Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 20-129
District Docket No. XIV-2019-0483E

In the Matter of	:
Amanda J. Iannuzzelli	:
An Attorney at Law	:

Decision

Argued: October 15, 2020

Decided: April 1, 2021

Hillary K. Horton appeared on behalf of the Office of Attorney Ethics.

Respondent did not appear, despite proper notice.

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

This matter was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-14(a), following the Supreme Court of Pennsylvania's issuance of a July 1, 2019 order suspending respondent for three years. The OAE asserted that respondent was found guilty of having violated the equivalents of New Jersey RPC 1.1(a) (gross neglect);

RPC 1.3 (lack of diligence); RPC 1.4(b) (failure to communicate with the client); RPC 1.4(c) (failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions); RPC 1.5(a) (unreasonable fee); RPC 1.5(b) (failure to set forth in writing the basis or rate of the fee); RPC 1.7(a)(2) (concurrent conflict of interest); RPC 1.15(a) (multiple instances – failure to safeguard funds, negligent misappropriation, and commingling); RPC 1.15(b) (failure to promptly deliver to the client funds that the client is entitled to receive); RPC 1.15(c) (failure to keep disputed funds separate and intact); RPC 1.16(a)(2) (failure to withdraw from the representation of a client if the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client); RPC 1.16(d) (upon termination of representation, failure to take steps to the extent reasonably practicable to protect a client's interests); RPC 3.1 (frivolous litigation); RPC 3.2 (failure to expedite litigation); RPC 3.3(a)(1) (false statement of material fact to a tribunal); RPC 3.4(a) (unlawful obstruction of another party's access to evidence or concealment of a document having potential evidentiary value); RPC 3.4(f) (request a person other than a client to refrain from voluntarily giving relevant information to another party); RPC 3.7(a) (lawyer may not act as advocate at trial where lawyer is likely to be a witness); RPC 4.1(a)(1) (false statement of fact or law to a third person); RPC 5.5(a) (unauthorized practice of law); RPC 8.1(a) (false statement of material

fact in disciplinary matter); RPC 8.1(b) (failure to cooperate with disciplinary authorities); RPC 8.4(a) (knowing assistance or inducement of another to violate the RPCs, or to do so through the acts of another); RPC 8.4(b) (commission of a criminal act that reflects adversely on a lawyer's honesty, trustworthiness, or fitness as a lawyer); RPC 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation); and RPC 8.4(d) (conduct prejudicial to the administration of justice).

For the reasons set forth below, we determine to grant the motion and recommend to the Court that respondent be disbarred.

Respondent earned admission to the New Jersey and Pennsylvania bars in 2011. She has no prior discipline in New Jersey.

Since September 12, 2016, respondent has been administratively ineligible to practice law in New Jersey for failing to pay her annual attorney assessment to the New Jersey Lawyers' Fund for Client Protection; since November 21, 2016, she has been administratively ineligible for failing to comply with continuing legal education requirements.

Effective July 1, 2019, respondent began serving her three-year suspension in Pennsylvania.

On December 15, 2017, the Pennsylvania Office of Disciplinary Counsel charged respondent with multiple violations of the Pennsylvania Rules of

Professional Conduct and Rules of Disciplinary Enforcement. On January 23, 2018, respondent filed an answer to the petition, through her attorney. The District II Hearing Committee (Committee) conducted a disciplinary hearing over three days in April and May 2018, receiving testimony from ten witnesses.

By report dated October 29, 2018, the Committee found that respondent violated numerous Rules of Professional Ethics and Rules of Disciplinary Enforcement and recommended that respondent be suspended for three years.

Subsequently, a three-member panel of the Disciplinary Board of the Pennsylvania Supreme Court (the Disciplinary Board) held oral argument and issued a report dated April 9, 2019, which the Supreme Court of Pennsylvania adopted in determining to suspend respondent. The facts of the case are as follows.

Respondent's Unauthorized Practice of Law

In August 2012, respondent opened a solo law practice in Delaware County, Pennsylvania. Because she failed to timely pay her annual Pennsylvania attorney registration fee for the 2016-2017 registration year, the Supreme Court of Pennsylvania, by order dated October 5, 2016, placed her on administrative suspension, effective November 4, 2016.

On or about October 5, 2016, respondent received notice of her suspension, but continued to practice law and intentionally failed to notify her

clients, necessary courts, or opposing counsel of her suspension. Respondent testified at the disciplinary hearing that she did not want her practice to suffer by complying with the notice requirement of Pa. R.D.E. 217 and, thus, submitted a false Statement of Compliance to the Attorney Registrar, misrepresenting that she had complied with Pennsylvania's rules governing her suspension.

During the disciplinary hearing, respondent claimed that she had not learned of her administrative suspension until November 11, 2016. The Disciplinary Board observed that, on November 10, 2016, respondent had attempted to belatedly submit her 2016-2017 attorney's annual fee form, but with the incorrect fee. On November 15, 2016, she resubmitted the annual fee form with the correct fee and was returned to active status. She, thus, was aware that, from November 4, 2016 through November 15, 2016, she was administratively suspended from practicing law.

