

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 16-109 & 16-169
District Docket Nos. XIV-2015-0136E
& XIV-2015-0195E

IN THE MATTER OF :
:
:
JONATHAN GREENMAN :
:
:
AN ATTORNEY AT LAW :
:
:

Decision

Argued: July 21, 2016 (DRB 16-109)

Decided: February 1, 2017

Hillary K. Horton appeared on behalf of the Office of Attorney Ethics.

Respondent failed to appear, despite proper notice.

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

These matters were before us on a motion for reciprocal discipline, filed by the Office of Attorney Ethics (OAE) pursuant to R. 1:20-14, and on a default, pursuant to R. 1:20-4(f). They have been consolidated for the purpose of imposing a single form of discipline. For the reasons set forth below, we determine to impose a three-year suspension.

Respondent was admitted to the New Jersey and Pennsylvania

bars in 2003. On January 23, 2014, he received an admonition for lack of diligence and failure to communicate with the client, in one client matter. In the Matter of Jonathan Greenman, DRB 13-328 (January 23, 2014).

On February 20, 2015, respondent was temporarily suspended for his failure to appear for an audit at the OAE with requested files. In re Greenman, 220 N.J. 490 (2015).

Subsequently, on May 19, 2016, respondent was censured in a default matter for his failure to cooperate with an ethics investigation, in violation of RPC 8.1(b). In re Greenman, 225 N.J. 11 (2016).

Most recently, on October 7, 2016, also in a default matter, respondent received a three-month suspension for his violation of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(b) (failure to keep a client reasonably informed about the status of a matter), RPC 1.5(b) (failure to set forth in writing the rate or basis of a fee), RPC 1.5(c) (failure to prepare a written fee agreement in a contingency fee matter), RPC 8.1(b) and R. 1:20-3(g)(3) (failure to cooperate with disciplinary authorities); and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). In re Greenman, 226 N.J. 595 (2016).

DOCKET NO. DRB 16-109 - DISTRICT DOCKET NO. XIV-2015-0136E

The OAE's motion for reciprocal discipline arises from respondent's two-year suspension by the United States Bankruptcy Court for the District of New Jersey (USBC), for his violation of RPC 1.1 (presumably, (a), gross neglect); RPC 1.3 (lack of diligence); RPC 1.4 (presumably, (b), failure to communicate); and RPC 3.3(a) (lack of candor toward a tribunal).

On July 30, August 24, and August 26, 2014, the Honorable Novalyn L. Winfield of the USBC held hearings in relation to a Motion to Reopen Malik Waheed's Chapter 7 bankruptcy case (the Waheed matter). As the hearings were ending, Judge Winfield expressed concerns about the certificates of credit counseling (CCC) submitted by respondent in support of the moving papers. Judge Winfield requested that the court's Information Technology department create a list of cases filed by respondent in the last three years to ascertain whether any of the other CCCs looked similar to the CCC in the Waheed matter. The list cited approximately a dozen cases in which the CCC looked "suspicious." The court invited the Office of the United States Trustee (OUST) to respond to its concerns.

On September 9, 2014, the OUST submitted thirteen CCCs to Wendy Tien, Deputy Assistant Director of the United States

Trustee Program. Tien was asked to confirm their validity. On September 10, 2014, Tien confirmed that six CCCs were invalid and that seven were legitimate. On November 4, 2014, Tien provided "declarations" for the six invalid CCCs for the following cases: In re Sergiy Pidanov & Tetyana Dzyuba, In re Sergey Shumeyko, In re Marina Williams, In re Sung Hee Cho, and In re Stanislaw Soliwoda.

On November 14, 2014, Roberta A. DeAngelis, United States Trustee, Region 3, through Michael A. Artis, Esq., moved that respondent be suspended for two years from practicing in Bankruptcy Court, pursuant to 11 U.S.C. § 526(c)(5), Fed. R. Bankr. P. 9011(c), D.N.J.L. Civ. R. 104.1(d), 11 U.S.C. § 105(a), and the Court's inherent power.

