

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 18-065  
District Docket No. VI-2016-0012E

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IN THE MATTER OF  
ULYSSES ISA  
AN ATTORNEY AT LAW

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Corrected Decision

Decided: August 10, 2018

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

This matter was before us on a certification of the record filed by the District VI Ethics Committee (DEC), pursuant to R. 1:20-4(f). The eight-count formal ethics complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), and RPC 1.4(b) (failure to keep the client adequately informed and to promptly reply to the client's reasonable requests for information) (count one); RPC 1.5(b) (failure to communicate in writing the rate or basis of the fee) (count two); RPC 1.15(a) (failure to safeguard client property) and RPC 1.6(f) (presumably, RPC 1.6(a), (revealing information

relating to the representation without the client's consent)) (count three); RPC 1.15(d) (failure to comply with the recordkeeping requirements of R. 1:21-6) and RPC 8.1(b) (failure to cooperate with disciplinary authorities) (count four); RPC 1.16 (presumably, subsection (c), failure to comply with applicable law when terminating a representation, specifically, by failing to comply with R. 5:3-5(d)) (count five); RPC 5.3(a), (b), and (c) (failure to supervise a non-attorney employee) (count six); RPC 5.5(a)(1) (unauthorized practice of law) (count seven); and RPC 8.1(a) (knowingly making a false statement of material fact in connection with a disciplinary matter) and RPC 8.1(b) (count eight).

For the reasons set forth below, we determine to impose a three-month suspension, with a condition.

Respondent earned admission to the New Jersey bar in 2006. During the relevant time frame, he maintained a law practice in Union City, New Jersey. Respondent has been administratively ineligible to practice law since October 21, 2016. He was temporarily suspended, effective May 9, 2018, for failure to comply with a fee arbitration determination. He remains suspended to date.

Service of process was proper in this matter. On December 6, 2017, the DEC sent a copy of the formal ethics complaint to

respondent, by certified and regular mail, at his home address. A certified mail receipt was returned, which reflected a delivery date of December 11, 2017, and the signature of "Elvira Isa." The regular mail was not returned. Respondent failed to file an answer to the complaint.

On January 16, 2018, the DEC sent a "five-day" letter to respondent, by certified and regular mail, at his home address, informing him that, unless he filed a verified answer to the complaint within five days, the allegations of the complaint would be deemed admitted, the record would be certified to us for the imposition of discipline, and the complaint would be deemed amended to charge a willful violation of RPC 8.1(b). The certified mail receipt was returned, which reflected a delivery date of January 19, 2018, and the signature of "Elvira Isa." The regular mail was not returned.

Respondent failed to file a verified answer to the complaint. Accordingly, on February 6, 2018 the DEC certified the record to us as a default.

We now turn to the allegations of the complaint.

In May or June 2016, grievant April Patterson retained respondent to represent her in post-divorce child custody actions. An order had been entered awarding physical custody of

the children to Patterson's ex-husband, with visitation to Patterson.

Subsequent to the entry of the Order, Patterson's ex-husband began permitting Patterson more liberal visitation with their children. Patterson retained respondent to formalize the more liberal visitation, and to request that she be granted physical custody of the children.

Pursuant to a July 11, 2016 retainer agreement, respondent charged a flat fee of \$1,000 for the filing of Patterson's motions. Patterson never signed the retainer agreement, but she paid respondent the \$1,000 fee. The retainer agreement failed to comply with R. 5:3-5, which requires that the writing be signed by both the attorney and the client, that a copy of the executed agreement be provided to the client, and that the retainer include an explanation of the effect of an award of counsel fees.

From the outset of the representation, Patterson was frustrated by her inability to communicate with respondent, and by his consistent failure to return her telephone calls. Often, Patterson's telephone calls were placed on long holds by respondent's staff, only to be disconnected. Respondent's voice mailbox was often full, preventing Patterson from leaving a message.

Respondent had encouraged Patterson to text him to receive more prompt responses, and, thus, she often attempted to communicate with respondent through that medium. For example, Patterson would forward to respondent copies of text exchanges between her and her ex-husband, for use as evidence in the custody and visitation action. Respondent, however, frequently failed to reply to her texts. He informed the DEC that he had a habit of losing or breaking his cell phones, and was, therefore, unable to produce copies of any text messages from Patterson.

