

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 16-215
District Docket No. XI-2014-0005E

IN THE MATTER OF
AIMAN I. IBRAHIM
AN ATTORNEY AT LAW

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Decision

Argued: October 20, 2016

Decided: February 7, 2017

Kevin P. Harrington appeared on behalf of the District XI 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 reprimand, filed by the District XI Ethics Committee (DEC). The complaint charged respondent with having violated RPC 1.3 (lack of diligence), RPC 1.4(b) (failure to communicate with the client), and RPC 8.4 (presumably (c)) (conduct involving dishonesty, fraud, deceit or misrepresentation). We determined to dismiss the matter.

Respondent was admitted to the New Jersey bar in 2008. He has no history of discipline.

At the outset of the hearing before the DEC, respondent moved to dismiss the matter, based on the following four arguments: (1) the DEC lacked jurisdiction, as no grievance was filed; (2) the DEC lacked jurisdiction, as the matter involves aspects of a fee dispute, with no indication of unethical conduct independent of the fee dispute; (3) the DEC lacked jurisdiction, as this matter had initially been declined by the DEC secretary; and (4) the complaint lacks the legal sufficiency required to state a cause of action as a matter of law.

The panel denied the motion. Grievant, Dr. Hesham El Akbawy, who was represented by personal counsel, waived any prospective or retroactive application for reimbursement of the \$4,000 fee paid to respondent during his representation. The DEC questioned El Akbawy and determined that he made a knowing and voluntary waiver of any claim for a fee reimbursement from respondent.¹

The facts of this matter are as follows.

¹ We recognize that R. 1:20-3(e)(2)(D) required a DEC secretary to decline jurisdiction if the ethics grievance "involves aspects of a substantial fee dispute." We question, however, the providence of requiring a grievant to absolutely waive his fee claim as a condition of going forward with the ethics grievance.

In late December 2012, El Akbawy communicated with respondent regarding an immigration matter involving his sister, Soha El Akbawy. On January 4, 2013, El Akbawy met with respondent at respondent's office to discuss the matter, and, on January 19, 2013, returned to sign a retainer agreement. The agreement provided that all legal services would be limited to an E-2 immigration visa. The agreement required a \$7,500 retainer fee to be paid in four monthly installments - three payments of \$2,000 and the last payment of \$1,500. El Akbawy made the first two \$2,000 payments on January 19 and February 25, 2013, respectively. He failed, however, to make the last two payments scheduled for March 22 and April 19, 2013.

During his testimony, El Akbawy explained that Soha was in the U.S. on a V visa.² Soha received a V visa in 1996, when she was sixteen years old. She used her visa either every year, or every couple of years, to return to the U.S., but there was no pattern to her travel. Both of her children are U.S. citizens, having been born here during her several visits.

² A V visa is a temporary visa available to spouses and minor children, unmarried and under twenty-one years of age, of U.S. legal permanent residents (green card holders). It allows permanent residents to achieve family unity with their spouses and children while the immigration process takes its course.

When El Akbawy engaged respondent, he told respondent that Soha's visa was set to expire within six months, in June 2013. He claimed that he retained respondent to find a way to legally extend her stay. Respondent advised El Akbawy that Soha's green card could not be extended and that a work-related visa was her best option. Respondent testified that, after meeting with El Akbawy, he spent four hours performing research to determine which visa type would be most appropriate for El Akbawy's needs and the steps necessary to accomplish that goal. El Akbawy admitted that respondent told him to expect a follow-up communication after their meeting, with information regarding the different types of business-related visas they had discussed. El Akbawy also claimed, however, that respondent held himself out as experienced in these matters, and never mentioned the need to perform research.

Respondent consistently asserted that he represented El Akbawy, not El Akbawy's sister, who was the intended beneficiary of a visa to be obtained by El Akbawy and his company.³ Essentially, he argued, the visa they would pursue was for the

³ El Akbawy's family owns a business in Egypt.

company, not for Soha. According to respondent, under no scenario would she have been able to stay in the U.S. after the expiration of her current visa. Rather, she would be required to return to Egypt to interview at the U.S. Consulate in Cairo, prior to approval for a new visa. Respondent explained that all visas are issued through the U.S. Consulates overseas. Although, in some cases, an application can be made to change one visa to another, this option was not available to Soha, because she had a V visa. Therefore, she could not simply adjust her status, but rather would be required to return to Egypt. Respondent also testified that, since Soha's existing visa could not be extended, he never inquired about the exact date that her visa expired.

