Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 22-018
District Docket No. IV-2019-0060E

In the Matter of	:
Christopher Michael Manganello	:
An Attorney at Law	:

Decision

Argued: April 21, 2022

Decided: August 1, 2022

Victoria S. Rand appeared on behalf of the District IV Ethics Committee.

Respondent appeared pro se.

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

This matter was before us on a recommendation for either a term of suspension or disbarment filed by the District IV Ethics Committee (the DEC). 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 a client); RPC 1.5(a) (fee overreaching); RPC 8.1(b) (failure

to cooperate with disciplinary authorities); 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, considering the Court's recent imposition of terms of suspension on respondent, we determine that, although respondent committed additional misconduct in this matter, no further discipline is required.

Respondent earned admission to the New Jersey and Pennsylvania bars in 1998. At all relevant times, he maintained a law practice in Pitman, New Jersey.

On May 19, 2017, respondent was censured for his violation of RPC 1.3; RPC 1.4(c) (failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions about the representation); RPC 1.5(b) (failure to set forth in writing the basis or rate of the legal fee); RPC 1.16(d) (failure to return the client's file); RPC 3.2 (failure to expedite litigation); and RPC 8.4(c). In re Manganello, 229 N.J. 116 (2017) (Manganello I). In that case, respondent was retained to represent a client who had doubts whether her son had died, decades earlier, following his birth. Respondent agreed to obtain a court order to exhume the remains, seek medical records, and arrange for DNA testing. Respondent failed to take any action in furtherance of the representation, yet, misrepresented to his client that he would shortly be able

to provide her with the closure she desperately sought. We determined to impose a censure "[b]ased on the vulnerability of the client, the sensitive nature of the representation, and the economic harm to the client." In the Matter of Christopher M. Manganello, DRB 16-382 (January 26, 2017) at 7.

On April 8, 2022, in consolidated default matters,[1] respondent was suspended for six months, effective May 9, 2022, for his violations of RPC 1.1(a); RPC 1.3; RPC 1.4(b); RPC 8.1(b); and RPC 8.4(c). In re Manganello, 250 N.J. 359 (2022) (Manganello II). In one client matter, respondent accepted a $3,500 retainer to review medical records, to obtain an expert medical report, and to advise his client regarding a potential medical malpractice action. Respondent also sent a letter to a potential defendant beyond the applicable statute of limitations; failed to return the client's telephone calls or reply to requests for information; and misled the client to believe his litigation could proceed, despite respondent having allowed the statute of limitations to run.

In the second client matter, respondent accepted $1,300 to file a bankruptcy petition on his client's behalf, but never performed the work; falsely assured his client that her case was proceeding; and failed to communicate with his client. In both matters, respondent failed to cooperate with disciplinary

[1] We denied respondent's motions to vacate the defaults (MVD) in both matters.

authorities. In determining to impose a six-month suspension, we emphasized the fact that respondent had abandoned both of his clients, had failed to learn from his past mistakes, and had defaulted. In the Matters of Christopher Michael Manganello, DRB 20-108 and 20-109 (March 29, 2021) at 21-22. The Court also required respondent to disgorge his entire fee in both client matters.

Also on April 8, 2022, in connection with two additional matters, the Court suspended respondent for a consecutive one-year term, effective November 9, 2022, for his violations of RPC 1.1(a), RPC 1.3; RPC 1.4(b); RPC 1.5(a); RPC 1.5(b); RPC 1.16(d) (failing to protect a client's interests upon termination of representation); RPC 8.1(b); and RPC 8.4(c). In re Manganello, 250 N.J. 363 (2022) (Manganello III). In one matter, respondent accepted a fee to file a motion in his client's custody case, and thereafter failed to file that motion. In the other client matter, respondent took a $4,000 fee from the client to assist her with a mortgage modification and to defend against the sheriff's sale of her home. Respondent falsely represented to his client that he filed a lawsuit to prevent her from losing her home; ultimately, she was evicted. Respondent stopped communicating with the client and refused to return her file. In determining to impose a one-year suspension, we noted that respondent had failed to learn from his past mistakes, stating that "this pair of cases is part of respondent's broader pattern of client neglect, followed by a disregard of the

disciplinary system when it attempts to address his original misconduct." In the Matters of Christopher Michael Manganello, DRB 20-199 and 20-235[2] (April 6, 2021) at 31.

