Supreme Court Of New Jersey
Disciplinary Review Board
Docket No. DRB 18-265
District Docket Nos. XIV-2015-0398E;
XIV-2015-0399E; XIV-2015-0474E; and
XIV-2015-0542E

In The Matter Of	:
Sal Greenman	:
An Attorney At Law	:

Decision

Argued: October 18, 2018

Decided: January 15, 2019

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

This matter was before us on a recommendation for disbarment by a special master. The five-count complaint charged respondent with the following violations: three counts of RPC 1.1(a) (gross neglect); RPC 1.1(b) (pattern of neglect); three counts of RPC 1.3 (lack of diligence); three counts of RPC 1.4(b)

(failure to communicate with the client); two counts of RPC 5.5(a)(1) (practicing while suspended); two counts of RPC 8.4(b) (committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer); and four counts of RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). We determine to recommend respondent's disbarment.

Respondent was admitted to both the New Jersey and Pennsylvania bars in 1993. On February 20, 2015, the Court temporarily suspended him for failing to comply with a random audit conducted by the Office of Attorney Ethics (OAE). In re Greenman, 220 N.J. 489 (2015). That Order remains in effect.

Subsequently, on May 19, 2016, the Court censured respondent in a default matter for his failure to cooperate with an ethics investigation, in violation of RPC 8.1(b). In re Greenman, 225 N.J. 10 (2016). The Court further mandated that respondent remain temporarily suspended until further Order.

On May 30, 2018, the Court suspended respondent for violating RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 8.1(b), and RPC 8.4(c) in a single client matter. In re Greenman, 233 N.J. 351 (2018). In that case, respondent undertook a representation and did virtually nothing for four years, allowing the matter to be dismissed for lack of prosecution. Meanwhile, over the course of those four

years (2008-2012), respondent continued to assure his client that the matter was proceeding. In the Matter of Sal Greenman, DRB 17-140 (October 26, 2017) (slip op. at 23). He remains suspended to date.

We now turn to the facts of this matter.

Count One – The Murray Grievance

Richard A. Murray, Esq. represented Vadim Kaplan in a $250,000 claim against Israel and Lusic Reingewirc. Respondent previously had represented the Reingewircs in several matters, the most recent of which was a bankruptcy matter. On March 31, 2015, Murray sent to the Reingewircs a letter regarding the dispute with Kaplan. Soon thereafter, respondent telephoned Murray, asking for a meeting to discuss the case and potential settlement. Murray was willing to meet, but first wanted a letter of representation from respondent.

On April 24, 2015, Murray filed a complaint on behalf of his clients, which was met once again with a call from respondent requesting a meeting. Murray again asked for a letter of representation. This time, Murray memorialized his conversation in a letter to respondent, dated May 6, 2015. Murray later learned of respondent's suspension through a New Jersey Law Journal article and a call from his own client. According to Murray, all

communication with respondent occurred after February 20, 2015, the date of respondent's temporary suspension. Nonetheless, according to Murray, during both telephone conversations, respondent claimed to represent the Reingewircs.

Although respondent did not dispute having contacted Murray on behalf of the Reingewircs, after he was temporarily suspended, he claimed that he met with the Reingewircs while he was cleaning out his building after a flood. Simply put, he asserted that, because he was cleaning a building that he owns, he was not technically in his law office when he met with former clients to return their file. Respondent also admitted that he had initiated the meeting with the Reingewircs, and that he was returning only a partial file, because a flood had destroyed most of it. The documents that respondent submitted, however, establish that the flood actually occurred in March 2016 - a year after the Murray incident. Respondent acknowledged this discrepancy when it was called to his attention, but testified that his version of events, including the effect of the flood on his office a year earlier, was "truthful the way I said I believe it was in 2015."

Moreover, respondent denied having made more than one telephone call, even after being confronted with his written response to the grievance in which he admitted making "calls." He claims that his response to the Murray grievance,

which his son Jonathan drafted, contained a "misprint."[1] In any event, respondent denied meeting with the Reingewircs regarding the civil dispute with Kaplan, despite having asked Murray for a copy of the complaint. In respondent's view, he was serving merely as a messenger. He added later in his testimony, however, that, when he called Murray, the Reingewircs were present to discuss the legal fees they owed him for a prior case. Respondent contended that he was allowed to collect unpaid fees, despite his suspension. When unable to cite a rule in support of this contention, respondent said he imagined that this was public policy.

Respondent presented the Reingewircs as witnesses in his defense to the ethics charges. Both testified that they were called to respondent's office, in 2015, to receive papers concerning a bankruptcy case, because he could no longer represent them, and to pay the money they owed. At that meeting, Israel asked respondent to call Murray about the letter that Murray had sent concerning Kaplan's claim. Israel described the call as a favor so respondent could talk to

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[1] Respondent's son, Jonathan Greenman, practiced law with respondent, until Jonathan's disbarment on September 13, 2017. In re Greenman, 230 N.J. 383 (2017).

Murray "lawyer to lawyer." Neither client recalled the substance of the call with Murray, although they were in the room with respondent.

The complaint charged respondent with violations of RPC 5.5(a)(1), RPC 8.4(b), and RPC 8.4(c).

Count Two – The Oldfield Grievance

In May 2014, respondent's firm settled a personal injury claim for $8,500 on behalf of its client, Dimitry Slobodenyuk. The claim stemmed from an automobile accident. Richard Oldfield, Esq. represented Allstate, the insurance carrier responsible for paying the settlement funds. It appears that Jonathan Greenman, respondent's son, was the attorney handling the matter for the firm.