At various points during the course of his representation of Patterson, respondent was ineligible to practice law. Specifically, he was ineligible from September 12 through October 6, 2016, and again from October 21, 2016 forward, for noncompliance with Continuing Legal Education, New Jersey Lawyers' Fund for Client Protection (CPF), and Interest on Lawyer Trust Accounts (IOLTA) requirements. Although the DEC informed respondent of his ineligibility on February 10, 2017, respondent continued to actively practice law, appearing in court and holding himself out as a lawyer, via his law firm website and LinkedIn profile.

Moreover, although he had been retained in July 2016, respondent neither filed a notice of appearance in behalf of Patterson nor filed the motions for which he had been retained,

until September 2016. The motions "consisted of standard court forms that . . . [required supplementation via] minimal information" concerning Patterson, her ex-husband, and their children. Yet, his initial motion filing was rejected by the court for "procedural reasons," including his failure to include addresses on the notice to litigants, his failure to send the notices by certified mail, and his failure to include a proposed order granting the relief that Patterson sought.

On October 6, 2016, respondent made a second attempt to file the motions, but, again, they were rejected as deficient. Thereafter, he made no further effort to file the motions. During a DEC interview, respondent recalled only one attempt at filing the motions, and could not recall the reason for their rejection.

During this same period, Patterson made several unsuccessful attempts to obtain status updates from respondent and his staff. Respondent also failed to provide her with copies of the court filings, despite having served them on her ex-husband. In October 2016, after respondent learned that Patterson had filed the underlying ethics grievance against him, he ceased all communication with her, and his staff informed her that he had unilaterally terminated the representation. Respondent did not directly communicate with Patterson regarding

his termination of the representation, provide her with a copy of her file or the documents he had filed with the court, or reply to her request for a refund of the \$1,000 fee. He neither sought leave of the court nor filed a motion to withdraw as Patterson's attorney, as required in civil family actions, pursuant to R. 5:3-5(d)(2).

Patterson demanded that respondent refund the \$1,000 fee, because he had failed to perform the legal services, but he failed to disgorge the fee. On October 24, 2016, Patterson went to respondent's office to obtain her belongings and copies of all documents that respondent had attempted to file in her behalf. Respondent's staff instructed Patterson to request copies of the documents from the DEC.

During the course of the representation, respondent's staff routinely provided Patterson with legal advice in respect of an ongoing criminal investigation by the Sussex County Prosecutor's Office, including anticipating respondent's strategies in any future representation of her in connection with that investigation. Further, the staff provided Patterson with opinions concerning the potential impact of the investigation on her child custody and visitation modifications, including regarding the admissibility of criminal evidence in those applications.

Respondent did not keep adequate records regarding his representation of Patterson, and was unable to provide the DEC with "critical documents" concerning the matter, including financial records and copies of documents he had filed with the court in her behalf. Because he failed to maintain a copy of Patterson's file, as required by R. 1:21-6(c)(g), he was unable to provide the DEC with a copy of it, as required by R. 1:21-6(h) and (i). During a DEC interview, respondent blamed his staff for his inability to produce Patterson's file.

During the DEC investigation, respondent knowingly made false or misleading statements to the investigator, including a representation that, due to his advocacy, Patterson's ex-husband had granted Patterson more liberal visitation of her children. Patterson's ex-husband had consented to that arrangement prior to the commencement of the representation. Moreover, respondent falsely represented to the DEC that Patterson had sought to hold the visits in a bar, that he had advised against it, and that her ex-husband had objected to the idea. Patterson had suggested using the parking lot of the bar as the rendezvous point to exchange the children for purposes of visitation.

Respondent also failed to cooperate with the DEC investigation. He did not respond to the grievance, appeared "grossly unprepared" for a February 10, 2017 DEC interview, and



ultimately failed to produce documents that the DEC had demanded in connection with his representation of Patterson. On March 23, 2017, respondent's then counsel, Mario Blanch, told the DEC that it "should complete the investigation without further response from respondent."

As of the date of the formal ethics complaint, Patterson's custody and visitation issues remained unresolved.

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The facts recited in the formal ethics complaint support most of the charges of unethical conduct set forth therein. 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.

Patterson retained respondent to modify the standing child custody and visitation order issued in connection with her divorce. Pursuant to a July 11, 2016 retainer agreement, Patterson paid respondent a flat fee of \$1,000 for that work. In respect of the retainer agreement, respondent failed to comply with Rule 5:3-5(a) in three aspects: it was not signed by both respondent and Patterson; it failed to explain the effect of an

award of counsel fees; and respondent never provided a copy of it to Patterson.

