SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 17-140
District Docket No. XIV-2013-0505E

IN THE MATTER OF	
SAL GREENMAN	
AN ATTORNEY AT LAW	

Decision

Argued: July 20, 2017

Decided: October 26, 2017

Timothy J. McNamara appeared on behalf of the Office of Attorney Ethics.

Respondent appeared pro se.

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

This matter was before us based on a recommendation by Special Master Cataldo F. Fazio for a two-year suspension. The complaint charged respondent with having violated RPC 1.1(a) (gross neglect); RPC 1.3 (lack of diligence); RPC 1.4(b) (failure to communicate with the client); and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). The complaint was later deemed amended to include an alleged violation of RPC 8.1(b) and R. 1:20-3(d)(3)

(failure to cooperate with disciplinary authorities) based on respondent's failure to file a timely answer to the complaint. For the reasons set forth below, we determine to impose a two-year suspension.

Respondent was admitted to both the New Jersey and Pennsylvania bars in 1993. On February 20, 2015, he was temporarily suspended by the Supreme Court for failing to comply with a random compliance audit conducted by the Office of Attorney Ethics (OAE). In re Greenman, 220 N.J. 489 (2015). He remains temporarily suspended to date.

Subsequently, on May 17, 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. 10 (2016). The Court further mandated that respondent remain temporarily suspended until further Order.

On October 30, 2008, grievant, Ruby Esa, hired respondent to represent her as the administratrix for the estate of her sister, Sylvia Odom. The retainer agreement listed Jonathan Greenman as the attorney; however, respondent is the signatory

to the agreement.[1] Nonetheless, respondent agreed to pursue a wrongful death case involving Odom, who had fallen down a flight of stairs at Partnership for People, Inc. (PPI), a group home located in Kenilworth, New Jersey. According to Esa, instead of performing an investigation, respondent completely ignored the case.

Esa testified that she originally had hired Jay Lowenstein to handle the case against PPI, but later decided that she no longer wanted Lowenstein to represent her. She then hired the Greenman firm because, at that time, "[respondent] had another case of mine, a slip and fall case."

She collected all of the paperwork Lowenstein had regarding the wrongful death case and brought it to respondent. She then signed a contingency fee agreement. Although the agreement purports to be between Esa and Jonathan, Esa always believed respondent to be her attorney. At some point, she met with both

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[1] The OAE originally filed a complaint alleging misconduct both by respondent and his son, Jonathan. Subsequent to the Board's hearing on this matter, the Court disbarred Jonathan, based on misconduct in unrelated matters. Therefore, the Office of Board Counsel administratively dismissed the complaint against Jonathan in this matter. However, in some instances, reference to Jonathan's involvement in this matter is necessary to a complete understanding.

respondent and Jonathan simultaneously. Thereafter, her expectations were that they both would investigate the possibility that someone had pushed Odom down the stairs.

On two occasions, Esa traveled with respondent to the group home. During their first attempt, no one was at PPI to receive them because the residents were off-site at their daily activities. When they arrived the second time, respondent asked, "What are we doing here?" Esa explained that this was the group home where her sister had her accident. Respondent replied, "Well what am I going to say if they open the door?" Esa recalled she told him, "I am not the lawyer; you are the lawyer."

After that exchange, they rang the doorbell to the home and a woman answered. When respondent explained who he was and asked whether they could look around inside, the woman said "no" and ended the interaction. After this visit, Esa began to have concerns about the competency of respondent and the firm generally.

Esa regularly asked for status updates from respondent, regularly contacted the firm by telephone, and had many conversations with respondent. Although he repeatedly assured her that the matter was proceeding smoothly and "could not be going better," he never gave any details. Esa believed she had

about eight such phone conversations with respondent and met with him twenty to twenty-five times. She met with him so often because she was not seeing any progress and wanted information. Additionally, Esa met with respondent and Jonathan, together.

Esa also had eight or nine phone conversations with Jonathan, who likewise told her that her case was going well. Esa estimates that she also met with Jonathan thirteen times. He made several promises to call the court and get back to her, or to go to the court and get a docket number for her case.