The Ralph Perpetua Matter

On October 25, 2013, respondent accepted a purportedly non-refundable $1,000 retainer to represent Ralph Perpetua at a child support hearing scheduled for November 19, 2013, but she failed to record the date of the hearing in her calendar. Consequently, respondent failed to appear for the hearing and, when Perpetua contacted her, she claimed a scheduling conflict. Respondent failed to inform Perpetua of the conflict in a timely manner and, instead, suggested that

Perpetua either appear without an attorney and she would refund his $1,000, or that he wait for her to arrive at the hearing. Perpetua decided to wait, but respondent never appeared and the court granted Perpetua's request for a continuance.

Following the hearing, Perpetua and respondent discussed the representation and the possibility of a refund of his retainer. On February 11, 2014, respondent appeared with Perpetua in court and filed a petition to decrease the amount of his child support obligation, which allegedly was based on inaccurate information regarding his income and lack of compliance with an existing support order. On March 4, 2014, respondent notified Perpetua that she was terminating the representation and would not be providing a refund, claiming that he had exhausted the $1,000 retainer. Perpetua filed a breach of contract action against respondent, and the Magisterial District Court entered judgment against respondent in the amount of $500, plus costs.

Perpetua then submitted a disciplinary complaint against respondent. In her reply, respondent failed to disclose that the reason that she was unaware of Perpetua's November 19, 2013 support hearing was her failure to record the date on her calendar. Based on respondent's false representations in her reply, the Committee dismissed Perpetua's complaint. Subsequently, however, the Committee filed a new complaint against respondent, concerning her

representation of Perpetua, after having discovered her false and misleading statements in reply to his complaint.

The Felicitas Akanno Matter

On November 15, 2015, Felicitas Akanno paid respondent a $150 consultation fee, to be credited toward a $5,000 retainer, for representation in a divorce proceeding. On November 19, 2015, Akanno executed a fee agreement, which stated that the $5,000 retainer was not a flat fee, that it would need to be replenished when exhausted, and that $500 was non-refundable once respondent opened Akanno's case. By January 7, 2016, Akanno had paid the full retainer. Respondent failed to deposit the checks in her Interest On Lawyers' Trust Account (IOLTA account), as Pennsylvania rules require, and failed to credit Akanno for the $150 consultation fee.

Respondent then failed to perform any work in Akanno's divorce and failed to reply to her telephone calls and messages. Akanno scheduled a meeting with respondent for early June 2016 but, thirty minutes prior to the scheduled time, respondent canceled and informed Akanno that she would file a petition to relist the matter. Respondent then apologized for failing to advance Akanno's interests. Subsequently, during a September 14, 2016 meeting, despite having filed the petition, she offered to refund to Akanno the entire $5,000 fee.

Respondent provided Akanno with a notice of a hearing, for October 25, 2016, that Akanno previously had not seen.

On October 1, 2016, Akanno requested a refund of her $5,000 retainer, and asked respondent to forward her file to her new counsel. Respondent asked Akanno to give her thirty days to refund the money and to provide a full, itemized invoice. Although respondent "agreed to have everything" to Akanno by October 31, 2016, respondent never provided the file to the new attorney.

On December 26, 2017, the Committee served respondent with Akanno's disciplinary complaint. On February 23, 2017, respondent replied, stating she would "now" provide a full refund, but maintaining that she had no obligation to deposit Akanno's $5,000 retainer in her IOLTA account, because it was non-refundable. On June 23, 2017, respondent issued a $1,068 check to Akanno and, on July 6, 2017, sent an invoice to her. Akanno refused to cash the check, out of concern that her acceptance of it would indicate that respondent's debt to her had been satisfied.

From July 6 through December 2017, the Committee repeatedly inquired when respondent would provide a full refund to Akanno. Nine months later, on April 8, 2018, respondent refunded Akanno's fee, in full.

The Kristen McFarland Matter

On September 6, 2016, Kristen McFarland paid respondent a $2,000 retainer, by credit card, for representation in a spousal support proceeding. Respondent then failed to reply to McFarland's requests for a copy of the draft spousal support agreement. From September 23 through October 10, 2016, McFarland repeatedly attempted to communicate with respondent regarding her petition for spousal support and was told by respondent's staff that respondent would call her.

On October 10, 2016, respondent had a brief conversation with McFarland, but failed to follow through with a promised call later in the day. After McFarland sent a text message to respondent complaining about her failure to call, respondent blamed her staff. Respondent then scheduled an appointment with McFarland for October 18, 2016. However, respondent failed to appear at the appointment until McFarland contacted her while waiting at respondent's office.

On October 18, 2016, McFarland signed a fee agreement for the support action, as well as a divorce action, and agreed to pay a $5,000 retainer. The fee agreement acknowledged the $2,000 McFarland previously had paid; required three $1,000 payments to be made by January 15, 2017; and noted that $500 was non-refundable once respondent opened the case.

On October 27, 2016, respondent arrived late at a scheduled support hearing. When McFarland contacted her from the courthouse, respondent initially claimed that she was checking in with court personnel, but, about eight minutes later, respondent texted that she was at her office waiting for a ride to the courthouse. When respondent arrived, she agreed to opposing counsel's request for a continuance, despite McFarland's objection.

Following the court appearance, McFarland terminated the representation, demanded a refund of her retainer, and obtained new counsel. Respondent failed to provide a refund or an invoice to McFarland. Therefore, on December 20, 2016, McFarland filed a civil complaint in Magisterial District Court, seeking $3,000 in damages. At the February 1, 2017 hearing, respondent claimed that McFarland owed her $3,064.55 for services purportedly rendered from September 14 through November 7, 2016, even though McFarland had never received a bill. McFarland obtained a judgment for $649.40, which respondent paid on March 30, 2017.