Respondent's failure to comply with R. 5:3-5(a) constitutes a violation of RPC 1.5(b). See In re Franco, 212 N.J. 470 (2012). In that case, we determined that the attorney's failure to provide regular billings violated R. 5:3-5(a)(5), but that the complaint had not charged him with any RPC "that captures the failure to abide by these requirements and renders them unethical." In the Matters of Randi Kern Franco and Robert Achille Franco, DRB 12-053, 12-054, 12-055, and 12-056 (August 7, 2012) (slip op. at 66-67). In so determining, we relied on our prior holding in In re Gourvitz, 200 N.J. 261 (2009), where we concluded that, unlike court rules that impose page limits, or filing and service deadlines that are meant to assist the courts and the parties in the management of litigation, court rules that are designed to protect clients, including R. 5:3-5(b), which addresses limitations on retainer agreements, "are a different matter."

Likewise, the provisions of R. 5:3-5(a) are designed to protect clients. The DEC properly charged RPC 1.5(b) to capture respondent's failure to abide by the requirements of R. 5:3-5(a). Respondent, thus, violated RPC 1.5(b).

During the pendency of the representation, despite Patterson's extensive efforts to obtain updates and to share information, respondent failed to return her telephone calls and text messages. Although respondent had encouraged Patterson to communicate by text, he failed in that medium, and admitted to the DEC that he had a habit of losing or breaking his cell phones, and was, therefore, unable to produce any text messages from Patterson. Those texts included communications from Patterson's ex-husband, which she had provided to respondent as evidence in support of her motions. Moreover, his voice mailbox was often full and could not accept messages. His staff members exacerbated the situation, given their predilection for placing Patterson on hold before disconnecting the call. Respondent also failed to provide Patterson with copies of the court filings. Respondent's conduct, thus, violated RPC 1.4(b).

The allegations that, based on these same facts, respondent additionally violated RPC 1.6(a) and RPC 1.15(a), however, are not supported by sufficient facts. We determine, therefore, to dismiss those charges. Specifically, the record is bereft of evidence that respondent's admitted lackadaisical treatment of his cell phone revealed confidential information relating to Patterson, a required element of RPC 1.6(a). Likewise, the record contains no indication that respondent's treatment of

Patterson's information resulted in Patterson's loss of that information, and, thus, violated RPC 1.15(a). Respondent's misconduct in this regard is adequately captured by the additional RPC violations charged in this matter, as set forth below.

At various points during the course of his representation of Patterson, respondent was ineligible to practice law. Yet, he actively practiced law, appearing in court and holding himself out as a lawyer, via his law firm website and social media. Respondent, thus, violated RPC 5.5(a). The record does not, however, contain sufficient evidence for us to conclude that respondent knowingly practiced law while ineligible.

Additionally, notwithstanding his retention in July 2016, respondent neither filed a notice of appearance in behalf of Patterson nor attempted to file motions in her case until September 2016. He then failed to perfect the filing of elementary family court motions on behalf of Patterson, despite multiple attempts. After October 6, 2016, respondent made no further effort to file the motions. During a DEC interview, respondent recalled only one attempt at filing the motions, and could not even recall the reason that the court had rejected the filing. Respondent, thus, violated RPC 1.1(a) and RPC 1.3.

In October 2016, after learning that Patterson had filed the underlying ethics grievance against him, respondent ceased all communication with her, and unilaterally terminated the representation. He never contacted Patterson regarding the termination of the representation, never provided her with a copy of her file or the documents he had filed with the court in her behalf, and never responded to Patterson's request for a refund of the \$1,000 fee. Moreover, respondent did not seek leave of the court or file a motion to withdraw as Patterson's attorney, as required in family law matters, pursuant to R. 5:3-5(d)(2). Respondent, thus, violated RPC 1.16(c).

During the course of the representation, respondent's staff members routinely provided Patterson with legal advice, including anticipating respondent's strategies regarding a pending criminal investigation, and providing opinions concerning the impact of the investigation and the admissibility of criminal evidence in respect of Patterson's pending visitation/custody modification applications.

However, RPC 5.3 requires, as an element, that the attorney "orders or ratifies the conduct involved," or "knows of the conduct . . . but fails to take reasonable remedial action," or "has failed to make reasonable investigation of circumstances that would disclose past instances of conduct by the nonlawyer."

The record contains no evidence that would support any of those three theories of liability. We determine, therefore, to dismiss the allegation that respondent violated RPC 5.3.