In addition, Esa regularly asked her husband, Amal, to stop by respondent's office. Amal was told that the case was going well. Moreover, because Jonathan was handling an accident case for Esa's daughter Erica, Esa asked Erica to follow up with Jonathan on the Odom matter when she would meet with him regarding her accident. Jonathan assured Erica that Odom's case was going well.

Esa regularly asked for the docket number that she had been promised on multiple occasions. On February 3, 2012, respondent sent a letter to Esa explaining, "we are waiting to hear from the clerk regarding the docket number on your sister's case." Respondent estimated that they would receive the information the following week. Four days later, he sent a follow up letter to Esa stating, "we spoke with the clerk and I'll have the info for

you by the end of the week." Esa believed that respondent was trying to appease her and hoping that she would tire in her persistence.

According to Esa, respondent did not inform her that, on April 23, 2010, he had received notice that her case was going to be dismissed for lack of prosecution; nor did he tell her that the complaint actually was dismissed, on June 25, 2010.

Esa became frustrated with the lack of information and effort on respondent's part. Respondent never retrieved any documentation from the hospital or other related sources. Esa had done all of the "legwork." For instance, she retrieved incident reports from the police department. Essentially, she gathered all the information herself and gave it to respondent who, in turn, did nothing with it. Thus, based on her frustration, on March 7, 2012, Esa hired Eric W. Smith, Esq., to review her sister's case.

On March 16, 2012, Smith sent respondent a letter, terminating the Greenman firm's representation of Esa, and stating that Smith would be representing her interests going forward. Additionally, Esa sent her own letter terminating the representation. In his letter, Smith requested the Greenman firm's Odom case file, as well as a large plastic storage bin containing Odom's personal belongings that Esa previously had

delivered to the firm. Neither respondent nor Jonathan replied to Smith's letter.

On April 5, 2012, Smith sent a follow up letter to the Greenman firm, again requesting the file. On April 24, 2012, in response to several phone calls Smith had placed to the firm, Jonathan sent Smith an e-mail: (1) denying receipt of the two letters from Smith and asserting that the office fax machine was not working; (2) indicating that he was leaving that day for Atlantic City for "ICLE credits;" (3) requesting that Smith e-mail his requests; and (4) promising that he would personally deliver a copy of the file and Odom's personal belongings to Smith's office the next week. No such delivery was made to Smith's office the following week.

On April 25, 2012, via e-mail to Jonathan, Smith enclosed copies of his first two letters and again requested a copy of the file. On May 1, 2012, Smith sent a letter to Jonathan, memorializing a phone conversation between the two and, again, asking for a copy of the file. Several days later on May 7, 2012, Smith received an e-mail from Samantha Algeri, on behalf of Jonathan, explaining that he was not in the office that day; that, on the previous Friday, he had a medical emergency and, as a result, was unable to deliver the file to Smith's office; and

that he had an MRI scheduled later that week in Totowa and would deliver the file to Smith then.

Subsequently, on May 11, 2012, Jonathan sent an e-mail to Smith, stating that he "will drop the box off Monday afternoon;" that he suffered from diverticulitis; that he was on his way to the hospital; that his MRI had been rescheduled to Monday at 4:00 p.m., and that he would stop by Smith's office at about 3:30 p.m.

Jonathan delivered the bin with Odom's personal belongings and, according to Smith, "a very, very thin paper file which had a complaint . . . on behalf of the estate." The complaint contained a handwritten docket number; however, Smith testified, that complaint had not been filed. Rather, Smith later learned, the complaint bearing that handwritten docket number not only did not match the document that had been filed with the clerk's office, but also that the complaint that had been filed was dismissed for lack of prosecution. Nothing else was found in the file. Later in his testimony, however, Smith recalled finding letters from respondent to Esa, in response to her requests for status updates. Smith could not remember whether he had received copies of these letters from Esa or from the file (these letters are discussed in more detail below).

Smith remarked that, because Odom had died two years earlier, he had expected the file to contain the results of an investigation, corporate searches into the entities involved, tort claims notices to any public entities involved, medical records, a cause of death certificate, etc; "the kinds of things that you're going to need if you're going to try and prove a wrongful death case against anybody." Yet, the file contained none of these items.