Respondent's administrative suspension became effective November 4, 2016; however, she failed to inform McFarland of her suspended status.

In respondent's March 23, 2017 reply to McFarland's disciplinary complaint against her, she claimed that her staff had not been adequately communicating with clients, hid mail from her, and was generally incompetent.

Respondent also falsely represented that she had not held herself out as an attorney during her administrative suspension.

The Alex Kapusniak Matter

In the summer of 2016, respondent began a romantic relationship with Alex Kapusniak (Alex). In July 2016, during that relationship, Alex retained respondent to represent him in his custody, divorce, and support matters against his spouse, Jennifer Kapusniak (Jennifer). On July 14, 2016, respondent entered her appearance in the custody and support matters and, a few months later, in the divorce matter.

Respondent and Alex used the pseudonym "Michelle" to refer to respondent when they were in the presence of Alex's seven-year-old daughter, who was the subject of the custody dispute. Jennifer learned from her daughter that "Michelle" was living with Alex. Jennifer also discovered that an affidavit of criminal history had not been filed regarding "Michelle."[1]

Respondent improperly represented Alex during her period of administrative suspension, including on November 8, 2016, when she exchanged e-mails with Jennifer's counsel under her firm name, Law Offices of A.J.

[1] Pennsylvania's child custody laws require the submission of a criminal history affidavit, which is designed to identify whether parties to a custody action, or any member of their household, have been accused or convicted of a criminal offense.

Iannuzzelli; negotiated the terms of a proposed settlement agreement; and signed those e-mails as "Amanda J. Iannuzzelli, Esq."

On January 4, 2017, Jennifer learned from her daughter that "Michelle" was actually respondent. At a hearing on January 6, 2017, respondent appeared on behalf of Alex and failed to disclose their relationship to the court. At a hearing on January 10, 2017, Alex appeared pro se, and respondent's appearance as counsel was withdrawn.

On January 10, 2017, the Kapusniaks divorced. On February 20, 2017, respondent and Alex were married, and respondent became stepmother to the Kapusniak's daughter, thereby gaining a direct, financial interest in the custody and support matters. On March 9, 2017, respondent re-entered her appearance in the custody matter and filed an intent to subpoena Jennifer's medical records in connection with the custody and support proceedings. Consequently, on March 22, 2017, counsel for Jennifer filed a petition for special relief, seeking to disqualify respondent from representing Alex in the family court matters. On March 24, 2017, respondent filed an answer to the petition, asserting that she would be re-entering her appearance in Alex's matters.

On April 5, 2017, at a pre-trial conference, the court discussed the issues and encouraged respondent to withdraw her appearance. Respondent did not do

so. Subsequently, however, Alex again appeared pro se, and the Court dismissed the petition for special relief.

At a June 15, 2017 custody hearing, Alex's new attorney failed to arrive, and respondent insisted that she be permitted to represent him. The court denied respondent's request, noting that her staff had sent correspondence on Alex's behalf, despite respondent previously having been informed that doing so was inappropriate. In response to the court's inquiry whether anyone had prepared the documents that Alex had submitted to the court, Alex stated that he had reviewed the documents with respondent. The court opined that respondent's representation of Alex was problematic and violated the Pennsylvania Rules of Professional Conduct.

The Karl R. Blohm Matter

Karl Blohm is the maternal grandfather of Steve Fedon's children (Blohm's grandchildren). On July 20, 2016, Blohm and Fedon met with respondent. Blohm initially supported Fedon's pursuit of custody against Blohm's daughter, the mother of the children, and further sought to protect his own rights as a grandparent. Respondent and Fedon entered into a fee agreement, which included a provision for a non-refundable $500 to open the custody case. Respondent did not have a fee agreement with Blohm, who paid $1,000 toward

respondent's fee, by check, which respondent then claimed also was non-refundable. Respondent failed to deposit the check in her IOLTA account.

Three days later, on July 23, 2016, Blohm informed respondent that he had changed his mind about the custody action against his daughter, and requested a refund, minus any consultation fee respondent charged. He called the office two more times, but respondent failed to reply. Respondent's secretary then informed Blohm that no refund would be issued.

On September 1, 2016, Blohm filed a complaint with the Magisterial District Court, seeking the return of the $1,000 fee. Respondent failed to appear on the November 3, 2016 hearing date, and the court entered a default judgment against her, for $1,104 in damages and costs.

In respondent's October 16, 2017 reply to Blohm's disciplinary complaint, she stated that she would "now" refund the full amount of fees to Blohm. Four months later, on February 15, 2018, respondent paid $1,104 to Blohm.

Respondent's Failure to Pay Taxes

In 2015 and 2016, respondent failed to pay to the Internal Revenue Service (IRS) and to the Commonwealth of Pennsylvania required employment taxes, including unemployment insurance premiums. Further, in 2015, 2016, and 2017, she failed to issue required W-2 and 1099 forms to former non-lawyer office

staff. Additionally, respondent failed to remit required, quarterly federal tax returns for her law firm, as well as other employer-related tax filings. Finally, as of the date of the Pennsylvania disciplinary hearing, respondent had not filed her personal tax returns for 2015 and 2016.

