

Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 19-400
District Docket No. XIV-2018-0585E

In the Matter of
Dianne E. Laurenzo
An Attorney at Law

Decision

Decided: August 6, 2020

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 Office of Attorney Ethics (OAE), pursuant to R. 1:20-4(f). The formal ethics complaint charged respondent with having violated RPC 8.1(b) (failure to cooperate with disciplinary authorities).

For the reasons set forth below, we determine to impose a reprimand.

Respondent earned admission to the New Jersey bar in 2003 and to the New York bar in 2004. During the relevant time frame, she maintained a law practice in Rutherford, New Jersey.

Effective August 7, 2019, the Court temporarily suspended respondent for her failure to comply with OAE requests for information underlying this case. In re Lorenzo, 239 N.J. 422 (2019).

Service of process was proper. On August 13, 2019, the OAE sent a copy of the formal ethics complaint, by certified and regular mail, to respondent's home address of record. A certified mail receipt was returned, bearing a signature that appears to be respondent's. The regular mail was not returned.

On September 13, 2019, the OAE sent a letter to respondent, by regular mail, to her home address, informing her that, unless she filed a verified answer to the complaint within five days, 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 charge a willful violation of RPC 8.1(b). Although the certification of the record does not address whether the regular mail was returned, respondent was in communication with the OAE regarding this matter, as detailed below.

As of October 17, 2019, respondent had not filed an answer to the complaint, and the time within which she was required to do so had expired. Accordingly, the OAE certified this matter to us as a default.

We now turn to the allegations of the complaint.

During the relevant time frame, respondent maintained her attorney trust account (ATA) and attorney business account (ABA) at TD Bank. On October 15, 2018, TD Bank alerted respondent and the OAE that, on October 12, 2018, respondent had caused a \$1,268.31 overdraft of her ATA. On multiple dates in October and November 2018, the OAE directed respondent to explain the overdraft, but she failed to reply. Consequently, on December 12, 2018, the OAE directed respondent to appear at its offices, on January 17, 2019, for a demand audit, but she neither replied nor appeared.

On January 31, 2019, the OAE received, pursuant to a subpoena served on TD Bank, respondent's ATA and ABA records, for the period of January 1, 2018 through January 18, 2019. Those records revealed the cause of the overdraft. Specifically, on August 8, 2018, respondent made a \$2,000 deposit in her ATA in behalf of her client, Zheda Parvez. Then, on October 11, 2018, respondent issued a \$2,000 ATA check to Parvez. When Parvez attempted to negotiate that check, however, respondent's ATA balance was only \$731.69, representing a \$1,268.31 shortage of trust funds she should have been holding, inviolate, in behalf of Parvez. On October 15, 2018, respondent transferred \$2,000 from her ABA to her ATA, and issued a new \$2,000 ATA check to Parvez, which Parvez successfully negotiated.

On February 13, 2019, by certified and regular mail, the OAE directed respondent to appear at its offices, on February 27, 2019, for a demand audit. On February 21, 2019, respondent signed for the certified mail. On February 26, 2019, respondent contacted the OAE by telephone, represented that she was undergoing medical treatment, and obtained a postponement of the demand audit, to March 20, 2019. Despite the postponement, multiple attempts by the OAE to reach her, and other telephone conversations between the OAE and respondent, she failed to provide requested information to the OAE or to appear for the rescheduled demand audit.

On April 25, 2019, in light of respondent's continuing failure to cooperate, the OAE filed with the Court a motion seeking her immediate temporary suspension. On May 30, 2019, the Court filed an Order directing respondent to comply, within thirty days, with the OAE's outstanding requests for information. On July 9, 2019, the OAE filed with the Court a certification documenting respondent's continuing failure to cooperate. Consequently, effective August 7, 2019, the Court temporarily suspended respondent for her failure to comply with the OAE's requests for information.

Based on the above facts, the formal ethics complaint charged respondent with having violated RPC 8.1(b).

We find that the facts recited in the complaint clearly and convincingly support 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).

On October 12, 2018, respondent caused a \$1,268.31 overdraft of her ATA. Specifically, she invaded funds that she should have been holding, inviolate, in behalf of Parvez. Upon learning of the overdraft, respondent promptly cured it by transferring \$2,000 from her ABA to her ATA. From October 2018 through July 2019, the OAE made exhaustive efforts to seek respondent's explanation of the overdraft; to obtain relevant financial records; and to conduct a demand audit. Although she acknowledged the OAE's investigation, communicated with OAE staff, and was granted a postponement of the demand audit, respondent ultimately failed to cooperate.

Moreover, despite the Court's May 30, 2019 Order directing respondent to comply, she failed to do. Consequently, on August 7, 2019, the Court temporarily suspended respondent. To date, she remains suspended for her non-cooperation.

In sum, we find that respondent violated RPC 8.1(b). The sole issue left for us to determine is the appropriate quantum of discipline for respondent's misconduct.

Admonitions typically are imposed for failure to cooperate with disciplinary authorities, if the attorney does not have an ethics history. See, e.g., In the Matter of Michael C. Dawson, DRB 15-242 (October 20, 2015) (attorney failed to reply to repeated requests for information from the district ethics committee investigator regarding his representation of a client in three criminal defense matters, a violation of RPC 8.1(b)); In re Gleason, 220 N.J. 350 (2015) (attorney did not file an answer to the formal ethics complaint and ignored the district ethics committee investigator's multiple attempts to obtain a copy of his client's file, a violation of RPC 8.1(b); the attorney also failed to inform his client that a planning board had dismissed his land use application, a violation of RPC 1.4(b)); and In the Matter of Raymond A. Oliver, DRB 12-232 (November 27, 2012) (attorney failed to submit a written, formal reply to the grievance and a copy of the filed pleadings in the underlying case, despite repeated assurances that he would do so, a violation of RPC 8.1(b)).

To craft the appropriate discipline, however, we must also consider aggravating and mitigating factors. In aggravation, respondent defaulted in this matter, despite the OAE's exhaustive efforts and the Court's Order that she cooperate or suffer the temporary suspension from the practice of law. "A respondent's default or failure to cooperate with the investigative authorities acts as an aggravating factor, which is sufficient to permit a penalty that would


otherwise be appropriate to be further enhanced.” In re Kivler, 193 N.J. 332, 342 (2008) (citations omitted).

The only mitigation for us to consider is respondent’s unblemished disciplinary record since her 2003 admission to the bar. In light of the default status of this matter, and the lack of mitigation sufficiently compelling to neutralize the aggravation, we determine to enhance the sanction in this case to a reprimand.

Vice-Chair Gallipoli and Members Joseph and Petrou 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
Bruce W. Clark, Chair

By: 

Ellen A. Brodsky
Chief Counsel


SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

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Disposition: Reprimand

<i>Members</i>	Reprimand	Recused	Did Not Participate
Clark	X		
Gallipoli			X
Boyer	X		
Hoberman	X		
Joseph			X
Petrou			X
Rivera	X		
Singer	X		
Zmirich	X		
Total:	6	0	3


Ellen A. Brodsky
Chief Counsel