Smith opined that the copy of the complaint and jury demand in the file that he received from the Greenman firm suffered from the following serious deficiencies: it lacked the date of Odom's accident, the location of the accident, and the date of her death; it failed to cite the name of the group home where Odom had fallen, instead merely listing the defendants as the "Jersey Department of Human Services and then John Doe as an ABC corps;" and it alleged that Odom's accident had taken place in Kinnelon, Bergen County, New Jersey, but Kinnelon, is in Morris County, and, in any event, PPI, where the accident actually occurred, is located in Kenilworth, Union County. Thus, there was no basis for the complaint to have been filed in Bergen County.

Nevertheless, Smith called the court clerk in Bergen County to inquire about the docket number on the complaint. He learned

that the complaint associated with that docket number had been filed, but later was dismissed for failure to prosecute.

Smith described the substantive deficiencies of the version of the complaint that respondent actually had filed in Bergen County. Specifically, although the first page purports to be a complaint for Odom's wrongful death, the pages thereafter refer to an automobile accident involving other parties. The filed complaint also lacked the date of the accident, the location of the accident, and the date of Odom's death, and failed to name as defendants any employees of PPI.

As noted, Smith had obtained copies of letters from respondent to Esa, sent in response to her requests for a status update. In a February 3, 2012 letter to Esa, respondent represented that he anticipated receiving from the clerk a docket number on Odom's case in the next week. Four days later, on February 7, 2012, he sent another letter informing Esa that he had spoken to the clerk and that he would have information for her by the end of the week. Yet, the complaint had been dismissed for lack of prosecution on June 25, 2010, almost two years prior to the date of respondent's letters to Esa.

According to Smith, Odom's case presented yet another significant problem – as a nonprofit organization, PPI was immune from liability under the Charitable Immunity Act. Smith

explained this issue to Esa at their second meeting and told her that, nonetheless, he still would have represented Esa if she initially had consulted him, instead of respondent, because an investigation into Odom's death might have led to the identification of another defendant. Respondent, however, had not explained any of these issues to Esa.

Smith spent a good deal of time investigating the matter but, he asserted, it all proved to be fruitless, as the statute of limitations had expired by that point. He began investigating a malpractice claim against the Greenman firm, but ultimately, concluded that the underlying case could not be proven.

At an April 22, 2014 interview, both respondent and Jonathan told OAE investigator Tiffany Childs that respondent primarily handled the Odom matter, while Jonathan merely assisted. They blamed Esa for the failures in the Odom matter and believed that they should not be charged with any ethics violations stemming therefrom. They claimed that determining the actual cause of Odom's death was impossible because she had previously sustained injuries from other falls and accidents, including a motor vehicle accident in November 2007. According to respondent and Jonathan, they had explained to Esa that, because of these proof problems, they would need to hire an expert, at her expense, which could cost up to $5,000.

The two also maintained that Jonathan had filed a wrongful death complaint in Superior Court of New Jersey, Bergen County. The client file that they provided to the OAE contained a copy of neither the unfiled complaint they had provided to Smith nor the complaint actually filed in Bergen County. In the file, however, was yet a third complaint, which suffered from many of the same deficiencies. Specifically, the complaint lacked the date and location of the accident, the date of death, and the names of any employees of the group home connected to the event.

Also at the April 22, 2014 interview, respondent and Jonathan claimed to have relied on the investigation report of the Kenilworth police department, which they received from Esa's former attorney, Lowenstein, for Odom's date of death. That report, however, does not contain a date of death. Although Lowenstein had provided respondent and Jonathan with some medical records, neither respondent nor Jonathan obtained any additional medical records or a death certificate.

In a March 18, 2014 letter to the OAE, respondent blamed a March 23, 2009 flood in their office for their failure to provide a docket number to Esa. Attached to the letter was a document evidencing a claim made to Traveler's Insurance relating to the flood. Respondent also produced a May 28, 2010 estimate for the damage to their office. Childs observed that

the period of this flood and subsequent damage, did not comport with the letters, dated February 3 and February 7, 2012, from respondent to Esa, regarding the docket numbers. At the April 22, 2014 interview, Jonathan alleged that he had called and appeared at the clerk's office to obtain the docket number, but the clerk was unable to find it.