Additional Findings by the Disciplinary Board

From May through July 2017, Heather Barnett worked as a paralegal for respondent's firm. Within Barnett's first two weeks of employment, the Disciplinary Board served documents on respondent. The Disciplinary Board found that, after respondent received the Akanno and McFarland complaints, she improperly directed Barnett to increase the amount of time previously recorded in respondent's billing program for those client matters, and to create false entries for phone calls with those clients. Respondent also directed Barnett to print the law firm's calendar, and then marked an "X" through entries that respondent wanted removed. She explained to Barnett that she had been suspended for a short period of time and that disciplinary authorities wanted to investigate respondent's conduct during her suspension. The Disciplinary Board found that, on June 30, 2017, respondent had produced the altered calendar in response to a disciplinary subpoena, in an attempt to bolster her misrepresentation that she had not learned of her administrative suspension until November 11, 2016.

Barnett testified that respondent did not use her IOLTA account for advanced fees and costs. After reviewing certain client fee agreements with Barnett, respondent instructed her to change the fee agreements to provide that respondent could spend fees as if she already had earned them. On July 13, 2017, after approximately three months of employment, Barnett resigned from respondent's law firm, citing respondent's lack of professionalism and the "chaotic" nature of her office.

The Disciplinary Board found that respondent was not remorseful; that she did not accept responsibility for her misconduct; that she blamed others or asserted that the complaints against her were "fabricated;" and that she felt victimized by the disciplinary process.

The Disciplinary Board also noted respondent's testimony concerning her substance abuse problem. Respondent testified that she became an alcoholic in law school and had ceased drinking in 2013. She attended Alcoholics Anonymous meetings. Respondent further testified that she had abused prescription drugs and had experienced feelings of depression. In February 2016, respondent's family and friends held an intervention for her, out of concern about her drug use. As a result, respondent underwent inpatient treatment from February 15 through March 3, 2016. She left the treatment facility because she was concerned about her firm and, afterward, did not seek

mental health treatment. For twelve to eighteen months after her treatment, respondent obtained prescription drugs, such as Adderall and Percocet, from friends, and abused the drugs on at least twelve occasions.

Respondent ultimately ceased abusing substances and tried to alleviate her feelings of depression and anxiety through meditation, yoga, and the help of the Lawyers Concerned for Lawyers group, to no avail. She then purchased from an internet site a nootropic drug, which she took in November 2017.[2] In December 2017, while taking this drug, respondent suffered a seizure, was hospitalized for five days, and was placed in a medically induced coma.

Following her release from the hospital, respondent saw a psychiatrist approximately three times and, at the time of the Pennsylvania disciplinary proceedings, was taking Wellbutrin for depression. At the time of the hearing, respondent was not in therapy, but planned to return.

Respondent admitted that her practice appeared out of control, but testified that she "strongly" believed she could meet the responsibilities of having her own practice.

The Disciplinary Board concluded that respondent's testimony regarding her misconduct was "not credible."

[2] According to the National Institutes of Health, nootropics purportedly alter, improve, or augment cognitive performance.

Conclusions of Law

The Disciplinary Board found that respondent's actions constituted misconduct, stating:

> [t]he evidence established that in five client matters, Respondent neglected clients, refused to account for and refund unearned fees, and engaged in a conflict of interest. Respondent ignored voicemail messages, texts and emails from her clients asking about their respective matters, then appeared surprised that clients expected Respondent to be prepared to show up for meetings and hearings. Respondent's clients had an expectation that Respondent would represent them competently and diligently. If Respondent was unable to fulfill her obligations, she had a duty to withdraw and refund unearned fees. In three of the matters, Respondent's clients sued her and obtained judgments against her. Respondent failed to comply with IOLTA rules, as she established a pattern of using unearned advanced retainers and not depositing these retainers in her IOLTA, including retainers from Ms. Akanno, Mr. Perpetua, Ms. McFarland, and Mr. Blohm. Respondent had a fundamental duty to properly handle the funds for her clients, but failed to do so.
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> Respondent allowed her law license to lapse by failing to file the annual registration statement and pay her annual attorney fee. The Supreme Court transferred Respondent to administrative suspension, and for a period of eleven days, she continued to engage in the practice of law in contravention to the Court's Order. While attempting to return to active status, Respondent filed a false verified compliance statement indicating that she notified clients, opposing counsel and the courts of her inability to practice law while on administrative suspension. Respondent admitted she chose to file a false compliance statement because she did not want her practice to suffer adverse

> consequences if she notified the various parties that she could not practice law. While Respondent admitted that she engaged in the unauthorized practice of law, she complained that her misconduct was inadvertent and the fault of office staff. Additionally, Respondent engaged in inappropriate and deceptive actions by submitting an altered document to Petitioner during its investigation, and engaged in criminal behavior by failing to pay employment taxes.
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> [OAEb,Ex.G at pp.27-28.][3]

The Disciplinary Board concluded that a three-year suspension should be imposed, emphasizing, in aggravation, that respondent had failed to show remorse or to take responsibility for her actions. By order entered July 1, 2019, the Supreme Court of Pennsylvania adopted the Disciplinary Board's recommendation and imposed a three-year suspension on respondent.

Respondent failed to notify the OAE of her Pennsylvania discipline, as R. 1:20-14(a)(1) requires.

