Supreme Court Of New Jersey
Disciplinary Review Board
Docket No. DRB 18-322
District Docket No. XIV-2016-0612E

In The Matter Of	:
Bassel Bakhos	:
An Attorney At Law	:

Decision

Argued: November 15, 2018

Decided: March 5, 2019

Reid Adler appeared on behalf of the Office of Attorney Ethics.

Respondent waived appearance for oral argument.

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

This matter was before us on a recommendation for a censure, filed by the District XIII Ethics Committee (DEC). The three-count complaint charged respondent with the following violations: three counts of RPC 1.1(a) (gross

neglect); three counts of RPC 1.1(b) (pattern of neglect);[1] three counts of RPC 1.3 (lack of diligence); three counts of RPC 1.4(b) (failure to communicate with the client); three counts of RPC 1.16(a)(2) (failure to withdraw from the representation); two counts of RPC 3.3(a)(1) (lack of candor toward a tribunal); one count of RPC 3.3(a)(5) (failure to disclose a material fact to a tribunal); one count of RPC 3.4(d) (failure to make reasonably diligent efforts to comply with legally proper discovery requests from an opposing party); one count of RPC 4.1(a)(1) (false statement of material fact or law to a third party); two counts of RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation); and three counts of RPC 8.4(d) (conduct prejudicial to the administration of justice).

For the reasons set forth below, we determined to impose a censure.

Respondent was admitted to the New Jersey and Maryland bars in 2002, to the District of Columbia bar in 2004, and the New York bar in 2010. He has no history of discipline in New Jersey.

At the time of the underlying events, respondent was a senior associate with the law firm of Kaufman, Borgeest & Ryan, LLP (KBR) in Parsippany,

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[1] Although charged with three counts of RPC 1.1(b), respondent can be found to have engaged in only one pattern of neglect.

New Jersey. At the outset of the hearing in this matter, respondent, through counsel, stipulated to all of the facts and allegations of the complaint. Therefore, the hearing was held solely for presenting mitigation. The facts are as follows.

Count One: Jerkins v. Voorhees Pediatric Facility, et. al.

On September 13, 2016, respondent filed a certification with the Superior Court of New Jersey, admitting the following misconduct in the course of his representation of defendant Voorhees Pediatric Facility (Voorhees), in the above matter. Subsequently, on September 30, 2016, the Honorable James P. Savio, J.S.C., sent a letter to the Office of Attorney Ethics (OAE), documenting respondent's conduct during a June 27, 2017 proceeding before him, and enclosing respondent's September 13, 2016 certification. In his letter to the OAE, Judge Savio reported that respondent made false representations to the court.

Specifically, on November 14, 2015, the plaintiff, Jerkins, served respondent with the October 22, 2015 expert report of Barbara Darlington, RN, MS, ANP, LNHA, supporting his claims against Voorhees. Two days later, on November 16, 2015, Jerkins served respondent with the November 16, 2015 expert report of Steven E. Swartz, MD, FACS, in additional support of his claims

against Voorhees. Respondent did not send a copy of either expert report to Voorhees.

A trial in the matter was scheduled for April 28, 2016, but respondent failed to inform Voorhees of the trial date. On April 28, 2016, the court granted co-defendant Peter Turner, MD, an adjournment of the trial date to June 27, 2016. Respondent did not notify Voorhees that the trial had been adjourned, that he had consented to Turner's request for an adjournment, or that the court had scheduled a new trial date.

On June 17, 2016, respondent attended the deposition of Jerkins' expert, Robert J. Lerer, MD. On June 22, 2016, respondent requested an adjournment of the June 27, 2016 trial date, which the court denied. On June 24, 2016, respondent attended the deposition of Dr. Turner's expert, Kimberly Kulchinski, MD. Respondent failed to notify Voorhees of any of these events.

On June 27, 2016, respondent appeared for a trial call but, had not notified Voorhees. Respondent admitted that, through the date of the trial call, he had represented to Voorhees that the Jerkins matter was still in the early stages of discovery.