In her brief in support of the motion, the Trustee relied on testimony taken during the three days of hearings before Judge Winfield, beginning on July 30, 2014. At the hearing, Malik Waheed testified that, in March 2010, he sought respondent's legal services regarding a bankruptcy proceeding. Waheed explained that he was unaware of the requirement to take a credit counseling course and that respondent had failed to inform him of this requirement. Waheed also asserted that he neither signed a retainer agreement with respondent nor received

"any documents explaining his rights and responsibilities under the Bankruptcy Code."

The Trustee noted in her brief that, when questioned during the hearings about his pre-petition actions with regard to Waheed, respondent exhibited "an inability to remember virtually anything." He could not recall when he first met Waheed, how he was introduced to Waheed, the date he was retained, the dates and times he met with Waheed, whether he had executed a written retainer or engagement letter with Waheed, whether he received fees prior to the filing date, the date Waheed paid him the balance of his fee, the date the final petition was prepared, or the date Waheed met with him to execute the petition. The Trustee concluded:

While [respondent] exhibited an inability to recall the specifics of his meetings and communications with the Debtor, he was certain of a few things based on his standard office procedures. [Respondent] testified that he keeps a separate paper file for each client and scans the contents of the paper file into his computer. He also testified that, pursuant to his standard office procedures, clients were provided with a written contract or agreement that explained his services, but he further explained: "Not as often as I'd like to do it, but I would say most of the time it's done." [Respondent] also testified that he gives his clients the credit counseling course information and advises them to take the course. [Respondent] also testified that he does not always maintain copies of all letters and correspondence in the client's file. Further, [respondent] stated on the record that he does not maintain contemporaneous time records, and

that he does not maintain copies of any phone records.

[OAEbp.2-3;Ex.B].¹

Respondent likewise admitted that his clients did not always place a "wet-ink" signature on the bankruptcy documents prior to electronic filing, that he was unfamiliar with the requirements and mandatory disclosures of sections 526, 527, and 528 of the Bankruptcy Code, and that he was unfamiliar with the credit counseling requirements of 11 U.S.C. § 109(h).

On October 12, 2011, respondent electronically filed a nine-page document consisting of a petition with its attendant Individual Debtor's Statement of Compliance with Credit Counseling Requirement, which the trustee termed "Exhibit D," and a "creditor matrix." The trustee noted that "on Exhibit D, box No. 2 was checked certifying under penalty of perjury that [Waheed] received credit counseling within 180 days before the filing of the bankruptcy case, but he did not have a copy of the certificate from the agency performing the credit counseling services." Respondent, however, filed the petition with missing documents. The court issued a notice of missing documents,

¹ OAEB refers to the brief, dated March 30, 2016, in support of the motion for reciprocal discipline.

imposing a deadline of October 26, 2011 for respondent to submit them.

On November 1, 2011, respondent electronically requested an extension until November 4, 2011 to provide the missing documents. On December 9, 2011, respondent filed certain missing documents, but failed to file the missing CCC.

On February 12, 2012, the Court entered an Order Dismissing Waheed's Case for failure to file a CCC. On the same day, respondent electronically filed a financial management certificate. Waheed, however, testified that respondent failed to advise him regarding the financial management course in the same way he failed to advise him of the credit-counseling requirement. Waheed explained that he was advised only of the requirement for a "certificate," which he paid respondent \$100 to file for him. He was not aware that respondent or any member of his staff "would then fraudulently complete the course on [his] behalf."

The Trustee noted that, in his testimony, respondent maintained that, after receiving the financial management deficiency notice, he told Waheed to take the course, and that Waheed brought a financial management certificate to his office.

On April 7, 2014, Susan S. Long, Esq., filed a substitution of attorney, terminating respondent as counsel for Waheed. On

May 26, 2014, Long filed a motion to reopen Waheed's case, emphasizing numerous errors in the petition and documents filed by respondent, and requesting leave to file a valid CCC and a certificate of debtor education out-of-time.

