Supreme Court of New Jersey Disciplinary Review Board Docket No. DRB 20-264 District Docket Nos. VI-2018-0004E and VI-2018-0009E

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In the Matter of	:
Sergei Orel	:
An Attorney at Law	:
	:

Decision

Argued: February 18, 2021

Decided: July 6, 2021

Stephanie L. Lomurro appeared on behalf of the District VI Ethics Committee. Respondent appeared <u>pro se</u>.

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 reprimand filed by the District VI Ethics Committee (DEC). The formal ethics complaint charged respondent with having violated <u>RPC</u> 1.1(a) (gross neglect); <u>RPC</u> 1.3 (lack of diligence); <u>RPC</u> 1.4(b) (failure to communicate with the client); <u>RPC</u> 3.2 (two instances – failure to expedite litigation and to treat all persons involved in the legal process with courtesy); and <u>RPC</u> 8.4(c) (three instances – conduct involving dishonesty, fraud, deceit or misrepresentation).

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

Respondent earned admission to the New Jersey bar in 2001. At the relevant times, he maintained an office for the practice of law in Fort Lee, New Jersey.

In February 2017, respondent received an admonition for violations of <u>RPC</u> 1.3 and <u>RPC</u> 1.4(b) in connection with an immigration matter. Specifically, he failed to periodically investigate the status of his client's immigration appeal and failed to file for an adjustment of his client's legal status after the client married a U.S. citizen. He also failed to communicate the availability and time limits upon his client's two options to file an appeal. <u>In the Matter of Sergei Orel</u>, DRB 16-407 (February 23, 2017). As a result, the client was forced to terminate the representation and seek new counsel to avoid his removal from the United States.

In his verified answer, respondent denied violating any of the enumerated <u>Rules of Professional Conduct</u>. Rather, he claimed that he had worked diligently on his client's immigration application in October and November of 2016, e-mailed the immigration application to the client, Andrii Aslanov, for his review on November 16, 2016, and followed up with him by text on December 17, 2016. He denied telling Aslanov that he would file a written inquiry to the United States Citizenship and Immigration Services (the USCIS), and claimed that he had followed up by telephone as he said he would. Respondent claimed that he diligently replied to Aslanov's inquiries, provided a copy of the file to Aslanov's new counsel, Alyssa Wolfe, on two occasions, and never made a misrepresentation regarding the status of the matter. He contradictorily asserted that there was no urgency to provide the documents to Wolfe.

Respondent also asserted that he truly believed that he had filed Aslanov's immigration application with USCIS, thereby disputing the <u>RPC</u> 3.2 and <u>RPC</u> 8.4(c) charges. He claimed that the application simply "fell through the cracks," attributing that failure to Aslanov, the client, whom respondent claimed never reviewed the application or sent it back to the respondent for action.

Respondent's answer also mounted a series of inapplicable civil defenses to the allegations in the complaint. Finally, Respondent also asserted two constitutional challenges: failure to provide due process and failure to provide equal protection under the law.<sup>1</sup>

<sup>&</sup>lt;sup>1</sup> <u>R.</u> 1:20-15(h) provides that "[c]onstitutional challenges to the proceedings raised before

Consistent with certain admissions in the beginning of his verified answer, respondent ultimately entered into a stipulation to the majority of the facts underlying the complaint, in anticipation of his brief hearing. During that hearing, the admission of that stipulation and its appended documents constituted the entirety of the presenter's case-in-chief.

The stipulated facts demonstrated that, in approximately 2009, Aslanov, the grievant, retained respondent and paid him \$500 for unidentified legal work. Seven years later, in September 2016, Aslanov asked respondent to file an asylum application on his behalf. Respondent and Aslanov met in the lobby of respondent's apartment building and completed supporting documentation for the application.

Aslanov believed that respondent thereafter filed the asylum application with the USCIS. Respondent represented that, on November 16, 2016, he sent an e-mail to Aslanov,<sup>2</sup> which contained a "Google Translate" version of Aslanov's statement to accompany the asylum application that respondent and Aslanov prepared together.