* * *

The OAE recommended a one-year or two-year suspension, contending that, based on New Jersey disciplinary precedent, a shorter term of suspension than the three years imposed in Pennsylvania is warranted. The OAE primarily relied on In re Fornaro, 175 N.J. 450 (2003), as a case not directly on point, but illustrative. In that case, we found that Fornaro had engaged in a conflict of

[3] "OAEb" refers to the OAE's April 30, 2020 brief in support of its motion.

interest by representing her boyfriend, with whom she had a sexual relationship, in his divorce and custody matter, where she was so involved in the child's life that she had become a material witness to the custody aspect of the divorce action, which, in turn, violated RPC 1.7(b) and RPC 3.7(a). In the Matter of Maria P. Fornaro, DRB 01-260 (March 5, 2002) (slip op. at 23-24). Fornaro failed to withdraw from the representation; made serious misrepresentations to courts, adversaries, and ethics authorities; and failed to comply with the Rules governing suspended attorneys Id. at 25-26. After considering the totality of Fornaro's misconduct, along with her "abominable" behavior at the ethics hearing, we recommended to the Court that she be disbarred. Id. at 27. Unlike respondent, Fornaro had a serious ethics history. Id. at 2-3.

The Court declined to disbar Fornaro, instead suspending her for three years, and requiring, on reinstatement, conditions including proof of fitness to practice, completion of courses in law office management and ethics, and a proctorship.

The OAE argued that Fornaro supports a term of suspension in this matter. The OAE noted that respondent's marriage to her client, Kapusniak, along with her deceit to the opposing attorney and client in that matter, created the potential for her to become a witness in the support and custody actions, in violation of RPC 3.7(a). Like Fornaro, respondent made misrepresentations to the court.

Further, the OAE asserted that respondent practiced law while administratively ineligible, which requires a reprimand or greater discipline; failed to pay payroll taxes and unemployment insurance, in violation of criminal law, which beckons discipline from a reprimand to disbarment; and falsified documents to disciplinary authorities, which could result in a three-month suspension.

The OAE observed that respondent chose not to assert mitigating factors in Pennsylvania and suggested that, if respondent attempted to cite her substance abuse problem as mitigation in the New Jersey proceeding, it should be viewed with skepticism. The OAE emphasized that, in aggravation, the Pennsylvania Board found that respondent failed to show remorse, failed to accept responsibility, and failed to empathize with her former clients, instead shifting blame and evidencing disgust at the disciplinary process. Further, respondent failed to report her Pennsylvania discipline to the OAE, as R. 1:20-14(a)(1) requires.

The OAE, thus, recommended the imposition of a suspension of one year or two years, with the condition that respondent be required to demonstrate fitness to practice, as attested by a mental health professional or substance abuse counselor.

Respondent neither submitted a brief to us nor returned her oral argument form to the Office of Board Counsel, despite proper service.

* * *

Following a review of the record, we determine to grant the OAE's motion for reciprocal discipline. Pursuant to R. 1:20-14(a)(5), "a final adjudication in another court, agency or tribunal, that an attorney admitted to practice in this state . . . is guilty of unethical conduct in another jurisdiction . . . shall establish conclusively the facts on which it rests for purposes of a disciplinary proceeding in this state." Thus, with respect to motions for reciprocal discipline, "[t]he sole issue to be determined . . . shall be the extent of final discipline to be imposed." R. 1:20-14(b)(3).

In Pennsylvania, the standard of proof in attorney disciplinary matters is that the "[e]vidence is sufficient to prove unprofessional conduct if a preponderance of the evidence establishes the conduct and the proof . . . is clear and satisfactory." Office of Disciplinary Counsel v. Kissel, 442 A. 2d 217 (Pa. 1982) (citing In re Berland, 328 A.2d 471 (Pa. 1974)). Moreover, "[t]he conduct may be proven solely by circumstantial evidence." Office of Disciplinary Counsel v. Grigsby, 425 A. 2d 730 (Pa. 1981) (citations omitted).

Reciprocal discipline proceedings in New Jersey are governed by R. 1:20-14(a)(4), which provides in pertinent part:

> The Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record on which the discipline in another jurisdiction was predicated that it clearly appears that:
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> (A) the disciplinary or disability order of the foreign jurisdiction was not entered;
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> (B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;
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> (C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;
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> (D) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
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> (E) the unethical conduct established warrants substantially different discipline.

Subsection (E) applies in this matter because the unethical conduct warrants substantially different discipline. Based on New Jersey disciplinary precedent, we determine to grant the OAE's motion for reciprocal discipline and recommend to the Court that respondent be disbarred.

Specifically, respondent committed ethics violations as follows.

Respondent utterly failed to provide competent representation in the Perpetua, Akanno, and McFarland matters, in violation of RPC 1.1(a); RPC 1.3; RPC 1.4(b) and (c); and RPC 3.2.

In the Perpetua matter, respondent filed a petition to reduce child support that misrepresented both Perpetua's income and his compliance with a prior support order. She subsequently refused to refund Perpetua's retainer, forcing him to file an action in court against her.

In the Akanno matter, despite accepting a $5,000 retainer, respondent failed to perform any work on her divorce, failed to promptly return her requests for information, and failed to refund Akanno's retainer until the Committee interceded.

In the McFarland matter, respondent failed to communicate and to provide information, repeatedly failed to appear for scheduled appointments, and failed to promptly refund her fee to McFarland, requiring McFarland to file an action against her to recover the $3,000 retainer.

