

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 16-095  
District Docket No. IIA-2015-0003E

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IN THE MATTER OF  
CHRISTOPHER R. WELGOS  
AN ATTORNEY AT LAW

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Decision

Decided: November 21, 2016

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

This matter was before us on a certification of the record filed by the District IIA Ethics Committee (DEC), pursuant to R. 1:20-4(f). The complaint charged respondent with violations of RPC 5.5(a)(1) (unauthorized practice of law), RPC 8.1(b) and R. 1:20-3(g)(3) (failure to cooperate with disciplinary authorities), and RPC 8.4(d) (conduct prejudicial to the administration of justice).

We determine to impose a reprimand for respondent's misconduct.

Respondent was admitted to the New Jersey bar in 1998. He has no history of discipline. He currently is employed as Senior Counsel for LG Electronics, USA, Inc., with an office located in Englewood Cliffs, New Jersey. Prior to joining LG Electronics, he worked at Schwartz, Simon, Edelstein & Celso in Whippany.

By Order dated September 28, 2009, respondent was declared ineligible to practice law in New Jersey for non-payment of his annual attorney registration fee. He was reinstated to the practice of law by Order dated August 28, 2014. Respondent was again declared administratively ineligible to practice law on August 18, 2015, effective August 24, 2015, based on his failure to pay his annual attorney registration fee. He was reinstated on March 3, 2016, after satisfying his financial obligation to the Lawyers' Fund for Client Protection (CPF). Effective November 16, 2015, respondent again was declared ineligible to practice law, this time for failing to comply with the mandatory Continuing Legal Education requirements. He was reinstated on May 25, 2016.

Service of process was proper in this matter. On December 18, 2015, the DEC sent a copy of the complaint, by certified and regular mail, to respondent at his place of employment, LG Electronics in Englewood Cliffs. The certified mail return receipt was signed. The signature, however, is illegible. The

regular mail was not returned. The DEC sent a follow-up letter on January 27, 2016, via regular mail, which was not returned. That letter warned respondent that, if he failed to file an answer to the complaint, the allegations would be deemed admitted, the record would be certified directly to us for the imposition of discipline, and the complaint would be deemed amended to include a charge of a violation of RPC 8.1(b). Respondent failed to file an answer to the complaint. Consequently, on February 12, 2016, the DEC Secretary certified the record to us as a default.

On June 6, 2016, respondent filed a motion to vacate the default, which the DEC opposed on June 9, 2016. For the reasons set forth below, we determined to deny the motion.

To successfully move to vacate a default, a respondent must meet a two-pronged test. First, a respondent must offer a reasonable explanation for his or her failure to answer the ethics complaint. Second, a respondent must assert a meritorious defense to the underlying charges.

As to the first prong, respondent claims that he failed to file a timely answer because he had been in discussions with the DEC investigator about resolving the matter through discipline by consent. He further explained that the investigator was aware

that he wanted to rectify his administrative obligations that led to his ineligible status before filing an answer. The investigator explained that he granted respondent a two-week extension to file an answer based on these requests; respondent did not file an answer within the extended period. In our view, respondent has not provided a reasonable explanation for his failure to file a timely answer.

As to the second prong, respondent admits that he does not have a defense to the charge of practicing law while ineligible. Likewise, he failed to present a meritorious defense to the charge that he failed to cooperate with the investigation. Instead, he explained that a number of factors contributed to his failure to reply to the investigator's requests: his department was in the process of moving when the investigator first contacted him; he was heavily involved in the investigation by the Department of Justice relating to a merger of his employer; and he broke his left ankle. None of these explanations rise to the level of a defense for respondent's failure to respond to the DEC investigator's multiple requests. For these reasons, we denied respondent's motion to vacate default.

The facts of this matter are as follows:

On December 29, 2014, Quintin Vance filed a grievance alleging that respondent did not provide requested documents to his attorney in Illinois after respondent, by letter dated January 20, 2014, had promised to do so. On February 4, 2015, the DEC secretary requested respondent to send the documents to Vance and to copy her on the letter. The secretary also cautioned respondent that, if these documents were not sent within ten days, the matter would be docketed. Respondent did not comply with the Secretary's request and the matter was docketed and assigned to a DEC investigator.

By letter dated April 17, 2015, the investigator requested that respondent provide a written response to the grievance. The letter also stated, "[y]our response should include your response to the allegation that you were not eligible to practice law in the State of New Jersey on January 20, 2014." The investigator sent a second letter, on April 20, 2015, stating that respondent was ineligible to practice law from September 28, 2009 to August 12, 2014, and requesting a list of all cases in which respondent was involved during that time period.

Respondent did not reply to the April 17 or April 20, 2015 letters. As a follow-up, the investigator sent another letter on

May 28, 2015; respondent again failed to reply. The investigator sent a final letter on July 1, 2015.

Finally, in a July 16, 2015 e-mail to the investigator, respondent explained that he had responded to Vance and further, promised that he would reply to the allegation that he was ineligible to practice law, by July 20, 2015. He failed to do so. On July 23, 2015, the investigator sent a follow-up e-mail, as well as a letter dated August 14, 2015, requesting a response to the prior correspondence.