Respondent failed to keep adequate records regarding his representation of Patterson, including financial records required by R. 1:21-6(c). Consequently, he was unable to provide the DEC with a copy of those records, as required by Rules 1:21-6(h) and (i). Respondent, thus, violated RPC 1.15(d) and RPC 8.1(b).

Respondent also knowingly made at least two false statements to the DEC investigator. First, he misrepresented that Patterson's ex-husband had granted her more liberal visitation of her children due to his advocacy when Patterson's ex-husband had granted that arrangement prior to the commencement of the representation. Second, respondent falsely represented that Patterson had sought to hold the visits in a bar, and that he had advised against it. He knew that Patterson sought to use the parking lot of the bar to exchange the children for purposes of visitation. Respondent, thus, violated RPC 8.1(a).

Finally, respondent also failed to cooperate with the DEC investigation, failed to respond to the grievance, was "grossly unprepared" for a DEC interview, and failed to produce documents

that the DEC had demanded. His behavior culminated in his then counsel's instructing the DEC to proceed with its case without respondent's participation. Respondent, thus, also violated RPC 8.1(b) in this regard.

In summary, we determine that respondent violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.5(b), RPC 1.15(d), RPC 1.16(c), RPC 5.5(a)(1), and RPC 8.1(a) and (b).

Conversely, we dismiss the charges that respondent violated RPC 1.6(a), RPC 1.15(a), and RPC 5.3(a), (b), and (c).

The only remaining issue is the appropriate quantum of discipline to be imposed for respondent's diverse misconduct.

Conduct involving gross neglect, lack of diligence, and failure to communicate with clients ordinarily results in either an admonition or a reprimand, depending on the number of client matters involved, the harm to the clients, the attorney's disciplinary history, and the presence of aggravating or mitigating factors. See, e.g., In the Matter of Clifford Gregory Stewart, DRB 14-014 (April 22, 2014) (admonition; attorney who was not licensed to practice law in Washington, D.C. filed an employment discrimination case in the United States District Court for the District of Columbia and obtained local counsel to assist him in handling the matter; after the defendant filed a motion to dismiss the complaint, however, the attorney failed to

provide local counsel with written opposition to the motion until after the deadline for doing so had expired, resulting in the granting of the motion as unopposed; violations of RPC 1.1(a) and RPC 1.3; in addition, the attorney failed to keep his client informed about various filing deadlines and about the difficulty he was having meeting them, particularly with the deadlines for filing an objection to the motion to dismiss the complaint, violations of RPC 1.4(b) and (c); we considered the attorney's exemplary, unblemished career of twenty-eight years at the time of the incident); In the Matter of Robert A. Ungvary, DRB 13-099 (September 30, 2013) (admonition; due to the attorney's failure to comply with discovery, his client's civil rights complaint was dismissed; the attorney's motion to vacate the default was denied and a subsequent appeal was dismissed based on his failure to timely prosecute it; the attorney neither informed the client of the dismissal of the appeal nor discussed with him his decision not to pursue it; violations of RPC 1.1(a), RPC 1.3, and RPC 1.4(b) and (c); although the attorney had been admonished previously, we noted that his conduct in the present matter predated the conduct in the prior matter, and that the client and his family had continued to use the attorney's legal services, despite his shortcomings in the civil rights matter); In re Burstein, 214 N.J. 46 (2013)



(reprimand for attorney guilty of gross neglect, lack of diligence, and failure to communicate with the client; although the attorney had no disciplinary record, the significant economic harm to the client justified a reprimand); and In re Kurts, 206 N.J. 558 (2011) (attorney reprimanded for mishandling two client matters; in one matter, he failed to complete the administration of an estate, causing penalties to be assessed against it; in the other, he was retained to obtain a reduction in child support payments but, at some point, ceased working on the case and closed his office; the client, who was unemployed, was forced to attend the hearing pro se, at which time he obtained a favorable result; in both matters, the attorney was found guilty of gross neglect, lack of diligence, failure to communicate with the client, and failure to memorialize the basis or rate of his fee; mental illness considered in mitigation; no prior discipline).