In the Blohm matter, respondent performed no work, but then refused to refund the $1,000 retainer. Although respondent had no fee agreement with the client, she claimed, without any basis, that the retainer was non-refundable. Blohm also was forced to file a lawsuit to obtain a refund. Even after the court entered a default judgment against respondent, she failed to refund the retainer to Blohm for more than three months, when the Committee interceded.

Respondent's failure to provide fee agreements, her purported non-refundable retainers, and her delay in returning funds to her clients support violations of RPC 1.5(a) and (b).

Respondent violated RPC 1.7(a)(2); RPC 3.2; RPC 3.3(a)(1); RPC 3.4(a); RPC 3.4(f); RPC 3.7(a); RPC 4.1(a)(1); RPC 8.4(c); and RPC 8.4(d) in the Kapusniak matter, where she represented her boyfriend (and continued to represent him after they were married), in his divorce, custody, and support cases. Respondent's knowledge of the conflict of interest is apparent from her attempts to hide the relationship from her adversary; from Kapusniak's former wife; from the court; and even from the Kapusniaks' child. Respondent failed to disclose the relationship to the court, even after her adversary learned of it. Subsequently, respondent continued to represent Kapusniak, after she had been administratively suspended, after being relieved as his counsel, and after the court had warned her about the inappropriate nature of the representation.

Respondent's failure to deposit retainers in her IOLTA, based on her specious claim that they were non-refundable, violated RPC 1.15(a) and RPC 1.15(c). Her delay in returning money owed to her clients, even after the court had ordered her to do so, violated RPC 1.15(b).

Moreover, respondent violated RPC 1.16(d) by failing to provide Akanno her file upon termination of the representation, despite requests from Akanno, her new attorney, and the Committee.

Respondent also practiced law while administratively suspended, in violation of RPC 5.5(a) and RPC 8.4(c). She refused to properly notify all relevant parties that she was suspended, as the Pennsylvania rules governing suspended attorneys require. Indeed, she intentionally filed a false verified Statement of Compliance with the Attorney Registrar, verifying that she had complied with Pa R.D.E. 217, in a brazen attempt to keep her practice afloat. She also filed a false statement in her disciplinary matter, whereby she directed her staff to falsify a calendar which would have proven that she practiced law while suspended; she then produced the altered, fraudulent calendar at her June 30, 2017 subpoena return, in violation of RPC 8.1(a); RPC 8.1(b); RPC 8.4(a); RPC 8.4(c); and RPC 8.4(d).

Respondent also failed to pay employment taxes to the IRS and to the Commonwealth in 2015 and 2016. As of the May 2018 Disciplinary Board hearing, she had failed to file her personal tax returns for 2015 and 2016. Respondent, thus, committed multiple violations of RPC 8.4(b) and RPC 8.4(c).

In sum, we find that respondent committed extensive ethics violations, as follows. She violated RPC 1.1(a) in three matters (Perpetua, Akanno, and

McFarland); RPC 1.3 in three matters (Perpetua, Akanno, and McFarland); RPC 1.4(b) and (c) in three matters (Perpetua, Akanno, and McFarland); RPC 1.5(a) and (b) in four matters (Perpetua, Akanno, McFarland, and Blohm); RPC 1.7(a)(2) in one matter (Kapusniak); RPC 1.15(a) and (c) in two matters (Akanno and Blohm); RPC 1.15(b) in four matters (Perpetua, Akanno, McFarland, and Blohm); RPC 1.16(d) in one matter (Akanno); RPC 3.2 in four matters (Perpetua, Akanno, McFarland, and Kapusniak); RPC 3.3(a)(1) in one matter (Kapusniak); RPC 3.4(a) in one matter (Kapusniak); RPC 3.4(f) in one matter (Kapusniak); RPC 3.7(a) in one matter (Kapusniak); RPC 4.1(a)(1) in one matter (Kapusniak); RPC 5.5(a) in two matters (McFarland and Kapusniak); RPC 8.1(a) and (b) in two matters (Akanno and McFarland); RPC 8.4(a) in two matters (Akanno and McFarland); RPC 8.4(b) (by failing to file her tax returns); RPC 8.4(c) (by failing to file her tax returns) and in three matters (Akanno, McFarland, Kapusniak); and RPC 8.4(d) in three matters (Akanno, McFarland, and Kapusniak). There is insufficient evidence in the record to find a violation of either RPC 3.1 or RPC 1.16(a)(2); we, thus, dismiss those charges. The sole issue left for us to determine is the appropriate quantum of discipline for respondent's misconduct.

At a minimum, a three-year term of suspension is required for respondent's most serious misconduct, including her neglect of multiple client

matters; her misrepresentations to the court and improper conduct in the Kapusniak matter; her misrepresentations and fabrication of documents in connection with the Pennsylvania disciplinary proceedings against her; and her criminal conduct.