On November 18, 2016, respondent stated he would send his "story" to

the trier of fact shall be preserved, without our action, for Supreme Court consideration as a part of its review of the matter on the merits." Respondent set forth his constitutional challenges only in his answer; he never identified the basis of his claims or pursued them at the hearing or in any other document.

<sup>&</sup>lt;sup>2</sup> This e-mail was not included in the record.

Aslanov and asked for and received Aslanov's e-mail address. Aslanov replied, "I hope you have received the email." Respondent confirmed receipt and inquired if Aslanov had received respondent's e-mail with the application. Aslanov indicated that he had not. Respondent then stated that he would resend the application, and Aslanov thanked him. Respondent told Aslanov to check his e-mail messages, and Aslanov replied, "Thank you I have received it, will return from work and will read it. Andrey [sic]." On December 17, 2016, respondent sent a text message to Aslanov and asked, "Andrey [sic], have you read it?" After sending that e-mail to Aslanov for his review, respondent failed to follow up for more than six months.

On June 27, 2017, Aslanov contacted respondent by text message to seek updates on his work authorization and asylum application. Respondent advised Aslanov that he would call him later. Aslanov texted respondent once per day on each subsequent day until July 1, 2017. In reply to some of Aslanov's inquiries, respondent stated either that he would call Aslanov back later or that he was in court and would call him after 4 p.m. In other instances, respondent did not reply to Aslanov at all.

On July 3, 2017, Aslanov sent respondent a text message: "Sergei, hello! Did you really file the documents? I am asking you to respond and not ignore my messages," to which respondent replied, "Andrii, I am out on a trip until Wednesday. Yes, off [sic] course I filed them. Are you mocking me? I will return this week and send over a copy. But why do you call 3 times during my weekend?"

Aslanov responded by text message and observed that, more than once, respondent had failed to call him after respondent's court day had concluded, despite respondent's multiple promises to do so. On July 7, 2017, respondent rebuffed Aslanov's request for an in-person meeting, claiming that he was busy in court, but would call Aslanov. On July 10, 2017, Aslanov sent the following text message to respondent:

Sergei, I wanted to find out if you hold a sense of responsibility before your clients? I am sorry, but how long can you feed me with empty promises and empty tomorrows. You write that you are constantly in court, while during the weekends you cannot or do not want to talk. It is already mid-July, while you still keep repeating that you will come back after court, get my case, and send it over. However, this remains an empty promise. I cannot understand why I deserve such treatment . . . Please answer me with the truth and not yet another lie or empty promise . . . I ask you to treat me in a responsible manner and, in any case, find time for us to meet or talk over the [p]hone.

 $[S = 16.]^3$ 

On July 11, 2017, respondent replied that he was in court, but would call Aslanov back. From July 12 to July 21, 2017, Aslanov sent four text messages

<sup>&</sup>lt;sup>3</sup> "S" refers to the November 8, 2019 stipulation of facts.

to respondent requesting a return call and a meeting, seeking the "truth," and questioning if respondent was too busy to handle the matter. On July 21, 2017, respondent replied that he was on vacation, but would retrieve Aslanov's file and forward a copy that week, and also would contact the USCIS to learn the reason for the delay. Respondent requested that Aslanov "wait a day."

On July 25, 2017, Aslanov sent a text message to respondent reminding him to contact USCIS, to which respondent replied, "Yes, of course." On July 26 and 27, 2017, Aslanov contacted respondent, but received no reply. On July 28, 2017, Aslanov sent a lengthy text message to respondent complaining about his lack of response, to which respondent replied:

Andrii, do not taunt me. Everyone is busy. I called the USCIS. They will report the status in written form within a week . . . . I do not have the time to involve myself in a text message discussion with you. When news will come from the USCIS, I will let you know. Just wait.

[S¶24.]

On August 4 and 10, 2017, Aslanov sent additional text messages to respondent, requesting an update. On August 4, 2017, respondent replied that he had not yet received an answer but would notify Aslanov when he did.

On August 29, 2017, Wolfe, Aslanov's new counsel, sent respondent an authorization for the release of Aslanov's asylum application documents and a

request for his file to be sent to her. That same day, respondent sent one final text message to Aslanov:

Andrii. Your new lawyers, they are asking for some sort of "itemized statement." What is with you? What itemized statement. You paid me \$500, that's it. What is there to itemize? Do you not remember that you paid me \$500? Andrii? Give me your mailing address, I will send over your documents.

