 2003 letter to Gaither apologizing for the errors. He included a revised settlement statement showing the correct amount due her, and a copy of his check to Gaither in the amount of $445.43.

B. The Collins Matter – IIIB-03-021E

In December 1993, James Collins retained respondent to represent him in a claim for injuries he sustained in an automobile accident.

In June 1996, respondent settled the case for $25,000. However, when computing his fee, respondent used the gross recovery amount, without first deducting expenses. In addition, respondent charged Collins for impermissible expenses.

Through his attorney, respondent admitted in a May 21, 2003 letter to Collins that he had erroneously computed his fee over the gross recovery in the case and had inadvertently charged Collins for some improper expenses.

Respondent attached to his answer the May 21, 2003 letter apologizing to Collins for the errors, and enclosing checks for the overcharges ($325.86) and accrued interest ($165.29).

C. The Cora Matter – IIIB-03-020E

David Cora retained respondent to recover for injuries sustained in two separate automobile accidents. The first claim, for a December 22, 1991 accident, was settled for $13,650. Here, too, respondent calculated his fee based on the gross award, before deducting expenses. He also charged Cora for improper expenses, including telephone, facsimile, and postage.

The second claim arose out of a June 11, 1994 accident, and settled for $10,000. Here, Cora was charged for impermissible expenses, such as telephone, facsimile, postage, and photocopying.

In his answer, respondent admitted that the computation of his fee and expenses in the Cora matters was faulty. He attached to his answer copies of a May 15, 2003 letter to Cora apologizing for the overcharges in the case and included checks for the overcharges of $6.05 and $3.52 for the December 1991 accident, and $332.83 plus interest of $92.67 for the June 1994 accident.

Respondent admitted in his answer that he made mistakes in calculating the fees and expenses in the Gaither, Collins and Cora matters.

Finally, with regard to the general allegation that respondent failed to supervise nonlawyer staff, respondent took responsibility for the preparation of the settlement statements in all of the excessive fee matters. Therefore, the presenters withdrew all of the allegations regarding RPC 5.3(b) and (c).

William Pricoli, respondent's former office manager, testified about the RPC 8.4 (c) aspects of the complaints. Pricoli worked for respondent from early 1994 to September 2000. According to Pricoli, in about 1995 he and respondent discussed,

for the first time, respondent's alleged overcharging of clients when computing his fees and expenses. Pricoli claimed that he and respondent had similar discussions about twelve times over the next four years. Pricoli stated that respondent had attempted to charge even Pricoli's mother-in-law a forty percent fee for a New Jersey case.

According to Pricoli, clients had called and complained to him that respondent was overcharging them. Nevertheless, Pricoli maintained, respondent would "brush off" the issue, telling him, "This is my name on the door. And I'm going to do what I want to do."

Respondent, on the other hand, testified that he did not intentionally overcharge his New Jersey clients. Rather, he claimed, he had been trained as a Pennsylvania attorney. He added that, during the early years, when these matters arose (he was admitted to the New Jersey Bar in 1993), he was unaware that allowable fees and expenses in New Jersey differed from those in Pennsylvania.

Respondent steadfastly denied that his conduct was anything other than inadvertent. He vehemently denied Pricoli's charges that he knew at the time of the within matters that his method for charging New Jersey clients was improper. He testified that Pricoli, who had become his confidant, "never looked in my face

and told me one thing, not one error I ever did in my practice or one problem that he claims he had with me about a file. That never took place ever."

Respondent testified that, although he had trusted Pricoli, it turned out that Pricoli was a confidence man, a liar, who engaged in a systematic "gutting" of respondent's practice, stealing clients, files, and the like:

> Methodically, the caseload drops down. It's no surprise, one-thirty to seventy-eight, over two years. Then he goes out looking, cherry picking my top cases. I've got offers on them, three of them a hundred thousand dollars [sic] cases that already had offers on, arbitration is coming up the next day. He has them sign away from me the day of the arbitration. . . .
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> He's been point man to all my clients, without my knowledge, spending time in their houses, drinking. What's this? First of all, I never ratified that. He is not there — wherever he goes with my clients, he's representing me. And to do that, I want it done my way. You don't go to people's homes and socialize with people. That's not my relationship with them. It's professional. I'm the lawyer. They are the client, not hanging out with them and having beers. I never did it and I would never ratify him doing it.
> He's doing it for his own purposes, to set himself up as the one they trust more, they know more, is giving them a few bucks. [] He's doing this flimflam stuff to set himself up as the person they have the confidence in, not me. That's how he gets them to move.