Oldfield testified that, because he received neither a stipulation of dismissal nor a release from respondent's firm to close the matter, a check was never sent. He began receiving phone calls about the money in early 2015 from both respondent and Jonathan. In March 2015, Jonathan finally provided the settlement papers. Allstate issued the check in April 2015.

Oldfield testified that his communications with respondent were in March 2015, after the date of his suspension, but that respondent never informed him that he was suspended and that the settlement papers he received were sent from

"Law Office of Sal Greenman" by fax, on March 19, 2015 – one month after the effective date of respondent's temporary suspension.

Respondent admitted that he called Oldfield from his office following the date of his suspension. He argued, however, that he was allowed to collect money, but could not cite a rule in support of his position. When confronted with R. 1:20-20(b)(13), which places various qualifications on the allowance to collect fees already earned, respondent replied that he was mistaken in his interpretation of the Rule. However, he steadfastly maintained that he was permitted to call an attorney to pursue a settlement check because the settlement had occurred a year prior to his suspension. He further denied that cleaning up files and any outstanding issues constituted legal work. Respondent admitted that his law firm office sign remained in place for more than a year after he was suspended.

On April 9, 2015, Allstate issued a settlement check, for the full amount owed, payable to "Dimitry Slobodenyuk and Sal Greenman Esquire." Respondent admitted that, at the time he received this check, he and his son were suspended and were not permitted to maintain attorney trust or business accounts. He further admitted that Jonathan endorsed the check from Allstate.

The complaint charged respondent with violations of RPC 5.5(a)(1), RPC 8.4(b), and RPC 8.4(c).

Count Three – The Fedotov Grievance

In June 2011, Alexsandr Fedotov retained respondent to represent him concerning a bankruptcy matter. Fedotov paid respondent a $1,500 retainer. Fedotov went to respondent's office from time to time to drop off documents and records. According to Fedotov, whenever he inquired about the status of his matter, respondent replied that it had been filed and that he was working on it. Respondent, however, denied telling Fedotov that his petition had been filed, claiming that he would not have done so because he did not handle the matter and has never filed a bankruptcy petition.

After a significant amount of time had passed, Fedotov became concerned when he continued to receive claims from his credit card companies, and could no longer contact respondent. Fedotov asked his daughter Marina to look into the matter for him. According to Marina, in late 2014 and early 2015, she asked respondent on at least two occasions why the petition had not been filed. On both occasions, respondent assured her that he would file the petition soon.

In turn, respondent denied having had any contact with Marina. The presenter then confronted respondent with an undated letter to respondent from Marina in which she complained that (1) her father had retained respondent in June 2011, and that it was 2015, and nothing had been done on the matter; that she had spoken with respondent "a few months ago" and that he told her that the case would get resolved, and that he would return her call, but he failed to do so; and that, despite several e-mails and phone calls from both Marina and Fedotov, respondent has never replied. Marina's letter concluded with notice that, after four years, she wants more than just the return of the fees.

Respondent, nevertheless, denied that he had spoken with Marina and speculated that she may have spoken to Jonathan, because respondent did not handle bankruptcy matters. He also denied having seen Marina's letter to him.

In respect of Fedotov's bankruptcy petition, respondent repeatedly asserted, during the investigation, that Fedotov requested the filing delay for personal reasons. Specifically, respondent claimed that Fedotov traveled to Russia and never returned. At the hearing, however, respondent implied that he did not recall making those statements. Nonetheless, both Fedotov and his daughter testified that Fedotov did not travel to Russia and had not done so since 2006.

Respondent admitted that he never told Fedotov or his daughter that he was suspended; that he took money from Fedotov, and never returned it; and that he is guilty of gross neglect. He denied, however, that he failed to communicate with his client. He was unaware whether a bankruptcy petition was ever filed on Fedotov's behalf because he did not handle the matter.

The complaint charged respondent with violations of RPC 1.1(a), RPC 1.3, RPC 1.4(b), and RPC 8.4(c).

Count Four – The Drakeford Grievance

On March 26, 2013, Jesse Drakeford retained respondent to help recover his car. Respondent asserted that, after the initial meeting, he sent Drakeford into Jonathan's office to "finish up" and that his son "typed it all up. He signs them up." Jonathan signed the retainer agreement, providing for a $500 fee, on behalf of respondent's firm. In his grievance, Drakeford indicated that he initially paid respondent $250, but later testified that he had made two payments of $250.

Drakeford left his car at M&F Auto Shop (M&F) in Paterson, New Jersey, and the car went missing. After agreeing to represent Drakeford, respondent sent a letter to M&S Auto Repair in Passaic, New Jersey, not to M&F in Paterson.

Respondent denied that he made an error, claiming that Drakeford had given him the address for M&S.

Respondent further claimed that, in Drakeford's behalf, "we" sent some letters, and that he called M&F. He learned eventually, however, that M&F went out of business, and that a car wash had opened at that location. According to respondent, after he conveyed this information to his client, Drakeford provided the information about M&S. Respondent claimed that, thereafter, "we" sent a letter and "I" spoke to a man named Raul on the phone. Respondent testified that he asked Raul whether his business was M&F, and was told "no, bankrupt, no, no."

Drakeford asserted that respondent repeatedly assured him that his matter was going well, an assertion that respondent denied. Respondent also denied Drakeford's allegation that respondent failed to return his calls, claiming that he spoke with Drakeford and always treated him with respect.

Respondent denied that he lacked diligence or neglected Drakeford's matter. He claimed that Jonathan had explained to Drakeford that the firm could no longer continue to represent him for the $250 already paid, and that Drakeford replied that he would try to find his car on his own until he had more money, and then would return to the firm. Jonathan then discontinued

communications with Drakeford. Because this conversation occurred before his suspension, respondent never notified Drakeford of the discipline.

