

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket Nos. DRB 17-348 and 17-446  
District Docket Nos. XIV-2014-0542E  
and VI-2016-0007E

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IN THE MATTERS OF :  
FRANCIS CHARLES BABCOCK, JR. :  
AN ATTORNEY AT LAW :  
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Decision

Argued: January 18, 2018 (DRB 17-348)<sup>1</sup>

Decided: April 30, 2018

HoeChin Kim 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.

These matters were before us on a recommendation for reprimand filed by the District VI Ethics Committee (DEC) (DRB 17-348) and a certification of the record filed by the DEC (DRB 17-446), pursuant to R. 1:20-4(f). We have consolidated them for disposition.

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<sup>1</sup> We did not hold oral argument in DRB 17-446, a default.

Respondent was admitted to the New Jersey bar in 1990.

On October 5, 2017, respondent received a reprimand, in a default matter, for gross neglect, lack of diligence, failure to keep a client reasonably informed about the status of the matter, and failure to cooperate with disciplinary authorities. The underlying conduct occurred between 2011 and 2014. In re Babcock, 231 N.J. 8 (2017).

For the reasons stated below, we determine to impose a censure for respondent's misconduct in both matters.

**The Thompson Estate Matter (17-348)**

The complaint charged respondent with violating RPC 1.1(a) (gross neglect); RPC 1.3 (lack of diligence); RPC 1.15(b) (failure to promptly notify and deliver funds or property to a client or third party); RPC 1.16(d) (failure to protect a client's interests upon termination of representation); RPC 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal); RPC 8.1(b) and R. 1:20-3(g)(3) (failure to cooperate with disciplinary authorities); and RPC 8.4(d) (conduct prejudicial to the administration of justice).

Prior to the hearing before the DEC, respondent and the Office of Attorney Ethics (OAE) entered into a stipulation of facts and respondent admitted some of the RPC violations alleged

in the complaint, as follows. By letter dated September 18, 2014, the Hon. Katherine R. Dupuis, P.J. Ch., reported to the OAE that, on December 17, 2008, by way of consent order, respondent had been appointed administrator of the Estate of Andrew Thompson (the estate). In November 2013, a disgruntled beneficiary of the estate filed a complaint seeking an accounting from respondent.

On March 27, 2014, again by consent order, respondent agreed to provide an accounting to the parties by April 27, 2014, but failed to meet that deadline. In June 2014, he provided a preliminary accounting to Henry Furst, counsel for one of the beneficiaries.

In a May 18, 2014 letter, another attorney involved in the estate litigation asked respondent for an update on the status of the accounting. Respondent replied that he would "remedy the delinquency" and send a distribution check by May 29, 2014.

On July 17, 2014, Judge Dupuis entered an order requiring respondent to provide the accounting as he had agreed in the March 27, 2014 consent order. In September 2014, four months after he had committed to do so, respondent finally sent a distribution check to Furst.

By letter dated October 28, 2014, the OAE sent a copy of Judge Dupuis' letter to respondent, requesting a written response and records relating to the estate, by November 10, 2014. Two

days later, on October 30, 2014, Judge Dupuis removed respondent as administrator of the estate and signed a bench warrant for his arrest, based on his failure to comply with the court's prior orders. Nicholas A. Giuditta, III, Esq. was appointed as the "Substitutionary Administrator."

On November 12, 2014, respondent telephoned OAE Disciplinary Auditor Harry Rodriguez and requested additional time to reply to the OAE's October 28, 2014 letter. Although the OAE extended this deadline to November 21, 2014, respondent failed to provide a written response to Judge Dupuis' referral letter. By letter dated December 2, 2014, the OAE enclosed copies of all of its prior correspondence, and, again, requested respondent's written response, setting a deadline of December 12, 2014.

On December 12, 2014, respondent sent a two-page fax to Rodriguez, listing deposits and disbursements from a Capital One bank account, without including an account number or supporting documentation. Respondent explained that he had "not been able to pull out the back up for this yet but expect to have most of it by Monday [December 15, 2014]. I will fax it to you." He did not include a written explanation for his failure to comply with Judge Dupuis' prior orders. Despite his representation, respondent failed to provide any additional information by December 15, 2014.

The OAE, therefore, subpoenaed records relating to the estate from both Capital One and Wells Fargo, along with respondent's attorney accounts, to confirm the deposits and disbursements that he had listed on the fax. Those records showed that respondent opened an administrator's account for the estate at Capital One on January 14, 2009, with a \$50 deposit. Between January 2009 and November 2014, various transactions occurred within the estate account and, on November 30, 2014, a balance of \$52,478.58 remained in the account.

