

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 17-180
District Docket Nos. XIV-2016-0583E;
XIV-2016-0584E; XIV-2016-0585E;
XIV-2016-00586E and XIV-2016-0587E

IN THE MATTER OF
MICHAEL B. ADELHOCK
AN ATTORNEY AT LAW

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Corrected Decision

Argued: July 20, 2017

Decided: November 20, 2017

Reid A. Adler appeared on behalf of the Office of Attorney Ethics.

Respondent's counsel waived appearance for oral argument.

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

This matter was before us by way of a disciplinary stipulation between the Office of Attorney Ethics (OAE) and respondent. Respondent admitted violating RPC 1.4(b) (failure to communicate with the client); RPC 1.15(a) (failure to safeguard funds); RPC 1.15(b) (failure to promptly disburse funds); RPC 1.15(d) and R. 1:21-6 (recordkeeping); RPC 5.5(a)(1);

(practicing while suspended); RPC 8.1(b) (failure to cooperate with disciplinary authorities); RPC 8.4(b) (criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects); RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation); and RPC 8.4(d) (conduct prejudicial to the administration of justice). For the reasons stated below, we determined to impose a three-year prospective suspension.

Respondent was admitted to the New Jersey and Pennsylvania bars in 1989. In 1992, he was admitted to the District of Columbia bar. He has no history of discipline in New Jersey.

On September 24, 2012, the Court entered an Order declaring respondent administratively ineligible to practice law, based on his failure to pay his annual assessment to the New Jersey Lawyers' Fund for Client Protection (the Fund).

On July 31, 2013, the Court temporarily suspended respondent from the practice of law for his failure to cooperate with the OAE's investigation of a grievance filed against him by Craig Bacon (the Bacon grievance). In re Adelhock, 214 N.J. 619 (2013). On March 31, 2015, the OAE dismissed the Bacon grievance, which was unrelated to the instant matter.

On May 19, 2017, respondent and the OAE entered into a disciplinary stipulation. The facts are as follows:

Respondent maintained a solo practice, primarily in the field of real estate. He kept his attorney trust and business accounts at Bank of America. As previously noted, respondent became administratively ineligible to practice law in September 2012, for failure to pay his annual assessment to the Fund.

On March 26, 2013, the OAE sent a letter to respondent, notifying him that the Bacon grievance had been filed against him, and that his written response, including certain documents, was due no later than April 9, 2013.¹ Respondent did not reply. Soon thereafter, on April 16, 2013, while respondent was administratively ineligible to practice law, Alfred Glatz retained him in connection with the sale of residential property located in Little Falls, New Jersey.

Three days later, on April 19, 2013, the OAE sent another letter to respondent reminding him of his obligation to cooperate with the investigation of the Bacon grievance, and directing him to provide the requested documents. Respondent failed to reply. Although the OAE scheduled respondent for a demand audit on May 23, 2013, he failed to appear on that date.

¹ As noted, the OAE later dismissed this grievance, on March 31, 2015. However, some of the stipulated facts relate to respondent's conduct in the OAE's investigation of that grievance.

On July 3, 2013, based on respondent's failure to cooperate with the OAE's investigation of the Bacon grievance, the OAE filed a petition for his immediate temporary suspension.

Thereafter, on July 12, 2013, respondent represented Glatz at the closing of the Little Falls property. Respondent received and deposited \$1,000 into his attorney trust account, on behalf of Glatz, in connection with a Use and Occupancy Agreement attached to the real estate contract.

Almost three weeks later, on July 31, 2013, the Court granted the OAE's motion and temporarily suspended respondent for his failure to cooperate with disciplinary authorities. Two days later, on August 2, 2013, the OAE requested, pursuant to the Court's Order, that Bank of America restrain all funds in respondent's trust and business accounts. The funds collected in connection with the Glatz Use and Occupancy Agreement, thus, were frozen, along with respondent's accounts.