The complaint charged respondent with violations of RPC 1.1(a), RPC 1.3, and RPC 1.4(b).

Count Five – The Stobinski Grievance

On November 4, 2013, Sylvia Stobinski retained respondent to defend her in a lawsuit filed by Douglas S. Rabin, M.D., for a disputed medical bill of $10,000. Stobinski paid respondent's $1,000 retainer by check made payable to "Sal Greenman." The agreement called for a second payment of $1,000 to be paid at a later date. Stobinski provided respondent with necessary documents, including medical statements from her insurance company, a bill from Dr. Rabin, and copies of her e-mails with Dr. Rabin's billing service.

In May 2014, Jonathan became involved with Stobinski's case. Respondent claimed that he met with Stobinski initially because it was his understanding that she spoke only Polish. Respondent also testified that he did not recall whether he spoke English with her, or whether she speaks English at all. Stobinski eventually testified, in English, without issue.

By letter dated June 2, 2014, Jonathan asked Stobinski to contact the office to discuss her case in further detail. According to Stobinski, at a July 10, 2014 meeting, respondent told Stobinski that her matter was going well and that he was still negotiating with Dr. Rabin's attorney. Stobinski also claimed that, at this meeting, respondent requested the remaining $1,000 payment. By way of check payable to "Sal Greenman" and dated July 21, 2014, Stobinski paid respondent the remaining $1,000. Respondent denied that this meeting took place or that he negotiated with Dr. Rabin's attorney.

On July 28, 2014, Stobinski learned that, on May 29, 2014, a judgment had been entered against her for $11,708.03. Stobinski immediately sent an e-mail to Jonathan, complaining that, at a meeting with respondent during the second week of July 2014, he had assured that her matter was going well, and that, pursuant to Sal's request, she recently sent her second $1,000 payment, yet a judgment had been entered against her. At a meeting two days later, Jonathan and respondent told Stobinski that the judgment was a mistake and that they would have it vacated.

Subsequently, Stobinski learned that, on September 10, 2014, the Superior Court levied her accounts with Spencer Savings Bank for $11,708.03 and her accounts with TD Bank for $11,708.03.

On October 10, 2014, "the Law Office of Sal Greenman" filed a motion to vacate default, in the Superior Court of New Jersey, Law Division, Special Civil Part, Bergen County. On November 11, 2014, the motion to vacate was denied. Stobinski claimed that, in October 2014, respondent and Jonathan informed her that they were awaiting a trial date. Respondent denied Stobinski's claim, insisting that he never spoke to her.

By letter dated February 25, 2015, five months after her accounts were levied upon, Jonathan asked the court officer to release Stobinski's TD Bank Funds. The letter noted that two bank accounts had been levied for the full amount of the judgment against Stobinski, thereby doubling the amount of the judgment. On February 26, 2015, Jonathan informed three credit bureaus that Stobinski's matter was in litigation and, therefore, the matter should not appear negatively on her credit report.

Several months later, on August 5, 2015, Stobinski sent an e-mail to greenmanlawpc@gmail.com, asking, "Do you need the account?" She received an affirmative reply. On the same day, Stobinski sent her TD Bank information and asked, "Is there a different e-mail address for Sal?" She received no response. Then, on August 11, 2015, Stobinski sent another e-mail to greenmanlawpc@gmail.com stating, "Just following up on the below. Do you

have an idea when the money will be returned? Just a reminder my loan payment is due this Saturday 8/15/2015. Can you please follow up with your father since he was dealing with the court on this matter? I do not want to default on my loan." Stobinski received a reply from greenmanlawpc@gmail.com, "Yes-I just forwarded your message to him."

On August 12, 2015, Stobinski sent the following e-mail to greenmanlawpc@gmail.com:

> Can you ask your father to respond to my e-mail, or give me his e-mail address so I can e-mail him directly? I stopped by the office yesterday morning at 9:30am and it was closed. I also called the office and got a voice-mail. Three weeks ago when we spoke on the phone you assured me that the money will be returned by 8/15/2015. Today is 8/12 and [t]he money is not in my bank account. Thanks."
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> [Ex.37.]

Stobinski received a reply on August 13, 2015, via an e-mail signed "Sal." Respondent denied sending the e-mail, repeating his common refrain that he does not know how to send e-mail or even how to type.

The next day, Stobinski sent another e-mail to the firm, explaining that she called the court that morning to inquire about the refund of the monies erroneously levied from her account. She reported that the funds would be returned that day and that the court asked why she had not called sooner. When

she explained that her attorney had been handling the matter, she was told that the court had not received any paperwork from her attorney. The record does not explain why the court had not received the February 25, 2016 letter that Jonathan allegedly sent to the court officer. Receiving no response, Stobinski sent a follow up e-mail on August 16, 2015, demanding an explanation and the return of her file, including copies of all the correspondence dating back to October 2013 that respondent had produced. On August 14, 2015, the court released the $11,708.03 levy from Stobinski's TD Bank accounts.

On August 19, 2015, the firm notified Stobinski, via e-mail, that the file had been copied and mailed to her, that she should expect delivery of the file by "Friday," and that someone would call her to review it together. On August 21, 2015, Stobinski sent the following e-mail directly to respondent:

> This whole experience is very frustrating. It has been two years since you took my case and no progress has been made and I have no concrete updates. You got paid for your services and so far delivered nothing.
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> I am finding it harder and harder to coordinate time to meet and speak with you. Any appointments I make with you and your son, you and your son end up cancelling them because you have other meetings or appointments. In a nutshell, you never (sic) available. I find this very disrespectful to me as your client. I expected professional demeanor from you as an

> attorney but so far I feel like I am on some wild goose chase.
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> You need to let me know what you've been able to pursue in my case. I need to know this asap.
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> [Ex.37.]

