SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 16-152
District Docket Nos. IIA-2014-0015E
and IIA-2014-0016E

IN THE MATTER OF	:
THOMAS LUDWIG	:
AN ATTORNEY AT LAW	:

Decision

Argued: September 15, 2016

Decided: December 9, 2016

William I. Strasser appeared on behalf of the District IIA Ethics Committee.

Respondent appeared pro se.

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

This matter was before us on a recommendation for a three-month suspension filed by the District IIA Ethics Committee (DEC). The first amended complaint charged respondent with violations of RPC 1.3 (lack of diligence), RPC 1.4(b) (failure to keep clients reasonably informed about the status of their matter or to comply with reasonable requests for information), and RPC 8.1(b) (failure to reply to a lawful demand for

information from a disciplinary authority). For the reasons expressed below, we determine that a reprimand is warranted.

Respondent was admitted to the New Jersey bar in 1978. He maintains a law office in Ridgewood, New Jersey. He has no history of discipline.

Preliminarily, respondent defaulted on the first complaint filed in this matter. The Office of Attorney Ethics (OAE) directed the DEC to file a first amended complaint, which it did, on March 23, 2015. Respondent's May 1, 2015 answer admitted most of the allegations of the complaint. Respondent did not testify at the DEC hearing.

The first amended complaint alleged:

(1) Respondent did not handle decedent Evelyn Heffernan's estate with reasonable diligence. Respondent admitted that he could have finalized the estate more quickly, but asserted that he had completed most of the estate work prior to the filing of the ethics complaint. In 2009, he had distributed more than $824,000 of an estate worth more than $1,000,000, and, on April 21, 2015, he had submitted the final accounting to each of the beneficiaries.

(2) Respondent did not reply to the beneficiaries' requests for information about the status of the estate or for an accounting and finalization of the estate. Respondent admitted

that he did not directly communicate with one of the beneficiaries, Kevin Heffernan, "due to relationship difficulties," but did communicate with several other beneficiaries. At argument before us, respondent maintained that problems administering the estate arose shortly after the decedent passed away and respondent had to lock the beneficiaries out of the decedent's house to prevent them from removing items from the house.

(3) Respondent failed to take action in connection with a judgment against the estate. Although respondent claimed that a judgment had been filed mistakenly against Evelyn's estate and that he had asked the judgment creditor's attorney to dismiss the claim, he provided no proof of that communication or of the claim's dismissal.

(4) As of the date of the complaint, and even the date of argument before us, respondent had not distributed all of the estate funds. Respondent denied this allegation, even though he asserted that he had distributed more than $824,000 of the estate, which was worth more than $1,000,000.

(5) As of the date of the complaint, respondent had not transferred and liquidated American Electric Power stock or deposited the proceeds into the estate account. Respondent

denied this allegation, stating that the funds had been deposited into the estate account in April 2015.

(6) As of the date of the complaint, respondent had neither liquidated a Dreyfus money market account nor deposited the proceeds into the estate account. Although respondent admitted this allegation, he asserted that the funds were not required to be liquidated and deposited into the estate account for him to distribute the funds to the beneficiaries. Rather, he could simply write checks from the account for distributions.

(7) Respondent had not taken action on abandoned property of the estate. Respondent denied this allegation, asserting that he had filed a claim with the State in 2008, but did not recall receiving a response, and represented that he would renew the claim on the property, which amounted to only $229. Respondent contended that this small amount was not an impediment to issuing the final estate accounting. As of the date of the argument before us, this issue had not been resolved.

(8) As of September 29, 2014, respondent had filed neither the decedent's federal or state income tax returns nor the fiduciary tax returns for 2007. Although respondent admitted that he failed to do so, he contended that the returns were not necessary, based on the amount of the decedent's deductions and losses. He explained that he had not filed income or fiduciary

tax returns for the estate because the estate's gross income was below the filing threshold.