In this case, respondent also failed to comply with RPC 1.5(b) in respect of the retainer agreement with Patterson. Such conduct typically results in an admonition, even if accompanied by other, non-serious ethics offenses. See, e.g., In the Matter of John L. Conroy, Jr., DRB 15-248 (October 16, 2015) (attorney agreed to draft a will, living will, and power of attorney, and to process a disability claim for a new client, but failed to

provide the client with a writing setting forth the basis or rate of his fee; thereafter, the attorney was lax in keeping his client and the client's sister informed about the matter; the attorney also practiced law while administratively ineligible, based on his failure to comply with IOLTA registration requirements, and failed to reply to the ethics investigator's three requests for information; mitigation included the attorney's full cooperation with the investigation, his return of the client's fee, and his otherwise unblemished record in his forty years at the bar); In the Matter of Sebastian Onyi Ibezim, Jr., DRB 15-161 (July 22, 2015) (attorney failed to provide the client with a writing setting forth the basis or rate of the fee and failed to inform the client about critical events in the case); and In the Matter of Osualdo Gonzalez, DRB 14-042 (May 21, 2014) (attorney failed to state, in writing, the basis or rate of the fee, and failed to communicate with the client, communicating only with the client's prior counsel; the attorney withdrew the client's complaint based on a statement from prior counsel, not the client, that the client no longer wished to pursue the claim; we considered the attorney's clean record in his twenty-seven years at the bar, and letters attesting to the attorney's good moral character).

Likewise, the failure to maintain for seven years those

portions of a client's file, as required by R. 1:21-6, ordinarily warrants an admonition. See, e.g., In the Matter of Carolyn J. Fleming-Sawyer, DRB 04-017 (March 23, 2004) (in one of two client matters, attorney did not keep complete records of receipts and expenditures and did not preserve them for a period of seven years; the attorney also collected a real estate commission when she sold the client's house; in the other client matter, the attorney delayed the recording of a deed and ignored her client's requests for information about the matter) and In the Matter of Stephen R. Mills, DRB 94-391 (December 28, 1994) (attorney failed to prepare a retainer agreement or to otherwise communicate to his client, in writing, the basis or rate of the fee, failed to communicate with her concerning the scope of the representation, and failed to maintain the client's file for a period of seven years).

Few reported disciplinary cases relate to attorneys guilty of violating RPC 1.16(c). In one such case, In re Saavedra, 162 N.J. 108 (1999), a three-month suspension was imposed. There, the attorney unilaterally withdrew from the representation of a minor in connection with a delinquency complaint. When the juvenile's family failed to pay Saavedra's fee, he left the courthouse without notifying the judge, who then rescheduled the matter. When the juvenile appeared before the judge in a

different matter, another attorney informed the judge that Saavedra was no longer representing the juvenile. Because the trial date already had been set in the first matter, that attorney was directed to inform Saavedra that he could not unilaterally withdraw from the representation and was required to file a motion to be relieved as counsel. When Saavedra appeared later that day, the judge informed him that it was unlikely that such a motion would be granted at that late date.

Saavedra neither appeared for the rescheduled trial nor filed a timely motion to withdraw from the representation. The judge again adjourned the trial. The judge received Saavedra's motion the day after the scheduled trial, denied it, and required Saavedra to appear at the rescheduled trial. Saavedra again failed to appear.

Saavedra was found guilty of having violated RPC 1.16(c), as well as RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), and RPC 8.4(d) (conduct prejudicial to the administration of justice). In imposing a three-month suspension, we considered the attorney's significant disciplinary record, which included a private reprimand, a reprimand, and a three-month suspension.

In In re Kern, 135 N.J. 463 (1994), after twenty-six days of a medical license hearing before the Office of Administrative

Law (OAL), Kern moved to be relieved as counsel, on the ground that his clients had failed to pay fees and costs then due, in the amount of approximately \$85,000. The Administrative Law Judge (ALJ) was primarily concerned with the integrity of the administrative process and with the clear prejudice that would result, if Kern were permitted to step away at that late stage of the proceedings, given that the motion was based primarily on a fee dispute. Anticipating that the complex administrative proceeding would likely continue for another twenty-five to fifty days, the ALJ denied the attorney's application. Following that determination, when Kern's several vigorous attempts to be relieved as counsel proved unsuccessful, he refused to appear when the administrative hearings resumed.

We found that, once the OAL issued an order, regardless of the grounds advanced by the attorney, "he had an absolute obligation" to continue to represent his client, absent a contrary order from a higher court or tribunal. Kern could not unilaterally terminate that representation.

In imposing a reprimand, we considered mitigating factors, including the attorney's unblemished disciplinary record and the fact that he found himself in difficult circumstances, "when he was forced to continue to represent individuals who engaged in a pattern of threats against him and who themselves recognized

that such threats rendered effective representation extremely difficult." We also considered that, although misguided, the attorney's actions were the result of his sincere belief that it was ethically impermissible for him to continue his representation.