Respondent denied failing to communicate with Stobinski, insisting that he never communicated with her in the first place. His only contact with her was his receipt of two checks. Further, any communication or work on the matter post-suspension, respondent blamed on Jonathan. Respondent denied knowing that the matter had not been resolved, alleging that his son had handled it.

Respondent alleged that all the letters and e-mails in the record signed by him were drafted and sent by Jonathan. He insisted that he does not know how to use e-mail. When challenged about the e-mails sent under his name to the OAE during the investigation, respondent asserted that his wife had sent them.

Indeed, respondent admitted that he is incapable of even performing legal research, adding that, if he were reinstated, he would restrict his practice to municipal court matters, because of these shortcomings. If an issue arose requiring research, he would have someone else handle the matter. Respondent appeared baffled by the suggestion that every case requires research, and denied that he ever needed research on any municipal court matter he handled.

Respondent admitted that, during his interview with the OAE, he called Stobinski a "vulture" who "smelled blood in the water." At the hearing, he proudly declared that Jonathan had been responsible for lifting the levy on her bank account, and had written letters to creditors to hold off until the matter with Dr. Rabin was settled. Respondent claimed that Stobinski could not be relied on to pay her bills. "She did the same thing to her doctor. He did his job. She wanted the money back. We did our job. Her credit score was not affected, we wrote letters, she got the levy lifted. So what would you say to someone like that, to come after me when I am down to coming after me saying I want my money back now. She got her money back, and she is still not satisfied."[2]

As stated earlier, Stobinski removed the levy from her account herself. She was reimbursed her $2,000 retainer fee from the New Jersey Lawyers' Fund for Client Protection (the Fund). Remarkably, at the outset of the hearing, respondent moved to dismiss the Stobinski matter, because the Fund had resolved it. When asked for legal support, respondent conceded he had none, but stated that he was sure that, at a minimum, it was public policy, and that the

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[2] Respondent continued his vitriol toward Stobinski in his post-hearing written summation. He argued that she planned the whole matter prior to retaining his services and is an "expert at not paying her bills" and "not living up to her financial responsibilities."

OAE would know the law, suggesting that counsel should help him make the argument.

Subsequently, and only after the special master issued his first report, finding respondent guilty of unethical conduct, respondent apologized for his criticism of his client.

The complaint charged respondent with violations of RPC 1.1(a), RPC 1.1(b), RPC 1.3, RPC 1.4(b), and RPC 8.4(c).

* * *

During the hearing before the special master, respondent raised the issue of his medical difficulties. At the hearing, the special master questioned respondent's doctor regarding the period of respondent's improved health. The doctor testified that, in August 2012, respondent had turned the corner and was in no apparent distress.

In the Murray matter, the special master found respondent's testimony incredible, unbelievable, and directly contradicted both by other credible testimony and documentary evidence. He noted,

> Why would Murray have sent a letter asking for a letter of representation from Respondent if Respondent's testimony that he told Murray he would not be representing the Reingewircs were true? In point of fact it was a violation of the Suspension Order for Respondent to even make the

> telephone call to arrange a meeting or ask for documents, even assuming Respondent's version was truthful, which I do not believe it was.
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> [SMR p13.][3]

The special master concluded that, although respondent had told the Reingewircs that he could not represent them, he needed to make clear that even the making of a phone call "attorney to attorney" was prohibited. Further, respondent misrepresented his status to Murray, prompting Murray's letter requesting a letter of representation before proceeding further.

Conversely, the special master found Murray truthful, thoughtful, and believable. He found Murray's version of the conversations with respondent to be credible and supported by the evidence, and respondent's contentions without merit.

The special master found that respondent engaged in the illegal practice of law after his suspension, and further, that he knew, or should have known, that this conduct was strictly prohibited. Hence, respondent's conduct constituted a violation of RPC 8.4(b) and (c) because he knowingly engaged in

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[3] "SMR" refers to the special master's report, dated May 29, 2018.

the unauthorized practice of law, and did so in a dishonest and deceitful manner by failing to notify his client and his adversary of his suspension.

The special master, however, did not find a violation of RPC 5.5(a)(1), determining that that Rule applies only to out-of-state attorneys who improperly practice in New Jersey.

In the Oldfield matter, the special master found the grievant's testimony to be completely credible, truthful, and believable. He rejected respondent's defense that he was permitted to take these actions, based on the provisions of R. 1:20-20(b)(13).

The special master explained that the subsection on which respondent relied allows reasonable compensation for previously rendered services, if the suspended attorney is compliant with the other provisions of the Rule. Respondent, through his own admissions, was not compliant.

The special master pointed out that R. 1:20-20(b)(1)-(3) provides that suspended attorneys shall not practice law in any form, furnish legal services, or draw any legal instruments. Further, R. 1:20-20(b)(4) requires the removal of signage identifying the suspended attorney as a practicing lawyer. The sign outside respondent's building remained in place for over a year after he was suspended. Further, R. 1:20-20(b)(5) requires the cessation of the use of attorney

accounts within thirty days of the suspension, and subparagraph (b)(10) requires the attorney to notify clients and adversaries of the suspension. Thus, the special master found that respondent's participation in the receipt and disbursement of settlement proceeds after his suspension, regardless of whether he or his son obtained a personal financial benefit from the transaction, was contrary to the Rule.

Based on the foregoing, the special master found that respondent violated multiple sections of R. 1:20-20, which governs suspended attorneys. He participated in the practice of law by sending and receiving settlement documents; he failed to inform his client or his adversary of his suspension; and he conducted a law practice from his law office, which continued to display a sign, outside identifying the building as respondent's law office. Additionally, the special master noted that respondent aided his son in the unauthorized practice of law, but did not find a violation of RPC 5.5(a)(2), which, in any event, had not been charged.