On July 10, 2014, Long filed a supplemental certification, asserting that she had contacted GreenPath Debt Solutions (Greenpath), the agency identified on the financial management certificate filed by respondent, and learned that GreenPath had no record of the financial management certificate in its database. She also contacted InCharge Debt Solutions, regarding another case filed by respondent (In re Mohamed Tariq, Case No. 12-24558 (RTL)), in which respondent filed a credit counseling certificate that was not recorded in its database. On July 17, 2014, the Court entered an order permitting Waheed to file a CCC, and a financial management certificate out-of-time. Long filed the required documents and, on July 25, 2014, Waheed received an order of discharge.

Based on the foregoing facts, as presented in the Trustee's motion, the court reconvened on December 15, 2014, to consider the sanction recommended by the Trustee. Respondent did not attend that hearing. The Trustee sought a two-year suspension, arguing that respondent violated the Bankruptcy Code, the bankruptcy rules, and several New Jersey Rules of Professional

Conduct. Specifically, the Trustee argued that respondent violated RPC 1.1, RPC 1.3, RPC 1.4, and RPC 3.3. The Trustee further asserted that Bankruptcy Code §526(c)(5) imposes on consumer bankruptcy attorneys, such as respondent, certain mandatory requirements that he was not aware of and did not follow. Additionally, the Trustee argued that respondent violated §527 by failing to inform the debtor about certain mandatory requirements of the Bankruptcy system, and §528 by failing to prepare a written contract or retainer with Waheed. The Trustee labeled respondent's law office practices as "shoddy" and expressed concern about the lack of documentation.

The Trustee also maintained that respondent had violated Rule 9011, which requires an attorney who signs documents with the court to certify that he has made a reasonable inquiry as to the factual basis for the document. Specifically, the Trustee argued that respondent violated Rule 9011 when he filed the petition with Exhibit D, falsely certifying that Waheed had completed credit counseling, when he had not taken the course. In fact, respondent's certification that credit counseling had been completed was a false statement, made in a document filed under penalty of perjury. Respondent then compounded that conduct by filing a non-authentic certificate of financial management. The Trustee expressed serious concerns about

respondent's lack of candor to the tribunal, his diligence and competency in bankruptcy law, and his ethical standards.

Judge Winfield remarked that she heard all of the testimony in Waheed's case and that respondent never submitted his "much promised" documentation to establish retainer agreements and original bankruptcy petitions. The court concluded that it had "clear evidence" before it that the GreenPath financial management certificate was not legitimate. The court credited Waheed's testimony that he neither took the course nor even understood its purpose. The court found that respondent failed to comply with sections 526, 527, and 528 of the Bankruptcy Code, and violated Rule 9011. Judge Winfield commented that, in over twenty-four years, the bankruptcy court had not barred anyone from practicing, but that respondent's egregious and continuing misconduct warranted a two-year suspension from Bankruptcy Court. Additionally, she required respondent to return \$1,400 to Waheed and to reimburse Long \$9,491.52 in fees and services that she had incurred in an attempt to restore and complete the Waheed petition.

Following a review of the record, we determine to grant the OAE's motion for reciprocal discipline.

Reciprocal discipline proceedings in New Jersey are governed by R. 1:20-14(a)(4), which provides:

The Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record on which the discipline in another jurisdiction was predicated that it clearly appears that:

(A) the disciplinary or disability order of the foreign jurisdiction was not entered;

(B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;

(C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;

(D) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(E) the unethical conduct established warrants substantially different discipline.

A review of the record does not reveal any conditions that would fall within the ambit of subparagraphs (A) through (D). Paragraph (E) applies, however, because respondent's conduct warrants lesser discipline. Although respondent's misconduct ordinarily would merit discipline less severe than the two-year suspension imposed by the Bankruptcy Court, his conduct, coupled with his ethics history, warrants a significant increase in the otherwise appropriate discipline.

Pursuant to R. 1:20-14(a)(5), "a final adjudication in another court, agency or tribunal, that an attorney admitted to

practice in this state . . . is guilty of unethical conduct in another jurisdiction as an attorney or otherwise in connection with the practice of law, shall establish conclusively the facts on which it rests for purposes of a disciplinary proceeding in this state." Thus, the "sole issue to be determined . . . shall be the extent of final discipline to be imposed." R. 1:20-14(b)(3).