[S¶27.]

Between September 25 and October 9, 2017, Wolfe made several attempts to obtain Aslanov's file from respondent. Despite respondent's August 29, 2017 commitment to send it, he did not. On October 9, 2017, Wolfe again contacted respondent about obtaining the file. Thereafter, respondent claimed that he sent the file on October 17, 2017, and produced a cover letter bearing the same date in support of his claim. Wolfe maintained that she received neither the file nor the October 17, 2017 letter. Consequently, on December 26, 2017, she filed an ethics grievance against respondent.

Following the case presenter's introduction of the stipulation through respondent's brief testimony endorsing it, respondent expressed his intention to testify in mitigation. He then continued to testify concerning both factual issues and mitigation.

Respondent testified that he had a long history representing Aslanov in his immigration matters. Respondent emphasized that he had prepared the immigration application and sent it to Aslanov, adding that Aslanov had acknowledged receipt.

Respondent admitted that he should have, but did not, have a system in place to track client files, but stressed that this was the first time that he had failed to file a client's application. He described the typical timeline for a USCIS reply as ranging from two weeks to ninety days. He agreed that he should have had a system to track the files if he did not receive a communication from the USCIS within three to nine months.

Respondent emphasized the \$500 fee that he had charged Aslanov for the entire preparation of the asylum application, which he testified was much less than the "typical price" of between \$3,500 and \$5,000. Respondent described his attempts to assist people by charging low fees and represented that he performs the work <u>pro bono</u> for many immigration clients who are facing a deadline and do not have funds.

When, in June 2017, Aslanov began inquiring about the status of the matter, respondent "honestly had no idea that we actually hadn't filed the application seven months before."

Respondent claimed that he had received some of Aslanov's text messages while on vacation with his family, in Peru. He maintained that he called USCIS from Peru but did not have the case number with him when he did so. Respondent contacted USCIS again to see if they could access the case via the client's name. USCIS staff indicated that they had no information but would research the issue and reply to him. Respondent claimed that when he returned from his vacation, Aslanov already had retained Wolfe. Respondent received Wolfe's e-mail message requesting the file but was unable to reply because he was trying to catch up with work. A few weeks later, in about September 2017, he replied and apologized. Respondent testified that he sent a copy of the file to Wolfe on October 17, 2017, via regular mail.

Respondent returned from Christmas vacation and found the grievance from Wolfe, which stated that she never received the file. Respondent contacted Wolfe, claiming that he had already sent the file but would send it again. He sent the second copy via Federal Express, to ensure he had the tracking number. By the time it was delivered, both grievances had been filed.<sup>4</sup>

Respondent did not refund the \$500 fee to Aslanov. He claimed that he earned the fee because he prepared the application, and it was ready for filing pending Aslanov's review. He asserted that he did not intend any harm to the

<sup>&</sup>lt;sup>4</sup> The presenter noted that Aslanov's contact with respondent was in June 2017, and that the substitution of attorney did not occur until September 25, 2017. Respondent's explanation that he was on vacation for three weeks does not fit the timeline; he represented that he would contact USCIS in July and expected to receive a response within a week.

client, and that the client was not harmed because Wolfe ultimately filed an application for Aslanov's work permit, which was granted.

Respondent admitted that he was slow to review Aslanov's file and realize what had occurred but noted that he is a sole practitioner who did not have a secretary at that time and has "literally hundreds of clients," works "like 16 hour days," and "oftentimes it's just like not physically possible to respond to every phone call or email or review every file within, you know, any given day."

When asked to focus the panel's attention on his mitigating evidence, respondent indicated that Aslanov shared the blame because he had not reviewed the application and submitted it back to him. In response to questioning from the panel, respondent conceded that he had followed up only one time. Respondent indicated that there was nothing physical or emotional that prevented him from following up, and further agreed that he should have contacted Aslanov regarding the application. He apologized, was remorseful, and asserted that, "next time I'll do better and I'll follow up."