Respondent did not dispute that El Akbawy wanted the matter handled as quickly as possible. He explained, however, that the average application process for a work-related visa can take anywhere from six to eighteen months. Although businesses that previously have received work-related visas can complete the application process in three months, a small business making an application for the first time, such as El Akbawy's, might be required to wait twelve to eighteen months. Respondent believed that El Akbawy understood the nature of his sister's visa and when it expired, and that Soha would be required to return to

Egypt and then re-enter the U.S., using the new work visa. El Akbawy's urgency stemmed from the fact that he wanted Soha to be able to return to the U.S. as quickly as possible after her mandatory return to Egypt, in June 2013.

Respondent was asked whether any documentary evidence established that El Akbawy was aware that Soha would have to return to Egypt. Respondent relied on El Akbawy's testimony before the panel. El Akbawy had testified that his sister would regularly travel between Egypt and the U.S., that she returned on different occasions "on one of her visas after she got married" and gave birth to her two children here in the U.S.," and that he was aware that Soha's status changed when she was married, and, therefore, her green card was denied. Based on this testimony, respondent maintained that El Akbawy knew that Soha would need to return for an interview at the U.S. Consulate in Cairo; he simply did not want her spending a year or two in Egypt waiting for the process to be completed.

El Akbawy, however, claimed that the purpose of the representation was to allow his sister to remain in the U.S., uninterrupted. To that end, El Akbawy relied on a January 5, 2013 e-mail he had received from respondent following their first meeting. Attaching information sheets on the types of visas they had discussed, respondent highlighted the L-1 visa

that "would provide a platform for your sister to at some point get her green card through her sponsorship from the employer. So despite the lesser amount of extensions, this is a means to the ultimate goal of having here (sic) working here legally without the need to renew her visa on a regular basis".

El Akbawy received the explanation sheets on both the L-1 and the E-2 visas that were attached to respondent's January 5, 2013 e-mail. He also acknowledged that the retainer agreement that he signed, on January 19, 2013, was for services related to obtaining an E-2 visa, which is an investor visa. Respondent contended that El Akbawy's receipt of this literature further supported his position that El Akbawy was fully informed of the length of time the visa process would take and of the fact that Soha would have to return to Egypt.

As noted, El Akbawy signed the retainer agreement on January 19, 2013. The following day, on January 20, 2013, respondent sent correspondence to El Akbawy, memorializing their meeting the prior day, and including a detailed list of documents and information required to process the visa application. El Akbawy claimed that, thereafter, respondent did not communicate with him. Hence, on February 5, 2013, at 9:40 a.m., El Akbawy e-mailed respondent, complaining that he had not heard from respondent in two weeks. Yet, in that same e-mail, El

Akbawy acknowledged that he had received phone calls from respondent's office, following up on e-mails that had been sent to him (e-mails that El Akbawy claims he never received); that he had sent a text to respondent the previous week regarding those e-mails; and that he had spoken to respondent on February 4, 2013, and was waiting for the follow up e-mail he was promised during that phone conversation.

At 10:45 a.m., on February 5, 2013, respondent's assistant, Vianelly, replied to El Akbawy by e-mail, and provided a list of biographical information and company-related documents needed from him to move forward on the matter. On February 20, 2013, El Akbawy sent respondent an e-mail containing photocopies of Soha's and her husband's passports. As of that date, those were the only documents provided to respondent.

On March 22, 2013, respondent sent a letter by regular mail to El Akbawy, informing him that he had neither been cooperative, nor supplied adequate documentation, and that he had missed his last appointment. El Akbawy denied having received this letter or having an appointment scheduled for March 22, 2013. As previously noted, however, respondent had agreed to allow El Akbawy to pay the retainer in installments, the third of which was due March 22, 2013. Although El Akbawy had paid the first two installments in person, he failed to make

any of the subsequent installments, including the payment due on March 22, 2013.