Respondent's conduct violated RPC 1.1(a) and RPC 1.3 in that he neglected the Waheed matter to the extent that it was dismissed for failure to file the appropriate documents. Indeed, respondent testified that he was unfamiliar with the bankruptcy code's requirements and mandatory disclosures and there is no evidence that he took steps to educate himself about these requirements, despite having multiple matters before the bankruptcy court.

Respondent also violated RPC 1.4(b) by failing to communicate with Waheed. Specifically, respondent did not inform Waheed about the need for the credit counseling certificate, the reason that he needed the certificate, or the manner of obtaining the certificate.

Finally, respondent violated RPC 3.3(a) by certifying, under penalty of perjury, that Waheed had received credit counseling within 180 days before the filing of the bankruptcy

case. He had not. Respondent exacerbated his misrepresentation by submitting illegitimate credit counseling certificates to the court on behalf of Waheed.

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 Walter N. Wilson, DRB 15-338 (November 24, 2015) (admonition; attorney, hired to handle a tax appeal from the loss of a special assessment, neither filed an appeal nor advised his client of the deadline, thus depriving the client of the opportunity to perfect an appeal, violations of RPC 1.1(a) and RPC 1.3; in mitigation, we considered that the attorney had no prior discipline, that his misconduct involved only one client matter and did not result in significant injury to him, that his misconduct was not for personal gain, and that, at the time of the misconduct, he was caring for his girlfriend, who was seriously ill) and In re Sachs, 223 N.J. 241 (2015) (reprimand imposed on attorney who had represented two sisters in the sale of a home, against which two liens had attached; the title company required the amount of the liens to be held in escrow, and the sisters provided the funds; despite his promise

to do so, the attorney did not negotiate the pay-off of the judgments, leaving the title company to do so, with the escrowed monies, and retaining the balance as its fee; the attorney neither obtained a bill from the title company justifying its fee, nor told his clients that the title company had taken a fee; he also failed to return one of the client's telephone calls for several years after the escrow funds had been disbursed, all violations of RPC 1.1(a), RPC 1.3, and RPC 1.4(b); reprimand imposed due to economic loss suffered by the clients).

Here, however, respondent is guilty of an additional and more serious violation of lacking candor toward a tribunal. An attorney who makes a misrepresentation to a court, under oath, is subject to a broad range of discipline. See, e.g., In the Matter of Richard S. Diamond, DRB 07-230 (November 15, 2007) (admonition imposed on attorney, who, in a matrimonial matter, filed with the court certifications making numerous references to "attached" psychological and medical records, when the attachments were merely billing records from the client's insurance provider; in mitigation, this was the attorney's first encounter with the disciplinary system in a twenty-year career); In re McLaughlin, 179 N.J. 314 (2004) (reprimand imposed on attorney, who had been required by the New Jersey Board of Bar

Examiners to submit quarterly certifications attesting to his abstinence from alcohol, falsely reported that he had been alcohol-free during a period within which he had been convicted of driving while intoxicated; in mitigation, after the false certification was submitted, the attorney sought the advice of counsel, and admitted his transgressions); In re Manns, 171 N.J. 145 (2002) (reprimand for attorney who misled the court in a certification in support of a motion to reinstate a complaint as to the date the attorney learned that the complaint had been dismissed; the attorney also exhibited gross neglect and lack of diligence, failed to expedite litigation, and failed to communicate with the client; although the attorney had received a prior reprimand for pattern of neglect, lack of diligence, and failure to communicate with the client, the conduct in both matters had occurred during the same time frame and the misconduct in the second matter may have resulted from the attorney's poor office procedures); In re Monahan, 201 N.J. 2 (2010) (attorney censured for making misrepresentations in two certifications submitted to a federal court in support of a motion to extend the time within which an appeal could be filed; the attorney falsely represented that, when the appeal was due to be filed, he was ill and confined to his bed, and, therefore, was either unable to work or unable to prepare and file the