As to quantum of discipline, the presenter argued that a reprimand was the appropriate quantum of discipline, given respondent's prior admonition and the cumulative effect of the multiple stipulated violations. Respondent urged the DEC to dismiss the case, or, in the alternative, to impose the "lowest level of reprimand possible."

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The DEC determined that there was clear and convincing evidence to conclude that respondent violated <u>RPC</u> 1.1(a); <u>RPC</u> 1.3; <u>RPC</u> 1.4(b); and <u>RPC</u> 8.4(c). The panel determined to dismiss the <u>RPC</u> 3.2 charge.

The DEC found that respondent violated <u>RPC</u> 1.1(a) and <u>RPC</u> 1.3 by failing to file the asylum application, yet falsely informing Aslanov that the application had been filed. Further, the panel found that respondent's admission that he was unaware for several months that he did not have Aslanov's completed application demonstrated his failure to adequately review the matter. Therefore, respondent's failure to confirm with Aslanov that he reviewed the immigration application; failure to review Aslanov's file; and ignorance of the status of Aslanov's matter for several months constituted gross neglect and lack of diligence.

Moreover, the DEC determined that respondent violated <u>RPC</u> 1.4(b) by failing to reply to Aslanov's numerous e-mail and text messages requesting the status of his immigration matter with any meaningful information, offering only empty promises of return calls.

Next, the panel determined that respondent violated <u>RPC</u> 8.4(c) by misrepresenting to Aslanov that the immigration documents were filed. Although respondent stated that he did not recall specifically whether the immigration application had been filed, the panel noted that, in response to Aslanov's inquiry, respondent had falsely replied that he had filed the application. The DEC did not address the two other potential instances of misrepresentation: that respondent claimed that he would provide Aslanov with a copy of his file, and that respondent claimed that he contacted USCIS and that it would reply within one week.

The DEC found that respondent did not violate <u>RPC</u> 3.2 because, in its view, the <u>Rule</u> applied only to pending litigation rather than the failure to file a complaint, and respondent had never filed the immigration application. Although the panel determined that respondent's e-mail messages to Aslanov were dismissive, insulting, and fell short of the level of professionalism required by the <u>Rule</u>, it did not find an <u>RPC</u> 3.2 violation.

The DEC did not cite any mitigating factors. In aggravation, however, the DEC noted respondent's prior admonition. The panel recommended a reprimand.

At oral argument before us, respondent expressed his deep remorse that he had "dropped the ball," again citing the volume of his practice as one of the underlying causes for his neglect of Aslanov's matter. He renewed his representation that he had changed his office practices to ensure prompt responses to client messages. He again denied having intentionally lied to Aslanov about the status of his matter.

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Following a <u>de novo</u> review of the record, we are satisfied that the clear and convincing evidence supports the DEC's determination that respondent violated <u>RPC</u> 1.1(a), <u>RPC</u> 1.3, and <u>RPC</u> 1.4(b). We adopt the DEC's rationale that clear and convincing evidence does not support the charged violations of <u>RPC</u> 3.2 (two instances). Finally, we find the evidence insufficient to support any of the charged violations of <u>RPC</u> 8.4(c).

Respondent violated <u>RPC</u> 1.1(a) and <u>RPC</u> 1.3 by failing to confirm with Aslanov that he reviewed the immigration application after his initial December 17, 2016 text message; failing to file the immigration application; and failing to review the file to confirm that he had filed the completed application.

Respondent violated <u>RPC</u> 1.4(b) by failing to reply, for a period of more than two months, to Aslanov's numerous e-mail and text messages regarding the status of his immigration matter. When respondent did reply, he provided no meaningful or truthful information but, rather, only empty promises of a return call or action.

We also adopt the rationale of the DEC and dismiss the charge that respondent violated <u>RPC</u> 3.2. That charge was based on two different theories: respondent's failure to expedite litigation, and his failure to treat Aslanov with courtesy and consideration.