When questioned why he appeared to convey to El Akbawy that there was an urgent need for these documents, respondent acknowledged that El Akbawy wanted the matter resolved quickly, yet, after three months, respondent still had not received any of the basic certificates of incorporation or other required documents. In turn, respondent pointed to El Akbawy's failure to act promptly in further support of respondent's position that there was no rush to complete the visa process prior to the June expiration of Soha's existing visa.

The presenter accused respondent of having fabricated the March 22, 2013 letter, after the investigation of the grievance had been initiated, an accusation that respondent denied. When asked why only one letter was ever mailed to El Akbawy, when all other communications were sent by e-mail, respondent explained that the letter was sent by a new assistant who left soon after the letter was sent.

On March 27, 2013, El Akbawy sent respondent, via e-mail, a number of purported financial documents pertaining to his business in Egypt. On April 12, 2013, Vianelly e-mailed El Akbawy the same request for documents that had been sent in the February 5, 2013 e-mail. Three days later, on April 15, 2013,

respondent's assistant, Mykka, went to El Akbawy's office with documents for him to sign. She told him that respondent had decided to apply for an E-2 visa instead of an L-1 visa.⁴ Subsequently, on April 21, 2013, El Akbawy replied to Vianelly's April 12, 2013 e-mail, directly to respondent, expressing his frustration and explaining that he had sent all of the documents a month previously. He did, however, provide some of the requested biographical information that he had not included in his previous submission.

At the hearing, respondent challenged El Akbawy on the documents he sent. Specifically, he noted that, although Soha's visa was set to expire in June, El Akbawy did not send financial documents until March 27, 2013. El Akbawy countered that those documents were requested from Egypt, and that they were received four to six weeks thereafter. Respondent pointed out that other requested documents, such as certificates of incorporation and bank account information, were never provided. El Akbawy simply asserted that all of the documents were provided and that, in an April 21, 2013 e-mail, respondent acknowledged that he had received all of the documents. In addition, at the hearing, El

⁴ These documents were not addressed during the testimony.

Akbawy claimed, for the first time, that he had appeared in person at respondent's office several times to provide the office staff with all of the requested information. El Akbawy also claimed that Mykka, one of respondent's assistants, told him the office had everything, and that the matter was proceeding.

In the April 21, 2013, e-mail, respondent informed El Akbawy that he had completed a final review of the file, that it was "about wrapped up on our end," and that an appointment should be scheduled to sign the forms to send out that week. He also indicated that he planned to call El Akbawy the following day. Respondent then sent an e-mail to Vianelly, asking her to call El Akbawy the next day to schedule an appointment for that week. Vianelly responded that she had the financial information, but that they needed other information. She stated that she directed Mykka to compile a list of the missing information.

El Akbawy testified that he appeared for an appointment with respondent on April 22, 2013, but that respondent did not appear. On April 23, 2013, El Akbawy sent an e-mail to respondent, stating: "I believe we were supposed to meet yesterday as you promised that [sic] the papers are done. Any news?"

El Akbawy asserted that he never heard from respondent after the April 23, 2013 e-mail, and that, despite his numerous calls to the office, he spoke only with respondent's assistants. On May 10, 2013, at 5:22 p.m., El Akbawy sent an e-mail to Mykka, attaching an extension for his sister's passport and emphasizing that Soha's visa was scheduled to expire in June and that her application must be sent immediately.

It was not until June 3, 2013, however, that El Akbawy was finally able to meet with respondent. El Akbawy claimed that at that meeting, respondent handed him blank forms to sign. He was told the forms would be completed later. El Akbawy refused to sign the documents and told respondent not to file any of the paperwork. During the same meeting, El Akbawy expressed concern that it was the end of May and, if the papers were received after the expiration of his sister's visa, it would ruin her chances to apply under any category to remain in the U.S. El Akbawy claimed that respondent assured him that the postmarked date of the application was relevant, and that the process would work regardless of the visa's expiration date. According to El Akbawy, respondent represented that, if not accepted as filed, he would refile the papers indicating that his sister was an employee of respondent's firm and that he would sponsor her visa.

