

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 17-328
District Docket No. XIV-2016-0470E

IN THE MATTER OF
ADAM KENNETH BLOCK
AN ATTORNEY AT LAW

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Decision

Decided: March 23, 2018

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

This matter was before us by way of default filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-4(f). The complaint charged respondent with violations of RPC 5.5(a)(1) (engaging in the unauthorized practice of law), RPC 8.1(b) (failing to cooperate with disciplinary authorities), and RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice). For the reasons detailed below, we determine to impose no further discipline.

Respondent was admitted to the New Jersey and New York bars in 1993.

From September 26, 2005 to June 12, 2006; September 24, 2007 to December 11, 2012; September 30, 2013 to May 30, 2014; and August 25 to October 9, 2015, respondent was ineligible to practice law for failure to pay the annual attorney assessment to the New Jersey Lawyers' Fund for Client Protection (the Fund).

Respondent has an extensive ethics history. On March 7, 2013, he received a reprimand for practicing while ineligible. In re Block, 213 N.J. 8 (2013). That matter proceeded on a default basis.

On February 14, 2014, respondent was censured for again practicing while ineligible. In re Block, 217 N.J. 21 (2014). That matter also proceeded by way of default.

On November 20, 2014, respondent received a second censure. In that case, we determined not to impose additional discipline for his underlying conduct of practicing while ineligible, because that misconduct took place during the same timeframe as the prior matter for which he was censured. However, based on the fact that respondent had defaulted for the third time, he received an additional censure for multiple failures to cooperate with disciplinary authorities. In re Block, 220 N.J. 33 (2014).

On October 9, 2015, respondent was suspended for six months, also in a default matter, for gross neglect, lack of diligence, and failure to communicate in one client matter. Further, while

representing that client, respondent was ineligible to practice law. He also failed to cooperate with disciplinary authorities. In re Block, 222 N.J. 609 (2015).

Most recently, on February 9, 2018, the Court entered an Order suspending respondent for one year, for practicing while ineligible, practicing while suspended, and failing to cooperate with disciplinary authorities. That matter also proceeded by way of default. In re Block, D-206 September Term 2016. The specifics of respondent's conduct underlying this matter are discussed in more detail below.

Service of process in this matter was proper. On June 29, 2017, the OAE sent a copy of the complaint to respondent at the last known home address listed in the records of the Fund, by both regular and certified mail, return receipt requested. On August 4, 2017, the certified mail was returned unclaimed; the regular mail was not returned.

On August 23, 2017, the OAE sent respondent another letter, to the same address listed with the Fund, by regular and certified mail, return receipt requested, informing him that, if he failed to file a verified answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the entire record would be certified directly to us for

the imposition of discipline, and the complaint would be deemed amended to include a violation of RPC 8.1(b). Neither the regular mail nor the certified mail was returned. Rather, the United States Postal Service tracking indicates "Notice Left (No Authorized Recipient Available) on August 26, 2017."

The time within which respondent may have answered has expired. As of the date of the certification of the record, no answer had been filed by or on behalf of respondent.

We now turn to the allegations of the complaint. As previously noted, respondent was suspended from the practice of law for six months, on October 9, 2015, and until further Order of the Court. Yet, in February 2016, respondent represented Yeimi L. Vargas-Nunez and Jose N. Veras in connection with a civil action.

Specifically, on February 5, 2016, while he was suspended from the practice of law, respondent filed a civil complaint in the matter of Yeimi L. Vargas-Nunez and Jose N. Veras v. Sunrise Motors, Inc., Docket No. BER L-1215-16, in the Superior Court of New Jersey, Law Division, Bergen County. On that complaint, respondent listed his law office in Moonachie, New Jersey, along with a contact phone number. Thereafter, counsel for defendant Sunrise Motors, Inc. (Sunrise) unsuccessfully attempted to contact respondent a number of times at that address and phone number. On

May 22, 2016, counsel for Sunrise finally reached respondent by telephone.

Although respondent was suspended at the time of that telephone conversation, he gave verbal consent for Sunrise to file an answer to the complaint out of time. Additionally, respondent indicated that the reason he could not be reached was that he was in the process of moving his practice to another address. He also provided a new address in Fort Lee, New Jersey for his law office.

On May 23, 2016, counsel for Sunrise sent a letter to respondent's new address, memorializing their conversation and enclosing a proposed consent order to answer the complaint out of time. Respondent did not reply. After becoming suspicious, counsel communicated with the OAE and learned that respondent had been suspended since October 9, 2015. Counsel had no further contact with respondent, and, after various procedural events, on June 16, 2017, moved for dismissal of the civil matter, without prejudice.

Previously, on April 28, 2016, OAE Disciplinary Investigator Tashon Jackson had telephoned respondent and informed him of "the grievance against him."¹ In that conversation, respondent stated

¹ The record does not identify this grievance. We presume that it was not related to this matter, however, because the telephone call pre-dated Sunrise counsel's communication with the OAE.

that he had been admitted to the hospital and had no valid mailing address. On May 31, 2016, Jackson again spoke with respondent, who represented that he would provide his contact information to the OAE before he was discharged from the hospital.