We now turn to the facts of this matter.

Respondent was retained by the grievant, Joseph P. Pizzoli, and his wife, to recover an unpaid loan of approximately $23,000 owed to them by the their step-daughter and son-in-law. The Pizzolis paid respondent a flat fee of $2,500 toward the representation. On July 2, 2018, respondent sent a confirming e-mail to the Pizzolis, describing the scope of the representation and the fee.

On September 12, 2018, respondent filed a civil complaint against the debtors on behalf of the Pizzolis, captioned Pizzoli v. McGovern, Docket No. CAM-L-3427-18, in the Superior Court of New Jersey, Camden County, Law Division.[3] Approximately four months later, on January 25, 2019, the court issued a lack of prosecution notice, stating the complaint would be dismissed on March 26, 2019 unless the plaintiff complied with R. 1:13-7[4] and R. 4:43-2.[5]

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[2] DRB 20-235 came before us as a default. We denied respondent's MVD.

[3] Although the complaint was dated July 27, 2018, the eCourts civil case jacket indicated that the complaint was filed on September 12, 2018.

[4] R. 1:13-7(c) delineates the required events that would prevent dismissal for lack of prosecution. Specifically, the Rule provides that a dismissal order will not be entered if: (1) proof of service is filed with the court; (2) an answer is filed; (3) a default judgment is obtained; or (4) a motion is filed by or with respect to a defendant noticed for dismissal.

[5] R. 4:43-2 governs motions for final judgment by default.

Subsequently, on March 30, 2019, Pizzolis' case was dismissed for lack of prosecution.

During the ethics hearing, Joseph Pizzoli testified that respondent never advised him that the complaint was at risk of dismissal. In fact, according to Pizzoli, respondent led him to believe that the trial court had scheduled a March 26, 2019 hearing. Pizzoli testified he had planned to attend the hearing and, on March 11, 2019, in anticipation of the hearing, provided respondent with supporting documents, including credit card bills and a spreadsheet. Pizzoli testified that he was on his way to the courthouse when respondent contacted him and said that his appearance was not required.

Following what he believed was the March 26 court hearing, Pizzoli repeatedly attempted to contact respondent and requested that respondent provide him with a copy of the "signed judgment." On April 23, 2019, nearly a month after his case had been dismissed, Pizzoli again asked respondent for a copy of the judgment and inquired regarding what steps respondent had taken to "begin collection." Respondent failed to inform Pizzoli that the complaint had been dismissed. Receiving no response, in late April, Pizzoli called the Superior Court and learned that his civil action had been dismissed. When Pizzoli confronted respondent regarding the dismissal, respondent claimed it was

dismissed due to a mistake by the court. Thereafter, Pizzoli sent multiple e-mails to respondent seeking additional information, to no avail.

In one e-mail, dated May 13, 2019, nearly two months after the complaint had been dismissed, Pizzoli stated:

> Chris, after informing you in late April that my case had been dismissed on March 30, 2019 you advised me via phone that the [c]ourt dismissed my case by mistake and that you would "take care of it." As of May 10th, the case is still listed as dismissed.
>
> Since then, I haven't had a reply to my phone calls or emails. I'm obviously concerned about my case.
>
> Please forward the following by Friday, May 17, 2019. 1) Copy of motion to reopen my case and enter judgment. 2) Original proof of service.
>
> Thank you.
>
> [ExP2p24;1T51.][6]

Respondent failed to respond to Pizzoli's e-mail.

Dissatisfied by his inability to reach respondent, Pizzoli hired another attorney, Warren Wolf, Esq., to assist him in communicating with respondent. Pizzoli testified that he "hired Mr. Wolf, since I was so frustrated with all the nonresponses from [respondent] over months and months and months and phone

[6] "ExP" refers to the presenter's exhibits entered into evidence on April 23, 2021.
"1T" refers to the April 23, 2021 hearing transcript.
"3T" refers to the August 20, 2021 hearing transcript.

calls and phone calls. I felt I needed some legal expert advice as to how to get [respondent] to do the job" he was paid to do.