Respondent denied asking El Akbawy to sign blank documents or offering to sponsor Soha as his employee, if their application failed the first time. He argued that the allegation of his having offered to sponsor Soha made no sense because all of the documents submitted up to that point pertained to El Akbawy's company. They would be required to start the whole process over to base the application on Soha's employment by respondent. Respondent also argued that he could not possibly have completed blank forms because he did not have the necessary biographical and company-specific information.

As to respondent's April 21, 2013 e-mail, he conceded that his choice of the phrase "final review" in connection with El Akbawy's matter was a mistake, but asserted that, "I requested documents beforehand. He submitted documents after-hand, and he didn't indicate in his next e-mail that it was all done and it was out."

Respondent claimed that El Akbawy submitted only a handful of documents, at best, which was a fraction of the documents needed for the application. Typically, the basic forms are not filed without all of the required evidentiary documents in one packet. In this case, respondent did not submit the basic forms, because the passport had expired and other basic documents were still missing.

On June 27, 2013, El Akbawy sent respondent an e-mail stating:

As per our last discussion on June3rd/2013. I requested that you do not send the application regarding my sister immigration case. You promised to do so. your assistant called me to set an appointment to meet with you last Saturday at 8;30 am at your office. As usual & expected she called the Friday after to cancel..

Since March of This Year I have been getting conflicting Information from you & your office staff. You have wasted the time & confused the Issue. I request that you refund the total fees paid to you of \$4,000 (four thousand US dollars). Immediately. you have shown a great deal of misguided & poor performance. I will considered the case closed upon receipt of your refund if done immediately.

Respondent claimed that he terminated the representation before he received the above e-mail, after having not received the complete set of financial documents and questioning the validity of those he had received. He could not explain why El Akbawy had sent the June 27, 2013 e-mail terminating the representation when respondent had already done so. Although respondent acknowledged that he never responded in writing to the June 27, 2013 e-mail, he claimed that he had subsequent conversations with El Akbawy about the amount of work performed and the outstanding balance.

El Akbawy testified that he received many phone calls from respondent's office, but he dealt mostly with his assistants. He

acknowledged that he discussed the immigration matter substantively with the office staff. He complained, however, that respondent had three offices, that he regularly needed to call several times before getting a response, and that he felt as if he was always being led around in a circle.

El Akbawy denied that he was shown a draft of immigration forms that respondent had prepared on his behalf. He further denied that he missed appointments with respondent, but, rather, accused respondent of doing so. In fact, he testified, once, he waited outside respondent's office on a Saturday morning and respondent failed to appear. On another occasion, he received a message at 1:50 a.m. that respondent was stuck in New York and would not be able to attend the meeting they had scheduled for the next day. After the initial meeting and the signing of the retainer agreement, all communication was done by e-mail or phone calls. El Akbawy also acknowledged that one assistant, Mykka, would come to see him at his office and bring her dog. They regularly discussed the matter.

The complaint charged respondent with a violation of RPC 8.4(c), based, in part, on his communication with the DEC investigator during the early part of the investigation. Specifically, the presenter questioned respondent about the communication issues she had with him early in the

investigation. Respondent denied receiving the first two letters the presenter had sent to him regarding the grievance. Before resending the letters, she called respondent to determine his proper mailing address. She then informed him that the information she had from the Lawyers Diary did not match the address he had given her. Respondent denied having told the investigator, during that phone conversation, that it was impossible for the address in the Lawyers Diary to be incorrect because he had changed it. He also did not recall the presenter's contention that she then placed him on hold, retrieved her Lawyers Diary, and read to him the address listed therein.

To the contrary, respondent explained that he did not use the Lawyers Diary and had never updated his address after the expiration of the free year of service he had received after graduating from law school. Whenever he moved, he simply updated his marketing materials, subscriptions, and his attorney registration with the New Jersey Lawyers' Fund for Client Protection (the Fund).