Because respondent was not prepared for the trial, at the June 27, 2016 trial call, he asked Judge Savio for an adjournment, which was denied. Instead,

Judge Savio informed the parties that a jury would be empaneled if the matter were not resolved or submitted to binding arbitration. Respondent did not so notify Voorhees. He also misled the court into believing that he would contact Voorhees to seek authority for binding arbitration.

The plaintiff agreed to submit the matter to binding arbitration, if Voorhees consented to a high-low agreement between $450,000 and $1,500,000, and Voorhees agreed to pay the entire award.[2] Respondent did not have the authority from Voorhees to consent to the terms of any such binding arbitration or to settle the matter; yet, he misrepresented to the court that Voorhees had agreed to the terms of the binding arbitration.

Additionally, respondent misrepresented to John Mullahy, Esq., his attorney supervisor and a partner at KBR, that the Jerkins matter was in the early stages of discovery. During a review of respondent's cases, Mullahy learned that respondent had entered into an agreement to dismiss the case, and proceeded to arbitration with a high-low agreement, without the permission of KBR or the client. Consequently, KBR filed a motion on behalf of Voorhees to vacate the settlement agreement, which was granted. KBR submitted certifications from

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[2] Under a high-low agreement, the parties argue that, regardless of the amount of the award, the amount will not be higher or lower than the agreed-upon range.

the client confirming that respondent had not notified Voorhees that he had entered into a settlement agreement with plaintiff.

In his September 13, 2016 certification to the court, respondent advanced a belief that his mental health issues had affected his ability to function, and had led him to neglect his professional responsibilities in this matter. Despite knowing that his condition impaired his ability to represent his client, respondent had not withdrawn from the representation of Voorhees.

Count Two: Christoforo Bini vs. Larisa Ploshchanskaya, MD, et.al.

Respondent represented Hoboken University Medical Center (Hoboken), a defendant in the above matter (the Bini Matter). On August 7, 2015, the trial court granted the plaintiff's motion and ordered Hoboken to produce Armi Ricardo, R.N., a Hoboken employee, for a deposition on August 12, 2015, or such other date as mutually agreed by counsel. Respondent did not oppose the motion.

Respondent failed to inform Hoboken or Ricardo of the August 7, 2015 order, and, as a result, Hoboken failed to comply. On October 20, 2015, the trial court struck Hoboken's answer, without prejudice, for failing to comply with the order to produce Ricardo for a deposition. The trial court awarded the

plaintiff attorney's fees, and ordered that, unless Ricardo was produced within thirty days of the order, plaintiff could move for Hoboken's answer to be stricken, with prejudice.

Nevertheless, respondent failed to inform Hoboken or Ricardo of the October 20, 2015 order. Hoboken failed to comply with the order. On November 17, 2015, the court awarded the plaintiffs $885 in attorney's fees in connection with the motion to strike Hoboken's answer without prejudice. Again, Hoboken failed to comply with the order because respondent did not inform Hoboken or Ricardo about its entry.

Subsequently, on January 8, 2016, the trial court granted plaintiff's application for a monetary sanction in aid of litigant's rights, in lieu of a contempt hearing, pursuant to R. 1:10-3 and R. 4:23-2(b)(4). The court also awarded plaintiff attorney's fees of $2,080 for the preparation of the motions resulting in the court orders of August 7 and October 20, 2015, and ordered Hoboken to produce Ricardo for a deposition by January 22, 2016. The court sanctioned Hoboken $250 per day for every day Hoboken did not comply with its order. Still, respondent failed to transmit the January 8, 2016 order, or communicate its substance to Hoboken or Ricardo. Therefore, Hoboken never complied with the order.

On March 4, 2016, the trial court increased the daily sanction to $1,000 per day for Hoboken's failure to comply with its orders within thirty days and ordered that, if Hoboken failed to cure its noncompliance with all prior court orders, it would be held in contempt of court. The trial court ordered Hoboken to produce Ricardo for a deposition, pay the outstanding $2,893 in attorney's fees to plaintiff, and pay a penalty of $9,975 to the clerk of the court by March 18, 2016. Again, respondent failed to transmit the March 4, 2016 order or its substance to Hoboken or Ricardo, and as a result, Hoboken failed to comply with the order.