appeal; the attorney also practiced while ineligible); In re Clayman, 186 N.J. 73 (2006) (censure imposed on attorney who misrepresented the financial condition of a bankruptcy client in filings with the United States Bankruptcy Court in order to conceal information detrimental to his client's Chapter 13 bankruptcy petition; in mitigation, although the attorney had made a number of misrepresentations in the bankruptcy petition, he was one of the first attorneys to be reported for his misconduct by a new Chapter 13 trustee who had elected to enforce the strict requirements of the bankruptcy rules, rather than permit what had been the "common practice" of bankruptcy attorneys under the previous trustee; the attorney also had an unblemished disciplinary history, was not motivated by personal gain, and had not acted out of venality); In re Trustan, 202 N.J. 4 (2010) (three-month suspension imposed on attorney who submitted to the court a client's case information statement, which falsely asserted that the client owned a home, and drafted a false certification for the client, which was submitted to the court in a domestic violence trial; in addition, the attorney entered into an improper business relationship with her client and, after their attorney-client relationship had ended, she attempted to inflict harm on her former client by seeking to assist her client's former husband in obtaining custody of their

children, in exchange for the withdrawal of his grievance); In re Perez, 193 N.J. 483 (2008) (on motion for final discipline, the attorney was suspended for three months for false swearing; the attorney, then the Jersey City Chief Municipal Prosecutor, lied under oath at a domestic violence hearing that he had not asked that the municipal prosecutor request a bail increase for the person charged with assaulting him); In re Chasar, 182 N.J. 459 (2005) (three-month suspension for attorney who, in her own divorce proceedings, filed with the court a false certification in which she denied having made cash payments to her employees; she also filed a certification on behalf of her secretary, in which the secretary falsely denied receiving cash payments; we rejected, as mitigation, the attorney's claims that the litigation was contentious, that she was using steroids, painkillers, and sleeping pills as the result of a neck injury, and that her former husband had wrongfully denied her visitation with their children for a three-month period); and In re Cillo, 155 N.J. 599 (1998) (one-year suspension where, after falsely certifying to a judge that a case had been settled and that no other attorney would be appearing for a conference, the attorney obtained a judge's signature on an order dismissing the action and disbursing all escrow funds to his client; the attorney knew that at least one other lawyer would be appearing at the

conference and that a trust agreement required that at least \$500,000 of the escrow funds remain in reserve; two prior private reprimands in two matters for failure to communicate with a client and for entering into an improper business relationship with a client).

We will address the appropriate quantum of discipline following our discussion of the default matter, below.

DOCKET NO. DRB 16-169 - DISTRICT DOCKET NO. XIV-2015-0195E

The complaint charged respondent with having violated RPC 8.1(b) (failure to cooperate with disciplinary authorities) and RPC 8.4(d) (conduct prejudicial to the administration of justice) for his failure to comply with the Court's Order requiring him to file an affidavit of compliance with R. 1:20-20, following his February 20, 2015 temporary suspension from the practice of law.

Service of process was proper in this matter. On January 26, 2016, the OAE sent a copy of the complaint to respondent in accordance with R. 1:20-7(h) at his last known office mailing address, and his home address listed in the records of the Lawyers' Fund for Client Protection, by regular and certified mail. The certified mail green card for the letter sent to respondent's office address was returned to the OAE. The

attorney trustee assigned to respondent's law practice signed the receipt. The regular mail sent to this address was not returned. The certified letter sent to respondent's home address was returned to the OAE as "Unclaimed." The regular mail sent to this address was not returned.

On March 10, 2016, the OAE sent a second letter to respondent, by regular and certified mail, to his home address only. The letter informed respondent that, if he failed to file a verified answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the entire record would be certified directly to us for the imposition of discipline, and the complaint would be deemed amended to include a violation of RPC 8.1(b). Although the certified mail was returned to the OAE marked "Not Deliverable As Addressed," the United States Postal Service tracking shows the letter was returned as "Unclaimed." The regular mail sent to this address was not returned.

As of May 2, 2016, the date of the certification of the record, respondent had not filed an answer to the complaint.

