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September 18, 2015

Mark Neary, Clerk
Supreme Court of New Jersey
Post Office Box 970
Trenton, New Jersey 08625

Re: In the Matter of Andrew William Dwyer
Docket No. DRB 15-203
District Docket No. VA-2014-0016E
Motion for Discipline by Consent

Dear Mr. Neary:

The Disciplinary Review Board reviewed the motion for discipline by consent (reprimand or such lesser discipline as the Board may deem warranted) filed by the District VA Ethics Committee (DEC), pursuant to R. 1:20-10(b). Following a review of the record, the Board determined to grant the motion and to impose a reprimand on respondent for his gross neglect (RPC 1.1(a), lack of diligence (RPC 1.3), failure to communicate with the client (RPC 1.4(b) and (c)), failure to expedite litigation (RPC 3.2), and misrepresentation to the client (RPC 8.4(c)).

Specifically, on July 8, 2008, respondent filed suit on behalf of his client, Cynthia L. Codella, against her former employer. On January 30, 2009, the court entered an order compelling respondent to provide answers to interrogatories, which were overdue. Respondent failed to do so, resulting in the dismissal of Ms. Codella's complaint, albeit without prejudice, on March 20, 2009. Despite the dismissal, respondent did not comply with the order and did not seek reinstatement of the

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complaint. Thus, as the parties stipulated, respondent's conduct violated RPC 1.1(a), RPC 1.3, and RPC 3.2.

In addition, respondent violated RPC 1.4(b) by his complete failure to reply to his client's requests for information or to otherwise communicate with her from June 2009 through January 2011. Respondent finally communicated with Ms. Codella one time in 2011, but subsequently again ignored her repeated requests for information during most of 2012, except for one meeting in January and one telephone call in December. Finally, after a meeting with Ms. Codella in January 2013, he again continued to ignore her, until she filed her grievance against him in April 2014.

At no time during his representation of Ms. Codella did respondent inform her that a motion to compel discovery had been filed, or that the court had entered an order compelling her to file answers to interrogatories within ten days, or finally, that the court had dismissed her complaint for failure to file those interrogatory answers. Respondent violated RPC 1.4(c) by his failures in this respect.

Finally, respondent made a misrepresentation by silence to Ms. Codella, by failing to inform her that her complaint had been dismissed, despite ample opportunity to do so. Respondent violated RPC 8.4(c) in this respect.

A misrepresentation to a client requires the imposition of a reprimand. In re Kasdan, 115 N.J. 472, 488 (1989). A reprimand may still be imposed even if the misrepresentation is accompanied by other, non-serious ethics infractions, as here. See, e.g., In re Falkenstein, 220 N.J. 110 (2014) (attorney failed to file either a motion for reconsideration or an appeal from a judgment entered against his client, despite his client's request that he do so, a violation of RPC 1.1(a) and RPC 1.3; attorney failed to inform the client that he had not filed the appeal or an application for post-judgment relief, a violation of RPC 1.4(b); attorney led the client to believe that he had filed an appeal from the judgment and concocted false stories to support his lies, a violation of RPC 8.4(c); the attorney also practiced while ineligible; mitigating factors included the attorney's acknowledgment of wrongdoing, the absence of a disciplinary history, and his pro bono work) and In re Singer, 200 N.J. 263 (2009) (attorney misrepresented to his client for a period of four years that he was working on the case; the

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attorney also exhibited gross neglect and lack of diligence and failed to communicate with the client; no ethics history).

Based on the above cases, the Board granted the motion and imposed a reprimand on respondent for his violation of RPC 1.1(a), RPC 1.3, RPC 1.4(b) and (c), RPC 3.2, and RPC 8.4(c).

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated May 22, 2015;
2. Stipulation of discipline by consent, dated May 22, 2015;
3. Affidavit of consent, dated May 12, 2015;
4. Ethics history, dated September 18, 2015.

Very truly yours,



Ellen A. Brodsky
Chief Counsel

EAB/lg

Enclosures

c: (w/o encls.)

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