(9) Respondent did not file a reply to the grievances; he merely requested an extension to do so.[1] Although respondent admitted that he should have provided the necessary documents in a timely manner, he maintained that he cooperated during "the presenter's interview." He also admitted that he did not file an answer to the original December 2014 ethics complaint. He offered no explanation for failing to do so, but mentioned the severe stress his family was facing "due to the demands and medication problems with his special needs son" and his wife's travel to Florida to care for her "medically fragile mother." He also noted that he had filed an answer to the first amended complaint.

(10) The complaint further alleged that, when asked why he had engaged in the above conduct, respondent replied "I have brought this upon myself. . . . I have no defense. . . . I have not been diligent."

In his answer to the formal ethics complaint, respondent admitted that he could have handled the estate more

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[1] Two of the beneficiaries, Kevin and Daniel Heffernan, filed grievances against respondent.

expeditiously, emphasizing that no issue existed with the quality of his work, "only the speed in concluding the estate."

(11) As to respondent's fee to administer the estate, the complaint alleged that he took at least $41,000, but that, as of September 29, 2014, he was not aware how much more he was owed either in executor or legal fees. Respondent asserted that, based on the final accounting through April 20, 2015, he had received $33,506 in commissions, "leaving a balance of $6,845.52" ($40,351.52). At oral argument before us, respondent stated that he did not intend to take a legal fee, only his commission.

We now turn to the facts adduced at the DEC hearing.

In either 1996 or 1997, respondent prepared the Last Will and Testament for Evelyn Heffernan, who passed away on December 24, 2007, at the age of ninety. Her estate was worth approximately $1,117,000 and was to be divided among her nine surviving children (two or three of the children have since passed away). The will appointed respondent as the executor of the estate.

In January 2003, Evelyn executed a power of attorney, which respondent prepared, appointing her son, Daniel, her agent and attorney-in-fact. According to another son, Kevin, in September 2007, three months prior to her death, Evelyn executed a codicil to her will and an advanced healthcare directive. The codicil

established a revised trust for two of the sisters. Daniel, who held the power of attorney, had been excluded from Evelyn's meeting with respondent in connection with the preparation of those documents. Kevin and Daniel both claimed that, at the time, Evelyn was not fully competent and did not recall having signed the advance healthcare directive.

Kevin and Daniel accused respondent of not promptly replying to their requests for information: (1) he did not reply to Daniel's e-mail questioning the execution of the healthcare directive; (2) he did not reply to Daniel's request to be present when respondent opened Evelyn's safe deposit box; (3) in April 2008, the brothers complained about respondent's lack of responsiveness to a number of issues, including multiple requests that he obtain Evelyn's medical records for a potential wrongful death action, which respondent promised to obtain, but did not do so until a year after Evelyn's death, and only after he had been threatened with court action by an attorney; (4) he did not reply to Daniel's e-mails regarding several years of Evelyn's unpaid taxes; (5) he did not reply to Daniel's December 3, 2009 letter regarding respondent's improper removal of funds from a TD bank account held jointly by Daniel and Evelyn (discussed more fully below); (6) he did not reply to Kevin's 2008 certified letter, requesting an explanation for the refunding bond requirement for a distribution from the estate; (7) he did not reply

to Kevin's March 26, 2011 certified letter, a follow-up to an earlier e-mail, asking why respondent had not acted on his parents' unclaimed property;[2] demanding an update on the status of the estate and a detailed accounting; and pointing out that respondent had not communicated with the beneficiaries for more than one year; (8) he did not reply to Kevin's August 3, 2013 letter seeking (a) the identification, valuation, and status of the assets of the estate; (b) a certified statement of the estate and accounting fees; (c) the distribution to the beneficiaries of all assets including the funds respondent held for purposes of litigation; (d) a detailed accounting of the estate's assets; (e) certified copies of the estate's ledger, financial documents, monthly estate trust account statements, and the estate checkbook; (f) copies of his mother's and the estate's tax returns; and (g) a comprehensive itemization and accounting of his mother's jewelry;[3] and (9) he did not reply to Kevin's July 2014 letter, inquiring why 100 shares of American

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[2] As of the date of the DEC hearing, Kevin did not know the status of the property.