First, we determine to dismiss the charge that respondent violated <u>RPC</u>

3.2, in respect of expediting litigation, because that <u>Rule</u> is typically reserved for litigation-specific ethics violations, such as failing to comply with case management orders or discovery deadlines, following the commencement of an action. <u>See, e.g., In re Perdue</u>, 240 N.J. 43 (2019); <u>In the Matter of M. Blake</u> <u>Perdue</u>, DRB 18-319, DRB 18-320, and DRB 18-321 (March 29, 2019) (slip op. at 14) ("[i]nasmuch as respondent never filed a complaint, there was no litigation to expedite"); <u>In the Matter of Esther Maria Alvarez</u>, DRB 19-190 (September 20, 2019) (slip op. at 1) (in which we said that <u>RPC</u> 3.2 "applies only to pending litigation, rather than the failure to file a complaint"). In the instant matter, respondent never filed the immigration application. Moreover, the charged violations of <u>RPC</u> 1.1(a) and <u>RPC</u> 1.3 adequately address respondent's failure to file the application.

We also agree with the DEC and determine to dismiss the charge that respondent violated <u>RPC</u> 3.2 by failing to treat persons participating in the legal process with courtesy and consideration. Respondent's question to Aslanov, "Are you mocking me?" was unprofessional and sophomoric. However, based on disciplinary precedent as applied to the unique facts of this case, the language does not rise to the level of an <u>RPC</u> 3.2 violation.

Historically, the conduct violative of <u>RPC</u> 3.2 involves more egregious and outrageous communications, including physical threats, vulgar language,

and communications directed to a judge or court staff. See In re Stolz, 219 N.J. 123 (2014) (three-month suspension for attorney who made "sarcastic," "wildly inappropriate," and "discriminatory" comments to his adversary, such as "Did you get beat up in school a lot . . . because you whine like a little girl"; "Why don't you grow a pair?"; "What's that girlie email you have. Hotbox.com or something?"; "Why would I want to touch a f!% like you?"; the attorney also lied to the court and to his adversary that he had not received the certification in support of a motion filed by the adversary; aggravating factors were the attorney's lack of early recognition of and regret for his actions; violations of RPC 3.3(a)(1), RPC 3.3(a)(5), RPC 4.1(a), RPC 8.4(a), and RPC 8.4(d); no prior discipline) and In re Van Syoc, 216 N.J. 427 (2014) (six-month suspension imposed on attorney who, during a deposition, called opposing counsel "stupid" and a "bush league lawyer;" the attorney also impugned the integrity of the trial judge, by stating that he was in the defense's pocket, a violation of <u>RPC</u> 8.2(a); we found several aggravating factors, including the attorney's disciplinary history, consisting of an admonition and a reprimand; the absence of remorse; and the fact that his misconduct occurred in the presence of his two clients, who, as plaintiffs in the very matter in which their lawyer had accused the judge of being in the pocket of the defense, were at risk of losing confidence in the legal system).

Here, respondent's communications to Aslanov were neither vulgar nor threatening, and did not rise to the egregious level of the communications described above. The record contains no evidence that respondent intended to intimidate Aslanov or that the communication was made during court proceedings.

We further determine that the record lacks clear and convincing proof of any of the three theories of the <u>RPC</u> 8.4(c) charge. Our assessment of this charge turns upon the well-settled principle that a violation of <u>RPC</u> 8.4(c) requires proof of intent. <u>See In re Uffelman</u>, 200 N.J. 260 (2009) (noting that a misrepresentation is always intentional "and does not occur simply because an attorney is mistaken or his statement is later proved false, due to changed circumstances," we dismissed the <u>RPC</u> 8.4(c) charge against the attorney because his unmet assurances to the client that he was working on various aspects of the case were the result of gross neglect rather than dishonest conduct, reprimand for gross neglect, lack of diligence, and failure to communicate with the client).

If respondent had confirmed the status of Aslanov's matter months earlier, he would have realized that the application had never been filed. However, in response to Aslanov's multiple inquiries, he maintained that he had filed the application. It appears that he truly, albeit erroneously, believed he had filed the immigration application. Simply put, the record does not support the conclusion that respondent intentionally deceived Aslanov.

Similarly, the record lacks evidence that respondent's reply to Aslanov regarding the one-week timeline was a misrepresentation. Instead, the record supports a conclusion that the one-week timeline was respondent's prediction of when USCIS may have provided an answer to his inquiry. That projection does not constitute clear and convincing evidence of a violation of <u>RPC</u> 8.4(c).