Finally, Childs' investigation revealed that, on October 31, 2008, respondent sent a letter to Carol Daugherty, at PPI, requesting the name and address of the property owner, and of the insurance carrier for the group home. Childs found no further evidence that respondent took any other action to ascertain the name of the owners, or to identify other potentially liable parties.

Because respondent has a history of both failing to cooperate and denying receipt of notices of ethics proceedings, a detailed procedural history is relevant. By letters dated November 14 and December 4, 2014, the OAE informed respondent and Jonathan that their joint answer to the ethics complaint, filed on November 12, 2014, but dated October 7, 2014, did not comply with the rules, and that, unless they filed a conforming answer within twenty-one days, the December 4, 2014 letter would constitute an amendment to the ethics complaint to include an alleged violation of RPC 8.1(b).

On December 15, 2014, the OAE received a fax from respondent, claiming that he had received the request for an amended answer, that the documentation requested previously had been sent and must have crossed in the mail, and, that, in the interim, another copy of each answer had been mailed again. On December 22, 2014, respondent and Jonathan jointly filed an amended answer to the complaint but it lacked a signature page.

In a February 3, 2015 letter, the OAE again reminded respondent and Jonathan that their amended, verified answer to the ethics complaint, had been due on December 9, 2014. Although the OAE extended the due date to February 13, 2015, no further answers were submitted.

Several months later, on August 24, 2015, via an e-mail to both attorneys and the OAE, the special master adjourned a telephonic pre-hearing conference that had been scheduled for that day, stating that he had attempted to reach respondent and Jonathan at both their home and office telephone numbers on file with the OAE but was unable to leave a voice message on any of those numbers. He requested that they acknowledge his e-mail via an e-mail reply. He also rescheduled the pre-hearing conference for September 10, 2015.

In an August 26, 2015 letter, the special master provided the OAE and both attorneys with a telephone number for the pre-

hearing conference. In that letter, the special master directed the parties to be prepared to provide names of witnesses they would be calling and the number of hearing days that would be needed, and further asked respondent and Jonathan to provide the OAE with an updated telephone number. Again, the special master asked the parties to send an e-mail to confirm receipt of the letter.

On September 9, 2015, the special master received an e-mail from an unknown sender at respondent's law firm, indicating that the sender was "mistaken" and that respondent would not be back in New Jersey until the weekend, and requesting that the pre-hearing conference be rescheduled for a date after the Jewish holidays. That same day, the special master replied that he had received no prior communication regarding respondent's schedule; asked for further clarification; reminded the sender that respondent and Jonathan had yet to reply to his previous letters regarding the scheduling of the conference for September 10, 2015, and its rescheduling to September 16, 2015; and requested confirmation of receipt of these letters and updated contact information for the two attorneys.

On September 11, 2015, the special master, yet again, sent a letter reminding all parties that the pre-hearing conference was scheduled for September 16, 2015. The special master noted

that respondent and Jonathan still had not complied with his previous requests to provide the OAE with updated contact information and cautioned that it was "imperative" that each contact the OAE upon receipt of the letter.

On September 15, 2015, via telephone, Jonathan asked the special master to postpone the pre-hearing conference due to the religious holiday and for personal reasons. The special master granted that request, despite his belief that there was no religious holiday the next day.

On September 25, 2015, the special master sent a letter to the parties, notifying them that the pre-hearing conference was rescheduled to October 14, 2015, with October 16, 2015 as an alternative or overflow date, if necessary. The letter also identified the topics that the parties should be prepared to discuss during the pre-hearing conference.

On October 20, 2015, the special master sent a letter to the parties noting that, on October 15, 2015, he had received correspondence from respondent, dated October 5 but postmarked October 13, requesting an adjournment of the October 14, 2015 pre-hearing conference. The special master denied that request as both untimely and unwarranted. The special master then recited the litany of letters, e-mails, and telephone calls that respondent and Jonathan had failed to acknowledge.