[3] Kevin asserted that many items of jewelry were missing and no one knew what had happened to the items. At oral argument before us, respondent maintained that, prior to his changing the locks on the decedent's house, two of the beneficiaries had entered the premises without his authorization. He informed them that they should not be in the house because he could not secure it. He remarked that the house was full of items, which any of the beneficiaries could have removed.

Electric Power Company, registered in his parents' names, had not been reregistered to the estate; whether taxes had been paid on the dividends; and why the shares were not liquidated six years earlier as part of the estate.

Kevin became frustrated with respondent's lack of activity and failure to respond to inquiries. He asserted that he heard nothing from respondent except when he received respondent's letters concerning three distributions from the estate[4] and when respondent forwarded an April 2015 "informal accounting."

As to the third distribution, in an August 22, 2009 letter to the beneficiaries, respondent enclosed copies of (1) the balance sheet for the estate's current assets; (2) the New Jersey estate tax return; (3) the New Jersey inheritance tax return; and (4) an original release and refunding bond. Respondent directed the beneficiaries to execute the latter document in the presence of a notary public and represented that, once he received the fully executed and notarized document, he would make a third $11,000 distribution.

The letter added that respondent had valued Evelyn's house on the tax returns at less than market value as of the date of death and, if the State accepted his valuation, there could be a

[4] Respondent made three distributions to the beneficiaries: $25,000, $45,000 and $11,000.

refund of approximately $10,000 back to the estate. Kevin complained that respondent never advised them whether there had been a refund.

The same letter stated:

> The remaining $81,982.00 will be used to pay the balance of my executor's commission, the accountant's fees, miscellaneous expenses as well as cover the expense of possible litigation which may be started by Kevin. As you may be aware, Kevin filed an ethics complaint which, I believe, was done for the purpose of frustrating your mother's expressed intent to provide something extra for Eileen. Whatever his true reasons, it is my belief that because he could not attack the Will and Codicil directly, he filed an action against me instead. Because of his persistence in pursuing this course of action, I feel it necessary to hold back sufficient monies to defend the Estate. Protracted litigation is expensive and I estimated $60,000.00 for litigation expenses.
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> [Ex.P-2].

The August 2009 letter also informed the beneficiaries that respondent was forwarding all of the estate's financial records to the estate accountant, Christopher Plunkett, CPA, to prepare the final accounting and cautioned them not to call Plunkett directly "as this would only delay his work."

Kevin maintained that he was "shocked" by the letter, and immediately sent an e-mail and a letter to respondent, denying that he would sue the estate and directing respondent to release

the funds to his siblings. On the advice of his counsel, Kevin refused to sign the third refunding bond because he previously had signed two bonds. As of the date of the DEC hearing, Kevin had not received his $11,000 distribution.

Kevin received no further communications from respondent for six years until respondent sent the April 2015 accounting. Kevin received no reply to his communications contesting respondent's retention of the money.

Daniel was aware of Kevin's unsuccessful efforts to communicate with respondent and asserted that he, too, had received only the same correspondence concerning the distributions and the April 2015 accounting.

On July 5, 2014, Kevin wrote to Plunkett, seeking an explanation for the five-year delay in producing the accounting. Kevin assumed that Plunkett had been the cause of the delay. In a July 8, 2014 letter, Plunkett replied that he had been unable to complete the accounting because he had "several serious questions." Although he attempted to resolve those questions, respondent never replied to his requests for additional information. He had since lost contact with respondent.

At the DEC hearing, Plunkett testified that he had a personal and professional relationship with respondent. Respondent had approached him, in the summer of 2009, to prepare

an accounting for Evelyn's estate. In 2009, the accounting was "significantly incomplete" because of missing information. Plunket did not work on the accounting again until the latter part of 2014, when respondent again asked him to prepare it. However, at that time, several assets, such as the American Electric Power stock, still had not been liquidated for distribution. Plunkett was unable to recall other issues that had to be resolved before he could finalize the accounting.[5]

In a letter dated October 28, 2014, Plunkett informed respondent that, for 2008, a fiduciary tax return should have been filed, even though it would not have resulted in taxable income. Respondent, however, had not filed it. Plunkett had not prepared any fiduciary tax returns for the estate and did not know whether respondent had ever filed any of them.