Ordinarily, when an attorney practices while ineligible, an admonition will be imposed, if he or she is unaware of the ineligibility or advances compelling mitigating factors. See, e.g., In the Matter of Jonathan A. Goodman, DRB 16-436 (March 22, 2017) (attorney practiced law during two periods of ineligibility; he was unaware of his ineligibility); In the Matter of James David Lloyd, DRB 14-087 (June 25, 2014) (attorney practiced law during an approximate thirteen-month period of ineligibility; among the mitigating factors considered was his lack of knowledge of the ineligibility); and In the Matter of Adam Kelly, DRB 13-250 (December 3, 2013) (during a two-year period of ineligibility for failure to pay the annual assessment to the CPF, the attorney handled at least seven cases that the Public Defender's Office had assigned to him; the record contained no indication that the attorney was aware of his ineligibility, and he had no history of discipline since his 2000 admission to the New Jersey bar).

A reprimand is usually imposed for practicing law while ineligible, when the attorney either has an extensive ethics

history, is aware of the ineligibility and practices law nevertheless, has committed other ethics improprieties, or has been disciplined for conduct of the same sort. See, e.g., In re Moskowitz, 215 N.J. 636 (2013) (attorney practiced law knowing that he was ineligible to do so).

Similarly, a reprimand is typically imposed for a misrepresentation to disciplinary authorities, so long as the lie is not compounded by the fabrication of documents to conceal the misconduct. See, e.g., In re DeSeno, 205 N.J. 91 (2011) (attorney misrepresented to the district ethics committee the filing date of a complaint on the client's behalf; the attorney also failed to adequately communicate with the client and failed to cooperate with the investigation of the grievance; prior reprimand); In re Sunberg, 156 N.J. 396 (1998) (attorney lied to the OAE during an ethics investigation of the attorney's fabrication of an arbitration award to mislead his partner and failed to consult with a client before permitting two matters to be dismissed; no prior discipline); and In re Powell, 148 N.J. 393 (1997) (attorney misrepresented to the district ethics committee, during its investigation of the client's grievance, that his associate had filed a motion to reinstate an appeal; the attorney's misrepresentation was based on an assumption, rather than an actual conversation with the associate about the

status of the matter; the attorney also was guilty of gross neglect, lack of diligence, and failure to communicate with the client; prior reprimand).

Finally, respondent is guilty of multiple violations of RPC 8.1(b). Ordinarily, admonitions are imposed for failure to cooperate with disciplinary authorities, if the attorney does not have an ethics history. See, e.g., In the Matter of Carl G. Zoecklein, DRB 16-167 (September 22, 2016) (attorney lacked diligence in the representation of his client, by failing to file a complaint on the client's behalf; failed to communicate with his client; and failed to cooperate with the ethics investigation; violations of RPC 1.3, RPC 1.4(b), and RPC 8.1(b); the attorney had an unblemished disciplinary record since his 1990 admission to the bar); 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)); and In the Matter of Raymond A. Oliver, DRB 12-232 (November 27, 2012) (attorney failed to submit a written reply to the grievance and a copy of the filed pleadings in the underlying case, despite repeated assurances that he would do so, a violation of RPC 8.1(b)).



Here, we consider, in aggravation, the default status of this matter. "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). The only mitigation to consider is respondent's lack of a disciplinary history.

Absent the default component, the disciplinary precedent for respondent's diverse misconduct in this matter would warrant at least a censure. Respondent's violation of RPC 1.16(c), standing alone, beckons a reprimand, and this case lacks the compelling mitigation considered in Kern. In addition to improperly withdrawing from the representation of Patterson, respondent committed gross neglect, failed to communicate, violated the retainer requirements for family actions, kept no required client records, practiced while ineligible, and made misrepresentations to the DEC.


Given that additional misconduct, and considering the default status as an aggravating factor, we determine to impose a three-month suspension. In addition, on reinstatement, respondent must practice under the supervision of a proctor for a period of one year.

Members Gallipoli and Zmirich would impose a six-month

suspension, with the same condition.

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 Ulysses Isa  
Docket No. DRB 18-065

Decided: August 10, 2018

Disposition: Three-month Suspension

<i>Members</i>	Three-month Suspension	Six-month Suspension	Recused	Did Not Participate
Frost	X			
Clark	X			
Boyer	X			
Gallipoli		X		
Hoberman	X			
Joseph	X			
Rivera	X			
Singer	X			
Zmirich		X		
Total:	7	2	0	0

  
Ellen A. Brodsky  
Chief Counsel