The presenter asked respondent whether he had any other problems receiving mail, pointing out that his address was incorrect in the 2010, 2011, 2012, and 2013 Lawyers Diaries. Respondent was emphatic that the only problem he ever had was

with the mail she had sent at the outset of the investigation. Otherwise, he had no issue receiving mail from courts, judges, or adversaries. He pointed out that the grievance that El Akbawy filed, which was in her possession from the outset, listed his correct address.

The DEC found credible the testimony of El Akbawy that the purpose of respondent's representation was to secure his sister's authorization to remain in the U.S., as respondent had verified in an e-mail to El Akbawy, dated January 5, 2013. Thereafter, respondent informed El Akbawy, by e-mail dated April 21, 2013, that the matter was under final review and that he would arrange an appointment for later that week for El Akbawy to sign documents. El Akbawy's sister, however, returned to Egypt, on June 1 or June 2, 2013, before her visa expired. In a June 27, 2013 e-mail, El Akbawy directed respondent to stop working on the visa application. The DEC found that respondent violated RPC 1.3 by failing to prepare the necessary immigration documents for which he had been retained, resulting in El Akbawy's sister's mandatory return to Egypt.

The DEC dismissed the remaining violations. It determined that, although the level of communication between respondent and El Akbawy could have been better, the record did not support a violation of RPC 1.4(b), which requires a lawyer to keep a

client "reasonably informed about the status of a matter." Respondent's representation commenced on January 5, 2013, and was terminated by El Akbawy in an e-mail on June 27, 2013. During this six-month period, multiple communications took place between respondent and El Akbawy by e-mail, telephone, and text. The DEC determined there was a lack of clarity in communication, rather than a lack of communication. Additionally, the short term of the representation (six months) militated against a finding of a violation of RPC 1.4(b). The DEC, therefore, dismissed the RPC 1.4(b) charge.

Finally, the DEC determined that, although respondent was not as forthcoming with the investigator or the client as one would anticipate, it could not find, by clear and convincing evidence, that his conduct rose to the level of dishonesty, fraud, deceit, or misrepresentation. Accordingly, the DEC dismissed the charged violation of RPC 8.4(c).

In aggravation, the DEC considered that the result for the client was unfavorable; that respondent was, at times, less than forthcoming with El Akbawy and the investigator; that respondent took no responsibility for his actions; and that respondent displayed a lack of remorse.

In mitigation, the DEC considered that respondent has no prior discipline and that his actions were aberrational and

resulted from poor office management, rather than incompetence or deliberate action. The DEC recommended a reprimand.

Following a de novo review of the record, we are not satisfied that the DEC's finding that respondent's conduct was unethical is fully supported by clear and convincing evidence.

The complaint in this matter is very factually specific. It alleged that respondent violated RPC 1.3 by failing to complete the documents necessary for a full and complete visa application on Soha's behalf. It further alleged that respondent violated that same RPC by failing to request additional documents from El Akbawy after April 12, 2013. Instead, respondent told El Akbawy, on April 21, 2013, that the documents were in final review. The documents, however, were never drafted, and, as a result, Soha was required to return to Egypt.

The complaint also alleged that respondent violated RPC 1.4(b) by failing to return El Akbawy's telephone calls, failing to keep him adequately informed about the progress of the visa application, and failing to communicate with him regarding the documents needed to submit a full and complete visa application.

Finally, the complaint alleged that respondent violated RPC 8.4 (presumably (c)), by (1) lying to the investigator about his office address and the phone records that he had supplied during the course of the investigation and (2) attempting to persuade

El Akbawy to sign blank forms to be completed at a later time with fabricated information asserting a purported employment relationship between respondent and Soha.

The DEC determined that respondent lacked diligence in his failure to prepare the necessary documents to complete the immigration forms he was retained to draft, resulting in Soha's mandatory return to Egypt. It did not find, however, a failure to communicate. In our view, these two findings are inconsistent.

At the outset, and importantly, we note that there is insufficient evidence to support the contention that Soha was forced to return to Egypt as a result of anything respondent did, or did not do. The record does not establish exactly what Soha's immigration status was in 2012 and 2013, exactly what type of visa she was using in 2013, or exactly when and why she returned to Egypt. Based on the fact that Soha was over twenty-one years of age and married with two children of her own, it is unlikely that she was still in the U.S. on the V visa she had received when she was sixteen, in approximately 1996. Indeed, El Akbawy acknowledged that Soha's status had changed when she was married and that her green card was denied, leading to the logical conclusion that she was required to return to Egypt at some point. Neither El Akbawy nor the presenter disputed

respondent's assertion that, in no scenario, could Soha have avoided a return to Egypt. Hence, we gave no weight to Soha's return to Egypt in the consideration of this matter.