On May 27, 2016, the court struck Hoboken's answer, with prejudice, and entered final judgment as to liability against Hoboken. Respondent failed to transmit the May 27, 2016 order to Hoboken or Ricardo. Respondent never communicated with Hoboken after August 2015.

As stated earlier, in his September 13, 2016 certification in the Voorhees matter, respondent explained that he had suffered mental health issues "since early 2015," which affected his "ability to function." Notwithstanding respondent's awareness that his condition impaired his ability to represent Hoboken, he failed to withdraw from the representation.

Count Three: SVOC Associates, LLC vs. Know Use Corporation

Respondent represented the defendant, Know Use Corporation (Know Use), in the above breach of contract matter (the Know Use Matter), docketed in the Supreme Court of New York, County of New York. On February 4, 2015, respondent received the plaintiff's First Request for Production of Documents by e-mail. Respondent neither sent copies of the request to Know Use nor advised Know Use to prepare a response. On May 22, 2015, respondent received plaintiff's First Set of Interrogatories by e-mail, but again failed to send them to Know Use.

On March 16, 2016, the plaintiff filed a motion to strike Know Use's answer for failure to respond to discovery requests. Respondent neither informed Know Use of the motion nor filed opposition to it. On June 9, 2016, the court ordered Know Use to serve responses to plaintiff's discovery requests, by July 11, 2016. Respondent failed to notify Know Use of the order. Moreover, at the June 9, 2016 hearing on plaintiff's motion, respondent misrepresented to the court that he was working with Know Use on finalizing responses, and requested additional time, despite knowing that he had not been in communication with Know Use or had even begun substantive work on the discovery responses.

Subsequently, on July 21, 2016, the court held a status conference and, once again, respondent failed to notify Know Use of the scheduled appearance. At the status conference, respondent again misrepresented that he was finalizing the discovery responses. The next day, respondent received the court's July 21, 2016 self-executing order striking Know Use's answer if it did not respond to plaintiff's discovery requests within seven days. Still, respondent failed to notify Know Use.

As a result of respondent's failure to comply with outstanding discovery obligations, the court struck Know Use's answer and entered a default judgment against Know Use. In his September 20, 2016 certification to the court in support of Know Use's motion to vacate the default, respondent disclosed that he had failed to notify Know Use or KBR of the status of the Know Use matter. Further, respondent admitted having misrepresented to the judge's law clerk that he needed additional time to secure discovery material, and to plaintiff's counsel about the discovery material.

On April 13, 2017, respondent sent a letter to the OAE, stating:

> I told opposing counsel at court conferences that I was working on finalizing the discovery responses with the client but had not received final approval for the responses. While I had done some minimal work on those responses on my own, I had not discussed them with the client. I also did not advise

> the client that plaintiff had filed a discovery motion or when the discovery was ultimately due.

Here, too, in his certification to the court, respondent explained that he believed his mental health issues affected his ability to function and led him to neglect his professional responsibilities in this matter. Nonetheless, respondent failed to withdraw from the representation of Know Use, knowing his condition impaired his ability to represent his client.

* * *

As stated earlier, the DEC hearing was limited to mitigation. Respondent's certifications to the court had been submitted to remediate the consequences of his misconduct, including potential harm to his clients.

Respondent became employed by KBR in October 2013. He estimated that, by mid-2015, he was handling thirty to thirty-five cases at any given time. Although his handling of the Bini and Know Use matters began well after his initial employment with the firm, respondent admitted that he was assigned the Jerkins matter in late 2013 or early 2014.

In respect of these three client matters, respondent claimed that when deadlines arose, he had not been prepared to meet them, and therefore, he would ask for and receive extensions. He would then put the matters aside and return to his other cases. After respondent repeated this pattern, the situation eventually

got to "the point of no return." His requests for extensions were no longer granted and he had no options. Admittedly, he should have asked for help from his colleagues and supervising partners, but did not do so out of shame.

