Supreme Court Of New Jersey
Disciplinary Review Board
Docket No. DRB 18-335
District Docket No. IIIB-2017-0035E

In The Matter Of	:
Christopher Corsi	:
An Attorney At Law	:

Decision

Decided: April 5, 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 the record filed by the District IIIB Ethics Committee (DEC), pursuant to R. 1:20-4(f). The formal ethics complaint charged respondent with violating RPC 1.2(a) (failure to abide by the client's decisions concerning the scope and objectives of the representation); RPC 1.3 (lack of diligence); RPC 1.4 (presumably (b)) (failure to communicate with the client); RPC 3.3 (presumably (a)(1)) (false statement of material fact or law to a tribunal); RPC 8.1(b) (failure to cooperate with

disciplinary authorities); and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

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

Respondent was admitted to the New Jersey and Pennsylvania bars in 2009. He was ineligible to practice law from August 25, 2014 through May 25, 2016 for his failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection (the Fund). On August 28, 2017, respondent again became ineligible to practice law for his failure to pay the Fund and remains ineligible to date.

Service of process was proper in this matter. On May 14, 2018, the DEC sent a copy of the complaint to respondent at his address in Philadelphia, Pennsylvania, by regular and certified mail. According to the DEC investigator's certification, respondent's former employer provided the Philadelphia address, and the presenter successfully had served respondent at that address during the investigation. Neither the regular mail nor the certified mail was returned. The DEC did not receive a "green card" for the certified mail.

On June 15, 2018, the DEC sent a letter to respondent, to the same Philadelphia, Pennsylvania address, by certified mail, return receipt requested, and by regular mail stating that, if he failed to file a verified answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the entire record would be certified directly to us for the imposition of discipline, and the complaint would be deemed amended to include a violation of RPC 8.1(b). The regular mail was not returned, and the certified mail was returned unclaimed.

The time within which respondent may answer has expired. As of the date of the certification of the record, no answer had been filed by or on behalf of respondent.

We now turn to the allegations of the complaint.

While respondent was an associate with Berkowitz & Associates, P.C. (Berkowitz), he was assigned to represent the plaintiff in the matter of Ivory Beach Condominium Association v. Windowrama, et al. (the Ivory Beach matter). Steven Berkowitz was the attorney of record, however. The Honorable Joseph Marczyk, P.J. Cv., set February 21, 2017 as a firm trial date for the Ivory Beach matter. Although that date was communicated clearly to respondent,

neither he nor his client appeared for trial. Instead, on February 21, 2017, respondent contacted the court, claiming that he was sick. The court directed him to provide a physician's note, which he failed to do. Respondent had previously failed to appear for a telephonic pretrial conference on February 16, 2017, due to a claimed illness, and also had canceled, at the last minute, a mediation scheduled before a retired judge because of an alleged illness. The trial was rescheduled for April 24, 2017.

On April 23, 2017, respondent informed counsel for Windowrama that Ivory Beach had accepted its last settlement offer. The parties reported the settlement agreement to Judge Marczyk in a series of text messages in which respondent participated. On April 24, 2017, the court entered an order of settlement.

Subsequently, respondent's supervising attorney, Berkowitz, filed a motion to vacate the settlement on behalf of Ivory Beach. An investigation in support of that motion revealed that respondent had not discussed the alleged settlement with his client, had no authority from his client to settle the case under the reported terms, and continued to mislead his client to believe that the case was still proceeding and that a trial was imminent.

Berkowitz certified in his motion to vacate the settlement that respondent gave him the impression, during the week of April 24, 2017, that the case was still proceeding. This deception continued into the following week when respondent told Berkowitz, on May 1, 2017, that the defense attorneys wanted to discuss settlement at lunch. As stated, the parties had informed the court, on April 23, 2017, a week earlier, that the case had settled. Respondent also continued to mislead the client, by failing to inform him of "the settlement," and by misrepresenting the status of the matter. Berkowitz further certified that, on May 2, 2017, he realized that there was a problem when he learned of the court's April 24, 2017 order, indicating the case had settled before trial. He promptly confronted respondent, who immediately resigned without explanation.

The court ordered respondent to appear on November 29, 2017. Respondent did not appear. In his November 30, 2017 letter to the DEC, Judge Marczyk noted that it is unclear whether respondent ever received the order to appear on November 29, 2017. The parties settled the matter prior to the court ruling on the motion to vacate.