Attorneys who mishandle multiple client matters generally receive suspensions of either six months or one year. See, e.g., In re Tunney, 181 N.J. 386 (2004) (six-month suspension for attorney who mishandled six matters, engaging in a combination of gross neglect, pattern of neglect, lack of diligence, failure to communicate, failure to promptly notify a client of receipt of funds, failure to properly terminate representation, knowingly disobeying an obligation under the rules of a tribunal, misrepresentation, and conduct prejudicial to the administration of justice; attorney's depression considered in mitigation; prior reprimand); In re LaVergne, 168 N.J. 410 (2001) (six-month suspension for attorney who mishandled eight client matters; the attorney was guilty of lack of diligence in six of them, failure to communicate with clients in five, gross neglect in four, and failure to turn over the file upon termination of the representation in three; in addition, in one of the matters the attorney failed to notify medical providers that the cases had been settled and failed to pay their bills; in one other matter, the attorney misrepresented the status of the case to the client; the attorney also was guilty of a pattern of neglect and recordkeeping

violations); In re Suarez-Silverio, 226 N.J. 547 (2016) (one-year suspension for an attorney who, over thirteen years, mishandled twenty-three client matters before the Third Circuit Court of Appeals, many of which ended by procedural termination; the attorney also disobeyed court orders and made a misrepresentation to the court clerk, which escalated the otherwise appropriate six-month suspension; previous admonition and reprimand for similar conduct); and In re Brown, 167 N.J. 611 (2001) (one-year suspension for attorney who, as an associate in a law firm, mishandled twenty to thirty files by failing to conduct discovery, to file pleadings, motions and legal briefs, and to generally prepare for trials; the attorney also misrepresented the status of cases to his supervisors and misrepresented his whereabouts, when questioned by his supervisors, to conceal the status of matters entrusted to him; the disciplinary matter proceeded as a default; the attorney had a prior reprimand).

Generally, attorneys who make serious misrepresentations to a court, often including falsifying documents, or exhibiting a lack of candor to a tribunal, or both, receive suspensions of various terms. See, e.g., In re Trustan, 202 N.J. 4 (2010) (three-month suspension for attorney who, among other things, submitted to the court a client's case information statement that falsely asserted that the client owned a home, and drafted a false certification for the client, which was submitted to the court in a domestic violence trial; violations of RPC

3.3(a)(1) and (4); other violations included RPC 1.8(a) and (e), RPC 1.9(c), and RPC 8.4(a), (c), and (d)); 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 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; violation of RPC 3.3(a)(1) and (2), RPC 3.5(b), and RPC 8.4(c) and (d); two prior private reprimands [now admonitions]); 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; violations of RPC 3.3(a)(4), RPC 3.4(f), and RPC 8.4(b)-(d)).

Generally, in matters involving misrepresentations to ethics authorities, the discipline ranges from a reprimand to a term of suspension, depending on the gravity of the offense, the presence of other unethical conduct, and aggravating or mitigating factors. See, e.g., In re DeSeno, 205 N.J. 91 (2011) (reprimand for attorney who misrepresented to the district ethics committee the filing date of a complaint on the client's behalf; the attorney also failed to adequately communicate with the client and failed to cooperate with the investigation of the grievance; prior reprimand); In re Otlowski, 220 N.J. 217 (2015) (censure for attorney who made misrepresentations to the OAE and the client's lender by claiming that funds belonging to the lender, which had been deposited into the attorney's trust account, were frozen by a court order; to the contrary, they had been disbursed to various parties); In re Freeman, 235 N.J. 90 (2018) (three-month suspension for pool attorney with the Office of the Public Defender (OPD); the attorney failed to communicate with his client about an upcoming hearing on a petition for post-conviction relief; the attorney appeared at the hearing without the client, took actions that were contrary to the client's wishes, and made misrepresentations to the court and the OPD; those statements would later negatively impact the client's ability to pursue an appeal;

during the ethics investigation, the attorney lied to the DEC investigator, and later to the hearing panel; violations of RPC 1.2(a), RPC 1.4(b), RPC 3.3(a), RPC 4.1(a), RPC 8.1(a), and RPC 8.4(c) found); In re Brown, 217 N.J. 614 (2014) (three-month suspension, in a default matter, for an attorney who made false statements to a disciplinary authority; failed to keep a client reasonably informed about the status of the matter; charged an unreasonable fee; failed to promptly turn over funds; failed to segregate disputed funds; failed to comply with the recordkeeping rule; and failed to cooperate with disciplinary authorities); In re Silberberg, 144 N.J. 215 (1996) (two-year suspension imposed on attorney who, in a real estate closing, allowed the buyer to sign the name of the co-borrower; the attorney then witnessed and notarized the "signature" of the co-borrower; the attorney stipulated that he knew at the time that the co-borrower was deceased; after the filing of the ethics grievance against him, the attorney falsely stated that the co-borrower had attended the closing; on another occasion, the attorney sent a false seven-page certification to the district ethics committee in order to cover up his improprieties); and In re Penn, 172 N.J. 38 (2002) (three-year suspension for attorney who failed to file an answer in a foreclosure action, thereby causing the entry of default against the client; thereafter, to placate the client, the attorney lied that the case had been successfully concluded, fabricated a court order, and signed the name of a judge;

the attorney then lied to his adversary and to ethics officials; the attorney also practiced law while ineligible).

When an attorney provides a fabricated document to disciplinary authorities, the general result is a three-month suspension. See, e.g., In re Bar-Nadav, 174 N.J. 537 (2002) (three-month suspension for an attorney who submitted two fictitious letters to the District Ethics Committee in an attempt to justify his failure to file a divorce complaint on behalf of his client), and In re Rinaldi, 149 N.J. 22 (1997) (three-month suspension for an attorney who failed to diligently pursue a matter, made misrepresentations to a client about the status of the matter, and submitted three fictitious letters to the District Ethics Committee to falsely show that he had worked on the matter).