The special master characterized as not tenable or rational respondent's argument that making telephone calls to another attorney, processing settlement documents, and disbursing the settlement proceeds in connection with a litigated matter on which he was counsel of record did not constitute the practice of law.

For the same reasons cited in respect of the Murray matter, the special master found, in the Oldfield matter, that respondent's conduct constituted a violation of RPC 8.4(b) and (c), but not RPC 5.5(a)(1).

In the Fedotov matter, the special master found the testimony of both Fedotov and Marina to be credible and true. He determined that it is undisputed that respondent never filed the bankruptcy petition on behalf of Fedotov, never returned any part of the retainer to Fedotov, and never advised Fedotov of his suspension in February 2015.

The special master also found that, throughout the investigation and in his testimony at the hearing, respondent offered different excuses for his failure to proceed with the proper handling of the Fedotov matter. He went further, however, and found that respondent's claims and testimony in the Fedotov matter:

> [w]ere part of a pattern displayed repeatedly by Respondent throughout the conduct of this case of essentially making whatever false and unfounded claims he thinks will serve him at the particular moment. The record in this case is rife with Respondents' self-contradictions during testimony, sometimes within mere minutes. Respondent would repeatedly advance a particular claim or position, and only reluctantly abandon it when shown overwhelming proof that the claim or position was unsustainable. As a consequence, I found Respondent to be an entirely untrustworthy and incredible witness.
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> [SMRp3.]

Ultimately, the special master determined that respondent performed no services on the Fedotov matter, misrepresented the status of the matter to both Fedotov and his daughter, and, hence, violated RPC 1.3, RPC 1.4(b), and RPC 8.4(c). The alleged violation of RPC 1.1(a) was not addressed.

In the Drakeford matter, the special master found Drakeford's testimony to be confusing and unclear. Based on the evidence, respondent performed a minimal amount of work, but the record did not establish that respondent failed to perform necessary services. The special master also determined that, because the record lacked any information to establish a period for respondent's handling of the matter, the special master could not find, based on the record, that respondent had a duty to notify Drakeford of his suspension. Therefore, the special master recommended dismissal of all of the allegations in connection with the Drakeford grievance. Nonetheless, the special master rejected respondent's attempts to cast any responsibility for this matter on his son.

In the Stobinski matter, the special master determined that "respondent offered no believable or even coherent defense to the allegations that he agreed to defend Stobinski in a collection matter, failed to do so, allowed a default judgment to be entered and executed on, and took virtually no action to properly represent his client. Respondent denied meeting with Stobinski except to collect her fee payments, claimed that Jonathan handled the case."

represent his client. Respondent denied meeting with Stobinski except to collect her fee payments, claimed that Jonathan handled the case."

The special master was "baffled" by respondent's approach to the Stobinski matter. Respondent blamed the client for not paying her doctor, and refused to admit that he accepted a $2,000 fee and did "absolutely nothing." Further, respondent takes "pride in the fact that his son wrote a letter to correct the erroneous double levy, after his suspension, as if that somehow excuses the misconduct in not only utterly failing to properly represent his client, but in also misrepresenting to her the status of her case."

Finally, the special master noted that, "not only is there not a scintilla of evidence to support these contentions - nor indeed to support most of the claims contained in the written summation of Respondent - but the contentions are on their face absurdities plainly contradicted by the overwhelming evidence." He determined that, based on the aforementioned, respondent violated RPC 1.1(a), RPC 1.1(b), RPC 1.3, RPC 1.4(b), and RPC 8.4(c), as charged.

After a careful review of the interviews between respondent and the OAE, respondent's testimony at the hearing, his conduct during legal argument and cross examination, and the documentary evidence, along with his written summation, the special master determined that respondent simply says whatever

he believes will help him the most at that particular moment in time. The special master found numerous instances in which respondent conceded that his previous testimony was false or incorrect, abandoned previously asserted claims once they were shown to be unsustainable, and then immediately substituted an equally "preposterous" contention.

According to the special master, respondent's

> frequently changing version of events, inability to remember key facts, denial of documented facts even when presented to him, his argumentative and evasive demeanor, made the sheer un-believability of his claims all lead me to dismiss as incredible most of Respondent's testimony. It is sad, but profoundly significant, that Respondent continues to this day, in his written summation, to insist that he did nothing wrong, and that all of the charges against him should be dismissed, especially given his repeated distortions of the facts of this case.
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> [SMRp14.]

In aggravation, the special master noted that, over a period of years, respondent engaged in a continuing course of dishonesty and misrepresentation directed toward his clients and other attorneys, and continued that course through the hearings. He displayed a complete lack of candor, showed no remorse for his misconduct, and engaged in personal attacks on his former clients and attorneys to whom he had lied.

Additionally, the special master found respondent's previous discipline as an aggravating factor because his conduct during the hearing on these matters demonstrated that he learned nothing from his previous discipline, "since his misconduct in these cases repeats the same pattern of misbehavior."

In his report, the special master noted that, during the hearings before him, respondent had demonstrated a shocking level of incompetence, evasiveness, denial, self-contradiction; and ignorance of the Rules; he objected to proceeding on some of the charges against him for totally specious reasons; and in most of his own testimony, he denied facts, contradicted himself, and replied "fine" when the truth was brought to his attention. The special master was wholly disappointed by respondent's inability or unwillingness to perform legal research, and his unfamiliarity with fundamental aspects of the very type of work (municipal court) that he would like to pursue should he be reinstated. "In sum, his attitude towards the practice of law in today's world is baffling and incomprehensible."