Following a review of the record, we find that the facts recited in the complaint support most of the charges of unethical conduct. Respondent's failure

to file an answer to the complaint is deemed an admission that the allegations are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1). Notwithstanding that Rule, each charge must be supported by sufficient facts for us to determine that unethical conduct has occurred.

Respondent settled the Ivory Beach matter without his client's knowledge or consent, and contrary to his client's direction, a violation of RPC 1.2(a).

In connection with respondent's representation of Ivory Beach, the complaint charged respondent with a lack of diligence, without providing details to support that allegation. The record did not indicate that respondent was unprepared for trial or that he had neglected substantive work on the matter, or alleged any other typical elements of an RPC 1.3 violation. Although it is likely that respondent did little to no work on the matter and was avoiding trial because he was unprepared, such speculation does not support the clear and convincing standard. Therefore, we determine to dismiss the alleged violation of RPC 1.3.

Notwithstanding, respondent failed to communicate with his client. By misrepresenting the status of the matter, and indicating that it was proceeding apace and that the trial was imminent, he failed to communicate the actual status of the matter to the client, in violation of RPC 1.4(b).

Compounding these circumstances, respondent violated RPC 3.3(a)(1) by misrepresenting to the court that he had authority from his client to resolve the litigation by settling it and by entering into a settlement agreement. These false statements to the court, along with his misrepresentations to his client, his supervising attorney, and defense counsel also violated RPC 8.4(c).

Finally, respondent failed to reply to requests from the investigator for information or otherwise cooperate with the investigation of this matter, in violation of RPC 8.1(b).

Typically, attorneys who settle cases without their client's consent, even when guilty of other less serious infractions, are either admonished or reprimanded. See, e.g., In the Matter of John S. Giava, DRB 01-455 (March 15, 2002) (admonition imposed on attorney who was hired to obtain a wage execution against a defaulting real estate purchaser but, instead, entered into a settlement agreement with the buyer without the clients' consent); In the Matter of Thomas A. Harley, DRB 95-215 (July 26, 1995) (admonition imposed on attorney who settled a case without his client's authority and represented to the other parties and the court that he had such authority); and In re Kane, 170 N.J. 625 (2002) (reprimand imposed on attorney who was retained in connection with

a lawsuit to recover damages from tenants; attorney settled the case without the client's knowledge or consent, received a check, put it in his file, and did nothing further; he then moved his practice without informing the client or giving her his new address; the attorney also misrepresented the status of the case to the client and failed to provide a retainer agreement; attorney's lack of prior discipline was considered as mitigation in imposing only a reprimand for these numerous infractions).

Respondent is also guilty of more egregious violations. Misrepresentations to clients require the imposition of a reprimand. In re Kasdan, 115 N.J. 472, 488 (1989). Misrepresentations to a court and/or lack of candor to a tribunal, generally result 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 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 disciplinary record); 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 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 attorney in Hummel, which was also a default matter. There, the attorney committed several of the same RPC violations and had no history of discipline. Unfortunately, respondent's failure to accept responsibility extended beyond failing to cooperate with disciplinary authorities and allowing the matter to proceed by way of default. In addition, when confronted by his supervising attorney, respondent immediately resigned and disappeared. He provided no explanation for his conduct, and offered no assistance to remedy the damage that

he had caused, which exacerbated the harm to his client and firm by reducing the chances that the settlement could be vacated even though the matter settled prior to the court ruling on the motion to vacate.

The attorney in Hummel received a censure, which included the enhancement based on the default nature of the matter. See, In re Kivler, 193 N.J. 332, 342 (2008) ("a respondent's default or failure to cooperate with the investigative authorities operates as an aggravating factor, which is sufficient to permit a penalty that would otherwise be appropriate to be further enhanced"). Hummel, however, did not settle the matter without his client's consent. Further, respondent's abandoning his client and firm, once he was exposed, serves to further enhance the discipline to a three-month suspension.

Although respondent has no prior discipline, he has been a member of the Bar for only nine years. To the extent these factors can be considered in mitigation, the aggravating factors substantially outweigh any such consideration. Therefore, we recommend a three-month suspension.

Members Gallipoli and Zmirich voted for a six-month suspension.

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 Christopher Corsi
Docket No. DRB 18-335

Decided: April 5, 2019

Disposition: Three-Month Suspension

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

Ellen A. Brodsky
Chief Counsel