That said, in order to find that respondent lacked diligence by failing to complete the visa application, the fact-finder would first be required to determine that he failed to communicate with El Akbawy. It is not disputed that El Akbawy failed to provide all of the necessary documents to complete the application. The question is whether respondent adequately communicated with him regarding which documents were still needed, as the matter progressed. If the communication was sufficient, it cannot be said that respondent lacked diligence because the application was not completed. Respondent would have been unable to do so without the cooperation of his client.

The record contains ample evidence of communications between El Akbawy and respondent's office, as well as with respondent himself. Specifically, respondent's office sent three detailed requests for documents on January 20, February 5, and April 12, 2013. In addition, both respondent and El Akbawy testified about numerous phone conversations and some text messages, some of which concerned the documents necessary to complete the process under consideration.

Respondent testified that, on March 22, 2013, he sent El Akbawy a letter, complaining that he was not being cooperative in providing documents, and that he had missed an appointment on March 22, 2013. El Akbawy denied having received that letter, which the presenter accused respondent of fabricating, based solely on the fact that it was the only written communication that respondent sent El Akbawy by regular mail. The DEC made no determination as to the letter's authenticity.

Respondent testified that the letter had been sent by regular mail because it was handled by an assistant who, at the time, was new to the office. Further, the missed appointment referenced in the letter coincides with the due date of an installment payment as set forth in the retainer agreement. El Akbawy never made the installment payment due on that date and submitted the documents only five days after the date of the letter. Therefore, in our view, not only is there no evidence to support the accusation that respondent fabricated the March 22, 2013 letter, but also the letter supports respondent's position that El Akbawy failed to provide the necessary information and documents for respondent to prepare the visa application.

Despite communications from respondent requesting documents on January 20, February 5, and March 22, 2013, El Akbawy began producing documents only on March 27, 2013, when he sent several

financial documents pertaining to his company in Egypt, which would be sponsoring Soha's visa. Hence, respondent's office sent the April 12, 2013 request for documents and biographical information soon thereafter. When asked about the delay, El Akbawy explained that obtaining the pertinent documents from Egypt could take four to six weeks. This admission undermines El Akbawy's complaints about respondent's delays to that point.

Subsequently, according to El Akbawy's own timeline that he submitted to the investigator after filing the grievance, respondent's assistant visited him, on April 15, 2013, at his office to discuss the matter and to obtain his signature on several documents. Nevertheless, on April 21, 2013, El Akbawy sent an e-mail to respondent complaining about the most recent document request and asserting that he had already provided all of the documents. This assertion, however, is belied by the fact that the very first item on the January 20, 2013 list of documents requested is a valid passport for Soha, with an expiration date at least six months after the expiration of Soha's current visa. El Akbawy did not provide that particular documentation until May 10, 2013.

Thus, according to the record, as of April 2013, respondent had communicated frequently with his client and had made specific requests for documents. In turn, El Akbawy had provided

little information to respondent. Although respondent sent El Akbawy an e-mail on April 21, 2013, indicating that he had done a "final review" of the file, that the matter was almost complete, that an appointment should be scheduled to sign the documents, and that respondent would call El Akbawy the next day, respondent later explained that he had poorly chosen his words and that the reference to a "final review" and a need to sign documents pertained only to the forms containing biographical data – and not final documents.

Indeed, respondent testified, as indicated by his assistant, they still were awaiting additional documents from El Akbawy. Respondent maintained that El Akbawy's May 10, 2013 e-mail, submitting the extension of Soha's passport, was evidence that El Akbawy knew that more documents were needed, as a result of communications with him subsequent to the April 21, 2013 e-mail. This is supported by El Akbawy's own testimony that, between April 23 and May 10, 2013, he had numerous telephone conversations with respondent's office staff, which, in context, leads to the reasonable conclusion that those communications focused on the additional documentation needed to process Soha's application.