Also on October 20, 2015, the special master issued Case Management Order 1, setting a deadline of November 10, 2015 for respondent and Jonathan to provide both updated contact information and a conforming amended answer; cautioning that failure to do so would result in the allegations of the complaint being deemed admitted; directing both of them to reply to the OAE's discovery demands and to submit a pre-hearing report; scheduling the next telephonic pre-hearing conference for November 13, 2015; and warning that the conference would proceed even if they failed to participate.

On November 9, 2015, the OAE received a fax from respondent and Jonathan, which contained only three blank pages.

Finally, on November 20, 2015, the special master issued Case Management Order 2, in which he deemed the allegations of the complaint admitted, based on respondent and Jonathan's failure to submit an amended answer in compliance with R. 1:20-4. Notwithstanding that ruling, the OAE requested a hearing in the matter. The special master barred respondent and Jonathan from calling any witnesses or introducing any evidence at the hearing, in light of their failure to submit discovery responses to the OAE. The order provided that, if they failed to appear for the hearing, it would, nevertheless, proceed as scheduled.

In accordance with Case Management Order 2, on December 4, 2015, OAE Assistant Ethics Counsel Timothy J. McNamara submitted a certification to the special master, representing that, on October 14, 2015, he had attempted to reach respondent and Jonathan at the home and office telephone numbers they had provided him. He left a voice message on their office line but was unable to do so on their home lines, instead receiving a message stating, "No calls are being received at this time." Additionally, McNamara certified that, on November 13, 2015, he again attempted to contact respondent and Jonathan at those same office and home telephone numbers, with the same results.

The special master found that respondent violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 8.4(c), and RPC 8.1(b).

Specifically, the special master found that respondent handled and neglected the matter that Esa had entrusted to him in such a manner that the conduct constituted gross negligence, lack of diligence, and a failure to keep the client reasonably informed about the status of the matter or to comply with her reasonable requests for information. The special master found that, by lying to Esa and to the OAE, respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation. He also refused, or otherwise failed, to cooperate with the OAE.

Moreover, the special master determined that respondent exhibited a complete disregard of the disciplinary procedures leading up to, and through, the hearing date. Significantly, the facts and circumstances surrounding the pre-hearing proceedings supported the conclusion that he did so, while attempting to create the impression that he was cooperating and participating in the proceedings.

The special master recommended that respondent receive a two-year suspension, explaining that the suspension included "an 18-month suspension for willfully failing to cooperate with the OAE and with these ethics proceedings."

Finally, the special master noted that, although the suspension recommended was substantial, it was warranted based on the fact that, "not only did [ ] respondent fail to cooperate with the OAE and with these ethics proceedings, the evidence supports that in doing so that [sic] [he] undertook efforts to perpetrate a fraud by trying to create the appearance of cooperation while willfully disregarding the obligations imposed by the OAE, the special master, and the Court Rules."

* * *

On May 24, 2017, we received an undated letter from respondent, enclosing documents, exhibits, and medical records, which were not part of the record below. Further, respondent

indicated his reliance on a brief he "originally submitted to the district court in reply to an order to show cause in October of 2016."[2]

On May 25, 2017, Chief Counsel instructed respondent to file a motion, supported by a certification, to supplement the record with those materials.

In reply to his submission, the OAE observed that respondent was attempting to supplement the record with hundreds of pages of documents from unrelated disciplinary matters and asserted that respondent has repeatedly refused to cooperate with disciplinary authorities.

On May 30, 2017, we received another undated letter from respondent, requesting that his psychiatrist and his wife be permitted to testify before us regarding respondent's physical and mental health. Respondent claimed that he never was served with the original pleadings in this matter and, thus, did not have the opportunity to defend himself or to call witnesses on his behalf. By letter dated May 25, 2017, we denied his request to present testimony.

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[2] Respondent did not provide a copy of this brief. The circumstances surrounding its filing and the referenced order to show cause are unknown.