On June 6, 2019, more than two months after the complaint had been dismissed, and following repeated e-mails from both Pizzoli and Wolf, respondent filed a motion to reinstate the complaint. In support of the motion, respondent submitted a certification stating only that "[p]laintiffs fully intend to prosecute this matter," without addressing any of the requirements of R. 1:13-7.[7] Further, respondent served the motion on the defendants without providing a hard copy to the court, as expressly required by the June 28 and December 6, 2017 notices to the bar issued by the Honorable Glenn A. Grant, J.A.D., Acting Administrative Director, Administrative Office of the Courts.[8]

On July 12, 2019, the Honorable Steven J. Polansky, P.J.Cv., denied respondent's motion to reinstate. The order expressly stated that the motion was denied "for failure to provide the Court with a paper courtesy copy," and attached a copy of the applicable notice to the bar.

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[7] The motion to reinstate was not included in the record. This information, however, was available via New Jersey eCourts.

[8] See Notice to the Bar, "eCourts Civil – Courtesy Copies of Electronically Filed Motions" Hon. Glenn A. Grant, Acting Administrative Director of the Courts (June 28, 2017); Notice to the Bar, "eCourts Civil – Reminder - Courtesy Copies of Electronically Filed Motions" Hon. Glenn A. Grant, Acting Administrative Director of the Courts (December 6, 2017).

On July 16, 2019, Pizzoli sent an e-mail to respondent summarizing their earlier conversation, in which respondent had told him the motion was denied "due to the fact [respondent] did not submit a copy of service." Pizzoli requested that respondent provide further explanation because, from his perspective, the motion was denied "due to [respondent] not following proper procedure." Despite Pizzoli's repeated requests, respondent never provided an explanation.

On August 9, 2019, Pizzoli wrote to respondent summarizing an earlier telephone call, stating:

> Here's my understanding of our phone call this morning.
>
> - We will talk again 8/14 at 10:00 a.m.
> - All documents are scheduled to be signed August 30th or sooner.
> - You will email me a copy all docs being submitted today.
> - [Defendants] have both been served.
>
> Let me know if you agree with the above.
>
> [ExP2p42.]

Respondent failed to reply.

On August 28, 2019, respondent filed a second motion to reinstate the complaint.[9] In support, respondent again certified that he "fully intended to

[9] The second motion to reinstate was filed on August 28, 2019, notwithstanding the motion

(footnote cont'd on next page)

prosecute this matter," but failed to certify that he had effectuated or attempted to effectuate service on the defendants. Further, respondent again failed to serve a hard copy of the motion upon the trial court, despite his awareness that the first motion had been denied due to that deficiency. Thus, on September 13, 2019, Judge Polansky denied respondent's motion to reinstate, for the second time, for failure to provide the court with a courtesy copy.[10] Respondent failed to inform the Pizzolis that the second motion to reinstate had been denied.

From September 13, 2019, when the court denied respondent's second motion to reinstate, through October 22, 2019, respondent repeatedly ignored Joseph Pizzoli's increasingly frustrated requests for a status update. Below is a sampling of the e-mails Pizzoli sent to respondent:

> **September 13, 2019**: "Once again, no call when you said you would. What happened in court today? What is the problem?"
>
> **September 16, 2019**: "After no call Friday, again, you called me this morning to tell me you should have a copy of the signed order today and you would call me and send me a copy. Again, no call or copy today. Question, was the order actually signed Friday? It's very frustrating being kept in the dark, waiting for you to call and don't [know] about what's happening when court dates come and go."

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having been dated July 17, 2019. Like the first motion, the second motion to reinstate was not part of the record. This information was obtained from eCourts.

[10] Based on a review of eCourts, there has been no further activity in the Pizzolis' civil action.

September 18, 2019: "Returned your missed call twice. Call me back. Again, what happened on Friday. Did the judge say he would sign? I would like to know.

September 18, 2019: "Chris, still waiting for your call. Is it signed, where's my copy?"

September 19, 2019: "Are you calling me?"

September 20, 2019: "Calling me? Is it signed?"

September 21, 2019: "Once again, you promise to call and let me know what's going on with my case. Once again, no call. Once again, it's the court's fault. Once again, call me and send me the signed documents."