On August 9, 2016, Jackson communicated with the hospital and learned that respondent had been discharged weeks earlier, and had been transferred to another hospital. Respondent did not provide the OAE with updated contact information before that discharge, as he had promised. On August 15, 2016, the OAE sent a letter by regular and certified mail, return receipt requested, to respondent at his last known address listed on his attorney registration, informing him of the docketing of this investigation and requesting a response within ten days. Both the regular and certified mail were returned as undeliverable, "return to sender-unable to forward."

On August 25, 2016, Jackson again telephoned respondent and again spoke with him while he was in the hospital. Still, respondent provided no current address. In September 2016, Jackson discovered that respondent again had been discharged from the hospital. On November 9, 2016, Jackson attempted to contact respondent through his various e-mail accounts. Respondent did not reply. To date, respondent has neither provided the OAE with his

updated contact information nor had any further contact with the OAE.

* * *

The complaint alleges sufficient facts to support the charges of unethical conduct. Respondent's failure to file an answer is deemed an admission that the allegations of the complaint are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).

Respondent practiced law while suspended. On February 5, 2016, he filed a civil complaint, in Bergen County, on behalf of his clients. Then, on May 22, 2016, he again practiced while suspended when, during a telephone call with counsel for Sunrise, he consented to Sunrise's filing an answer to the complaint out of time. This conduct violated RPC 5.5(a)(1). Respondent's conduct also required the expenditure of judicial resources. Specifically, defense counsel was required to file a formal motion for permission to file an answer to the complaint out of time, which, in turn, required the court's action. Thus, respondent's conduct also violated RPC 8.4(d). Unfortunately, this is not new conduct for respondent.

As noted above, in his most recent disciplinary matter, we determined that respondent had practiced while suspended.

Specifically, on January 5, 2016, respondent entered guilty pleas on behalf of two clients in Lyndhurst Municipal Court. In the Matter of Adam K. Block, DRB 17-062 (August 18, 2017) (slip op. at 5). Then, on March 28, 2016, respondent sent a letter to the court requesting an adjournment, while representing a client in a family matter. Id.

Between these two disciplinary matters, it is evident that respondent was practicing while suspended from January 2016 to May 2016. In the most recent matter, the Court imposed a one-year suspension for respondent's conduct occurring in January and March 2016. Because the two additional instances of misconduct now before us occurred during essentially the same period, we determine that no additional discipline is warranted.²

Respondent was also charged here with a failure to cooperate with disciplinary authorities. The OAE investigator spoke with

² Indeed, R. 1:20-3(h) authorizes the OAE Director to administratively dismiss a matter "where . . . the attorney has been disciplined and the Director determines that the processing of additional matters against the respondent would not likely result in the imposition of substantially different discipline, or the attorney, although not yet disciplined, is already the subject of disciplinary proceedings and the nature or time periods covered by the additional grievances are similar to other unethical conduct already being pursued, so that the results would be likely to be merely cumulative."

respondent on April 28, May 31, and August 25, 2016. During those calls, respondent assured the investigator that he would produce his current contact information. He never did so. His failure to do so violated RPC 8.1(b).

Respondent's most recent disciplinary complaint, however, also charged failure to cooperate, and cited the April 28 and August 25, 2016 calls in support thereof. Although the May 31, 2016 telephone call was not cited in the previous matter, it falls between the April and August 2016 calls, and, therefore, is within the same timeframe. Because we previously addressed these particular instances of misconduct, we determine to impose no additional discipline on respondent for that misconduct.

The fact remains, however, that respondent allowed the instant matter to proceed by way of default, marking his sixth default. Respondent's default constitutes a separate violation of the RPCs that, ordinarily, would merit discipline. Indeed, on November 20, 2014, respondent received a censure in a matter in which we determined that no additional discipline was warranted for his underlying conduct because that misconduct had taken place during the same timeframe as the prior matter for which he was censured. Based on the fact that respondent had defaulted for the third time, however, he received an additional censure for his

pattern of failing to cooperate with disciplinary authorities. In re Block, 220 N.J. 33.

Here, however, in our view, no further discipline is required for respondent's misconduct for two reasons. First, the temporal nexus and similarity of misconduct with respondent's previous disciplinary matter eliminates the need for further discipline for respondent's violations of RPC 5.5(a) and RPC 8.4(d). Second, it is clear from the record that the OAE was simultaneously investigating and otherwise pursuing the instant matter against respondent while it was investigating and pursuing the previous matter for which respondent most recently was suspended for one year.

Therefore, these two most recent disciplinary matters could either have been consolidated and brought before us simultaneously in order to impose one form of discipline, or, in the alternative, the Director could have exercised his authority under R. 1:20-3(h), to dismiss the instant matter. Under these circumstances, we determine that no further discipline is warranted for respondent's default.

Member Gallipoli voted to recommend respondent's disbarment.
Chair Frost did not participate. Member Zmirich was recused.

Disciplinary Review Board
Edna Y. Baugh, Vice-Chair

By: Ellen A. Brodsky
Ellen A. Brodsky
Chief Counsel


SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

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Disposition: No Additional Discipline

<i>Members</i>	No Additional Discipline	Disbar	Recused	Did not Participate
Frost				X
Baugh	X			
Boyer	X			
Clark	X			
Gallipoli		X		
Hoberman	X			
Rivera	X			
Singer	X			
Zmirich			X	
Total:	6	1	1	1



Ellen A. Brodsky
Chief Counsel