(8T1579-19 to 8T1580-22.) [1]

Finally, respondent admitted that he became addicted to cocaine during the six years that Pricoli was employed in his office. According to respondent, he and Pricoli used cocaine nightly during those years, and Pricoli became his best friend in the process. Eventually, respondent sought help from the Pennsylvania Lawyers' Assistance Program, and was successfully treated for substance abuse.

The special master also had his doubts about Pricoli's integrity:

> 1. As a non-lawyer, he appears to have been engaged in the questionable practice or possibly nefarious practice of moving from firm to firm transporting his own stable of cases with him.
> 2. He admitted paying negligence clients sums of money to transfer their cases from one office to another.
> 3. The inference is available that he moved cases from office to office to enhance his value to prospective employers.
> 4. In light of the circumstances, and his own self-interests, his testimony might have been tainted or at least shaded by bias, interest, and prejudice and, thus, devalued.
> 5. Pricoli has a record of criminal convictions. He was convicted of swindling and cheating in 1993, and of receiving stolen property at age 18 or 19. As a person who has previously broken society's rules,

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[1] "8T" refers to the transcript of the September 30, 2004 hearing.

> he may be a person who would more easily disregard the sanctity of an oath to tell the truth when testifying. I found him to be less than totally credible.
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> [SMR10-SMR11.][2]

V. The Robert Portner Complaint – IIIB-03-03E

The fifth complaint against respondent alleged a single conflict of interest situation, violations of RPC 1.7(a) and (b).

Robert Portner ("Portner"), Roseann Portner's husband, retained respondent in early 1994 to represent him in a claim against Rose Lanzetta, her condominium association, and a snow removal company, for injuries he sustained in a January 18, 1994 slip-and-fall accident at Lanzetta's home.

When Portner retained respondent, respondent already represented Lanzetta in her own unrelated slip-and-fall case. Nevertheless, in 1996, respondent filed a lawsuit on Portner's behalf against Lanzetta and others.

Portner's case was later dismissed on a summary judgment motion. The court found that he knew of the dangerous ice conditions, having negotiated those same conditions on his way into Lanzetta's house on the evening in question.

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[2] "SMR" refers to the special master's report.

Portner testified before the special master that respondent told him to lie in the slip-and-fall case — to untruthfully state that his visit with Lanzetta was for business, not social reasons. According to Portner, respondent told him that Lanzetta could get into trouble in her own case, if he told the truth.

Despite Portner's assertion that such testimony was not true, the record reveals that, in fact, he testified in the underlying matter that Lanzetta and his wife were close friends, and that the event was a social affair, a birthday celebration. Portner specifically stated therein that the matter was not business-related.

Portner further testified in the ethics proceeding that he was unaware, until well into the case, that respondent had named Lanzetta as a defendant, and that respondent failed to advise him that a conflict of interest existed because of his dual representation of Portner's and Lanzetta's interests. In fact, according to Portner, respondent told him that there was no conflict in the simultaneous representation.

Respondent admitted that, at the time that he took on Portner's matter, he realized that it would be directly adverse to Lanzetta, whom he already represented in the office. Therefore, he obtained a written waiver of conflict from Lanzetta to move ahead.

With regard to disclosure of the conflict to Portner, respondent recalled discussing it with both Portners in his office, before Portner signed the retainer agreement. Respondent also recalled having reviewed the conflict of interest rules in preparation for that meeting. He testified that he obtained Portner's oral waiver of the conflict. He claimed that Portner lied to ethics authorities about events surrounding his case, in order to bolster his own law suit against respondent.

Respondent conceded, however, that he never reduced Mr. Portner's agreement to writing, believing at the time that it was sufficient for Lanzetta alone to sign one.