Eventually, he made the "worst decision" of his life and appeared for the trial call in the Jerkins matter, despite having failed to prepare for trial or having given no notice of it to his clients or his firm. He assumed that he would obtain another extension, but when it became clear that the court was unwilling to grant such a request, he panicked. In turn, he lied to the court and his adversaries about his authority to resolve the matter through arbitration with a high-low agreement. This, respondent believes, was the low point of his life.

Respondent was unsure how, in August 2016, KBR learned of his actions in the Jerkins matter. When it did, the firm performed an audit of all his cases, leading to respondent's admission of his shortcomings in the other two matters. Although, respondent remained at KBR until October 2016, he performed no legal work during that period, but provided assistance in repairing the damage he had caused. During this time, respondent submitted certifications to the court admitting his misconduct, in the hopes of minimizing the damage to his clients, to his firm, and to the court.

Respondent believes that, other than the delay in adjudicating their cases, his clients were not harmed in any way. To the best of his knowledge, all of the matters were resolved to the satisfaction of the parties. Nonetheless, he admits that, because he was handling his other cases without issue, he should have known how to handle these matters as well. For unknown reasons, in these three matters, he simply would not or could not properly represent his clients.

After these issues were recognized, respondent began treating with a psychologist, and believes it has helped him tremendously with his anxiety and procrastination. Instead of postponing these tasks, he deals with issues and job requirements "head-on." Respondent points to his handling of the underlying ethics grievance as an example of his confronting his difficulties, asserting that he has taken full responsibility for his misconduct from the beginning and has fully cooperated with the OAE.

Since leaving KBR, respondent has not engaged in the practice of law and, as of November 2016, has been employed full-time, as a claims adjuster, by an insurance company in Morristown, New Jersey. He enjoys his job and has no intention of returning to the practice of law. Respondent would like to maintain his license to leave open the option to practice should the opportunity arise. He requests discipline of less than a suspension.

The DEC concluded that respondent admitted the allegations of the complaint, and based on the record, violated RPC 1.1(a); RPC 1.1(b), RPC 1.3, RPC 1.4(b), RPC 1.16(a)(2), RPC 3.3(a)(1), RPC 3.4(d), RPC 4.1(a)(1), RPC 8.4(c), and RPC 8.4(d). The DEC did not address the charged violation of RPC 3.3(a)(5). The DEC found no aggravating factors. In mitigation, however, the DEC considered respondent's acknowledgment of his misconduct, his efforts to mitigate the damage to his clients by cooperating with his firm, and abstention from the practice of law since the discovery of the misconduct. Based on the above factors, a majority of the DEC hearing panel recommended a censure. The lay member of the panel wrote a dissent, recommending a three-year retroactive suspension.

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

In the Voorhees matter, respondent violated RPC 1.1(a) and RPC 1.3 by failing to prepare his client's case for trial, despite proper notice from the court. In so doing, he grossly neglected the matter and failed to perform with diligence the services for which he was retained. All the while, respondent failed to keep his client reasonably informed about the status of the matter, in violation of RPC

1.4(b). Further, respondent violated RPC 1.16(a)(2) by failing to withdraw from the representation when his mental condition materially impaired his ability to represent his client.

Exacerbating his misconduct, respondent violated RPC 3.3(a)(1) and RPC 3.3(a)(5) by misrepresenting to the court that he had authority from his client to resolve the litigation by dismissing it and submitting the matter to binding arbitration, and by failing to notify the court and his adversaries that he did not have such authority. These false statements to the court, along with his misrepresentations to his supervising attorney, also violated RPC 8.4(c). Respondent's misrepresentation to the court resulting in the cancelling of a scheduled jury trial and dismissal of a medical malpractice case in favor of binding arbitration constituted conduct prejudicial to the administration of justice, in violation of RPC 8.4(d).

In respect of the Hoboken matter, respondent's failure to pursue his client's litigation, resulting in the imposition of monetary sanctions and dismissal, constituted gross neglect and a serious lack of diligence, in violation of RPC 1.1(a) and RPC 1.3. Further, respondent failed to keep his client reasonably informed about the status of the matter, or to communicate at all after August 2015, in violation of RPC 1.4(b).