September 23, 2019: "Still waiting for your call. Why haven't you called me? Is it signed? When will it be reflected on the record?"

September 26, 2019: "I need an update on my case."

September 30, 2019: "Any idea when you might find time to let me know what's going on with my case?"

October 16, 2019: "Didn't hear back from you yesterday. I emailed you asking if my case has been reinstated and if the order has been signed. You also didn't answer on either. Why can't you answer me? Please let me know what's going on. It's been 15 months since you've had this case and my $2,500 dollars and I see nothing accomplished."

October 21, 2019: "Still haven't received answers to the following: 1) is my case reinstated? If so, send copy of reinstatement. 2) Do we have a signed order? If so, send copy of same. 3) What are we trying to accomplish with the upcoming meeting? I want to be sure I can

> adequately prepare. 4) Haven't heard back as promised re new date/time for meeting.
> [ExP2pp45-57.]

Other than making a few promises that he would call Pizzoli or would schedule a meeting, respondent failed to substantively reply to Pizzoli's requests for information and failed to inform Pizzoli that the complaint was still dismissed.

On October 22, 2019, Pizzoli terminated the representation, stating:

> Chris, with your continued non-reply to my most basic questions regarding my case, I find it necessary to inform you to immediately stop all work on my case. Also, I want my $2,500 fee returned immediately. If you feel it necessary to communicate with me it should be in the form of an email[.]
>
> [1T58-1T59;ExP2p55.]

Almost immediately, respondent replied to Pizzoli's e-mail, stating that he would call the following day. A few minutes later, respondent again wrote to Pizzoli, confirming, for the first time, that the case had not been reinstated and that, "we need to meet as I mentioned before so that we can finalize a [c]ertification for your signature. Please confirm your availability to meet this week." Respondent ignored Pizzoli's demand that he immediately stop working on the case.

Respondent refused to refund to the Pizzolis the $2,500 legal fee, despite their repeated requests. The Pizzolis, thus, instituted fee arbitration proceedings

and, on August 12, 2020, respondent agreed to provide a full refund, which he paid.

Joseph Pizzoli testified that, over the course of the representation, he repeatedly but unsuccessfully attempted to communicate with respondent to obtain information regarding the lawsuit. Pizzoli's e-mails and call log, which were introduced into evidence, demonstrate one-sided communication whereby Pizzoli repeatedly and frequently sought status updates from respondent, and to which respondent rarely replied. When respondent did reply, his reply generally lacked any substance and failed to address Pizzoli's questions. Further, the call log and e-mails reflected lengthy delays spanning, at times, thirty or more days, during which periods respondent simply ignored Pizzoli's requests for information.

Pizzoli explained that, in his view, had the case properly been handled, he would have obtained a judgment in his favor. Pizzoli also testified that, throughout the representation, respondent misled him regarding the status of the case.

In defense of his actions, respondent testified that he had twice, albeit unsuccessfully, attempted to serve the complaint upon the defendants. Respondent claimed that he informed Pizzoli that the complaint was scheduled for administrative dismissal, but Pizzoli was unconcerned because the debtors

were making payments. Respondent acknowledged having received Pizzoli's e-mails that suggested they had not communicated but testified that he routinely and promptly called Pizzoli. According to respondent, Pizzoli never suggested, during their telephone conversations, that he was unhappy with the representation.

Concerning the dismissal of the complaint, respondent testified that Pizzoli had learned about the order of dismissal prior to respondent receiving the order, but that they discussed a path forward and determined to move for reinstatement. Respondent testified that, despite the language contained in the trial court's denial order, his wife had delivered a paper copy to the court.[11] Respondent continued:

> And the reason we knew to do that is because precisely the same thing had happened on a separate case around the same time, just before, where a - - and I was not familiar with that – the administrative promulgation from the AOC that now that we have the virtual filings, this was – this was, I think, pre COVID, right? But around the time we started filing things electronically I was not aware that a hard copy had to be sent, and I still – I think maybe that's perhaps an individual chambers decisions.
>
> [3T54-3T55.]

[11] Respondent's wife did not testify at the hearing.

Respondent testified that he was, therefore, surprised when he received the court's order denying the motion and told Pizzoli that the court had made a mistake, but that he would get it rectified. Respondent also testified that he never misrepresented the status of the case to Pizzoli and always communicated with him.