The special master pointed out that "respondent's expressed desire to help the immigrant community of which he is a member by continuing to practice law, ignores the fact that the members of that community, potentially all the

more vulnerable due to their lack of awareness of our legal system, are precisely the ones injured by his actions in these cases."

Finally, in respect of respondent's health issues, the special master noted:

> [t]he fact that defendant suffered severe medical problems over a decade ago, which now thankfully appear to have been addressed and abated resulting in the restoration of Respondent's good health, have no bearing or relevance to the specific acts of misconduct charged in the various counts. The fact that Respondent became semi retired in 2014, and only practiced law part time thereafter, also do[es] not serve as a defense. As I noted during the hearing, the fact that Respondent would go to the office bearing his name to collect fees from clients and assure them that he was properly handling their cases, only to then turn the matters over to his son without follow up or supervision of any kind, demonstrates only that additional charges could easily have been filed and sustained in this matter concerning responsibility for subordinates in a law office. However, what I have found by clear and convincing evidence to have been unethical misconduct stems from Respondent's own actions and statements to clients and others, and his own personal transgressions, not those attributable to anyone else. It is Respondent who lied and deceived, who practiced law without a license, who neglected the proper handling of matters entrusted to him, and who misled his clients, regardless of what his son may or may not have done.
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> [SMRp16.]

Based on the foregoing, the special master recommended respondent's disbarment.

In his brief to us, respondent noted, "quite honestly, [I] was stunned to have found out information during the hearing concerning rules and laws that I relied upon, which were incorrect assumptions made by me at the time." Specifically, respondent noted, "I had produced documentation of the many health issues which handicapped my working abilities *years prior* and additionally, had two of my physicians testify to same." Indeed, in his summation brief, respondent defined the period of his health issues as 2007 through its peak in 2012.

Finally, in his brief to us, although respondent admitted making mistakes during his career and disclaimed any attempt to avoid responsibility for them, he criticized the special master's "demeanor" and "independence," and argued that he was thereby deprived of a fair hearing. He argued, in closing, that disbarment is inappropriate and requested lesser discipline.

Following a de novo review of the record, we are satisfied that the special master's conclusion that respondent's conduct was unethical was fully supported by clear and convincing evidence.

In the Murray matter, the record supports a finding that respondent, on behalf of his clients, the Reingewircs, contacted Murray. Murray was found to be credible in his testimony that, during two separate telephone calls, respondent

identified himself as the Reingewircs' attorney. All of the communication between respondent and Murray occurred after the date of respondent's temporary suspension and, hence, constituted practicing law while suspended, in violation of RPC 5.5(a)(1). In our view, the special master misinterpreted RPC 5.5(a)(1) to apply only to out-of-state attorneys. The Rule itself contains no such limitation, and both we and the Court repeatedly have found New Jersey attorneys guilty of RPC 5.5(a)(1) violations for practicing law in New Jersey after they were suspended. See, e.g., In re Bernot, 235 N.J. 325 (October 4, 2018); In re Brady, 220 N.J. 212 (2015); In re Walsh, Jr., 202 N.J. 134 (2010). Moreover, RPC 5.5(b) addresses the requirements for attorneys not admitted in New Jersey to practice in this State – pro hac vice, in-house counsel, and other limited circumstances.

Further, by holding himself out to Murray as an attorney in good standing, respondent misrepresented his status, in violation of RPC 8.4(c).

The complaint alleged that respondent violated N.J.S.A. 2C:21-22(a), which establishes the unauthorized practice of law as a disorderly persons offense. Typically, a criminal conviction is conclusive evidence of an attorney's guilt in disciplinary proceedings. In re Kinnear, 105 N.J. 391, 395 (1987). The lack of a criminal conviction or even an indictment for a crime, however, is not

a requirement for discipline to be imposed. In re Hasbrouck, 140 N.J. 162, 166-67 (1995). Even an acquittal will not bar discipline stemming from the same allegations. In re Rigolosi, 107 N.J. 192 (1987). Hence, we find that, by engaging in the unauthorized practice of law, a disorderly persons offense in New Jersey, respondent violated RPC 8.4(b).

In Oldfield, as in the Murray matter, respondent violated RPC 5.5(a)(1) by contacting Oldfield in an attempt to collect a settlement owed to his client. Respondent's argument that he was permitted to do so simply is wrong. Although Rule 1:20-20(b)(13) allows for the collection of fees earned prior to a suspension, it specifically conditions the attorney's right to do so on his or her compliance with all of the mandates of that Rule and, particularly, with that provision requiring the attorney to file an affidavit of compliance with the Rule. Respondent clearly had not complied with many provisions of the Rule. Moreover, he attempted to collect settlement funds on behalf of his client one year after the settlement had been reached, well beyond the thirty-day limitation on the use of the attorney accounts set forth in R. 1:20-20(b)(5). Indeed, the very reason the funds had not been delivered previously was respondent's law firm's utter lack of diligence to provide the required settlement and release documents. In this regard, respondent's attempt to blame his son exacerbates respondent's

incompetence, because he fails to recognize that his son was under his charge as an associate and, therefore, respondent had a responsibility to ensure that his son appropriately handled these client matters.

Likewise, as in the Murray matter, here, too, by his continued practice following his suspension, respondent violated RPC 8.4(b). He also violated RPC 8.4(c) by misrepresenting his status as an attorney in good standing to Oldfield and by failing to inform his client that he had been temporarily suspended.

In the Fedotov matter, respondent violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), and RPC 8.4(c).

