

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 17-184  
District Docket No. XIV-2016-0226E

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IN THE MATTER OF  
GEORGE P. STASIUK  
AN ATTORNEY AT LAW

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Decision

Decided: November 22, 2017

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

This matter was before us on a certification of default filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-4(f). A one-count complaint charged respondent with having violated RPC 8.1(b) (failure to reply to a lawful demand for information from a disciplinary authority) and RPC 8.4(d) (conduct prejudicial to the administration of justice) for his failure to file the required R. 1:20-20 affidavit, following his temporary suspension from the practice of law.

We determine to impose a censure.

Respondent was admitted to the New Jersey bar in 1990.

By Order dated February 12, 2016, the Supreme Court censured respondent in a default matter for gross neglect, lack of diligence, failure to communicate with the client, failure to return an unearned fee, and failure to cooperate with an ethics investigation. In that case, respondent accepted a \$6,500 fee to represent the client in a workplace age and ethnicity discrimination action. After accepting the fee, respondent took no further action on the client's behalf. Respondent then closed his law office and seemingly disappeared. The Court's Order also required respondent to make arrangements for the repayment of the fee within thirty days or face immediate temporary suspension. Because respondent did not comply, the Court entered an Order for his temporary suspension, on March 30, 2016. In re Stasiuk, 224 N.J. 389 (2016).

Respondent remains suspended to date.

Service of process was proper in this matter. On January 26, 2017, the OAE issued a complaint against respondent but could not effect service because of respondent's failure to provide a valid address either to the New Jersey Lawyers' Fund for Client Protection or to the OAE.

Thus, on February 3, 2017, the complaint was served upon respondent by publication in Passaic County's Herald News and, on February 6, 2017, in the New Jersey Law Journal.

The time within which respondent may answer the complaint has not been extended and, as of May 24, 2017, the date of the certification of the record, respondent had not filed an answer.

The facts alleged in the complaint are as follows.

The Court's temporary suspension Order was effective March 30, 2016, and required respondent to comply with R. 1:20-20, which mandates, among other things, that a suspended attorney file with the Director of the OAE, within thirty days after the date of the Order of suspension, "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 August 3, 2016, the OAE sent respondent a letter, by certified and regular mail, to his office address at "38 [sic] Mountainview Boulevard, Wayne, New Jersey 07470-6731," and to his home address, as listed in the attorney registration records, advising him of his duty to file the R. 1:20-20 affidavit,

directing him to do so immediately and to provide a copy to the OAE, and requesting a reply by August 17, 2016.

The certified mail sent to respondent's "incorrect" office address was returned marked "Attempted - Not Known Unable to Forward." The regular mail to that address was not returned.

The OAE then contacted respondent's former landlord at the correct address, 36 Mountainview Boulevard, Wayne, New Jersey 07470, who confirmed that respondent no longer maintained an office there, having vacated the premises in early 2013.

The certified mail sent to respondent at his home address was returned to the OAE marked "Attempted - Not Known Unable to Forward." The regular mail was returned marked "Not Deliverable as Addressed Unable to Forward."

The OAE then conducted a national records search using the "CLEAR" online investigative database, which yielded no valid address for respondent.

To date, respondent has not filed the required affidavit. Therefore, the complaint alleged, respondent has willfully violated the Court's Order and failed to take the actions required of all suspended attorneys, including notifying clients and

adversaries of the suspension, and providing clients with their files, violations of RPC 8.1(b) and RPC 8.4(d).

The OAE urged us to impose a censure. In its brief, the OAE acknowledged that the threshold sanction for an attorney's failure to file a R. 1:20-20 affidavit is a reprimand, citing In re Girdler, 179 N.J. 227 (2004). Nevertheless, the OAE cited two aggravating factors that subject respondent to greater discipline: his failure to reply to the OAE's specific request to file the affidavit and the default status of the instant matter. In support of a censure, the OAE cited In re Fox, 210 N.J. 255 (2012).

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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).

Respondent violated the temporary suspension 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.

As the OAE has acknowledged, 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, supra, 179 N.J. 227. 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 reply 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, Girdler failed to produce the affidavit of compliance in accordance with that Rule, even though he had agreed to do so. Girdler had a prior public reprimand, private reprimand, and three-month suspension.

Since Girdler, the discipline imposed on attorneys in default cases who have failed to comply with R. 1:20-20, despite the OAE's requests to do so, and whose disciplinary history consisted of a temporary suspension and/or discipline short of a fixed

suspension, has been a censure. See, e.g., In re Kinnard, 220 N.J. 488 (2015) (attorney 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 aggravating factors of 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) (attorney failed to file affidavit after the Court temporarily suspended him for his failure to pay the disciplinary costs associated with a 2010 reprimand; he also ignored the OAE's request that he file the affidavit); In re Boyman, 217 N.J. 360 (2014) (attorney did not file the R. 1:20-20 affidavit after his temporary suspension for failure to pay administrative costs associated with his 2010 censure); and In re Gahles, 205 N.J. 471 (2011) (attorney did not file the required affidavit following a temporary suspension for failure to comply with a fee arbitration determination; prior reprimand and admonition). See also In re Zielyk, 226 N.J. 472 (2016) (censure for attorney who failed to file a R. 1:20-20 affidavit following his temporary suspension, even after the OAE had requested that he do so, and then failed to file an answer to the complaint; prior admonition and censure).

Both respondent and Zielyk failed to file a R. 1:20-20 affidavit after the OAE's specific request that they do so, and then failed to file an answer to the ethics complaint; the attorneys were admitted to the bar within four years of each other, respondent in 1990 and Zielyk in 1986; and both attorneys have a prior censure, in a default matter.


Thus, we determine that a censure is the appropriate discipline for respondent's misconduct.

Member Gallipoli voted for disbarment and authored a separate dissenting opinion.

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



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SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of George P. Stasiuk  
Docket No. DRB 17-184


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Decided: November 22, 2017

Disposition: Censure

Members	Censure	Disbar	Did not participate
Frost	X		
Baugh	X		
Boyer	X		
Clark	X		
Gallipoli		X	
Hoberman			X
Rivera	X		
Singer	X		
Zmirich	X		
Total:	7	1	1

  
Ellen A. Brodsky  
Chief Counsel