The facts, as alleged in the complaint, are as follows. On February 20, 2015, the Court temporarily suspended respondent from the practice of law for failure to cooperate with the OAE. He remains suspended to date. The Court's Order required

respondent to comply with R. 1:20-20, which mandates, among other things, that respondent "shall within 30 days after the date of the order of suspension (regardless of the effective date thereof) file with the Director the original of a detailed affidavit specifying by correlatively numbered paragraphs how the disciplined attorney has complied with each of the provisions of this rule and the Supreme Court's order." Respondent failed to do so.

On July 15, 2015, the OAE sent a letter to respondent, by certified and regular mail, directed to his last-known office mailing addresses and his home address listed with the Lawyers' Fund for Client Protection, reminding him of his responsibility to file the affidavit pursuant to R. 1:20-20 and requesting a response by July 29, 2015. The certified letters sent to all three addresses were returned to the OAE marked "Unclaimed." The regular mail sent to these addresses was not returned. No response to the letter was received, nor was the required affidavit filed.

The facts recited in the complaint support the charges of unethical conduct. 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)).

Respondent willfully violated the Court's Order and failed to take the steps required of all suspended attorneys, including notifying clients and adversaries of the suspension and providing clients with their files, in violation of RPC 8.1(b), RPC 8.4(d), and R. 1:20-20.

The threshold measure of discipline to be imposed for a suspended attorney's failure to comply with R. 1:20-20 is a reprimand. In re Girdler, 179 N.J. 227 (2004). The actual discipline imposed may be different, however, if the record demonstrates mitigating or aggravating circumstances. In the Matter of Richard B. Girdler, DRB 03-278 (November 20, 2003) (slip op. at 6).

Examples of aggravating factors include the attorney's failure to respond to the OAE's specific request that the affidavit be filed, the attorney's failure to answer the complaint, and the extent of the attorney's disciplinary history. Ibid. In Girdler, the attorney received a three-month suspension, in a default matter, for his failure to comply with R. 1:20-20(e)(15). Specifically, after prodding by the OAE, the attorney failed to produce the affidavit of compliance in accordance with that Rule, even though he had agreed to do so. The attorney's disciplinary history consisted of a public

reprimand, a private reprimand, and a three-month suspension in a default matter.

After Girdler, discipline for failure to file the affidavit required by R. 1:20-20 in cases in which the attorney defaults has ranged from a censure to a two-year suspension. See, e.g., In re Kinnard, 220 N.J. 488 (2015) (censure imposed on attorney who failed to file affidavit after the Court temporarily suspended him for his failure to pay the disciplinary costs associated with a 2008 admonition; in addition to the attorney's disciplinary history and the default, he also ignored the OAE's request that he file the affidavit); In re Goodwin, 220 N.J. 487 (2015) (censure imposed on attorney who failed to file affidavit after the Court temporarily suspended him for his failure to pay the disciplinary costs associated with a 2010 reprimand; violations of RPC 8.1(b) and RPC 8.4(d); in addition to the attorney's disciplinary history and the default, he also ignored the OAE's request that he file the affidavit); In re Palfy, 221 N.J. 208 (2015) (three-month suspension imposed on attorney who exhibited a pattern of failure to cooperate with disciplinary and fee arbitration officials; he was twice temporarily suspended for non-compliance with five separate fee arbitration matters and was temporarily suspended for failure to cooperate with an OAE investigation; enhanced discipline was required

because of the attorney's "pattern of obstinacy toward ethics and fee authorities"); In re Garcia, 205 N.J. 314 (2011) (three-month suspension for attorney's failure to comply with R. 1:20-20; her disciplinary history consisted of a fifteen-month suspension); In re Berkman, 205 N.J. 313 (2011) (three-month suspension imposed on attorney who had a prior nine-month suspension); In re Rosanelli, 208 N.J. 359 (2011) (six-month suspension imposed on attorney who failed to comply with R. 1:20-20 after a temporary suspension in 2009 and after a three-month suspension in 2010; the attorney also had received a six-month suspension in 2003); In re Sharma, 203 N.J. 428 (2010) (six-month suspension; aggravating factors included the default nature of the proceedings, the attorney's ethics history - censure for misconduct in two default matters and a three-month suspension - and his repeated failure to cooperate with disciplinary authorities); In re LeBlanc, 202 N.J. 129 (2010) (six-month suspension imposed where the attorney's ethics history included a censure, a reprimand, and a three-month suspension; two of the prior disciplinary matters proceeded on a default basis); In re Wargo, 196 N.J. 542 (2009) (one-year suspension for failure to file the R. 1:20-20 affidavit; the attorney's ethics history included a temporary suspension for failure to cooperate with the OAE, a censure, and a combined