In an April 10, 2015 letter, the OAE scheduled a demand audit of respondent's books and records, for April 29, 2015, which was later rescheduled to May 6, 2015. Meanwhile, on April 30, 2015, Judge Dupuis entered an order, declaring respondent to be in violation of litigant's rights for failure to surrender the file to the substitute administrator, and entered judgment against him for attorney's fees and costs.

On May 5, 2015, respondent asked the OAE to adjourn the demand audit scheduled for the following day. Ethics counsel informed respondent that the audit would not be adjourned unless he provided the previously requested documents to the OAE. Respondent replied that, although he had some of the documents, he would not send them; that he was in the process of obtaining the rest of the documents; and that he intended to see Judge

Dupuis that day to "straighten out" the matter. Respondent represented that he would fax the documents to the OAE by 7:00 a.m. on May 6, 2015. He neither faxed the documents nor appeared for the May 6, 2015 demand audit.

On May 12, 2015, the OAE contacted Judge Dupuis, who confirmed that respondent had appeared on May 5, 2015. She refused to see him, however, because he had not filed any papers with the court or provided his file to the substitute administrator, as she previously had ordered.

On May 18, 2015, the OAE notified respondent that it was concluding its investigation, despite his continuing failure to cooperate; that the investigation could result in the filing of a complaint for underlying violations, as well as for his failure to cooperate; that the OAE might elect to file with the Court a petition for his immediate temporary suspension, based on his failure to cooperate; and that, because he was a municipal court judge, the OAE would forward to the Advisory Committee on Judicial Conduct a copy of any formal complaint filed against him.<sup>2</sup> On that same date, respondent faxed a letter to the OAE, enclosing copies of several checks, bank statements, and a

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<sup>2</sup> Respondent had been a part-time Jersey City municipal court judge, from October 2007 to August 2015, when he resigned from the position.

handwritten ledger for the estate account. In that letter, he asserted that he had spoken to the substitute administrator the previous week, that he had given assurances that he would obtain the necessary documents, and that he was diligently working on transferring the file to the new administrator.

On August 24, 2015, the OAE communicated with Giuditta, the substitute administrator, who complained that, although he had received a fax from respondent on May 18, 2015, the information provided was not sufficient for him to conduct a proper accounting. Giuditta had sent a letter to respondent on May 20, 2015, requesting additional information. As of August 24, 2015, however, Giuditta had neither heard from respondent nor received any additional information from him.

The OAE subpoenaed bank statements for the Capital One account, from December 2014 to August 2015, to ascertain whether respondent had maintained the estate funds intact. A review of those statements confirmed that the balance of \$52,478.58 had remained intact. As of the date of the complaint, January 22, 2016, respondent had yet to submit a written explanation for his cessation of work on the estate, or for his failure to comply with Judge Dupuis' orders.

Respondent stipulated that the aforementioned conduct violated RPC 1.1(a), RPC 1.3, RPC 1.15(b), and RPC 1.16(d). On

December 5, 2016, the DEC held a hearing in which the stipulation of facts was entered into evidence. Respondent denied having violated RPC 3.4(c), RPC 8.1(b), and RPC 8.4(d), claiming that he had been incapable of forming the requisite intent.

Specifically, respondent asserted that he had held back \$50,000 in the estate account for taxes. He decided to prepare the returns himself to save the estate an accountant's fee. Respondent maintained, however, that at this point, in 2010 and 2011, he "hit a wall." His estranged father came back into his life, but died soon thereafter. Two years later, respondent's stepfather, the man he called "dad," became terminally ill. Respondent cared for his stepfather over the next year-and-one-half, until his stepfather died.

Respondent handled his biological father's estate and learned that he had a half-brother. Prior to his father's death, respondent had promised that he would not sell his home, which had been in the family for "a couple of hundred years." Respondent's half-brother, however, wanted to sell the house. In order to honor his father's wishes, respondent purchased his half-brother's interest. A balloon mortgage on the property soon came due, forcing respondent to scramble for the money. His personal finances at the time "weren't good."



Between 2011 and 2014, respondent's own health also faltered. In short order, he had undergone shoulder surgery, hip replacement surgery, and back surgery. Adding to respondent's struggles, were issues with his children and former wife, resulting in respondent's custody of his children in 2015.