Finally, the record lacks clear and convincing evidence that respondent was dishonest in his representations to Wolfe concerning his production of Aslanov's file. At most, respondent may have violated <u>RPC</u> 1.16(d) (failure to protect a client's interests, upon termination of the representation; failure to turn over the file) with which he was not charged.

In sum, we find that respondent violated <u>RPC</u> 1.1(a); <u>RPC</u> 1.3; and <u>RPC</u> 1.4(b). We determine to dismiss the remaining charges that he violated <u>RPC</u> 3.2 (two instances) and <u>RPC</u> 8.4(c) (three 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 <u>RPC</u> 1.1(a), <u>RPC</u> 1.3, <u>RPC</u> 1.4(b), and <u>RPC</u> 3.2); <u>In re Burro</u>, 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 (<u>RPC</u> 1.16(d)); and cooperate with the ethics investigation (<u>RPC</u> 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 <u>In re Abasolo</u>, 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 <u>RPC</u> 1.1(a) and <u>RPC</u> 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 <u>RPC</u> 1.4(b)).

In addition, we considered the aggravating and mitigating factors. In aggravation, respondent received an admonition, in February 2017, for similar misconduct in an immigration matter, including lack of diligence and failure to communicate. The grievance in that matter was filed in December 2014 and docketed in February 2015. In November 2016, when the Aslanov asylum representation commenced, respondent was on notice that his professional diligence and communication were under scrutiny due to the investigation resulting in the February 2017 admonition and, thus, he should have conformed his conduct to that required of New Jersey attorneys. <u>See, e.g., In re Furino</u>, 210

N.J. 124 (2012) (three-month suspension imposed, in a default matter, on attorney who ignored a letter from the DEC and failed to submit a written reply to a grievance; in aggravation, we considered that, at the time he received the grievance, he was "well aware that his inaction vis-à-vis the district ethics committee in two prior disciplinary matters was under scrutiny," yet, "he continued to evade and avoid the system;" prior reprimand and three-month suspension).

In further aggravation, there was demonstrable harm to Aslanov, because his immigration application was delayed for a period of at least one year, from the time Aslanov retained respondent in November 2016 to the time Wolfe finally received the file, sometime after December 2017. We have consistently viewed immigration as an inherently sensitive field of law. <u>See, e.g., In re Ruiz-Uribe</u>, 242 N.J. 155 (2020), and <u>In the Matter of Douglas Andrew Grannan</u>, DRB 20-236 (June 2, 2021). Also, although respondent was retained to file the application, failed to do so, and kept the \$500 fee. Thus, respondent's prior admonition, coupled with the significant harm to Aslanov in an immigration matter, requires enhancement of the admonition to a reprimand.

In mitigation, respondent expressed remorse and contrition, readily admitted and apologized for his misconduct, and entered into a factual stipulation before the hearing. He also performs <u>pro bono</u> legal services for

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immigrant clients.

On balance, however, the mitigation is insufficient to reduce the discipline, and a reprimand remains the quantum of discipline necessary to protect the public and preserve confidence in the bar.

Vice-Chair Gallipoli and Members Joseph and Zmirich voted to impose a censure because, in their view, the record contained clear and convincing proof that respondent violated <u>RPC</u> 8.4(c).

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 <u>R.</u> 1:20-17.

> Disciplinary Review Board Bruce W. Clark, Chair

Thanka Bala Ames By:

Johanna Barba Jones Chief Counsel

## SUPREME COURT OF NEW JERSEY DISCIPLINARY REVIEW BOARD VOTING RECORD

In the Matter of Sergei Orel Docket No. DRB 20-264

Argued: February 18, 2021

Decided: July 6, 2021

Disposition: Reprimand

Members	Reprimand	Censure
Clark	Х	
Gallipoli		Х
Boyer	Х	
Hoberman	Х	
Joseph		Х
Petrou	Х	
Rivera	Х	
Singer	Х	
Zmirich		Х
Total:	6	3

Johanna Bala Jones

Johanna Barba Jones Chief Counsel