As previously mentioned, on April 21, 2015, respondent provided the beneficiaries with an informal accounting. The cover letter stated that "[r]ather than submit a formal accounting to the Court for its approval, I recommend that you accept the informal accounting prepared by Flackman, Goodman & Potter, PA." The letter referred to three outstanding issues: (1) $229.54 in unclaimed property for which respondent asserted

[5] The accounting showed a loss of $249.35 from the sale of the stock, and losses from the liquidation of other estate holdings.

he had twice submitted claims (in 2008 and in October 2014), but had not yet received an acknowledgement;[6] (2) an $11,310.54 claim filed on June 13, 2014, by Pressler & Pressler, against the estate; respondent asserted that he had spoken with the creditor's attorney, who agreed that it had been filed against the wrong person and he would "endeavor to have the claim discharged of record;"[7] and (3) in March 2010, Daniel improperly withdrew $9,983.99 from the TD Bank estate account; based on Daniel's refusal to refund the money, respondent treated it as an advance against Daniel's distributions from the estate, which caused a $53.89 shortage to the remaining eight beneficiaries.

Characterizing the three issues as insignificant, respondent requested that the beneficiaries approve the informal accounting. He cautioned that, if a beneficiary requested a formal accounting, the final distribution would be delayed, the accounting would be expensive, and the expense would be borne by those requesting it.

As to the TD Bank account, Daniel believed that respondent had improperly seized the funds for the estate because the account had been held jointly by Daniel and Evelyn. Respondent

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[6] Respondent provided no proof that he had done so.

[7] No proof was supplied to establish that this claim had been resolved. Moreover, as of oral argument before us, this problem had yet to be resolved.

did not reply to Daniel's inquiries about why he had removed funds from the joint account. After Daniel provided the bank with proof that the funds should have passed to him, the bank refunded the money to Daniel. Respondent later accused Daniel of dealing improperly with the bank without consulting him. Daniel then received a letter from Jeffrey Clutterbuck, Esq., demanding the return of the funds. Daniel, too, retained an attorney to prove to respondent that the funds were rightfully his. Although respondent did not pursue the issue, he later refused to give Daniel his share of the distribution.

According to Kevin, after he reviewed the accounting, he sent respondent a five-page letter, dated May 11, 2005, outlining twenty-two issues regarding the accounting and requesting that a certified audit be performed by a "CPA," rather than a formal accounting. Thereafter, he and other beneficiaries raised additional issues with the accounting. Respondent did not reply to any of the beneficiaries' concerns.

Kevin maintained that he and four other beneficiaries rejected the informal accounting. Nevertheless, respondent made the distributions.

Kevin claimed that he is still owed the $11,000 distribution, as well as his portion of the remainder of the estate, the amount of which is in dispute. He had not filed a

civil lawsuit against respondent. Also, he was unable to commission an accounting because respondent had not given him access to the estate books and ledgers, despite requesting them on numerous occasions.

Margaret Sullivan, Esq. testified as a fact and character witness. She has known respondent since approximately 1981 and finds him to be diligent, "very deliberative," and careful.

* * *

The DEC found clear and convincing evidence that respondent lacked diligence because (1) there were no proofs provided to confirm that he had acted to discharge a $10,911.41 judgment against the estate; (2) he failed to liquidate 100 shares of American Electric Power stock, that were not sold until April 16, 2015, at a loss of $249.35; (3) he failed to liquidate the Dreyfus money market account; (4) he failed to provide proof that he submitted a claim in 2008 for the estate's unclaimed property or that he resubmitted a claim in 2014; (5) he failed to file a tax return for 2008; (6) he failed to distribute the remaining balance of the estate for more than five years; and (7) he failed to timely provide an accounting or to conclude the administration of the estate in the eight years since he was qualified as the executor.