Subsequently, Glatz asked respondent about the status of the \$1,000. Respondent informed Glatz that he had issues with his trust account and could not release the funds. Respondent also claimed that he had forgotten that he had deposited the \$1,000 into his trust account on Glatz's behalf and, therefore, failed to disburse the funds contemporaneously with the closing date. Respondent neither notified Glatz that he was suspended

nor advised him to seek other legal counsel, as required by R. 1:20-20(b)(10). Further, respondent failed to inform Glatz that the funds were frozen by the Court, and were eventually transferred to the Superior Court Trust Fund.

Respondent admitted that he failed to keep Glatz informed about the matter; failed to promptly deliver the \$1,000 to him; misrepresented the status of his law license by failing to inform the client of the suspension, as required by R. 1:20-20, and represented Glatz at a time when he was administratively ineligible to practice law.

After respondent was suspended on July 31, 2013, he communicated with the OAE and appeared for a demand audit on August 23, 2013. At that meeting, respondent acknowledged receipt of the OAE's multiple letters. He explained that he had failed to respond to the OAE because "it was too much work" and "I just knew how much was involved ... I just put it to the side and, you know, and that's why we are here." Respondent acknowledged that he had no excuse for his failure to cooperate with the OAE's investigation.

The OAE had directed respondent to produce complete R. 1:21-6 records at the August 23, 2013 demand interview, but he failed to do so. From August 23, 2013 to date, the OAE regularly and repeatedly has requested the production of these records, to

no avail. Five additional demand audit interviews were held on February 19, 2014, May 22, 2014, June 20, 2014, November 19, 2014, and January 22, 2015. On each of these dates, despite producing some records, respondent failed to produce all of the R. 1:21-6 records that the OAE requested.

On November 14, 2013, after he had been suspended, and in the midst of the multiple audits by the OAE, respondent prepared and sent a letter to the Magical Palace of Knowledge daycare facility, on behalf of E.S. and L.E., the parents of C.S., a juvenile who attended the daycare center. The November 14, 2013 letter put the daycare facility on notice of potential claims relating to C.S.'s care; requested documentation and or discovery; and referred to E.S. and L.E as respondent's clients. When respondent prepared and sent the letter, he knew that he was suspended. Hence, he admitted that he knowingly engaged in the unauthorized practice of law.

During the multiple demand audit interviews referenced above, respondent admitted to the OAE that he had failed to contemporaneously prepare the records required by R. 1:21-6. The audits revealed that, from 2010 to 2013, respondent had not maintained financial records, as required by R. 1:21-6, and, as a result of these deficiencies, he had failed to safeguard trust

funds. The OAE discovered that respondent had violated numerous provisions of the recordkeeping Rule. Specifically, respondent:

1. commingled personal funds in his attorney trust account (R. 1:21-6(a)(1) and (2));
2. did not maintain a trust receipts journal (R. 1:21-6(c)(1)(A));
3. did not maintain a trust disbursements journal (R. 1:21-6(c)(1)(A));
4. did not maintain client ledger cards (R. 1:21-6(c)(1)(B));
5. did not maintain a client ledger card identifying attorney funds for bank charges (R. 1:21-6(d));
6. did not prepare three-way reconciliations of his trust account on a monthly basis (R. 1:21-6(c)(1)(H));
7. conducted electronic transfers without proper written authorization (R. 1:21-6(c)(1)(A));
8. failed to identify client names or even a case number on disbursement checks and deposit items;
9. did not have a proper account designation on his business account (R. 1:21- 6(a)(2));
10. did not maintain a business receipts journal (R. 1:21-6(a)(2)); and
11. did not maintain a business disbursements journal (R. 1:21-6(c)(1)(A))

[S]30-41].²

The OAE's analysis of respondent's attorney trust account was based on bank records and the limited ledger cards that respondent produced. The analysis demonstrated that, between January 1, 2011, and June 28, 2013, respondent deposited approximately \$263,000 of fees and personal funds into his trust account. According to respondent, these deposits represented personal funds, earned legal fees, and retainers.

On February 19, 2014, OAE personnel interviewed respondent in connection with the allegations of the unauthorized practice of law involving the daycare facility. At the close of the interview, respondent acknowledged to the OAE that he "cannot bend the rules" and "cannot make exceptions." Notwithstanding the February 19, 2014 interview, fewer than thirty days later, respondent undertook to assist Ataul Shahed and Zuleka Begum, in connection with a homeowner's insurance claim.