The formal ethics hearing underlying this matter was scheduled to commence on January 12, 2021. According to the November 5, 2020 case management order (CMO), the parties agreed to exchange exhibits and to provide copies to the panel chair no later than November 22, 2020. The CMO also stated that the DEC secretary would provide respondent with a copy of the presenter's investigative report. The next prehearing conference was scheduled for December 3, 2020, at which time the parties would mark and stipulate to exhibits.

The second case management conference was held on December 3, 2020. Respondent, for the first time, represented that he would be retaining counsel, no later than December 11, 2020, and requested that the conference be rescheduled. Based on respondent's representation, the prehearing conference was rescheduled for January 7, 2021, and the January 12, 2021 hearing date was postponed.

On January 7, 2021, the third prehearing case management conference

took place. Respondent stated that he was still in the process of retaining counsel. Respondent also advised he would produce his pre-marked exhibits to all parties by January 8, 2021. The parties agreed upon new hearing dates, in March 2021.

On April 23, 2021, the formal ethics hearing commenced before the DEC hearing panel. Despite having obtained two adjournments so that he could hire counsel, respondent never did so. He submitted no pre-marked exhibits in advance of the hearing. Respondent sought an adjournment of the hearing, however, claiming that he had received the presenter's investigative report only twenty-four hours earlier, and that it was missing three exhibits. Respondent further claimed that, although the November 5, 2020 CMO provided for its production, he did not realize that he had not yet received it until the day prior. Respondent asserted that the investigative report contained information not recited in the complaint and, thus, he needed additional time to prepare to properly defend himself. Respondent argued:

> There is no prejudice whatsoever that will be suffered by any party to this matter if I'm given an opportunity to competently and appropriately address the allegations contained in the investigative report, all of which touch upon the substantive allegations in the complaint, and all of which bear upon the credibility of the grievant in this matter.
>
> [1T18.]

Over the objection of the presenter, the panel chair partially granted respondent's adjournment request. Specifically, the hearing commenced to allow the presenter to present her case-in-chief, her exhibits, and the testimony of Joseph Pizzoli. Respondent, however, was allowed to reserve any cross-examination and the presentation of his case-in-chief until the next hearing date. Respondent also was given an additional two weeks, until May 3, 2021, to submit his pre-marked exhibits to the panel chair and presenter. The hearing was then adjourned to May 24, 2021.

One month later, on May 24, 2021, an hour prior to when the hearing was scheduled to reconvene, respondent represented to the hearing panel chair that he was ill and unable to participate. The May 24, 2021 CMO expressly stated that respondent's adjournment request was made "for the sole purpose to allow the [r]espondent to cross-examine the [g]rievant only, and to avoid the respondent appealing the [DEC's] recommendations" on the basis of lack of due process. The hearing was adjourned to January 2022.

On August 20, 2021, however, the hearing resumed sooner than anticipated by the May 24, 2021 CMO. At this time, respondent cross-examined Pizzoli and testified on his own behalf. Respondent presented no other witnesses or documents in his defense. At the conclusion of the testimony, respondent did not present a summation but, instead, requested to submit a written summation

following his receipt of the transcript. The panel chair granted the request and required that written summations be provided by October 4, 2021. Despite having been provided the transcript, at his request, respondent failed to submit a written summation.

Based upon the testimony and evidence presented, the DEC found, by clear and convincing evidence, that respondent violated RPC 1.1(a); RPC 1.3; RPC 1.4(b); RPC 1.5(a); RPC 8.1(b); RPC 8.4(c); and RPC 8.4(d). Specifically, the DEC concluded that respondent grossly neglected the Pizzolis' case by failing to take any reasonable or affirmative steps to advance the litigation; had failed to serve the defendants, resulting in the dismissal of the complaint for lack of prosecution; and had failed to successfully reinstate the complaint. Respondent's failure "disabled the [g]rievants from their ability to collect on a debt from the defendants." Further, in the DEC's view, the uncontroverted evidence demonstrated that respondent had failed to keep the Pizzolis reasonably informed about the status of the litigation or to comply with their reasonable requests for information.