Several other aspects of the hearings before the special master warrant mention. Large portions of the record were devoted to ancillary issues that did not bear directly on any charges against respondent. One such issue dealt with a March 12, 2001 break-in at respondent's office, for which a police report was issued. According to respondent, a credenza in his office was damaged and his financial records regarding settlements of cases were stolen. Respondent speculated that Pricoli might have been the culprit, but that, in any event, the burglary caused his inability to furnish details to ethics authorities about some of the payments to medical providers in some of his clients' cases.

A second issue litigated below dealt with respondent's inability to provide his closed files to ethics authorities in some of the matters. None of the complaints alleged failure to cooperate with ethics authorities. Yet, respondent explained that he stored boxes of closed files at a facility called Iron Mountain Records Management ("IMRM"); he tried to secure the requested files from IMRM, only to find that his files at the facility had been tampered with, and that some were missing.

Ginger McGowan, a representative from the storage facility, testified that respondent had informed IMRM, in January 2001, that files were missing, and had requested any IMRM records that would have tracked all activities associated with his files. However, IMRM's records for the relevant period were inconclusive as to precisely who had accessed respondent's files. Those records disclosed only the activities associated with the boxes, but not the individual person who accessed the boxes or items that may have been taken from the boxes.

The special master's findings in the excessive fee cases are illustrated in the chart below:

	RPC 1.5 (a) and/or (c) Excessive Fee	RPC 5.3 (b) or (c) Failure to Supervise Nonlawyer Employees		RPC 8.4 (a) or (c) Assisting RPC violation, dishonesty	RPC 1.1(b) Pattern of Neglect
Willis	Violation (c)	Dismissed	Dismissed	Not Proven	N/A
Roseann Portner	Violation (a)	N/A	N/A	N/A	N/A
Parks	Violation (a)	Dismissed	Dismissed	Not Proven	Yes
Henderson	Violation (a)	Dismissed	Dismissed	Not Proven	Yes
Buford	Violation (a)	Dismissed	Dismissed	Not Proven	Yes
Moore	Violation (a)	Dismissed	Dismissed	Not Proven	Yes
aither	Violation (a)*	Dismissed	Dismissed	Not Proven	Yes
Collins	Violation (a)*	Dismi ssed	Dismissed	Not Proven	Yes
Cora	Violation (a)*	Dismissed	Dismissed	Not Proven	Yes

With regard to the RPC 1.1(b) findings above, the special master's decision was based not on cumulative findings of respondent's gross neglect of the clients' cases, as is usually the practice, but on the incredible proposition that someone of respondent's

> ability and experience, after years of practice, would be so uninformed and unaware of the correct method of calculating a contingent fee. Whether overcharging under

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* Mistakenly referred to in the report as "gross neglect."

> these circumstances is negligence or gross neglect, or whether when viewed with the other instances of unethical fee conduct to be discussed below, it represents a pattern of negligence.
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> [SMR9.]

With respect to RPC 8.4(c), the complaints alleged that respondent set out to defraud his clients by overcharging them in their matters. The special master found that the evidence proved otherwise. The special master rejected as not credible Pricoli's testimony that he and respondent had discussed respondent's alleged practice of overcharging. Although the special master also had doubts about respondent's claimed naiveté about the proper computation of fees and expenses, he concluded that, without more than Pricoli's testimony, the proofs did not rise to the standard of clear and convincing evidence. Therefore, the special master dismissed the RPC 8.4 (a) and (c) charges in all of the matters.

In the Robert Portner conflict matter, the special master dismissed the charged violations of RPC 1.7 (a) and (b), finding that Portner's testimony was not credible for three reasons: 1) he was advanced in age, and unable to recall events of the 1994 accident, the retention of respondent, and of his own deposition testimony in the slip-and-fall litigation; 2) he had pending civil litigation against respondent at the time of the ethics

proceedings; and 3) he had "tailored" his testimony in the slip-and-fall deposition to make it "less than entirely true."

The special master recommended that respondent be suspended for five months. He did not support this recommendation with case law.