In that matter, on March 17, 2014, respondent informed Mark Krevis of Allstate Insurance Company (Allstate) that respondent was working under a power of attorney to assist Shahed and Begum with a claim against their homeowner's insurance, issued by

² "S" refers to the disciplinary stipulation.

Allstate. Shahed and Begum had experienced the loss of their home due to fire. On March 21, 2014, respondent requested from Krevis a copy of the insurance policy and the recorded statements taken from the witnesses. On March 25, 2014, respondent faxed to Krevis a cover letter enclosing a copy of the power of attorney.

On April 28, 2014, counsel for Allstate filed a grievance against respondent, alleging that respondent had engaged in the unauthorized practice of law. In a June 12, 2014 reply, respondent admitted that he represented Shahed and Begum in connection with an insurance claim and that he had requested documents from the insurance company. He apologized for his conduct. The letterhead that respondent submitted to AllState contained the following language identifying him as a lawyer:

- a. "Law Offices";
- b. "Michael B. Adelhock, Esq.";
- c. "Admitted in NJ, PA, DC"; and
- d. Michael@adelhocklaw.com

[S181,182].

Respondent, therefore, used a power of attorney to facilitate the unauthorized practice of law. Opinion 50 of the Committee on the Unauthorized Practice of Law specifically prohibits a nonlawyer from engaging in the practice of law

through the use of a Power of Attorney. Respondent admitted that he knowingly engaged in the unauthorized practice of law.

In respect of the recordkeeping violations, on May 22, 2014, during a demand audit interview at the OAE, the following exchange took place:

Q. Let me ask you about that. What is the genesis? What is the reason behind comingling of the funds? why [sic] would you use a personal account and why wouldn't you use a business account? why [sic] would you -- why would you put into the trust account your personal funds or leave them there and not fully withdraw them once they were earned?

A. Creditors. You know, taking money - you know, I don't know how to answer this but, I mean, the fact is that I had an accountant chasing me and quite frankly they said the monies weren't coming in -

[S¶46].

Thereafter, respondent revealed the following outstanding creditors and approximate sums of money owed:

- a. Paul Strambert - \$1,200
- b. Internal Revenue Service - \$60,000
- c. New Jersey Division of Taxation - \$10,000
- d. Franklin Credit - \$200,000

[S¶47].

Respondent told the OAE that the New Jersey State Division of Taxation had levied on his business account on at least two occasions. Further, he has not paid income taxes since 2008. To

date, respondent has provided no documentation to the OAE establishing that he has resolved his outstanding tax liabilities.

Finally, in accordance with the Court's Order of July 31, 2013, respondent was required to file a R. 1:20-20 affidavit of compliance within thirty days of the date of his temporary suspension. He failed to do so. One year later, on July 3, 2014, the OAE sent a follow-up letter to respondent, enclosing a copy of both R. 1:20-20 and the suspension Order, and directing respondent to file the required affidavit no later than July 17, 2014. On October 7, 2014, the OAE directed respondent to file the required affidavit no later than October 21, 2014. As of May 19, 2017, the date of the disciplinary stipulation, respondent had not filed the required affidavit.

In aggravation, the OAE noted that (1) respondent failed, at the outset of the investigation, to respond to the OAE and was temporarily suspended; (2) he failed to remediate his conduct: despite multiple opportunities to bring his attorney trust account records into compliance, he had not done so as of the time of the filing of the stipulation, and he has not addressed his outstanding financial liabilities to third parties and state and federal tax authorities; (3) respondent's misconduct was part of a pattern: he engaged in multiple

instances of the unauthorized practice of law and engaged in an ongoing pattern of commingling funds to avoid creditors and tax authorities; and (4) respondent's motive for commingling funds was to hide them from third parties and tax authorities.

In mitigation, respondent has no history of discipline, readily admitted his wrongdoing, and expressed contrition and remorse for his misconduct. He also averred that he now "understands and appreciates the rules and regulations that serve to keep the records on a current basis which avoids the ordeal of retroactive accounting and best protects the clients." Finally, respondent's misconduct was influenced in part by economic factors outside of his control. He was primarily a real estate practitioner and the downturn in the real estate market and loss of business resulted in a series of poor decisions on his part.