Additionally, respondent admitted that, beginning in August 2015, he suffered mental health issues that impaired his ability to represent his client. His failure, at that time, to terminate the legal representation violated RPC 1.16(a)(2). Finally, respondent failed to comply with court orders by not producing his client's employee for a deposition and by not communicating the substance of these court orders to his client and the employee, a violation of RPC 8.4(d).

Finally, in respect of the Know Use matter, respondent failed to pursue, in any substantive way, his client's breach of contract defense, beyond filing an answer on the client's behalf. He failed to comply with discovery requests, and allowed the answer to be stricken, resulting in the entry of a default against his client. Respondent's conduct in this regard violated RPC 1.1(a) and RPC 1.3. By committing gross neglect in the three client matters underlying the disciplinary matter, respondent engaged in a pattern of neglect, in violation of RPC 1.1(b).

Throughout the course of the representation, respondent kept his clients in the dark. He failed to inform Know Use of pre-trial pleadings, proceedings, and court orders, a violation of RPC 1.4(b).

Respondent admitted that most, if not all, of his misconduct was caused by his mental condition, which he believes materially impaired his ability to

represent his client. Respondent's failure to properly withdraw from the representation under such conditions violated RPC 1.16(a)(2).

Respondent made matters exponentially worse when he falsely represented to the court that he was still working with his client on finalizing responses and requested additional time to do so, when he hadn't even made his client aware of the pending discovery requests. Respondent's misrepresentations and false statements of material fact violated RPC 3.3(a)(1) and RPC 8.4(c). Respondent's lack of effort to comply with discovery requests or to participate substantively in most of the pre-trial procedure demonstrated a significant lack of fairness to the opposing party and its counsel, in violation of RPC 3.4(d). Further, respondent misrepresented to plaintiff's attorneys at court conferences that he was finalizing discovery responses and waiting for his client's final approval, and, thus, made false statements of material fact to third persons, in violation of RPC 4.1(a)(1).

Finally, respondent's failure to comply with discovery, even in the face of court orders that he do so, resulting in the striking of his client's answer and the entry of a default against his client, along with the subsequent motions to vacate that default, wasted judicial resources, in violation of RPC 8.4(d).

In sum, respondent is guilty of three violations of RPC 1.1(a), one violation of RPC 1.1(b), three violations of RPC 1.3, three violations of RPC 1.4(b), three violations of RPC 1.16(a)(2), two violations of RPC 3.3(a)(1), one violation of RPC 3.3(a)(5), one violation of RPC 3.4(d), one violation of RPC 4.1(a)(1), two violations of RPC 8.4(c), and three violations of RPC 8.4(d).

Generally, lack of candor to a tribunal results in the imposition of discipline ranging from an admonition to a suspension. See, e.g., In the Matter of George P. Helfrich Jr., DRB 15-410 (February 24, 2016) (admonition imposed on attorney who failed to notify his client and witnesses of a pending trial date, a violation of RPC 1.4(b); thereafter, he appeared at two trial dates but failed to inform the trial judge and his adversary that he had not informed his client or the witnesses of the trial date; consequently, they were unavailable for trial, a violation of RPC 3.3(b) and RPC 3.4(c); at the next trial date, the attorney finally informed the court and his adversary that his client, the witnesses, and his own law firm were unaware that a trial had commenced, resulting in a mistrial; on the same day, the attorney informed his law firm of the offense; in aggravation, we found that, prior to the attorney's admission of wrongdoing, judicial resources had been wasted when the court impaneled a jury and commenced trial; in mitigation, we noted that this was the attorney's first