Upon a de novo review of the record, we are satisfied that the special master's conclusion that respondent was guilty of unethical conduct is supported by clear and convincing evidence.

The excessive fee charges in this matter are straightforward. Respondent charged some New Jersey clients a legal fee and/or expenses as though they were Pennsylvania clients. In doing so, he ran afoul of New Jersey's rules regarding fees in several respects. In the Roseann Portner, Parks, Henderson, Buford, Moore, Gaither, Collins, and Cora matters, respondent violated RPC 1.5 (a). In Willis, he violated RPC 1.5(c). Respondent sometimes calculated his legal fee on the gross settlement to the client, without first deducting expenses, as required by R. 1:21-7(d).

In some of the matters, respondent also improperly charged for office overhead, such as telephone, facsimile, and postal expenses, in violation of R. 1:21-7.

The RPC 5.3 charges -- that respondent failed to properly supervise his nonlawyer staff in the preparation of settlement

documents -- were properly dismissed during the proceedings below. In fact, the evidence in the case is that respondent reviewed all of the settlement documents before disbursing funds. To the extent that errors existed, respondent took responsibility for them.

We are unable to agree with the special master's finding of a pattern of neglect. There is no evidence that respondent neglected these numerous matters. To the contrary, it appears that he achieved considerable results for his clients. Therefore, we dismiss the charges related to RPC 1.1(b).

As to the conflict of interest charges in Robert Portner's case, the facts establish that a conflict of interest arose out of respondent's representation of both Lanzetta and Portner. Respondent obtained a written waiver of conflict from Lanzetta, but not from Portner. According to respondent, he obtained Portner's oral waiver of the conflict, a claim that Portner denied.

At the time of the retention (1994), RPC 1.7(a) and (b) stated that

> (a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client unless:
> (1) the lawyer reasonably believes that representation will not adversely affect the relationship with the other client; and
> (2) each client consents after full disclosure of the circumstances and

> consultation with the client, except that a public entity cannot consent to any such representation.
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> (b) a lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:
> (1) the lawyer reasonably believes the representation will not be adversely affected; and
> (2) the client consents after a full disclosure of the circumstances and consultation with the client, except that a public entity cannot consent to any such representation. When the representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implication of the common representation and the advantage and risks involved.

Neither aspect of the rule required a client's waiver to be in writing. Therefore, we are left to decide whom to believe, respondent or Portner. The special master found Portner's testimony not credible for a number of reasons, not the least of which was Portner's own claim to have lied at respondent's behest, in his deposition testimony, about the true purpose of his visit at the time of his accident. We defer to the special master in this regard, as he was able to observe Portner's demeanor in assessing credibility.

We, thus, find that the oral agreement, coupled with the written agreement from Lanzetta, satisfied the waiver

requirements of the conflict rules. Therefore, we dismiss the charged violations of RPC 1.7 (a) and (b).

Respondent offered mitigation for his misconduct. He testified that his life took a turn in 1987, when his wife died of breast cancer at the age of thirty-one. The couple had two children, aged six and two at the time. Thereafter, according to respondent, while a single parent raising his small children, he attended law school and became an attorney. Respondent also testified that he did not need to overcharge his clients because he was still receiving proceeds from a structured settlement ($2.4 million) of his wife's medical malpractice suit.

In addition, respondent presented character testimony from several attorneys whom he has known since law school. They all testified to respondent's fundamental honesty, trustworthiness, and capabilities as an attorney.[3]

Finally, respondent presented testimony from Richard F. Limoges, M.D., respondent's psychiatrist, who has been treating respondent since October 2001.

According to Limoges, respondent came to him in a state of depression, and having been addicted to "stimulants." Limoges knew of respondent's life-story, his wife's untimely death, and

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[3] Respondent's wife's breast surgeon, Anne Rosenberg, M.D., testified briefly to respondent's good character as well.

many other details of respondent's background, including the situation in his office with Pricoli. He found respondent to be a credible patient, and believed that respondent had been truthful with him. He also testified that respondent has been drug-free since 2001, and had taken steps to repay his clients in these matters.