Respondent undertook representation of Fedotov in connection with his bankruptcy, on June 16, 2011. Fedotov periodically brought records to respondent at his law office and generally communicated with him. Respondent repeatedly told him that his petition was filed and that the matter was progressing. After almost three years, Fedotov became concerned when he still was receiving notices from his creditors. At this point, his daughter Marina began communicating with respondent.

Marina testified, credibly, that, on two occasions, she asked respondent why her father's petition had not been filed. Respondent assured her on both occasions that he would file the petition. Marina also sent several e-mails and

faxes to respondent and Jonathan. Yet, respondent denied any communication with Marina.

Although respondent attributed the delay in filing Fedotov's petition to his client's request, at the hearing, respondent testified that he did not recall making that statement. Nonetheless, Marina and Fedotov both testified that, contrary to respondent's allegation, Fedotov did not travel to Russia and had not requested that respondent delay filing the petition.

In sum, respondent accepted a fee from Fedotov and, after four years, still had not filed the petition. Respondent admittedly never informed Fedotov or Marina that he was temporarily suspended.

Respondent's failure to perform any tangible work on Fedotov's matter violated RPC 1.1(a) and RPC 1.3.

Moreover, it was difficult for the clients to contact respondent. He did not return e-mails or phone calls, and barely communicated with Fedotov or his daughter, a violation of RPC 1.4(b). When he did communicate, he provided false information. He lied to Fedotov for years, assuring him that the petition had been filed, and that the matter was progressing. Then he lied to Marina by telling her, on two occasions, that he would file the petition. Respondent's blatant lies violated RPC 8.4(c).

In the Stobinski matter, the record supports a finding, by clear and convincing evidence, that respondent violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), and RPC 8.4(c).

Respondent accepted $2,000 from Stobinski to assist in her defense to a claim by her doctor for unpaid medical bills. Despite accepting that representation, in March 2013, respondent did nothing to further the matter. Eventually, a judgment for $11,708.03 was entered against Stobinski, and because of respondent's negligence, two of her bank accounts were levied upon, resulting in a double payment. At some point, Jonathan took over the matter and filed a motion to vacate the judgment, which was denied. Five months later, Jonathan allegedly sent a letter to the court requesting a release of the levy, and sent a letter to credit reporting agencies. Otherwise, neither respondent nor Jonathan did anything of any real substance to resolve the levy or the judgment.

Eventually, Stobinski called the court herself and learned that it had received nothing on her behalf regarding the levy. Per her request, the court immediately lifted the duplicative levy from her TD Bank account.

Respondent's failure to do any substantive work on Stobinski's matter violated RPC 1.1(a) and RPC 1.3. His attempts to put the blame on Jonathan must fail. Stobinski retained respondent, the checks she wrote were issued to

him, he was the supervising attorney for his associate Jonathan, and he was the point of contact for Stobinski through most of the ordeal.

Moreover, Stobinski made many attempts to communicate with respondent, to no avail. She requested a direct e-mail address for him on several occasions, and asked Jonathan to forward messages to his father. Still, respondent was barely engaged. By ignoring Stobinski's communications, respondent violated RPC 1.4(b).

Further, when respondent did communicate with Stobinski, he lied to her. He repeatedly assured her that the matter was progressing, that he was negotiating with Dr. Rabin's attorney, and that the matter eventually would be resolved. Respondent took Stobinski's money and for two years, in her words, led her on a "wild goose chase." Respondent's dishonesty violated RPC 8.4(c).

We determined, however, to dismiss the alleged violation of RPC 1.1(b). Respondent's conduct involves neglect in two matters, but a minimum of three instances of neglect is necessary to establish a pattern of neglect. See, In the Matter of Donald M. Rohan, DRB 05-062 (June 8, 2005) (slip op. at 12). Although respondent was charged with gross neglect in the Drakeford matter, we determined to dismiss that charge, as discussed below.

Finally, we agree with the special master's conclusion that the record in the Drakeford matter lacks clear and convincing evidence to sustain the alleged violations. As the special master pointed out, the representation began in March 2013. In that same month, respondent wrote a letter on behalf of Drakeford and made a telephone call. It is unclear, after March 2013, what, if anything, occurred or when the representation was terminated. It appears that respondent did some work on behalf of Drakeford; however, based on the record, it is difficult to determine whether this work fell short of the standard expected of an attorney. Without more, we dismiss the alleged violations of RPC 1.1(a), RPC 1.3, and RPC 1.4(b), for lack of clear and convincing evidence.

In sum, respondent violated RPC 1.1(a), RPC 1.3, and RPC 1.4(b) in two matters, RPC 5.5(a)(1) and RPC 8.4(b) in two matters, and RPC 8.4(c) in four matters. The only issue remaining is the appropriate discipline to be imposed.

Respondent's conduct, as a whole, was egregious. Indeed, he lied to clients, neglected their matters, and failed to communicate with them. Moreover, he seemingly had no hesitation in crafting story after story before the special master in respect of his actions vis-à-vis his clients. By far, however, respondent's most serious misconduct was his continued practice of law, in violation of the Court's Order suspending him.

The level of discipline for practicing law while suspended ranges from a lengthy suspension to disbarment, depending on the presence of other misconduct, the attorney's disciplinary history, and aggravating or mitigating factors. See, e.g., In re Brady, 220 N.J. 212 (2015) (one-year retroactive suspension imposed on attorney who, after a Superior Court judge had restrained him from practicing law, represented two clients in municipal court, and appeared in a municipal court on behalf of a third client, after the Supreme Court had temporarily suspended him; the attorney also failed to file the required R. 1:20-20 affidavit following the temporary suspension; significant mitigating factors were considered, 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, in at least one of the instances of his practicing while suspended, his desperate need to financially support 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; the attorney also was guilty of multiple misrepresentations to clients, gross neglect and pattern of neglect, negligent misappropriation, a conflict of interest, and failure to cooperate with

disciplinary authorities);[4] and In re Costanzo, 128 N.J. 108 (1992) (attorney disbarred for practicing law while serving a temporary suspension for failure to pay administrative costs incurred in a prior disciplinary matter and for misconduct involving numerous matters, including gross neglect, lack of diligence, failure to keep clients reasonably informed and to explain matters in order to permit them to make informed decisions about cases, pattern of neglect, and failure to designate rate or basis for fee in writing; prior private reprimand and reprimand).