On August 18, 2015, respondent sent a letter to the investigator, admitting that he had provided legal services while employed at LG Electronics during the period that he was ineligible; explaining that he was heavily involved in a proposed merger that the Department of Justice was investigating; and stating, "I understand that these facts do not excuse my delay . . . . I offer them only to explain that I have not intentionally ignored your request but rather prioritized other matters in the short term and then allowed this matter to slip off of my radar."

As to the specific allegations of the grievance, respondent explained that Vance was seeking the distribution of pension funds he believed were being held by Zenith, a wholly owned

subsidiary of LG Electronics. The funds, however, were disbursed fifteen years earlier. Respondent admitted it was possible that the enclosures reflecting the distribution were inadvertently omitted from his January 20, 2014 letter to Vance's Illinois attorney. Respondent did not indicate whether he re-sent those enclosures.

As to respondent's ineligibility, he explained that his prior employer, a law firm, had paid his annual assessment. It was not until he was having a social conversation with another attorney that he realized, that as in-house counsel, he had not paid the annual assessment on his own behalf and was likely administratively ineligible. He claimed that he immediately rectified the situation thereafter. He was unable to detail all of the matters in which he was involved while ineligible.

In his written response to the DEC investigator, respondent offered the following in mitigation: (1) he became ineligible "as a result of an inadvertent failure to pay an annual fee, not as a result of any intentional wrongdoing;" (2) he promptly remedied the situation on discovering his ineligible status; (3) he did not appear in court during his period of ineligibility; and (4) no one was harmed.

The facts recited in the complaint support the charges of unethical conduct set forth therein by clear and convincing evidence. Respondent's failure to file a verified answer to the complaint is deemed an admission that the allegations are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).

On December 29, 2014, Vance filed a grievance alleging that respondent did not provide requested documents to his attorney in Illinois. Although the DEC secretary gave respondent an opportunity to rectify this situation to avoid the docketing of the grievance, respondent failed to do so. Once the matter was docketed, respondent was given multiple opportunities to reply to the investigator's inquiries, specifically with regard to respondent's continued practice during his period of ineligibility. Again, he repeatedly ignored the investigator's requests and ultimately provided an untimely response. Moreover, respondent admitted practicing law while ineligible, in violation of RPC 5.5(a)(1). He also violated RPC 8.4(d) by disobeying Court Orders that declared him ineligible to practice law. Further, respondent's repeated failures to reply to the DEC investigator violated RPC 8.1(b).



Practicing law while ineligible, without more, is generally met with an admonition, if the attorney is either unaware of the ineligibility or advances compelling mitigating factors. See, e.g., In the Matter of James David Lloyd, DRB 14-087 (June 25, 2014) (during an approximate thirteen-month period of ineligibility, the attorney handled three client matters; mitigating factors were that the attorney was changing careers to become a youth minister at the time; that he inadvertently failed to pay the assessment; that the services performed in the three client matters were for friends or acquaintances; that he quickly cured the ineligibility after learning of it; and that he had no prior discipline in his eighteen-year legal career); In the Matter of Adam Kelly, DRB 13-250 (December 3, 2013) (during a two-year period of ineligibility for failure to pay the annual assessment to the CPF, the attorney handled at least seven cases that the Public Defender's Office had assigned to him; the record contained no indication that the attorney was aware of his ineligibility; no history of discipline since his 2000 admission to the New Jersey bar); and In the Matter of Stephen William Edwards, DRB 12-319 (January 25, 2013) (attorney represented one client in one matter while ineligible; attorney was also guilty of violating RPCs 1.15(d), 5.5(a), and 8.4(a)).

An admonition is also generally imposed for failure to cooperate. See, e.g., In re Ventura, 183 N.J. 226 (2005) (attorney did not comply with ethics investigator's repeated requests for a reply to the grievance; default case); In the Matter of Kevin R. Shannon, DRB 04-152 (June 22, 2004) (attorney did not promptly reply to the district ethics committee investigator's requests for information about the grievance); In the Matter of Keith O.D. Moses, DRB 02-248 (October 23, 2002) (attorney failed to reply to the district ethics committee's requests for information about two grievances); and In the Matter of Jon Steiger, DRB 02-199 (July 22, 2002) (attorney did not reply to the district ethics committee's numerous communications regarding a grievance).

Here, respondent compounded his misconduct by allowing this matter to proceed by way of default. In a default matter, the otherwise appropriate discipline is enhanced to reflect an attorney's failure to cooperate with disciplinary authorities. In re Kivler, 193 N.J. 332, 342 (2008).


Based solely on respondent's underlying misconduct for practicing law while ineligible, in violation of RPC 5.5(a)(1), an admonition would be appropriate. Respondent, however, has shown a complete disregard for all aspects of the disciplinary

process. He consciously and cavalierly ignored the investigator's multiple requests for information in favor of what he considered "more pressing" business. Moreover, even after the presenter agreed to a two-week extension for respondent to file an answer to the formal complaint, respondent, once again, ignored his obligation to do so. In this content, we give little weight, if any, to respondent's unblemished ethics history. Thus, under the totality of the circumstances, we determine to impose a reprimand for respondent's misconduct.

Member Gallipoli voted to impose a censure. Members Hoberman and Rivera 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

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SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of Christopher R. Welgos  
Docket No. DRB 16-095


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Decided: November 21, 2016

Disposition: Reprimand

<i>Members</i>	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	1	2

  
Ellen A. Brodsky  
Chief Counsel