Based on the foregoing, supported by the cases cited in the stipulation, the OAE urges us to impose a three-year prospective suspension for respondent's misconduct. Respondent, on the other hand, argues for the imposition of lesser discipline, discussed more fully below. However, as part of any discipline imposed, respondent agreed to the following conditions to reinstatement:

1. to provide to the OAE all R. 1:21-6 records from May 1, 2010 to July 31, 2013;

2. to comply with R. 1:21-6 and to practice under a proctor;
3. to provide the OAE with quarterly monthly reconciliations;
4. to attend the NJICLE course titled "New Jersey Trust and Business Accounting" or an equivalent program approved by the OAE and to pre-pay costs associated with this program;
5. to provide the OAE proof of his resolution of his outstanding tax liabilities to the State of New Jersey and Internal Revenue Service including proof that respondent has filed tax returns for all years outstanding as stated herein or proof that he has entered into a written repayment plan with State and Federal tax authorities; and
6. to comply with the requirements of R. 1:20-20

[S,p.14-15].

On March 20, 2017, respondent submitted a statement in mitigation. He asserted that his law practice is his second career, as he graduated law school at the age of thirty-nine. He is now sixty-six and the bulk of his twenty-year legal career was free of complaints. Thus, he maintains, the current circumstance is not a reflection of his career.

Respondent asserts that the economic downturn of 2008 had a severe impact on his income, which led to his inability to pay his taxes and eventually the failure to file tax returns. He is currently taking measures to bring his tax status current.

Respondent further asserts that, until 2010, he relied heavily on a paralegal, who handled the administrative aspect of

his practice, including the trust account. Eventually, he could no longer afford to pay her. He had little experience handling these matters on his own. During the same time, he became emotionally involved with a woman. Fearing loss of this relationship, he gave it priority over everything else.

Ultimately, the loss of his paralegal, financial stress, and struggles in his personal life led to a period of neglect. Things "snowballed." He also notes, however, that he was somewhat cognizant of the issues and took some steps to mitigate the problems, such as using title companies for closings and minimizing the need for a trust account as much as possible. He also began to see a therapist for issues in his personal life, but, eventually, he could no longer afford it.

Simultaneously with his temporary suspension, respondent suffered health setbacks that exacerbated his situation. In August 2013, he experienced serious medical issues that eventually required surgery. During this period, his fiancée terminated their relationship. During this time, he was desperately working to comply with the OAE's demands and its investigation, working out of a storage unit. He also endured periods of homelessness and other struggles.

Finally, respondent has tried to earn a living since his suspension but has encountered some difficulty. He notes that,

during any job application process, an internet search uncovers his temporary suspension, which references misappropriation, even though no client's monies are involved in this matter. Nonetheless, he has learned a lot, and has a greater appreciation for strict compliance with the rules.

Respondent also submitted a character letter from Richard F. Breitweiser, Esq., who attended Seton Hall University Law School with respondent in the evening program. He points out that respondent awoke every day at 5:00 a.m., completed his UPS route, and attended classes in Newark at night, all while taking care of his family. Since then, he has admired respondent as a diligent and skilled attorney. Breitweiser concludes with the hope that we will consider, in mitigation that, despite the circumstances of the last four years, respondent's moral character has never waned.

On June 21, 2017, counsel for respondent submitted a letter brief on his behalf, asserting that respondent was temporarily suspended in July 2013 and is now facing a prospective suspension for an additional three years. The cumulative result of this course would be a seven-year suspension, where there has been no misappropriation of client funds, no intent to misappropriate client funds, and a significant financial, emotional, and physical hardship in respondent's life. Counsel's

brief also points to respondent's own letter of mitigation, which includes respondent's candid acknowledgment for his actions, offers no excuses therefor, and expresses contrition and remorse.