one-year suspension for misconduct in two separate matters; all disciplinary cases proceeded on a default basis); In re Wood, 193 N.J. 487 (2008) (one-year suspension imposed on attorney who failed to file the R. 1:20-20 affidavit following a three-month suspension; the attorney had an extensive disciplinary history: an admonition, a reprimand, a censure, and a three-month suspension; two of those matters proceeded on a default basis); In re McClure, 182 N.J. 312 (2005) (one-year suspension for attorney whose disciplinary history consisted of an admonition and two concurrent six-month suspensions, one of which was a default; the attorney failed to abide by his promise to the OAE to complete the affidavit; the need for progressive discipline was noted); In re Brekus, 208 N.J. 341 (2011) (two-year suspension imposed on attorney with a significant ethics history: a 2000 admonition, a 2006 reprimand, a 2009 one-year suspension, a 2009 censure, and a 2010 one-year suspension, also by default); and In re Kozlowski, 192 N.J. 438 (2007) (two-year suspension for attorney who failed to comply with R. 1:20-20; the attorney's significant disciplinary history included a private reprimand, an admonition, three reprimands, a three-month suspension, and a one-year suspension; the attorney defaulted in six disciplinary matters, and his "repeated

indifference toward the ethics system" was found to be "beyond forbearance").

* * *

Respondent engaged in serious misconduct. Not only did he fail to abide by the Court's Order requiring him to comply with Rule 1:20-20, a rule designed to protect clients affected by an attorney's suspension, but also he lacked candor to the bankruptcy court and failed to represent his client diligently in that matter. Respondent's lack of candor alone, when coupled with his ethics history, would merit, at a minimum, a short-term suspension. See, e.g., Truстан, Perez, Chasar and Cillo. Another short term of suspension would be appropriate for respondent's failure to comply with the requirements of R. 1:20-20. See, e.g., Palfy, Sharma, and LeBlanc.

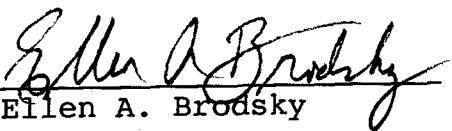
In addition to respondent's significant ethics history, and in further aggravation, respondent again has allowed a matter to proceed by way of default. Respondent has failed to file answers in three discipline matters (including one charging a failure to cooperate), has been temporarily suspended for failure to cooperate, and failed to participate in the USBC hearing on the trustee's motion to impose on respondent a two-year suspension. Respondent continues to display an obvious disrespect both for the Court's authority and for the discipline

system as a whole, which, in our view, merits enhanced discipline. We determine, therefore, to impose a three-year suspension for respondent's misconduct.

Members Boyer, Clark, and Singer voted to impose a two-year suspension, retroactive to February 20, 2015, the date of respondent's temporary suspension. Member Gallipoli voted to disbar. Vice-Chair Baugh 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

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD


In the Matters of Jonathan Greenman
Docket Nos. DRB 16-109 and DRB 16-169

Argued: July 21, 2016 (DRB 16-109)

Decided: February 1, 2017

Disposition: Three-year prospective suspension

MEMBERS	Three-year Suspension	Two-year retroactive Suspension	Disbar	Did not Participate
Frost	X			
Baugh				X
Boyer		X		
Clark		X		
Gallipoli			X	
Hoberman	X			
Rivera	X			
Singer		X		
Zmirich	X			
Total:	4	3	1	1


Ellen A. Brodsky
Chief Counsel