Finally, on June 16, 2017, we received a letter from respondent, unaccompanied by a supporting certification. Moreover, in his letter, respondent does not address the justification for his motion, but, rather, merely complained about the OAE, the presenter, and respondent's circumstances, including his lack of staff and his multiple health problems. Respondent admitted that he had failed to update the OAE with his correct address, claiming that he was not aware of that obligation, but acknowledging that "ignorance is not an excuse." Finally, respondent expressed hope that he would be permitted to continue to practice law.

Following a de novo review of the record, we are satisfied that the special master's finding that respondent's conduct was unethical is fully supported by clear and convincing evidence.

Specifically, the record supports the finding that respondent violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 8.4(c), and RPC 8.1(b).

At the outset, we deny respondent's motion to supplement the record. Respondent submitted numerous documents in support of his application, the relevancy of which he did not address. Nor did he file a certification in support of his motion. Further, as is evident from the record, respondent was fully aware of the proceedings – he answered the complaint, not once

but twice. To suggest to us, as he has, that he had not been served with the original pleadings and, therefore, did not have the opportunity to present witnesses and defend himself goes far beyond disingenuousness. Indeed, respondent's inability to defend himself is a product of his own deliberate conduct. He repeatedly frustrated the entire process below, feigning cooperation with the OAE and with the special master to the extent that the special master considered his charade as an aggravating factor. We, too, reach that conclusion.

As for respondent's conduct, at least from October 30, 2008 to March 16, 2012, respondent told Esa that her case was proceeding smoothly when in fact, there had been no movement in the matter. Esa relied on the representations that respondent made, not only to her personally, but also to her husband and her daughter when they, too, inquired about the status of the matter. The sheer number of inquiries over time and the number of misrepresentations respondent made in reply amounted to a pattern.

The client file that was submitted to the OAE and the work that Esa's subsequent attorney, Smith, performed demonstrate respondent's neglect of Esa's matter. Respondent could not even properly perform an inspection of the property where the accident occurred because he was unaware of the underlying

premise for the claim. Indeed, when he arrived at the group home, he asked Esa what he should say if someone answered the door. Respondent never obtained medical records, police records, or any documents necessary to support a wrongful death complaint. Although a complaint was filed, the substance of it pertained to an automobile accident involving other parties. Clearly, respondent violated RPC 1.1(a) and RPC 1.3.

Eventually, that complaint was dismissed for lack of prosecution. Even after it was dismissed, respondent continued to mislead Esa, placating her with assurances that all was well, knowing that to be untrue. Respondent's conduct in this regard violated both RPC 1.4(b) and RPC 8.4(c).

Respondent also violated RPC 8.4(c) through his misrepresentations by silence when he failed to inform Esa that, not only had he received a dismissal notice for the complaint that had been filed on her behalf, but also that the case subsequently was dismissed. He made further misrepresentations to the OAE: he informed the OAE that he could not provide Esa with a docket number for the complaint because of a flood in his office. He went so far as to submit insurance claim documents related to the flood in his office to support these assertions. That flood, however, occurred a year-and-a-half prior to Esa

beginning to inquire about a docket number and a year prior to the complaint being dismissed.

Additionally, respondent exhibited a pattern of failing to cooperate with disciplinary authorities and ignoring almost all communications, and then, on the eve of important dates, or shortly after those dates had passed, sending cryptic messages, or oddly postmarked letters, among other things, in an attempt to postpone or reschedule those events. Overall, respondent engaged in a deceitful manner in an attempt to delay and obfuscate. The record, in this regard, fully supports a finding that he violated RPC 8.1(b).

Cases involving gross neglect, lack of diligence, and failure to communicate with the client, accompanied by misrepresentations, additional ethics infractions, or extensive ethics histories have resulted in the imposition of censures or short-term suspensions. See, e.g., In re Cellino, 203 N.J. 375 (2010) (in a landlord/tenant action for the recovery of a security deposit, censure imposed on attorney who took no action on the client's behalf and repeatedly lied to her over the next two years that he had filed a complaint and obtained a judgment against the landlord; he also failed to communicate important aspects of the case to her, ceased communicating with her, and failed to cooperate with the ethics investigation; no history of