Respondent's misconduct is similar to that of the attorney in Costanzo. That attorney, however, committed misconduct in nine client matters that included other violations, such as failure to expedite litigation and lack of candor toward a tribunal. In the Matter of Ernest R. Costanzo, DRB 92-059 (April 29, 1992) (slip op. at 1-2). Costanzo's behavior also was more egregious because, in one matter, his client was arrested on a bench warrant due to Costanzo's failure to appear on his behalf. Id. at 6. Therefore, in our view, the discipline for respondent's misconduct ordinarily would fall just below disbarment.

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[4] In that same order, the Court imposed a retroactive one-year suspension on the attorney, on a motion for reciprocal discipline, for his retention of unearned retainers, lack of diligence, failure to communicate with clients, and misrepresentations.

There are no mitigating factors to consider here. Respondent presented his medical history, as he has done in the past, and, although he has had serious health issues, none of them had an impact on his misconduct in these matters and certainly provide no justification for his behavior. According to his doctor, he turned the corner in 2012 and was under no distress. Respondent's misconduct in these matters occurred predominantly in 2014 and 2015. Although two matters – Fedotov and Stobinski – began in 2011 and 2013 respectively, the misconduct continued for years, as respondent's health continued to improve.

There are factors, however, to consider in significant aggravation. We have considered, with great emphasis, respondent's history of discipline. The temporary suspension underlying this matter was imposed on February 20, 2015, for respondent's failure to comply with a random compliance audit. The court ordered the temporary suspension to remain in place until respondent complied with the OAE's request. He has never complied and remains suspended pursuant to that Order. Subsequently, on May 17, 2016, respondent was censured in a default matter for his failure to cooperate with an ethics investigation. Then, on May 30, 2018, the Court suspended respondent for one year for his violations of RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 8.1(b), and RPC 8.4(c).

That most recent matter concerned respondent's misconduct in one client

matter occurring between October 30, 2008 and March 16, 2012. In re Greenman, 233 N.J. 351 (2018). Respondent's misconduct included misrepresenting to his client the status of her matter, even after it was dismissed, and failing to notify her of the dismissal. There, too, he cited the flood in his office as a reason he could not provide his client with a docket number for her matter. The documents submitted to prove the occurrence of a flood belied his defense there, as it does here. We determined that respondent misrepresented to the OAE his reasons for failing to provide information to his client, since the flood had no temporal proximity to the time his client became concerned about respondent's representation and began to seek information about her matter. We further determined that respondent engaged in a deceitful manner in an attempt to delay and obfuscate. In the Matter of Sal Greenman, DRB 17-140 (October 26, 2017) (slip op. at 22-24).

Here too, it was difficult to follow respondent's timelines, logic, and defenses or excuses for the conduct he has committed. The special master did not hesitate to identify respondent's brazen attitude in this regard, finding that respondent says whatever he thinks is necessary in the moment. Indeed, a review of the hearing transcripts demonstrates that, when respondent is confronted with inconvenient facts, he pivots and moves on to yet a new story.

Moreover, not only does respondent fail to take responsibility for his own actions, but also has the temerity to blame his clients and adversaries. The vitriol with which he spoke of Stobinski in the hearing is inexcusable and certainly inconsistent with behavior expected of an attorney. He then doubled down on that vitriol by repeating it in his summation brief. Only after having the benefit of reading the special master's report disapproving of his vitriol did respondent submit a second brief, containing an apology. The apology, however, appeared merely for expediency, since, in his next writing (his brief to us), he turned the same vitriol on the special master and the OAE. In short, respondent appears to believe that only others are at fault for his misconduct.

Respondent also appears to have little interest in developing any of the basic, but necessary, skills to practice law. Indeed, he repeats the refrain that he is incapable of typing, using a computer, or sending e-mail. He has repeated this defense through several disciplinary matters. Here, he has added legal research to the list of tasks he cannot perform, and admits that he never has done research. In a notable exchange with the special master, respondent asserted that he does not need to use a computer or even conduct legal research because he wants to practice only in the municipal court system, as if that practice area required no knowledge or research skills.

Respondent has displayed a willingness for deceit, a penchant for obfuscation, an unwillingness to take responsibility for his misconduct or to learn from it, and a complete lack of self-awareness in respect of the basic competencies of practicing law. Four years after the issuance of the Order of temporary suspension, he has yet to attempt to comply with the OAE's random audit. Respondent requests the privilege of winning his license back. He wants the opportunity to continue to practice law; yet, he has not taken the first and most simple step toward that end. He has done nothing but show disrespect and contempt for the disciplinary system as a whole. Thus, we recommend disbarment.

Members Boyer, Clark, and Singer voted for a three-year suspension. Member Joseph 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 Sal Greenman
Docket No. DRB 18-265

Argued: October 18, 2018

Decided: January 15, 2019

Disposition: Disbar

Members	Disbar	Three-Year Suspension	Recused	Did Not Participate
Frost	X			
Clark		X		
Boyer		X		
Gallipoli	X			
Hoberman	X			
Joseph				X
Rivera	X			
Singer		X		
Zmirich	X			
Total:	5	3	0	1

Ellen A. Brodsky
Chief Counsel