Respondent maintained that his personal and family stresses rendered him unable to handle his professional responsibilities. He eventually sought the help of a therapist through the "State Bar Center" (presumably, the New Jersey Lawyers Assistance Program). He began regular therapy sessions in early 2016, and responded well, until June 2016, when he suffered a personal tragedy.

Despite his difficulties, respondent avers that he never intended to disobey the court's order for a full accounting. He explained that, after Judge Dupuis appointed the substitute administrator, he continued to try to complete the estate, but his previous inaction had caused him to become overwhelmed. While he now understands what happened, at the time, he "just couldn't see it."

The hearing panel questioned respondent about his ability to conduct his law practice and to serve as a municipal court judge between November 2013 and December 2014. Respondent contrasted his duties as an attorney with his role as a judge. He explained

that, in court, the cases were completed immediately, while, in his practice, matters carried on and needed to be pursued; he simply could not follow through. He explained that his worst period was in 2014, when he reached a point of hopelessness.

Respondent admitted that Judge Dupuis was required to expend additional energy addressing the estate issue he was supposed to handle. He had read and understood the judge's March 27, 2014 order requiring him to provide the estate accounting, and he intended to execute his responsibilities in accordance with the order.

Respondent further admitted that he had not cooperated sufficiently with the OAE. In hindsight, he should have sought help earlier. Nonetheless, he argued, his mental state was such that he did not knowingly fail to comply with a court order or knowingly disregard any of his other duties.

Finally, respondent noted that the estate account at Capital One has since been transferred to the substitute administrator.

The DEC concluded that respondent failed, for more than one year, to prepare the required accounting in connection with his duties as administrator of the estate; to comply with the court's orders, which ultimately resulted in an order enforcing litigant's rights and a bench warrant for his arrest; to disburse funds in connection with the accounting of the estate, despite

repeated efforts by the court to secure his compliance; and to turn over documents to the substitute administrator, despite repeated efforts by the court and the administrator to obtain those documents. The DEC accepted respondent's stipulation that his conduct violated RPC 1.1(a), RPC 1.3, RPC 1.15(b), and RPC 1.16(d).

Further, although respondent did not admit the alleged violations of RPC 3.4(c), RPC 8.1 (b), and RPC 8.4(d), he did not dispute the underlying conduct that formed the basis for them. Rather, he denied that this conduct was unethical because, based on his depression and other difficult personal circumstances, he had not "knowingly" engaged in that conduct.

The DEC determined, however, that respondent had acted knowingly in connection with his failure to satisfy his obligations as administrator of the estate, to comply with the court's orders, and to timely respond and cooperate in the OAE's resulting ethics investigation. Respondent testified that he had read and understood Judge Dupuis' orders and intended to comply with his obligations, but did not. Moreover, in spite of respondent's testimony to the contrary, the DEC found that, other than the estate and the resulting ethics investigation, he had been able to carry out and fulfill his responsibilities in other

representative matters and in connection with his municipal court judgeship.

Accordingly, based on respondent's knowing failure to comply with multiple orders and directives issued by Judge Dupuis, the DEC concluded that respondent violated RPC 3.4(c). Furthermore, because of respondent's actions and inaction, Judge Dupuis was required, over the course of more than one year, to spend additional time and resources to enforce respondent's compliance with his responsibilities as administrator of the estate. Therefore, the DEC found that respondent's conduct in this regard also violated RPC 8.4(d).

Further, based on respondent's knowing failure to cooperate with the OAE in connection with the ethics investigation, despite repeated efforts by the OAE to secure compliance, the DEC concluded that respondent's conduct violated RPC 8.1(b) and R. 1:20-3(g)(3).

The DEC considered, not as a defense, but in mitigation, that respondent suffered from clinical depression; that he endured medical and personal problems; that he did not (at the time) have a disciplinary history; that he demonstrated contrition and remorse; that he admitted his misconduct; that his conduct was not motivated by personal gain; that no funds were

misappropriated; and that he has taken remedial measures by meeting and continuing treatment with a therapist.

**The Dellon Matter (17-446)**

This matter was before us by way of default. The complaint charged respondent with violations of RPC 1.1(a) (gross neglect); RPC 1.3 (lack of diligence); RPC 1.4(b) (failure to communicate); RPC 1.4(c) (failure to explain a matter to a client to the extent reasonably necessary to permit the client to make informed decisions regarding the representation); R. 1:20-3(g)(3) and (4) (failure to cooperate with disciplinary authorities);<sup>3</sup> R. 1:21-6 and RPC 1.15(d) (failure to comply with recordkeeping rules); and RPC 1.16(d) (upon termination of representation, failure to take steps reasonably practicable to protect a client's interests).