As to the failure to communicate charge (RPC 1.4(b)), the DEC found no substantive communications between respondent and the beneficiaries from August 22, 2009 to April 2015, when respondent forwarded the draft accounting to the beneficiaries. In addition, respondent failed to reply to the issues Kevin raised after he received the draft accounting. The DEC, thus, found that respondent failed to communicate with Kevin and failed to keep the beneficiaries informed about the status of the estate for five-and-a-half years.

In respect of the failure to cooperate charges, the DEC noted that respondent failed to submit written responses to the grievances, other than to request a two-week extension in which to reply, and failed to provide documentation in connection with the grievances. However, because the presenter relied solely on respondent's admissions with regard to these charges, and neither testimony nor letters were presented at the hearing establishing that the presenter had requested such information, the DEC was unable to determine by clear and convincing evidence that respondent failed to cooperate. Likewise, as to respondent's failure to file an answer to the first complaint, the DEC did not find clear and convincing evidence that respondent failed to cooperate.

Citing a number of cases, the DEC concluded that respondent had a duty to non-client third parties and that his attorney-client relationship to the beneficiaries could be inferred.

The DEC found that respondent "stuck [his] head in the sand" and simply did not act for more than five years and continued to "stick [his] head in the sand" by declining to testify or to present any mitigation.

In analyzing the proper discipline to impose, the DEC considered In re Yetman, 113 N.J. 556 (1989) (reprimand for attorney, inexperienced in estate matters, who grossly neglected and lacked diligence in the administration of the estate, adopting a head-in-the-sand approach; as a result, a bank issued penalty deductions against an account held jointly by the client and the decedent; the attorney also ignored his client's requests for information about the status of the estate; and, on numerous occasions, ignored the ethics committee's requests for information in connection with the investigation; mitigation included the attorney's candid admission of wrongdoing, remorse, apologies to the client and the committee members, lack of personal gain, and agreement to be responsible for any legal fees, costs, or charges incurred with the final resolution of the matter); In re Smith, 101 N.J. 568 (1986) (three-month suspension for attorney who grossly neglected an estate; failed to return his client's telephone calls,

leading the client to retain another attorney; failed to reply to the district ethics committee's numerous requests for information; and failed to file an answer to the ethics complaint; the client sustained injury by way of a penalty for the late filing of the State inheritance tax; the attorney had no ethics history, candidly admitted his misconduct, and expressed his remorse for his actions); In re Barbour, 109 N.J. 143 (1988) (six-month suspension for attorney who engaged in gross neglect and a pattern of neglect in his conduct in three matters, two of which were estate matters; he also failed to communicate with his client, charged excessive fees in two matters, and failed to maintain sufficient records; mitigation included the attorney's medical illness that "seriously detrimentally" affected his professional capacity, which was exacerbated by alcoholism); and In re Backes, 22 N.J. 212 (1956) (one-year suspension in an estate matter for an attorney who charged an exorbitant amount for his fee, considering its small size, approximately fifty-five percent of the liquid estate; negotiated the sale of a reversionary interest in realty to the decedent's widow, who received only a life interest through the estate, even though the decedent had expressed in his will that he did not want her to have the property; arranged for the widow to pay for the property through a loan from a company he owned; charged the widow an exorbitant amount for his legal services in purchasing the

reversionary interest; failed to properly account for trust funds that came into his possession; and commingled them with his own money; prior one-year suspension).

Here, because respondent had not concluded the estate, the DEC determined that a three-month suspension, rather than a reprimand, was warranted.

* * *

Following a de novo review of the record, we are satisfied that the conclusion of the DEC, that respondent was guilty of unethical conduct, is fully supported by clear and convincing evidence.

The evidence and respondent's admissions clearly and convincingly establish that he lacked diligence in handling Evelyn's estate. The estate remained open not only at the time of the DEC hearing, but also as of the date of argument before us, when the funds were not yet fully distributed. Respondent admitted that, as of the date of his answer to the first amended complaint, May 1, 2015, approximately $75,516 remained for distribution to the beneficiaries. In addition, respondent failed to obtain a discharge of the judgment improperly filed against the estate, failed to liquidate stock for approximately eight years after the decedent's death, failed to liquidate a money market account, provided no proof that he had made any

demands for the unclaimed property, provided no proof that he had filed any of the required estate tax returns or the decedent's tax returns, for 2008,[8] failed to promptly provide an interim accounting, and failed to file a final accounting with the court.

