

Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 20-250
District Docket No. VC-2019-0005E

In the Matter of
Laurence Herbert Olive
An Attorney at Law

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Decision

Decided: June 8, 2021

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 VC Ethics Committee (DEC), pursuant to R. 1:20-4(f). The formal ethics complaint charged respondent with having violated RPC 1.1(a) (gross neglect); RPC 1.3 (lack of diligence); RPC 1.4(b) (failure to communicate with

the client); RPC 3.2 (failure to expedite litigation); and RPC 8.1(b) (two instances – failure to cooperate with disciplinary authorities).¹

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

Respondent was admitted to the New Jersey bar in 1977 and to the New York bar in 1991. At the relevant time, he maintained an office for the practice of law in Montclair, New Jersey.

Effective July 14, 2020, the Court temporarily suspended respondent from the practice of law for failure to cooperate with the Office of Attorney Ethics (OAE) in an unrelated matter. In re Olive, 242 N.J. 521 (2020). He remains suspended on that basis.

Effective November 5, 2018, the Court declared respondent ineligible to practice law due to his failure to comply with mandatory continuing legal education (CLE) requirements. Respondent thereafter complied and was reinstated.²

Effective November 16, 2021, the Court again declared respondent administratively ineligible for failure to satisfy CLE requirements. On

¹ Due to respondent’s failure to file an answer to the formal ethics complaint, the DEC amended the complaint to include the second RPC 8.1(b) charge.

² Notice to the Bar, “Attorneys Reinstated from the CLE Ineligible List” (June 19, 2019).

November 28, 2020, respondent submitted a letter to us, representing that he had “caught up” with his continuing legal education requirements, and retired from the practice of law, due to illness.³

Service of process was proper. On May 28, 2020, the DEC sent a copy of the formal ethics complaint, by certified and regular mail, to respondent’s office address of record. The certified mail was neither claimed nor returned. The regular mail was not returned.

As detailed above, on July 14, 2020, the Court temporarily suspended respondent from the practice of law. On July 30, 2020, the DEC sent a letter to respondent, by certified and regular mail, to his home address, informing him that, unless he filed 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 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). On August 4, 2020, the certified mail was delivered, and acknowledged with an illegible signature. The regular mail was not returned.

³ Former Chief Counsel Ellen A. Brodsky reviewed the letter and notified respondent, in writing, that we would not consider his submission unless he filed a motion to vacate the default. To date, he has filed no such motion.

As of August 22, 2020, respondent had not filed an answer to the complaint, and the time within which he was required to do so had expired. Accordingly, the DEC certified this matter to us as a default.

We now turn to the allegations of the complaint.

In July 2018, the grievant, Sharon Saenz, retained respondent to represent her in a landlord-tenant matter. On July 18, 2018, respondent filed a complaint on behalf of Saenz in New Jersey Superior Court, Essex County. On October 30, 2018, respondent filed a motion for substituted service, but, after that date, respondent ceased working on the matter and repeatedly failed to communicate with Saenz. Specifically, Saenz made multiple inquiries to respondent regarding the status of the matter, and respondent either failed to respond, alleged that he was ill, or claimed that he was unaware of the status.

On November 5, 2018, less than a week after respondent filed the motion for substituted service, the Court declared respondent administratively ineligible to practice law, due to his CLE non-compliance. On February 25, 2019, Saenz filed the underlying grievance against respondent.

On April 6, 2019, the Honorable Stephen L. Petrillo, J.S.C., dismissed Saenz's complaint, without prejudice, for lack of prosecution. More than three

months later, on July 15, 2019, respondent filed a motion to vacate the dismissal, which Judge Petrillo denied.

Between April 9 and September 19, 2019, the DEC sent three letters to respondent, requesting his written reply to Saenz's grievance; the DEC also called respondent on multiple occasions. Respondent failed to reply to the DEC's letters and telephone calls.

Based on the foregoing facts, the complaint charged respondent with having violated RPC 1.1(a) and RPC 1.3 by failing to advance Saenz's matter for approximately five months and then abandoning the matter, resulting in its dismissal; RPC 1.4(b) by failing to communicate with Saenz regarding the status of her case, despite her inquiries; RPC 3.2 by failing to pursue the litigation, despite his filing of a complaint; and RPC 8.1(b) by failing to reply to the grievance and the DEC's numerous inquiries regarding the grievance, and by failing to file an answer to the complaint.