Service of process was proper in this matter. On August 15, 2017, the DEC sent a copy of the complaint to respondent, by certified and regular mail, at his office address. The certified mail receipt was returned, reflecting a delivery date of August 18, 2017, bearing a signature that appears to be "T.B."; the regular mail was not returned.

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<sup>3</sup> Presumably, the DEC intended to charge respondent with violating RPC 8.1(b), which corresponds to R. 1:20-3(g)(3) and (4), which, as discussed below, was dismissed.

On November 9, 2017, the DEC sent a second letter to respondent's office address, by certified and regular mail, informing him that, if a verified answer were not received within five days of the date of the letter, no further hearing would be held, the entire record would be certified directly to us for the imposition of discipline, and the complaint would be amended to include a charge of a violation of RPC 8.1(b). The certified mail receipt was returned with a different, but illegible, signature, indicating a delivery date of November 13, 2017; the regular mail was not returned. Respondent did not file an answer to the complaint. On December 7, 2017, the DEC certified the record to us as a default.

The facts set forth in this complaint are as follows. Gladys Dellon retained respondent to file a motion to compel discovery concerning her prior divorce. Respondent filed a Motion to Compel Production of Documents in Superior Court on April 22, 2009. On May 9, 2009, respondent sent a letter to Dellon, asking for additional information he needed to clarify the motion. On May 14, 2009, respondent sent another letter to Dellon, enclosing a cross-motion filed by her former husband. On June 12, 2009, the Honorable Peter J. Melchionne, J.S.C., denied Dellon's motion. It is unclear whether respondent provided Dellon with a copy of the order at that time.

In October and November 2010, Dellon sent respondent three letters, stating that she believed she was entitled to additional money from her former husband. She also inquired into the status of her matter and requested that an accountant review her case. No evidence established that respondent replied to any of the letters.

On July 7, 2011, Dellon sent respondent a check for \$500 to pay for an accountant to review financial records provided in the underlying divorce matter.

By letter dated August 10, 2011, respondent informed Dellon that he had contacted a bank regarding a loan for her, but that she was required to go to a bank in Pennsylvania to apply for the loan. Respondent further informed Dellon that he would not cash the check she had given him, per her request, and asked that she call him within a week.

The complaint did not provide any facts regarding the scheduled phone call. On June 12, 2012, however, Dellon sent respondent a letter confirming that they had met on November 17, 2011, and that she planned to refinance her mortgage.

In a March 6, 2013 letter, Dellon complained to respondent that she had been waiting six years for "something to happen," and that respondent did not "read the papers the counting [sic]

did." She asked respondent to "review them because the papers are clear enough to go to Court."

Eleven months later, on February 6, 2014, Dellon documented, in a letter to respondent, that she had called him many times and sent faxes, but had not received any response. She further protested that respondent had promised to call a "Mrs. Lash" on Dellon's behalf to "clear accounts," but that respondent had not done so. Respondent did not reply to Dellon's letter.

In the summer of 2014, Dellon sent respondent three letters seeking information on the status of her case, noting that he had not returned her calls or replied to her faxes. On October 23, 2014, Dellon sent a letter to respondent informing him that she had spoken to an attorney in Pennsylvania to "open her case" and that she needed a copy of respondent's "investigation." Finally, on December 15, 2015, she complained about the August 2009 ruling on the motion, and asked respondent to provide her with a complete copy of her file. The record contains no evidence that respondent replied to any of Dellon's letters.

The complaint charged respondent with gross neglect and lack of diligence for his "failure to respond to the Grievant"; failure to communicate; failure to explain a matter to the



extent reasonably necessary to permit the client to make informed decisions regarding the representation; failure to cooperate with the investigation "by not replying within 10 days of the request for information, provide accounting records, and supply a complete copy of Grievant's file"; failure to comply with recordkeeping rules; and failure to protect the client's interests upon termination of the representation by his "failure to surrender paper and property to which the Grievant is entitled."

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Following a de novo review of the record, we are satisfied that the record clearly and convincingly establishes that respondent was guilty of unethical conduct in both matters. Specifically, in the Thompson Estate matter (17-348), respondent violated RPC 1.1(a); RPC 1.3; RPC 1.15(b); RPC 1.16(d); RPC 3.4(c); RPC 8.1(b); and RPC 8.4(d).