discipline); In re Boyman, 201 N.J. 203 (2010) (censure imposed on attorney, who, in two client matters, was guilty of gross neglect, lack of diligence, and failure to cooperate with disciplinary authorities; in one of the matters, he also failed to communicate with the client, entered into an improper business transaction with the client, and failed to turn over the client's file; no history of discipline); In re Franks, 188 N.J. 386 (2006) (censure for attorney's failure to abide by a client's decision about the representation, lack of diligence, failure to communicate with the client, failure to cooperate with disciplinary authorities, and misrepresentations; prior admonition); and In re Rifai, 206 N.J. 553 (2011) (three-month suspension imposed on attorney who, in two client matters, was guilty of gross neglect, pattern of neglect, lack of diligence, failure to communicate with the client, and misrepresentations to the client; attorney also failed to expedite litigation and to protect a client's interests upon termination of the representation by not releasing the file in one of those matters; attorney had been disciplined for similar misconduct in 2002 (reprimand), thereby demonstrating that he had not learned from prior mistakes; he also received a reprimand in 2007 and a three-month suspension in 2011). But see In the Matter of William Timothy Howes, DRB 12-193 (October 1, 2012) (admonition imposed

on attorney who was unsuccessful in resolving "an administrative and/or judicial reconciliation of a 1998 substantiation of neglect that remain[ed] in the DYFS Registry" on behalf of his client; thereafter, he misrepresented to the client's husband that he had filed a notice of appeal and case information statement with the Appellate Division, that he was awaiting a "scheduling order," that he was still awaiting the order a month later, and that he had made an inquiry to the court about the status of the case; after the client learned that a notice of appeal was never filed and confronted the attorney about his statements, he stated that he would provide her with documentary evidence of the filing; violations of RPC 1.3 and RPC 8.4(c); although the client terminated the attorney's services, an appeal ultimately went forward; in imposing only an admonition, we considered the attorney's remorse, the absence of personal gain, the lack of permanent harm to his client, and his unblemished disciplinary history of twenty-three years).

Respondent's misconduct is most akin to that of the attorney in In re Franks, supra, who received a censure. Although Franks had a prior admonition, here, respondent has a more extensive ethics history. Respondent previously received a censure, and has been temporarily suspended since February 20, 2015, for failing to cooperate with a random compliance audit.

Hence, in accordance with the principles of progressive discipline, the starting point in assessing the appropriate quantum of discipline for respondent is a three-month suspension.

In our view, however, respondent's conduct merits enhanced discipline. Respondent has a history of failure to cooperate with the disciplinary system and of manipulating its proceedings to suit his needs. Indeed, in a previous matter involving both respondent and Jonathan, respondent alleged that he was unable to attend an OAE audit because of a previously planned vacation. The dates on his itinerary, however, did not coincide with the dates of the audit. In the Matters of Sal and Jonathan Greenman, DRB 15-149 and DRB 15-180 (December 22, 2015) (slip op at 8). Respondent's blatant lies about the timing of floods or vacations and other falsehoods aggravate this matter well beyond the three-month suspension.

As previously noted, however, there is further aggravation to consider. Respondent has lied to us, in writing, either by omission or commission. Specifically, although he denied his failure to cooperate with disciplinary authorities, the record clearly establishes otherwise. He also lied to us by denying that he received the original documents in this matter or that he was aware of the hearing before the special master. The

special master's painstaking efforts to involve respondent in the process clearly establish respondent's misrepresentations to us in this regard.

Respondent's disdain for the disciplinary system and his complete disregard for truth – not only toward his client, but also toward us, is alarming. Hence, on balance, considering all of the aggravating factors, we determine to impose a two-year suspension on respondent.

Member Hoberman 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 Matter of Sal Greenman
Docket No. DRB 17-140

Argued: July 20, 2017

Decided: October 26, 2017

Disposition: Two-year suspension

Members	Two-year Suspension	Recused	Did not participate
Frost	X		
Baugh	X		
Boyer	X		
Clark	X		
Gallipoli	X		
Hoberman			X
Rivera	X		
Singer	X		
Zmirich	X		
Total:	8		1

Ellen A. Brodsky
Chief Counsel