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

Specifically, respondent violated RPC 1.1(a), RPC 1.3, and RPC 3.2 by failing to perform any work on Saenz's landlord-tenant matter for approximately five months, from November 2018 until the beginning of April 2019, resulting in the dismissal, without prejudice, of the landlord-tenant complaint he had filed on her behalf. Although respondent filed a motion to vacate the dismissal, approximately three months later, that motion was denied. Respondent's failure to perform the work for which he was retained caused demonstrable harm to Saenz.

Respondent also violated RPC 1.4(b) by failing to provide Saenz with information regarding the status of her case, despite her multiple inquiries. Finally, respondent twice violated RPC 8.1(b) by failing to answer the DEC's multiple requests for a written reply to the grievance and by failing to file a verified answer to the complaint.

In sum, we find that respondent violated RPC 1.1(a); RPC 1.3; RPC 1.4(b); RPC 3.2; and RPC 8.1(b) (two instances). The sole issue left for us to determine is the appropriate quantum of discipline for respondent's misconduct.

Conduct involving gross neglect, lack of diligence, and failure to communicate with clients ordinarily results in either an admonition or a reprimand, depending on the number of client matters involved, the gravity of

the offenses, the harm to the clients, the presence of additional violations, and the seriousness of the attorney's disciplinary history. See, e.g., In the Matter of Esther Maria Alvarez, DRB 19-190 (September 20, 2019) (admonition for attorney who was retained to obtain a divorce for her client, but for the next nine months, failed to take any steps to pursue the matter, and failed to reply to all but one of the client's requests for information about the status of her case, violations of RPC 1.1(a) and RPC 1.4(b)); in another matter, the attorney agreed to seek a default judgment, but waited more than eighteen months to file the necessary papers with the court; although the attorney obtained a default judgment, the court later vacated it due to the passage of time, which precluded a determination on the merits, violations of RPC 1.1(a) and RPC 1.3); In the Matter of Michael J. Pocchio, DRB 18-192 (October 1, 2018) (admonition for attorney who filed a divorce complaint and permitted it to be dismissed for failure to prosecute the action; he also failed to seek reinstatement of the complaint, and failed to communicate with the client; violations of RPC 1.1(a), RPC 1.3, RPC 1.4(b), and RPC 3.2); In re Burro, 235 N.J. 413 (2018) (reprimand for attorney who grossly neglected and lacked diligence in an estate matter for ten years and failed to file New Jersey Inheritance Tax returns, resulting in \$40,000 in accrued interest and a lien on property belonging to the executrix, in

violation of RPC 1.1(a) and RPC 1.3; the attorney also failed to keep the client reasonably informed about events in the case (RPC 1.4(b)); return the client file upon termination of the representation (RPC 1.16(d)); and cooperate with the ethics investigation (RPC 8.1(b)); in aggravation, we considered the significant harm to the client and the attorney's prior private reprimand; in mitigation, the attorney suffered a stroke that forced him to cease practicing law and expressed his remorse); and In re Abasolo, 235 N.J. 326 (2018) (reprimand for attorney who grossly neglected and lacked diligence in a slip-and-fall case for two years after filing the complaint; after successfully restoring the matter to the active trial list, the attorney failed to pay a \$300 filing fee, permitting the defendants' order of dismissal with prejudice to stand, in violation of RPC 1.1(a) and RPC 1.3; in addition, for four years, the attorney failed to keep the client reasonably informed about the status of the case, in violation of RPC 1.4(b)).

Likewise, 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)).

Based on disciplinary precedent, an admonition could be justified as sufficient discipline for respondent's combined misconduct. To craft the appropriate discipline, however, we must consider aggravating and mitigating factors.

In aggravation, the harm to Saenz was significant, because respondent's failure to take affirmative steps to pursue the litigation potentially extinguished her opportunity for relief, thus justifying enhancement to a reprimand. We also weigh in aggravation the default status of this matter. "[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).

In mitigation, respondent has no disciplinary history in forty-three years at the bar.

On balance, we determine that a reprimand is the quantum of discipline necessary to protect the public and preserve confidence in the bar.

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: 

Johanna Barba Jones
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

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Disposition: Reprimand

<i>Members</i>	Reprimand
Clark	X
Gallipoli	X
Boyer	X
Hoberman	X
Joseph	X
Petrou	X
Rivera	X
Singer	X
Zmirich	X
Total:	9



Johanna Barba Jones
Chief Counsel