According to counsel, respondent is in communication with an accountant, attempting to rectify his tax issues. Further, respondent intends to finalize a complete affidavit pursuant to R. 1:20-20. Attached to the brief are several additional character letters attesting to respondent's moral character and the belief that he is fit to practice as an attorney. Based on the foregoing, on behalf of respondent, counsel urges us to impose less than a three-year suspension so that respondent may seek reinstatement to practice as soon as possible.

* * *

Following a full review, we find that the stipulation clearly and convincingly establishes that respondent's conduct violated RPC 1.4(b); RPC 1.15(a); RPC 1.15(b); RPC 1.15(d) and R. 1:21-6; RPC 5.5(a)(1); RPC 8.1(b); RPC 8.4(b); RPC 8.4(c); and RPC 8.4(d).

Specifically, respondent violated RPC 1.4(b) by failing to keep Glatz adequately informed about his matter or the status of his funds, and by failing to inform Glatz about his suspension. Respondent also violated RPC 1.15(b) by failing to promptly

disburse Glatz' funds to him. Indeed, those funds were frozen and eventually transferred to the Superior Court Trust Fund. The record does not indicate the status of those funds or whether respondent has reimbursed his client.

Further, respondent violated RPC 1.15(a). He admitted that he commingled personal funds and earned fees in his attorney trust account in order to hide them from creditors, New Jersey tax authorities, and the Internal Revenue Service (IRS). Additionally, respondent's conduct in this regard also violated RPC 1.15(d) because his practice of commingling his fees and personal funds did not comply with the recordkeeping provisions of R. 1:21-6. That failure continued as of the date of the stipulation.

In addition, respondent violated RPC 5.5(a)(1). First, in April 2013, while administratively ineligible to practice, respondent began his representation of Glatz. Then, on November 14, 2013, while admittedly aware of the Order temporarily suspending him, respondent prepared a letter to a daycare facility on behalf of his clients. Compounding that misconduct, in an interview with the OAE on February 19, 2014, respondent admitted that he had practiced while suspended and acknowledged his misconduct, but, almost one month later, on March 17, 2014, he again practiced while suspended on behalf of another client

in connection with a homeowner's insurance claim, acting under power of attorney.

Moreover, respondent violated RPC 8.1(b) by failing to respond to the OAE's multiple letters and demands for accounting records, or to otherwise appropriately cooperate with its investigation into a grievance filed against him. Respondent eventually appeared before the OAE, but only after he had been temporarily suspended. Nonetheless, his cooperation since then has been less than full. The stipulation is replete with examples of respondent neither fully providing the requested documents, nor taking any action to remediate his misconduct.

Respondent also violated RPC 8.4(b) by knowingly engaging in the unauthorized practice of law, in violation of N.J.S.A. 2C:21-22(a). Respondent further admitted that he has hidden funds in his attorney trust account not only from creditors, but also from the IRS and the New Jersey State Division of Taxation, and has not paid income taxes since 2008, in violation of 26 U.S.C. § 7203. Respondent's conduct in this regard also violated RPC 8.4(c) because it involved a significant and prolonged course of dishonesty and fraud.

Finally, respondent violated RPC 8.4(d) by knowingly violating a Court Order through his continued practice of law

after his suspension, and both RPC 8.1(b) and RPC 8.4(d) by failing to file the required R. 1:20-20 affidavit.

The only issue remaining is the appropriate quantum of discipline to be imposed for respondent's misconduct. Indeed, a lengthy suspension is justified based on respondent's admitted tax evasion by concealing income in his trust account. He also admitted having failed to file income tax returns for eight years. A violation of federal tax law is a serious ethics breach. In re Queenan, 61 N.J. 578, 580 (1972). "[D]erelictions of this kind by members of the bar cannot be overlooked. A lawyer's training obliges him to be acutely sensitive of the need to fulfill his personal obligations under the federal income tax law." In re Gurnik, 45 N.J. 115, 116-17 (1965) (two-year suspension for plea of nolo contendere to willfully and knowingly attempting to evade and defeat a part of the income tax due and owing by attorney and his wife).

