

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 18-133  
District Docket No. XB-2017-0004E

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In The Matter Of  
Louis I. Karp  
An Attorney At Law

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Decision

Decided: October 23, 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 XB Ethics Committee (DEC), pursuant to R. 1:20-4(f). A five-count 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 with the client), RPC 1.16(d) (failure to turn over the client file upon termination of the representation), and RPC 8.1(b) (failure to cooperate with an ethics investigation).

We determine to impose a censure.

Respondent was admitted to both the New Jersey and the New York bars in 1982. In 1985, he received a private reprimand for lack of diligence and making a misrepresentation to his adversary.

Service of process was proper in this matter. On December 12, 2017, the DEC sent a copy of the complaint, by certified and regular mail, to respondent's office address as listed in the attorney registration records.

The certified mail receipt was returned, having been signed on December 14, 2017, but the signature is illegible. The regular mail was not returned.

On January 24, 2018, the DEC sent respondent a copy of an amended complaint, to the same office address, also by regular and certified mail. The certified mail receipt was returned indicating delivery, having been signed by "W. O'Donnell," on January 29, 2018. The regular mail was not returned.

On March 5, 2018, the DEC sent respondent another letter to the same office address, informing him that, if he did not answer the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted; that, pursuant to R. 1:20-4(f) and R. 1:20-6(c)(1), the record in the matter would be certified directly to us for imposition of sanction; and that the complaint would be amended to include a charge of a violation of RPC 8.1(b). The certified mail return receipt was returned indicating delivery on

March 9, 2018, again having been signed by "W. O'Donnell." The regular mail was not returned.

The time within which respondent may answer the complaint has expired. As of March 22, 2018, respondent had not filed an answer.

We turn to the facts alleged in the complaint. Respondent's longtime client and real estate developer, Brian Delaney, had purchased a tax sale certificate as part of a plan to assemble a real estate parcel. Respondent was aware of Delaney's plan.

In November 2011, Delaney asked respondent to initiate a foreclosure proceeding on the tax sale certificate, which he had given to respondent. Respondent, however, failed to take action.

Between May 2 and September 29, 2016, Delaney sent respondent a number of e-mails requesting status updates on the tax sale foreclosure. Respondent's e-mail replies indicated that he had not forgotten about the matter and was still working on it.

Thereafter, Delaney retained William E. Hinkes, Esq. to pursue the foreclosure action. On November 9, 11, 18, and 29, 2017, Hinkes called, wrote, and sent e-mails to respondent, seeking Delaney's tax-sale certificate file, but he received no reply to those inquiries.

Meanwhile, in April 2017, Delaney had learned that a judgment had been entered against him in Pennsylvania and had been docketed in New Jersey. When Delaney had been served with the Pennsylvania complaint, he had given it to respondent with directions to take the appropriate action. Apparently, respondent did not do so. Delaney later informed Hinkes of the Pennsylvania judgment, who concluded that the plaintiff lacked jurisdiction over Delaney in Pennsylvania, and that the judgment never should have been entered there.

According to counts one and two of the amended complaint, respondent failed to: (1) pursue the foreclosure of the tax sale certificate, which was in his possession; and (2) properly defend the Pennsylvania litigation, which resulted in a judgment against Delaney, violations of RPC 1.1(a) and RPC 1.3.

Count three charged respondent with having ignored Delaney's repeated requests, through new counsel, for information about the tax sale certificate and Pennsylvania litigation matters, in violation of RPC 1.4(b).

Under count four, the complaint charged that, by ignoring Hinkes' repeated requests for Delaney's client file, respondent violated RPC 1.16(d).

In addition, the amended complaint charged respondent with having failed to cooperate with the ethics investigation. On February 15, 2017, and again on March 15, 2017, the DEC sent respondent a copy of the grievance, by certified and regular mail, along with its request for a written response thereto. The

certified mail receipt for the February 15, 2017 mailing was returned signed, but respondent failed to furnish a written reply.

The DEC investigator telephoned respondent on April 4, 2017 to discuss the grievance, but respondent's "mailbox" was full. The investigator called again on April 21, 2017, and left a message for respondent to contact him. Respondent, however, failed to do so.

Count five charged respondent with having failed to reply to the investigator's repeated requests for his written reply to the grievance, a violation of RPC 8.1(b).

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

Delaney, a longtime client, retained respondent in November 2011 to foreclose a tax sale certificate. At the time, Delaney was compiling real estate properties into a larger parcel. The tax sale certificate that he had purchased was included in that plan.

Delaney directed respondent to initiate a foreclosure action on the tax sale certificate, but respondent never did so. Rather, he told Delaney, in an e-mail chain, that he had not forgotten the matter and was working on it.<sup>1</sup>

In respect of the Pennsylvania litigation, after being served with a complaint, Delaney retained respondent to defend that action. Respondent, however, neither answered the complaint nor took any other action, resulting in the entry of a judgment against Delaney. For his failure to protect his client's claims in both matters, respondent is guilty of gross neglect and lack of diligence, violations of RPC 1.1(a) and RPC 1.3, respectively.

From May through September 2016, Delaney sent respondent e-mail requests for the status of the tax sale foreclosure, which, by that point, had been in respondent's care for at least five years. Respondent gave Delaney no useful information, prompting him to retain Hinkes. Thereafter, respondent ignored Hinkes' repeated telephone calls, letters, and e-mails seeking information about the tax sale matter and the Pennsylvania litigation, in violation of RPC 1.4(b).

Respondent also failed to heed Hinkes' requests for the return of Delaney's client file, including the tax sale certificate, in violation of RPC 1.16(d).

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<sup>1</sup> Although respondent's statement about the foreclosure progress was apparently untrue, he was not charged with having misrepresented the status of the matter to his client (RPC 8.4(c)). Therefore, we made no finding in that regard.

