

Supreme Court Of New Jersey
Disciplinary Review Board
Docket No. DRB 18-278
District Docket No. XIV-2017-0266E

In The Matter Of
Sanghwan Hahn
An Attorney At Law

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Decision

Decided: January 22, 2019

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

This matter was before us on a certification of default, filed by the Office of Attorney Ethics (OAE) pursuant to R. 1:20-4(f). The complaint charged respondent with violations of RPC 8.1(b) (failure to reply to a lawful demand for information from a disciplinary authority) and RPC 8.4(d) (conduct prejudicial to the administration of justice), for his failure to file an affidavit of compliance with R. 1:20-20, following his three-month suspension in May 2017. The OAE recommended the imposition of a censure. For the

reasons expressed below, we agree with the OAE's recommendation and determine to impose a censure for respondent's misconduct.

Respondent was admitted to the New Jersey bar in 1994 and to the New York bar in 1996. He was suspended for three months, effective May 4, 2017, for gross neglect, failure to communicate the basis or rate of the fee in writing, improper business transaction with a client, failure to safeguard funds and negligent misappropriation of funds, recordkeeping violations, false statement of material fact in connection with an ethics investigation, and conduct involving dishonesty, fraud, deceit, or misrepresentation. Respondent's poor recordkeeping practices led to the negligent misappropriation of client funds. Among other things, he also improperly obtained a loan from a client and then misrepresented the purpose of the loan to the OAE. Respondent also certified to the accuracy of a HUD-1 settlement statement, which contained a number of inaccuracies, and did not properly reflect the transaction. In re Hahn, 228 N.J. 630 (2017), In the Matter of Sanghwan Hahn, DRB 16-043 (November 21, 2016). He remains suspended to date.

Respondent has been administratively ineligible to practice law since November 17, 2014, based on his failure to fulfill his Continuing Legal Education requirements.

Service of process was proper in this matter. On April 30, 2018, the OAE sent a copy of the complaint, by regular and certified mail, to respondent's last known home address listed in the attorney registration records. The certified mail was returned marked "unclaimed." The regular mail was not returned.

Respondent did not file an answer to the complaint. Therefore, on February 23, 2018, the OAE sent a letter to the same address, by regular and certified mail, notifying respondent that, if he did not file an answer within five days of the date of the letter, 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 include a willful violation of RPC 8.1(b).

The certified mail was returned to the OAE marked "unclaimed." The regular mail was not returned. As of the date of the certification of the record, August 3, 2018, respondent had not filed an answer to the ethics complaint.

We now turn to the facts of this matter. The Court's May 4, 2017 Order suspending respondent directed him to comply with R. 1:20-20, which required, among other things, that, within thirty days of the Order of suspension, he "file with the Director the original of a detailed affidavit

specifying by correlatively numbered paragraphs" how he complied with each of the provisions of the Rule and the Supreme Court's Order.

Respondent failed to comply with the Court's Order. Therefore, by letter dated October 31, 2017, the OAE notified respondent of the requirement that he file the R. 1:20-20 affidavit and requested that he do so by November 14, 2017. Copies of the letter were sent by regular and certified mail to respondent's office and home addresses. The letter stressed the importance of notifying the OAE which clients, if any, were represented at the time of his suspension, how respondent notified them of his suspension, and whether he delivered the files to the clients or their new attorneys. The letter further informed respondent, among other things, that his failure to comply may constitute contempt of Court.

The certified letters sent to respondent's home and office addresses were returned unclaimed; the letters sent by regular mail to both addresses were not returned.

As of the date of the complaint, respondent had neither replied to the OAE's letter, nor filed the required affidavit.

The complaint alleged that respondent willfully violated the Court's order and failed to take the steps required of all suspended or disbarred attorneys, including notifying clients and adversaries of the suspension and

providing pending clients with their files, all in violation of RPC 8.1(b) and RPC 8.4(d).