Cases involving an attorney's attempted or actual income tax evasion have resulted in suspensions ranging from six months to three years. See, e.g., In re Kleinfield, 58 N.J. 217 (1971) (six-month suspension following plea of nolo contendere to one count of tax evasion, for which a fine was paid; unspecified mitigating circumstances considered); In re D'Andrea, 186 N.J. 586 (2006) (eighteen-month suspension imposed on attorney who

pleaded guilty to willfully subscribing to a false federal income tax return; the attorney was sentenced to one year of probation, including six months of house arrest and fifty hours of community service; the attorney also was ordered to pay a \$10,000 fine and \$34,578 in restitution to the IRS; mitigating factors were the attorney's unblemished disciplinary history, his genuine remorse, the deficiencies in his law office's accounting system, and the passage of ten years since he had filed the return); In re Foglia, 207 N.J. 62 (2011) (two-year suspension imposed on attorney who pleaded guilty to one count of willfully attempting to evade the payment of federal income tax, a violation of 26 U.S.C. § 7201, and one count of knowingly or willfully making "any materially false, fictitious or fraudulent statement or representation," a violation of 18 U.S.C. § 1001); In re Weiner, 204 N.J. 589 (2011) (two-year suspension imposed on attorney who pleaded guilty to two counts of willfully preparing and presenting to the IRS a false and fraudulent tax return on behalf of a taxpayer, in violation of 26 U.S.C. § 7206(2); the attorney was sentenced to a two-year probationary term, which included six months of house arrest; the attorney also was ordered to pay a \$10,000 fine and a \$200 "special assessment"); In re Rakov, 155 N.J. 593 (1998) (two-year suspension for an attorney with an unblemished disciplinary

record convicted of five counts of attempted income tax evasion, in violation of 26 U.S.C. § 7201; the attorney failed to report on his federal income tax returns the interest paid to him on personal loans; he was sentenced to six months' home confinement and three years' probation and was fined \$20,000); In re Klein, 209 N.J. 234 (2012) (three-year suspension imposed on attorney who pleaded guilty to one count of tax evasion (26 U.S.C. § 7201), and one count of criminal conspiracy to defraud the United States (18 U.S.C. § 371); in aggravation, the attorney had failed to report his indictment to the OAE and had assisted other clients in similar conduct); and In re Gillespie, 124 N.J. 81 (1991) (retroactive three-year suspension for attorney who pleaded guilty to willfully aiding and assisting in the presentation of false corporate tax returns for a non-client corporation, J.P. Sasso, Inc.; the attorney assisted Joseph Sasso and others in diverting nearly \$80,000 in corporate funds during a period in excess of three months; the attorney did so by depositing corporate checks in his personal account, issuing eight personal checks, and then disbursing cash to Sasso; the eight checks were written in amounts no greater than \$10,000 in order to avoid federal reporting requirements; numerous compelling mitigating factors considered).

Although respondent has not been criminally charged in connection with failure to pay income taxes, we may, nevertheless, find a violation of RPC 8.4(b). See In re Garcia, 119 N.J. 86 (1990).

When an attorney practices law while suspended, a term of suspension is imposed. See, e.g., In re Brady, 220 N.J. 212 (2015) (one-year retroactive suspension imposed on attorney who appeared in municipal court on behalf of a client, after the Court had temporarily suspended him; the attorney also failed to file a R. 1:20-20 affidavit following the temporary suspension; significant mitigating factors, including the attorney's diagnosis of a catastrophic illness and other circumstances that led to the dissolution of his marriage, the loss of his business, and the ultimate collapse of his personal life, including becoming homeless, and his desperate need to financially support for himself; prior three-month suspension); In re Wheeler, 140 N.J. 321 (1995) (two-year suspension imposed on attorney who practiced law while serving a temporary suspension for failure to refund a fee to a client; specifically, although the attorney did not charge a legal fee, he counseled a client on two occasions and called the other party's lawyer on four occasions; the attorney also made multiple misrepresentations to clients, displayed gross neglect