In the Dellon matter (17-446), respondent's failure to file a verified answer to the complaint 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). Notwithstanding that Rule, each charge in an ethics complaint must be supported by sufficient facts for us to determine that unethical conduct occurred. The facts recited in

the complaint support a finding that respondent violated RPC 1.4(b) and RPC 1.16(d). We dismiss the remaining charges as not supported by the facts alleged in the complaint.

In the Thompson Estate matter, respondent admitted that he generally neglected his responsibilities as the administrator of the estate, in violation of RPC 1.1(a) and RPC 1.3. Within those duties, he failed, for more than one year, to prepare the required accounting; to promptly disburse funds in connection with the estate (he delayed a distribution check for four months and held \$52,000 in his Capital One account for an extensive period of time after the substitute administrator was appointed); and to surrender his files to the substitute administrator. Respondent's conduct violated RPC 1.15(b) and RPC 1.16(d).

Respondent also acted knowingly in connection with his failure to satisfy his obligations as administrator of the estate. More specifically, he admitted that he received, read, and understood Judge Dupuis' orders, and intended to comply with his obligations thereunder, but did not. Moreover, respondent testified that, aside from the estate and the resulting ethics investigation, he was able to carry out and fulfill his responsibilities in connection with his municipal court judgeship. Therefore, by his knowing failure to comply with

multiple orders and directives issued by the court, respondent violated RPC 3.4(c).

Similarly, respondent was fully aware of, and even somewhat participated in, the OAE's investigation in this matter. Although that participation fell short of the level of cooperation required of all attorneys, he cannot effectively maintain that those shortcomings were unintentional. Indeed, in connection with his request that the OAE audit be adjourned, respondent acknowledged that he had gathered some relevant materials, but refused to send them to the OAE, preferring, instead, to share them with Judge Dupuis first. Thus, respondent knowingly failed to respond to the OAE's lawful demand for information, in violation of RPC 8.1(b).

Finally, because of respondent's conduct, Judge Dupuis was required to expend judicial resources in an attempt to obtain respondent's completion of his responsibilities as administrator of the estate. Respondent's misconduct resulted in the waste of judicial resources and thus, was prejudicial to the administration of justice, in violation of RPC 8.4(d).

In the Dellon matter, respondent was retained in 2009 to file a motion to compel discovery on his client's behalf, which was denied. Dellon then sent three letters to him in 2010, to which respondent failed to reply. Although some communication

took place between respondent and Dellon in 2011, including an in-person meeting, respondent thereafter failed to reply to any of her further requests for information regarding her matter and to her request for her file. Thus, respondent violated RPC 1.4(b).

The record also establishes that respondent violated RPC 1.16(d). "Upon termination of representation, a lawyer shall take steps to the extent practicable to protect a client's interests, such as . . . surrendering papers and property to which the client is entitled." RPC 1.16(d). Although the facts alleged in the complaint are somewhat limited with regard to this allegation, in October 2014 and December 2015, Dellon clearly requested a copy of her file; there was no evidence that respondent complied. Thus, given the default nature of this case, we deem this allegation sufficient to support the charge.

The complaint, however, fails to set forth sufficient facts to support the remaining charges: RPC 1.1(a), RPC 1.3, RPC 1.4(c), RPC 1.15(d), and RPC 8.1(b).

Specifically, the complaint states that respondent's "failure to respond to the Grievant constituted gross negligence in violation RPC 1.1(a) and RPC 1.3." This misconduct is more appropriately addressed by RPC 1.4(b), as discussed above. In addition, the complaint alleges only that the motion to compel

was filed and denied during the first few months of respondent's representation of Dellon. Absent are any facts that suggest that respondent was responsible for the negative disposition of the motion. Moreover, the complaint is devoid of any facts to suggest that respondent was guilty of misconduct based on his alleged failure to telephone "Mrs. Lash." Indeed, respondent's failure to make one telephone call on Dellon's behalf would, at most, amount to simple neglect, not gross negligence. Thus, we dismiss those allegations.

Likewise, the facts alleged do not support a finding of an RPC 1.4(c) violation. Respondent's level of communication was clearly deficient. The complaint, however, fails to allege any facts to support the conclusion that respondent failed to explain the matter to Dellon to the extent that such failure hampered her ability to make informed decisions regarding the representation. Thus, we dismiss that allegation.