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

Pursuant to R. 1:20-20(c), respondent's failure to file the R. 1:20-20 affidavit clearly violates RPC 8.1(b) and RPC 8.4(d). The threshold measure of discipline to be imposed for an attorney's failure to file the R. 1:20-20(b)(15) affidavit is a reprimand. In re Girdler, 179 N.J. 227 (2004); In the Matter of Richard B. Girdler, DRB 03-278 (November 20, 2003) (slip op. at 6). The actual discipline imposed may be different, however, if the record demonstrates mitigating or aggravating circumstances. Ibid. Examples of aggravating factors include the attorney's failure to answer the complaint, the existence of a disciplinary history, and the attorney's failure to follow through on his or her promise to the OAE that the affidavit would be forthcoming. Ibid.

In Girdler, the attorney received a three-month suspension, in a default matter, for his failure to comply with R. 1:20-20(e)(15). Specifically, after prodding by the OAE, he failed to produce the affidavit of compliance, even

though he had agreed to do so. The attorney's disciplinary history consisted of a public reprimand, a private reprimand, and a three-month suspension in a default matter.

Since Girdler, discipline greater than a reprimand has been imposed in the following default cases: In re Goodwin, 220 N.J. 487 (2015) (censure; attorney failed to file the affidavit after the Court had temporarily suspended him for his failure to pay the disciplinary costs associated with a 2010 reprimand; in addition to the attorney's disciplinary history and the default, he also had ignored the OAE's request that he file the affidavit); In re Kinnard, 220 N.J. 488 (2015) (censure; attorney failed to file the affidavit after the Court had temporarily suspended him for his failure to pay the disciplinary costs associated with a 2008 admonition; in addition to the attorney's disciplinary history and the default, he had ignored the OAE's request that he file the affidavit); In re Sirkin, 208 N.J. 432 (2011) (censure; attorney failed to file the affidavit after he had received a three-month suspension in a default matter; also the OAE sent him a letter to remind him about the necessity of filing the affidavit); In re Rak, 214 N.J. 5 (2013) (three-month suspension; aggravating factors included three default matters against the attorney in three years (two of the defaults were consolidated and resulted in a three-month suspension, the third resulted in a reprimand) and the OAE personally left

additional copies of its previous letters about the affidavit and its contact information with the attorney's office assistant, after which the attorney still did not comply); In re Swidler, 210 N.J. 612 (2012) (three-month suspension for attorney who failed to file the affidavit after two suspensions, even after the OAE had requested him to do so; it was the attorney's fourth default; his prior three defaults resulted in a reprimand, a three-month suspension, and a six-month suspension); In re Rosanelli, 208 N.J. 359 (2011) (six-month suspension for attorney who failed to file the affidavit after a temporary suspension in 2009 and after a three-month suspension in 2010; prior six-month suspension); In re Sharma, 203 N.J. 428 (2010) (six-month suspension; aggravating factors included the default nature of the proceedings, the attorney's ethics history – censure for misconduct in two default matters and a three-month suspension – and his repeated failure to cooperate with disciplinary authorities); and In re LeBlanc, 202 N.J. 129 (2010) (six-month suspension where the attorney's ethics history included a censure, a reprimand, and a three-month suspension; two of the prior disciplinary matters proceeded on a default basis).

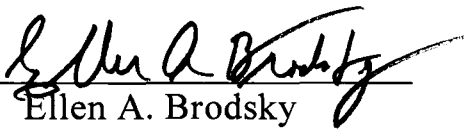
Respondent's misconduct is similar to that of Sirkin, who received a censure. Sirkin, like respondent, failed to file the R. 1:20-20 affidavit

following a three-month suspension. We, therefore, determine that respondent, too, should be censured.

Chair Frost and Members Rivera and Zmirich voted to impose a three-month suspension. Member Gallipoli voted to recommend respondent's disbarment and filed a dissent. 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

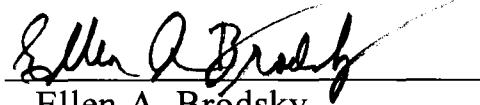
SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

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Disposition: Censure

<i>Members</i>	Censure	Three-Month Suspension	Disbar	Recused	Did Not Participate
Frost		X			
Clark	X				
Boyer	X				
Gallipoli			X		
Hoberman	X				
Joseph					X
Rivera		X			
Singer	X				
Zmirich		X			
Total:	4	3	1	0	1


Ellen A. Brodsky
Chief Counsel