In summary, we find respondent guilty of charging excessive fees or expenses in a group of cases dating back to the early 1990s, when he was a newly admitted attorney. Once aware of the grievances, respondent took immediate action to correct his mistakes.

In mitigation, we considered that respondent struggled with a drug problem during the time in question, which he properly addressed through treatment. So, too, respondent did not blame others in his office for mistakes in the cases at hand, and has taken responsibility for his actions. The untimely death of his wife must have had long-lasting effects upon his life, but it does not bear directly upon his practice of law, as he was not yet an attorney at the time.

Generally, either a reprimand or an admonition is imposed when an attorney charges an unreasonable or excessive fee. Even if the attorney's misconduct involves other violations, the discipline may still be a reprimand. See, e.g., In the Matter of

Robert S. Ellenport, Docket No. 96-386 (June 11, 1997) (admonition for attorney who received a fee of $500 in excess of the contingent fee permitted by Rule 1:21-7(c), in violation of RPC 1.5(a) (unreasonable fee) and RPC 1.5(c) (improper contingent fee)); In the Matter of Angelo Bisceglie, Jr., Docket No. 98-129 (September 24, 1998) (admonition for attorney who billed a board of education for legal work not authorized by the full board; the fee charged was unreasonable, but did not reach the level of overreaching; attorney also violated RPC 1.5(b), by failing to communicate to his client, in writing, the basis or the rate of his fee); In re Chazkel, 170 N.J. 869 (2001) (reprimand for attorney who collected an excessive fee; instead of removing his and prior counsel's respective percentage of the fee from the settlement amount, the attorney set aside the prior counsel's fee from the client's portion of the settlement proceeds, thus enhancing his own fee; the attorney then released to the client the fee owed to prior counsel, without prior counsel's consent, in violation of RPC 1.15; in addition, the attorney violated RPC 1.7(b) (conflict of interest), RPC 1.8(a) (knowingly acquiring a pecuniary interest adverse to the client), RPC 1.16(a)(1) (failure to withdraw from representation), and RPC 1.4(b) (failure to provide the client with an explanation of the matter to the extent reasonably

necessary to permit the client to make informed decisions regarding the representation)); In re Read, 170 N.J. 319 (2001) (reprimand for attorney who, in one matter, collected almost $100,000 in fees, when $15,000 would have been reasonable, and, in another mater, overcharged the estate by $85,000; in an effort to legitimize his exorbitant fee, the attorney presented inflated time records to the estate; compelling mitigating factors were considered); In re Cipolla, 141 N.J. 408 (1996) (reprimand for attorney who charged an unreasonable fee for services rendered, filed with the court an affidavit signed in blank by his client, did not give the client a copy of the retainer agreement or a bill for services, and engaged in a conflict of interest situation by representing husband and wife in a matter and then representing another client against the husband and the wife in an action arising from substantially similar circumstances); and In re Hinnant, 121 N.J. 395 (1990) (public reprimand for attorney who overreached his client by attempting to collect $21,000 in fees for his representation in a $91,000 real estate transaction; the attorney was also found guilty of conflict of interest, by acting in multiple and incompatible capacities as attorney, consultant, negotiator, and real estate broker).

Here, in aggravation, we took into account that respondent's conduct was not confined to a single instance, but extended over a number of matters. In addition, he has a prior admonition to his name. In mitigation, we found that he took responsibility for his actions in these ten-year old cases, and made the clients whole as soon as possible. On balance, due to the number of clients affected by respondent's actions, we find that a reprimand is the appropriate sanction. Member Matthew Boylan, Esq. did not participate.

We also require respondent to reimburse the Disciplinary Oversight Committee for administrative expenses.

Disciplinary Review Board
Mary J. Maudsley, Chair

By: Isabel Frank
By Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Joseph J. LaRosa
Docket No. DRB 05-060

Argued: May 19, 2005

Decided: August 2, 2005

Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Maudsley			X			
O'Shaughnessy			X			
Boylan						X
Holmes			X			
Lolla			X			
Neuwirth			X			
Pashman			X			
Stanton			X			
Wissinger			X			
Total:			8			1

Isabel Frank

By Julianne K. DeCore
Chief Counsel