It is well-settled that a violation of either state or federal tax law is a serious ethics breach. In re Queenan, 61 N.J. 579, 580 (1972), and In re Duthie, 121 N.J. 545 (1990). "[D]erelictions of this kind by members of the bar cannot be overlooked." In re Gurnik, 45 N.J. 115, 116 (1965). "A lawyer's training obliges him to be acutely sensitive of the need to fulfill his personal obligations under the federal income tax law." Ibid.

In In re Garcia, 119 N.J. 86, 89 (1990), the Court declared that, even in the absence of a criminal conviction, the willful failure to file an income tax return requires the imposition of a suspension. Willfulness does not require "any

motive, other than a voluntary, intentional violation of a known legal duty." In the Matter of Eugene F. McEnroe, DRB 01-154 (January 29, 2002) (slip op. at 2); In re McEnroe, 172 N.J. 324 (2002).

Generally, since Garcia, terms of suspension have been imposed on attorneys who fail to file income tax returns. See, e.g., In re McEnroe, 172 N.J. 324 (three-month suspension for attorney with no disciplinary history for violations of RPC 8.4(b) and (c), resulting from his seven-year failure to file joint federal and state income tax returns on behalf of himself and his wife; the attorney's payment of all outstanding federal and state tax obligations was considered as mitigation); In re Vecchione, 159 N.J. 507 (1999) (six-month suspension for attorney's failure to file federal income tax returns for twelve years; compelling mitigating factors); In re Waldron, 193 N.J. 589 (2008) (six-month suspension imposed on attorney who pleaded guilty to one count of knowing and willful failure to file a federal income tax return for a single calendar year, in violation of 26 U.S.C. § 7203); In re Hand, 235 N.J. 367 (2018) (one-year suspension imposed on attorney who pleaded guilty to two counts of failure to file federal income tax returns for two calendar years, in violation of 26 U.S.C. § 7203, resulting in a $50,588 tax loss to the United States government; the attorney was sentenced to three years' federal probation, which included a five-month period of home confinement, and was ordered to pay

$50,588 in restitution and to provide full cooperation to the IRS, among other things; she also had a disciplinary history); and In re Rich, 234 N.J. 21 (2018) (two-year suspension imposed on attorney who pleaded guilty in the New York Supreme Court to one count of fifth-degree criminal tax fraud, a Class A misdemeanor; he had failed to file state personal income tax returns for the years 2008 through 2013, and, for each year, he had a tax liability of more than $50,000; he agreed to pay nearly $1.2 million in back taxes, including penalties and interest).

Here, the Pennsylvania record demonstrates that respondent engaged in an inexcusable assault on the Rules of Professional Conduct. Given her myriad, alarming misconduct, she stands on the cusp of the ultimate sanction of disbarment, and we must determine whether her misconduct reflects a character flaw or an error in judgment, and whether she is capable of learning from her mistakes, despite her misconduct. In other words, we must determine whether respondent can conform her future conduct to New Jersey's Rules of Professional Conduct.

As noted above, the OAE objects to any consideration of respondent's alleged alcohol and drug problems as mitigation. Respondent did not assert such mitigating evidence in her Pennsylvania proceeding, but she did provide testimony regarding same. Given the Pennsylvania disciplinary authorities'

findings regarding respondent's complete lack of credibility, the only mitigation we can confidently point to is her lack of prior discipline, but respondent's professed substance abuse issues may have played a part in her misconduct.

In aggravation, the Pennsylvania Board found that respondent failed to show remorse; was unwilling to accept responsibility or to empathize with her former clients; shifted blame; and claimed that the disciplinary charges were "fabricated." She made those barefaced statements despite the significant harm she clearly caused to her clients. Her attitude toward her responsibilities as an attorney are bizarre and disturbing. Additionally, she failed to notify the OAE of her Pennsylvania discipline, as R. 1:20-14(a)(1) requires.

In light of respondent's utter failure to recognize the gravity of her misconduct and the harm she inflicted on her clients, we find that respondent is, in a word, unsalvageable as an attorney in New Jersey. For the totality of respondent's misconduct, we determine that disbarment is the only sanction that will serve to protect the public and preserve confidence in the bar.

Chair Clark and Members Boyer and Joseph voted to impose a three-year suspension, with the conditions that respondent be required, prior to reinstatement, to provide proof of fitness to practice law, as attested to by a psychiatric professional approved by the OAE. Further, upon reinstatement, respondent should be required to (1) provide to the OAE quarterly proof of

weekly attendance in an alcohol and drug treatment program; (2) practice under the supervision of an OAE-approved proctor for at least two years, and until the OAE deems that a proctor is no longer necessary; (3) complete a continuing legal education course in law office management; and (4) complete two ethics courses in addition to those required for continuing legal education credit.

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: **/s/ Timothy M. Ellis**
Timothy M. Ellis
Acting Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Amanda J. Iannuzzelli
Docket No. DRB 20-129

Argued: October 15, 2020

Decided: April 1, 2021

Disposition: Disbar

Members	Disbar	Three-Year Suspension	Recused	Did Not Participate
Clark		X		
Gallipoli	X			
Boyer		X		
Hoberman	X			
Joseph		X		
Petrou	X			
Rivera	X			
Singer	X			
Zmirich	X			
Total:	6	3	0	0

/s/ Timothy M. Ellis
Timothy M. Ellis
Chief Counsel