ethics infraction in his thirty-eight year legal career; he suffered from anxiety and high blood pressure at the time of his actions; the client suffered no pecuniary loss because the firm had reimbursed fees and costs; his law firm had demoted him from shareholder to hourly employee, resulting in significantly lower earnings on his part; and he was remorseful and working hard to regain the trust of the court, his adversaries, and the members of his firm); In re Marraccini, 221 N.J. 487 (2015) (reprimand imposed on attorney who attached to approximately fifty eviction complaints she had filed on behalf of a property management company, verifications that had been pre-signed by the manager, who had since died; the attorney was unaware that the manager had died and, upon learning that information, withdrew all complaints; violations of RPC 3.3(a), RPC 8.4(c), and RPC 8.4(d); mitigation considered); In re Manns, 171 N.J. 145 (2002) (attorney reprimanded for misleading the court, in a certification in support of a motion to reinstate the complaint, about the date the attorney learned of the dismissal of the complaint, a violation of RPC 3.3(a)(1) and RPC 8.4(c); the attorney also lacked diligence in the case, failed to expedite litigation, and failed to properly communicate with the client; prior reprimand; in mitigation, we considered that the conduct in both matters had occurred during the same time frame and that the misconduct in the second matter may have

resulted from the attorney's poor office procedures); In re Hummel, 204 N.J. 32 (2010) (censure in a default matter for gross neglect, lack of diligence, failure to communicate with the client, and misrepresentation in a motion filed with the court, a violation of RPC 3.3(a); the attorney had no prior disciplinary record); In re Monahan, 201 N.J. 2 (2010) (attorney censured for submitting two certifications to a federal district court in support of a motion to extend the time within which to file an appeal; the attorney misrepresented that, when the appeal was due to be filed, he was seriously ill and confined to his home on bed rest and, therefore, was unable to work or to prepare and file the appeal, a violation of RPC 3.3(a)(1); the attorney also practiced law while ineligible); In re Clayman, 186 N.J. 73 (2006) (censure imposed on attorney who misrepresented the financial condition of a bankruptcy client in filings with the bankruptcy court to conceal information detrimental to the client's Chapter 13 bankruptcy petition; in mitigation, we observed that, although the attorney had made a number of misrepresentations in the petition, he was one of the first attorneys to be reported for his misconduct by a new Chapter 13 trustee who had elected to enforce the strict requirement of the bankruptcy rules, rather than permit what had been the "common practice" of bankruptcy attorneys under the previous trustee; violations of RPC 3.3(a)(1), (2), and (5); RPC 4.1(a)(1) and (2); and

RPC 8.4(c) and (d); in mitigation, the attorney had an unblemished disciplinary record, was not motivated by personal gain, and did not act out of venality); In re Giscombe, 173 N.J. 174 (2002) (three-month suspension imposed on attorney who, in support of a motion for leave to file a notice of claim out of time (nearly a year after her client's injury and nine months after she had been retained by the client), submitted an affidavit claiming that she had first met with the client recently, as well as a certification of the client making the same assertion; after the motion was opposed, the attorney repeated that misrepresentation and added that the client was unaware of the time restriction for filing a notice, which also was untrue, a violation of RPC 3.3(a)(1); the attorney also violated RPC 1.1(a), RPC 1.3, and RPC 1.4, and RPC 1.6 in another matter; prior private reprimand, admonition, and reprimand); In re Girdler, 171 N.J. 146 (2002) (default; three-month suspension imposed on attorney who, after his client's complaint was dismissed for failure to serve some of the defendants, submitted two certifications falsely stating that the defendants had been served, a violation of RPC 3.3(a); the attorney also misrepresented the status of the case to his client (RPC 8.4(c)), among other acts of misconduct, including gross neglect, lack of diligence, failure to communicate, failure to expedite litigation, and failure to cooperate with disciplinary authorities; prior private reprimand and reprimand);