The evidence also established that respondent failed to communicate with Kevin and Daniel, and failed to keep these beneficiaries properly informed about the status of the estate. Respondent's answer asserted that his failure to communicate with Kevin and Daniel was "due to relationship issues." Respondent should have petitioned the court to be removed as the executor after the grievances were filed against him. Instead, he ignored the grievants' requests for information and delayed taking action on the estate.

As to the failure to cooperate charge, the presenter's post-hearing brief pointed out that respondent failed to provide any documentation or to produce his file, which respondent admitted in his answer to the first amended complaint. He conceded that he had neither provided "all requested

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[8] The complaint alleged that respondent had not filed estate tax returns for 2007. Plunkett testified that he had informed respondent that he should have filed a fiduciary tax return for 2008, which respondent did not do. The complaint also alleged that respondent had not filed "any 1040 tax returns nor fiduciary tax returns for the estate."

documentation" nor filed an answer to the original complaint. The DEC was reluctant to find a violation of RPC 8.1(b), however, absent any testimony or the introduction of documentary evidence on this point. We, however, deem respondent's admissions sufficient to find that he failed to cooperate with the DEC.

As of the date of oral argument before us, respondent had not prepared a final accounting, had not made final distributions to all of the beneficiaries, and continued to hold estate monies to fund a lawsuit against him or the estate.

The complaint did not charge respondent with a violation of RPC 1.15(b) (failure to promptly disburse funds) or RPC 1.1(a) (gross neglect) for failing to finalize the estate in eight years. The complaint also did not charge respondent with any money violations, as an earlier OAE investigation found no evidence of either negligent or knowing misappropriation of estate funds. Thus, the only issue left for determination is the proper quantum of discipline for respondent's violations of RPC 1.3, RPC 1.4(b), and RPC 8.1(b).

The discipline imposed in estate matters involving a combination of a lack of diligence, failure to communicate, and failure to cooperate has ranged from an admonition to a term of suspension, depending on the seriousness of other factors present.

See, e.g., In the Matter of Andrey V. Zielyk, DRB 13-023 (June 26, 2013) (admonition for attorney guilty of lack of diligence, failure to keep the beneficiaries adequately informed about the status of the estate, and failure to set forth in writing the basis or rate of the fee); In the Matter of David Leonard Roeber, DRB 12-057 (April 24, 2012) (admonition for attorney who failed to keep the beneficiary of an estate reasonably informed about the status of the matter and failed to comply with reasonable requests for information, and failed to reply to the OAE's demand for information; unblemished ethics history since his admission in 1997);[9] In the Matter of James C. Richardson, DRB 06-010 (February 23, 2006) (admonition for attorney who lacked diligence in completing an estate matter and for two years did not respond to many of the beneficiaries' telephone calls and faxes; we considered that the attorney had taken the matter on as a family friend); In re Elsas, 198 N.J. 379 (2009) (reprimand for attorney who lacked diligence, failed to communicate with the client, and negligently misappropriated client funds; the estate remained open for two years after the decedent's death; the attorney failed to comply with the requests of the heir and subsequent counsel for

[9] The letter of admonition observed that, even though the attorney did not represent the beneficiary, he was obligated under RPC 1.4(b) to reply to requests made on his behalf.