Finally, respondent failed to reply to the DEC investigator's several telephone calls and letters requesting information and a written reply to the grievance, a violation of RPC 8.1(b).

In sum, respondent is guilty of violations of RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.16(d), and RPC 8.1(b). We now address the appropriate discipline for respondent's misconduct.

Attorneys found guilty of gross neglect, lack of diligence, and failure to communicate with clients, even when found alongside additional violations such as failure to return the client file upon termination of the representation and failure to cooperate with ethics authorities, will ordinarily receive an admonition or a reprimand, depending on the number of client matters involved, the gravity of the offenses, the harm to the clients, and the seriousness of the attorney's disciplinary history. See, e.g., In the Matters of Ralph Gerstein, DRB 14-049 and 14-050 (June 19, 2014) (admonition for attorney who, in two separate client matters, engaged in gross neglect, lack of diligence, and failure to communicate with the clients, in violation of RPC 1.1(a), RPC 1.3, and RPC 1.4(b); in one matter, he failed to return the client file upon termination of the representation (RPC 1.16(d)), failed to cooperate with the ethics investigator (RPC 8.1(b)), and misrepresented to the client the status of the case (RPC 8.4(c)); the admonition was premised on compelling mitigation: the attorney's unblemished disciplinary

record; the aberrational nature of the conduct; the nexus between the misconduct and the attorney's development of a condition that required a medical procedure; his severe depression at the time of the misconduct, for which he sought treatment; his admission of wrongdoing; and his deep remorse); In the Matter of Robert A. Ungvary, DRB 13-099 (September 30, 2013) (admonition for attorney who failed to comply with discovery requests in a civil rights matter, resulting in the dismissal of the complaint; when a subsequent motion to vacate the default was denied, the attorney filed an appeal, which was dismissed for failure to prosecute; the attorney also failed to inform the client about his decision not to pursue the appeal and about the dismissal; violations of RPC 1.1(a), RPC 1.3, and RPC 1.4(b)); In the Matter of James E. Young, DRB 12-362 (March 28, 2013) (admonition for attorney who was retained to assume responsibility for a workers' compensation claim for which prior counsel had filed a petition; thereafter, the attorney took no action and failed to appear at court-ordered hearings, resulting in the dismissal of the petition, with prejudice, for lack of prosecution; for the next five or six years, despite the client's attempts to obtain information about the status of the case, the attorney failed to inform him of the dismissal; the attorney finally admitted his mistakes to the client and paid him an amount from his own funds that he estimated the claim to be worth, to make the client whole; violations of RPC 1.1(a), RPC 1.3, and RPC 1.4(b); in



mitigation, the attorney had no prior discipline in thirty-two years at the bar); In re Calpin, 217 N.J. 617 (2014) (reprimand for attorney who failed to oppose the plaintiff's motion to strike his client's answer, resulting in the entry of a final judgment against his client; the attorney never informed his client of the judgment; violations of RPC 1.1(a), RPC 1.3, and RPC 1.4(b); notwithstanding the presence of some mitigation in the attorney's favor, the attorney received a reprimand because of the "obvious, significant harm to the client," that is, the judgment); 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).

Here, respondent's misconduct is similar to that of the attorney in the admonition case, Gerstein, above. A major distinction, however, is the substantial mitigation presented in Gerstein, an element that is absent here.

In addition, respondent permitted this matter to proceed to us by way of default. "A respondent's default or failure to cooperate with the investigative authorities operates 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). For that reason, a reprimand would be warranted. In further aggravation, however, respondent has a prior, albeit thirty-three-year-old, private reprimand for similar misconduct. Thus, he has known, for the length of his career, that future misconduct of this sort would not be tolerated.

In In re Stasiuk, \_\_\_ N.J. \_\_\_ (2016), the attorney received a censure in a default for nearly identical misconduct. Stasiuk was retained to pursue a workplace discrimination action, and was paid \$900 to file a notice, which he accomplished. In the Matter of George P. Stasiuk, DRB 14-379 (July 28, 2015) (slip op. at 3). Thereafter, the client gave Stasiuk a \$6,500 retainer for future fees and costs. Stasiuk took no further action on his client's behalf, and "apparently vanished," without communicating the status of the matter to the client. Id. at 5. In addition, the attorney failed to return the unearned \$6,500

retainer or to file an answer to the complaint, thereby permitting the matter to proceed to us as a default. Stasiuk was found to have violated RPC 1.1(a), RPC 1.16(d), RPC 1.3, RPC 1.4(b), and RPC 8.1(b). In aggravation, we considered the \$6,500 harm to the client. In mitigation, Stasiuk had no prior discipline since his 1990 bar admission.


Respondent and Stasiuk violated the same RPCs, in a single client matter. Both attorneys defaulted. Stasiuk's aggravation was limited to client harm, while respondent's was a prior, 1985 private reprimand for similar misconduct. Overall, we find the parallels with Stasiuk are such that the same sanction – a censure – is appropriate here. We so vote.

Member Singer voted to impose a reprimand.

Member Boyer 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 Louis I. Karp  
Docket No. DRB 18-133

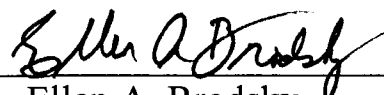
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Decided: October 23, 2018

Disposition: Censure

<i>Members</i>	Censure	Reprimand	Recused	Did Not Participate
Frost	X			
Clark	X			
Boyer				X
Gallipoli	X			
Hoberman	X			
Joseph	X			
Rivera	X			
Singer		X		
Zmirich	X			
Total:	7	1	0	1



Ellen A. Brodsky  
Chief Counsel