Subsequent to El Akbawy's May 10, 2013 e-mail, there is no record of communication between respondent and El Akbawy until

June 3, 2013, when, El Akbawy alleged, he met with respondent. At this meeting, El Akbawy claimed, respondent asked him to sign blank forms and assured him that, if this application failed, he would submit another with himself as Soha's employer-sponsor. We note that, apart from El Akbawy's claim, there is no evidence that respondent asked him to sign blank forms. Moreover, as respondent maintained, it would have made little sense for him to do so because the information required is specific both to the recipient of the visa and to the business applying for it.

Additionally, El Akbawy's follow up e-mail, on June 27, 2013, calls into question his version of events at that June 3, 2013 meeting. In that e-mail, El Akbawy expressed disappointment that respondent cancelled their last appointment (after the June 3 meeting). He made no mention of respondent's alleged request that he sign blank documents. It seems incongruous to us that El Akbawy would make another appointment with respondent if he had been as offended by respondent's request as he had professed. Rather, we would have expected that El Akbawy would have terminated the representation. Instead, he waited another twenty-four days to do so, based on his perception of respondent's "poor performance" since March of that year. Thus, in our view, the presenter failed to prove by clear and convincing evidence that respondent requested El Akbawy to sign

blank documents on June 3, 2013. We, therefore, dismiss the charge of RPC 8.4(c) in that respect.

Overall, the presenter failed to prove by clear and convincing evidence that respondent did not adequately communicate with his client and, therefore, it cannot be said that he lacked diligence by his failure to complete the visa application. El Akbawy contributed to that failure. As but one example, valid passports for both El Akbawy and his sister appeared as the very first items on a list of required documents sent to El Akbawy at the outset of the representation, on January 20, 2013. El Akbawy, however, failed to deliver his sister's passport with a valid extension until May 10, 2013, more than three and one-half months later. We, therefore, dismiss the charged violation of RPC 1.3. We agree with the DEC's conclusion that the record did not establish a violation of RPC 1.4(b).

Similarly, the record lacks clear and convincing evidence that respondent's conduct was dishonest. First, as previously addressed, it was not proven that respondent asked his client to sign blank documents. Second, the presenter failed to prove that respondent lied about his address to her at the outset of the investigation. All of respondent's records reflected his current address, including the address he listed with the Fund. That it

was the wrong address listed in the Lawyers Diary is inconsequential. We accept respondent's testimony that he mistakenly told the presenter that his address in the Lawyers Diary and Manual was current and that he had believed that to be true because he did not subscribe to that publication, and believed that he had adequately updated his address in all the necessary places, in accordance with the Rules. Further, the fact that the presenter had respondent's actual address available to her, not only from respondent's records with the Fund, but also from the grievance itself, where it was accurately reflected, supports a finding that respondent was not attempting to deceive the DEC investigator about his address during the investigation. Therefore, we dismiss the charged violation of RPC 8.4(c) in that respect as well.

In aggravation, the DEC considered that respondent was less than forthcoming with the investigator and El Akbawy; that the client received an unfavorable result; and that respondent took no responsibility for his actions and showed no remorse. In our view, however, the record contains no evidence to suggest that respondent was less than forthcoming. Further, respondent zealously defended himself against charges of ethics violations he believed he had not committed, offering evidence of his client's own culpability for the lack of a favorable result. We

decline to equate respondent's good-faith defense to a failure to take responsibility for his conduct.

For the foregoing reasons, we determine to dismiss the matter in its entirety.

Members Gallipoli and Zmirich voted for an admonition.

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 Aiman Ibrahim
Docket No. DRB 16-215

Argued: October 20, 2016

Decided: February 7, 2017

Disposition: Dismiss

<i>Members</i>	Dismiss	Admonish	Did not participate
Frost	X		
Baugh	X		
Boyer	X		
Clark	X		
Gallipoli		X	
Hoberman	X		
Rivera	X		
Singer	X		
Zmirich		X	
Total:	7	2	


Ellen A. Brodsky
Chief Counsel