information about the administration of the estate); In re Finkelstein, ____ N.J. ____ (2010) (censure for attorney who engaged in gross neglect, lack of diligence, failure to communicate, negligent misappropriation of trust funds, and recordkeeping violations; an OAE audit encompassing approximately seven years uncovered the decedent's United States Savings Bonds, worth about $5,000; in that time, the attorney failed to ascertain the ownership of those bonds, as the contingent beneficiary had passed away; had not taken any steps to obtain the necessary tax waiver for the estate; failed to keep the administrator of the estate (the decedent's brother) informed about the status of the matter; and failed to complete the New Jersey inheritance tax return required to obtain a tax waiver for the estate; in mitigation, the attorney was prepared to reimburse or make the beneficiaries whole for any losses incurred by the estate; prior admonition and reprimand); In re Goldsmith, 190 N.J. 196 (2007) (censure for attorney guilty of gross neglect, lack of diligence, failure to communicate with the client, failure to promptly deliver funds, and knowingly disobeying a court order; the attorney, as the executor of an uncomplicated estate, failed to distribute funds to the beneficiaries during the first nineteen months, even though funds were available; failed to negotiate a check representing the proceeds of the sale of real estate, and failed to obtain an

inheritance tax waiver for the transaction, resulting in $91,000 of estate funds lying dormant, neither distributed to beneficiaries nor earning interest for the estate; failed to file various estate tax returns or request extensions to file them; ignored the beneficiaries' numerous requests for information about the status of the estate, leading a beneficiary to file an action seeking the attorney's removal as executor; and failed to comply with a court order requiring an accounting, the turnover of estate records to a new executor, and the return of executor commissions; very compelling mitigating factors considered; attorney had a prior private reprimand and an admonition); In re Avery, 194 N.J. 183 (2008) (three-month suspension in a default for an attorney guilty of gross neglect, lack of diligence, and failure to communicate with clients in four estate matters; the attorney also failed to cooperate with ethics authorities and to comply with a turnover requirement of a court order in one of the matters); In re Rodgers, 177 N.J. 501 (2003) (three-month suspension for attorney, who as the administrator of an estate, displayed gross neglect, failure to communicate, and failure to promptly deliver funds or property to a client or third person; as a result of the attorney's conduct, the successor administrator obtained a judgment against him for $70,000, plus interest); In re Cubberley, 171 N.J. 32 (2002) (three-month suspension in a default matter, where the attorney

failed to complete an informal accounting in an estate matter for more than eight months, failed to reply to numerous requests for documents by the beneficiary of the estate, and failed to cooperate with ethics authorities; prior admonition, two reprimands, and a temporary suspension); and In re Onorevole, 185 N.J. 169 (2005) (six-month suspension in a default where the attorney was retained to probate an estate and had his client execute forms to permit him to correspond with banks to verify amounts in the decedent's accounts; nine months later, he had the client sign the same forms; he also failed to timely file estate tax forms; a successor attorney filed an amended inheritance tax return to correct errors in the initial return; as a result of the errors, interest was charged against the estate; the attorney was found guilty of gross neglect, lack of diligence, failure to communicate with a client, failure to cooperate with disciplinary authorities, and pattern of neglect when his conduct in the matter was considered with his prior disciplinary matters for which he had received an admonition and two reprimands).

Here, only one matter was involved, but respondent's negligence spanned an eight-year period. However, although respondent has no ethics history in his thirty-eight years of practicing law, he advanced no mitigating factors, other than

admitting in his answer that he lacked diligence administering the estate and suffered from stresses due to family health issues.

We, thus, find that respondent's conduct is most similar to that of the attorney in Yetman, supra, who grossly neglected the administration of an estate, ignored his client's requests for information about the status of the estate, and ignored the ethics committee's requests for information. We, therefore, determine that like Yetman, respondent, too, should be reprimanded.

Members Gallipoli and Zmirich voted to impose a censure. Member Clark did not participate.

We further require respondent to conclude the estate within ninety days of the date of this decision, a condition to which he consented at oral argument before us.

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
Ellen A. Brodsky
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Thomas Ludwig
Docket No. DRB 16-152

Argued: September 15, 2016

Decided: December 9, 2016

Disposition: Reprimand

Members	Reprimand	Censure	Did not participate
Frost	X		
Baugh	X		
Boyer	X		
Clark			X
Gallipoli		X	
Hoberman	X		
Rivera	X		
Singer	X		
Zmirich		X	
Total:	6	2	1

Ellen A. Brodsky
Chief Counsel