In re D'Arienzo, 157 N.J. 32 (1999) (three-month suspension for attorney who made multiple misrepresentations to a judge about his tardiness for court appearances or his failure to appear; violation of RPC 3.3(a)(1) and RPC 8.4(c); mitigating factors considered); In re Forrest, 158 N.J. 428 (1999) (six-month suspension imposed on attorney who, in connection with a personal injury action involving injured spouses, failed to disclose the death of one of his clients to the court, to his adversary, and to an arbitrator, and advised the surviving spouse not to voluntarily reveal the death; violation of RPC 3.3(a)(5), RPC 3.4(a), and RPC 8.4(c); the attorney's motive was to obtain a personal injury settlement); In re Moras, 220 N.J. 351 (2015) (default; one-year suspension imposed on attorney who exhibited gross neglect and a lack of diligence and failed to communicate with the client in one matter, misled a bankruptcy court in another matter by failing to disclose on his client's bankruptcy petition that she was to inherit property (RPC 3.3(a)(1)), and failed to cooperate with the ethics investigation in both matters; extensive disciplinary history consisting of two reprimands, a three-month suspension, and a six-month suspension); In re Cillo, 155 N.J. 599 (1998) (one-year suspension for attorney who, after misrepresenting to a judge that a case had been settled and that no other attorney would be appearing for a conference, obtained a judge's signature on an order

dismissing the action and disbursing all escrow funds to his client; the attorney knew that at least one other lawyer would be appearing at the conference and that a trust agreement required that at least $500,000 of the escrow funds remain in reserve; violations of RPC 3.3(a)(1) and (2), RPC 3.5(b), and RPC 8.4(c) and (d); two prior private reprimands); and In re Kornreich, 149 N.J. 346 (1997) (three-year suspension for attorney who had been involved in an automobile accident and then misrepresented to the police, to her lawyer, and to a municipal court judge that her babysitter had been operating her vehicle; the attorney also presented false evidence in an attempt to falsely accuse the babysitter of her own wrongdoing; violation of RPC 3.3(a)(4), RPC 3.4(f), and RPC 8.4(b), (c) and (d)).

Here, respondent's misconduct appears to be akin to that of the attorneys who received censures. In Hummel, the attorney committed several of the same RPC violations and had no history of discipline. In Monahan, the attorney, like respondent, made a misrepresentation to the court in order to conceal his lack of readiness. Monahan also practiced while ineligible, but lacked many of the other violations committed by respondent. In Clayman, the attorney made a number of misrepresentations and committed other ethics violations on behalf of his clients in bankruptcy matters. Clayman was found to have violated many of the

same RPCs as respondent, but also benefited from mitigating factors, including an unblemished disciplinary record, was not motivated by personal gain, and did not act out of venality.

Arguably, respondent was motivated by personal gain. He admitted that he knew what he should have been doing, and was able to continue to represent other clients appropriately at the same time, but simply continued to ignore these three matters, and then lied to conceal his malfeasance as long as he could. Self-preservation is personal gain by another name. Additionally, respondent has additional violations that require enhancement of the discipline in this matter.

The attorney in Hummel was found guilty of gross neglect, lack of diligence, and failure to communicate with his client, in one matter. Here, however, respondent did so in three matters, establishing a pattern of neglect. If the attorney displays a pattern of neglect, a reprimand ordinarily ensues. See, e.g., In re Weiss, 173 N.J. 323 (2002) (lack of diligence, gross neglect, and pattern of neglect); In re Balint, 170 N.J. 198 (2001) (in three matters, attorney engaged in lack of diligence, gross neglect, pattern of neglect, failure to communicate with clients, and failure to expedite litigation); and In re Bennett, 164 N.J. 340 (2000) (lack of diligence, failure to communicate in a number of cases handled on behalf of an insurance company, gross neglect, and pattern of

neglect). Respondent's pattern of neglect serves to enhance the appropriate discipline to a three-month suspension.

In mitigation, however, we note that, once respondent's house of cards crumbled, he acknowledged his wrongdoing, worked toward alleviating any damage to his clients, including certifying to the court his improprieties, and fully cooperated with disciplinary authorities. Respondent has been in treatment to better handle anxiety, is confident that he will not repeat his misconduct, and has no history of discipline. This mitigation offsets the enhancement that usually results from a finding of a pattern of neglect. Therefore, we determine to impose a censure.

Members Gallipoli, Singer, and Zmirich voted for a three-month suspension. Member Rivera 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
Ellen A. Brodsky
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Bassel Bakhos
Docket No. DRB 18-322

Argued: November 15, 2018

Decided: March 5, 2019

Disposition: Censure

Members	Censure	Three-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:	5	3	0	1

Ellen A. Brodsky
Chief Counsel