and pattern of neglect, engaged in negligent misappropriation and in a conflict of interest situation, and failed to cooperate with disciplinary authorities); In re Marra, 183 N.J. 260 (2005) (three-year suspension for attorney found guilty of practicing law in three matters while suspended; the attorney also filed a false affidavit with the Court stating that he had refrained from practicing law during a prior suspension; the attorney had received a private reprimand, a reprimand, two three-month suspensions, a six-month suspension, and a one-year suspension, also for practicing law while suspended); and In re Walsh, Jr., 202 N.J. 134 (2010) (attorney disbarred on a certified record for practicing law while suspended by attending a case conference in which he negotiated a consent order on behalf of five clients and making a court appearance on behalf of seven clients; the attorney also was guilty of gross neglect, lack of diligence, failure to communicate with a client, and failure to cooperate with disciplinary authorities during the investigation and processing of the grievances; the attorney failed to appear on an order to show cause before the Court; extensive disciplinary history: reprimand, censure, three-month suspension, and six-month suspension).

Respondent also has violated RPC 1.4(b), RPC 1.15(b), and RPC 8.1(b). Although these violations, standing alone, would

warrant only an admonition, they serve to further enhance the appropriate quantum of discipline in this matter. See, e.g., In the Matter of Michael C. Dawson, DRB 15-242 (October 20, 2015) (attorney failed to reply to repeated requests for information from the district ethics committee investigator regarding his representation of a client in three criminal defense matters, a violation of RPC 8.1(b)); In the Matter of Martin A. Gleason, DRB 14-139 (February 3, 2015) (attorney did not file an answer to the formal ethics complaint and ignored the district ethics committee investigator's multiple attempts to obtain a copy of his client's file, a violation of RPC 8.1(b); the attorney also failed to inform his client that a planning board had dismissed his land use application, a violation of RPC 1.4(b)); and In the Matter of Raymond Armour, DRB 11-451, DRB 11-452, and DRB 11-453 (March 19, 2012) (in three personal injury matters, attorney did not promptly notify his clients of his receipt of settlement funds and did not promptly disburse their share of the funds; he also failed to properly communicate with the clients).

Respondent's misconduct was both serious and flagrant, meriting a significant term of suspension. Although he argues that a prospective suspension is unduly harsh because he has been temporarily suspended for four years and is now sixty-six years old, he fails to appreciate that he continued to practice

law during the time he was suspended, but, nevertheless, asks for some credit for that time. Additionally, despite having now been temporarily suspended for four years, the best respondent can offer in regard to his compliance with R. 1:20-20 is that he "has every intention of finalizing a complete affidavit" pursuant to that Rule.

Conversely, we recognize that the record indicates that respondent last practiced, albeit while temporarily suspended, in March 2014, three-years ago. Further, the matter underlying respondent's temporary suspension was dismissed on March 31, 2015 - two years ago. Moreover, respondent, albeit belatedly, has begun to cooperate with the OAE.

Nevertheless, on balance, we determine to impose a three-year prospective suspension. We further determine that prior to reinstatement, respondent must (1) provide to the OAE, all R. 1:21-6 records from May 1, 2010 to July 31, 2013; (2) comply with R. 1:21-6; (3) provide the OAE with monthly reconciliations on a quarterly basis; (4) attend the NJICLE course titled "New Jersey Trust and Business Accounting" or an equivalent program approved by the OAE and pre-pay costs associated with this program (and shall not count any such credits toward his CLE requirements); (5) provide the OAE proof of his resolution of his outstanding tax liabilities to the State of New Jersey and


Internal Revenue Service, including proof that respondent has filed tax returns for all years outstanding or proof that he has entered into a written payment plan with State and Federal tax authorities; and (6) comply with the requirements of R. 1:20-20. In addition, on reinstatement, respondent must practice under the supervision of a proctor for a period of two years.

Members Boyer, Rivera and Singer would impose the suspension retroactively. 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 Michael B. Adelhock
Docket No. DRB 17-180

Decided: November 20, 2017

Disposition: Three-Year Suspension

Members	Three-Year Suspension	Three-Year Suspension (Retroactive)	Did not participate
Frost	X		
Baugh	X		
Boyer		X	
Clark	X		
Gallipoli	X		
Hoberman			X
Rivera		X	
Singer		X	
Zmirich	X		
Total:	5	3	1


Ellen A. Brodsky
Chief Counsel