As to the allegation that respondent failed to cooperate with disciplinary authorities, the complaint charges only that "[r]espondent failed in this duty to cooperate and failed to cooperate with this investigation by not replying within 10 days of the request for information, provide accounting records, and supply a complete copy of the Grievant's file." The DEC neither attached any evidentiary support that this information was

requested nor included any facts that referenced any communications that requested this information, such as dates of letters or e-mails. We, therefore, dismiss the RPC 8.1(b) charge.

Similarly, the DEC's claim that respondent violated RPC 1.15(d) and R. 1:21-6 is supported only by the charging paragraph, which states, "Respondent's failure to comply with R 1:21-6 (Recordkeeping) is in violation of RPC 1:15(d) [sic]." This statement, too, is conclusory, and bereft of any supporting facts. Thus, we dismiss the RPC 1.15(d) charge as well.

The only issue remaining is the appropriate discipline for respondent's consolidated violations of RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.15(b), RPC 1.16(d), RPC 3.4(c), RPC 8.1(b), and RPC 8.4(d).

Attorneys who have failed to obey court orders have been reprimanded. See, e.g., In re Cerza, 220 N.J. 215 (2015) (attorney failed to obey a bankruptcy court's order compelling him to comply with a subpoena, which resulted in a default judgment against him; violations of RPC 3.4(c) and RPC 8.4(d); the attorney also violated RPC 1.15(b) in a related real estate transaction when he disbursed a \$100 survey refund to the wrong party, failed to refund the difference between the estimated recording costs and the actual recording costs, and failed to disburse the mortgage payoff overpayment, which had been returned to him and held in his

trust account for more than five years after the closing; prior admonition for recordkeeping violations and failure to promptly satisfy tax liens in connection with two client matters, even though he had escrowed funds for that purpose); In re Carlin, 176 N.J. 266 (2003) (attorney failed to comply with two court orders and with mandatory trust and business recordkeeping requirements; gross neglect, lack of diligence, failure to communicate with the client, and failure to promptly deliver funds to a third person also found); and In re Malfara, 157 N.J. 635 (1999) (attorney failed to honor a bankruptcy judge's order to reimburse the client \$500 for the retainer given in a case where he failed to appear at two court hearings, forcing the client to represent himself; gross neglect also found; the attorney also failed to cooperate with ethics authorities during the investigation of the matter).

The misconduct committed in the Cerza, Carlin, and Malfara matters is similar to that of respondent in the instant matter. Cerza failed to obey court orders during his representation of a client in a bankruptcy matter. The underlying conduct in that matter also involved a failure to promptly disburse funds, which occurred over the course of five years. Cerza also had a disciplinary history. Carlin, too, violated RPC 1.15(b) and RPC 3.4(c), and committed gross neglect, lack of diligence, failure to communicate with the client, and recordkeeping violations.

Malfara, in addition to his RPC 1.15(b) violation, committed gross neglect and failed to cooperate with ethics authorities. In all three of these matters, the attorney received a reprimand.

Accordingly, based on the combination of violations present in the two matters, representing misconduct that overlapped in time, the baseline discipline is a reprimand. Although respondent presented significant mitigation in the first matter, that mitigation is overshadowed by respondent's failure to cooperate with the OAE. Further, "[a] respondent's default or failure to cooperate with the investigative authorities acts as an aggravating factor, which is sufficient to permit a penalty that would otherwise be appropriate to be further enhanced." In re Kivler, 193 N.J. 332, 342 (2008). Thus, based on the combined violations in these two matters, as well as the default nature of the second matter, we determined to impose a censure.


Chair Frost and Member Zmirich did not participate in 17-348, and abstained in 17-446. Member Gallipoli was recused in both matters.

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  
Bruce W. Clark, Vice-Chair

By:   
Ellen A. Brodsky  
Chief Counsel

SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of Francis Charles Babcock, Jr.  
Docket No. DRB 17-446

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Argued: January 18, 2018

Decided: April 30, 2018

Disposition: Censure

<i>Members</i>	Censure	Recused	Abstained
Frost			X
Baugh	X		
Boyer	X		
Clark	X		
Gallipoli		X	
Hoberman	X		
Rivera	X		
Singer	X		
Zmirich			X
Total:	6	1	2

  
Ellen A. Brodsky  
Chief Counsel

SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of Francis Charles Babcock, Jr.  
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Argued: January 18, 2018

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Disposition: Censure

<i>Members</i>	Censure	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	2

  
Ellen A. Brodsky  
Chief Counsel