The DEC also determined that respondent violated RPC 1.5(a) by charging $2,500 to enforce the collection of a debt, yet, failing to reinstate the complaint once dismissed, and then refusing to refund the fee to the Pizzolis. The DEC noted that a "flat fee of $2,500 in the geographic area … is reasonable"

for the services that should have been rendered, but that respondent's failure to return the fee, until compelled to do so by a fee arbitration determination, after having not performed those services, was unreasonable.

Concerning the RPC 8.1(b) charge, the DEC found that respondent failed to cooperate with the underlying investigation but cited no evidence other than the presenter's summation.[12] The DEC also determined that respondent's conduct in connection with the ethics hearing constituted a failure to cooperate with disciplinary authorities, in violation of the Rule. Specifically, the DEC noted that respondent failed to submit any hearing exhibits despite his repeated adjournment requests to do so; never hired an attorney despite seeking two adjournments to permit him to do so; and requested additional time to submit a written summation with the benefit of the transcript, yet, failed to submit one. "In this instance, the [r]espondent knowingly failed to respond to his requests to assist his case. The delay tactics are a reverse refusal to comply with what he alleged he needed to defend the [g]rievant's allegations."

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[12] In her written summation, the presenter stated:

> In his answer to the complaint, respondent admitted that he was served with the grievance via certified mail for which he signed. He further admitted that he asked for additional time to respond to the grievance. He denied failing [to] cooperate with the investigator. However, he produced no evidence at the hearing of having done so as there is none. Therefore, [r]espondent has violated RPC 8.1(b).
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> [ExC11p6.]

The DEC determined that respondent violated RPC 8.4(c) based upon his cross-examination of the grievant concerning the telephone logs that were admitted into evidence, and the confusion he created, during the hearing. "The confusion created during cross examination was constructively deceitful." Additionally, the DEC noted that e-mails exchanged between respondent and Joseph Pizzoli misrepresented the status of the default judgment, also violative of RPC 8.4(c).

Finally, the DEC determined respondent violated RPC 8.4(d) by failing to take reasonable steps to effectuate service of the complaint upon the defendants and causing the dismissal of Pizzolis' complaint. Further, respondent produced no evidence supporting his position that the reason he did not seek reinstatement was because the Pizzolis were satisfied that the debtors were making payments. If that were the case, the DEC reasoned, respondent would have memorialized the payments in writing, drafted a settlement agreement or release, a consent order, or a letter terminating the collection efforts. Instead, "[t]here is simply no communication whatsoever from this [r]espondent to the [g]rievants despite the [r]espondent's testimony that since payments were being made, the [g]rievants were satisfied with the [r]espondent's failure to perform."

The DEC recommended either a term of suspension or a disbarment, asserting that enhanced discipline was appropriate based upon respondent's

prior encounters with the disciplinary system involving similar misconduct, and the absence of any mitigating factors, The DEC cited In re Kivler, 193 N.J. 332 (2008) (failure to cooperate with disciplinary authorities is an aggravating factor meriting enhanced discipline), and In the Matter of Ralph Alexander Gonzalez, DRB 21-117 (November 30, 2021) (in the absence of any aggravating factors, a term of suspension is unnecessary). The DEC recommended that any term of suspension run consecutive to any unrelated suspensions.

Respondent did not provide a written submission to the Board by the April 6, 2022 deadline. However, on April 20, 2022, respondent sought an adjournment of the April 21, 2022 oral argument based upon (1) his recent receipt of the full file in this matter, which he claimed to have received from the Office of Board Counsel on April 12, 2022, and (2) his recent receipt of the Court's April 5, 2022 Orders imposing a global, eighteen-month suspension. On April 20, 2022, the Board denied respondent's request on the basis that respondent already possessed the entire record, having participated in the formal ethics hearing, and further, he had been aware of the pendency of his other disciplinary matters, which were decided by the Board in 2021.

During oral argument before us, respondent acknowledged that he had failed to communicate with his client such that his client would understand the nature of the proceedings, and that he should have taken steps to ensure that the

complaint had been served upon the defendants. Respondent, however, continued to argue that his clients were not harmed because they had been receiving payments toward the outstanding debt. In response to our questioning, however, respondent agreed that he should be disciplined for his misconduct, in the form of censure. Respondent requested, however, that we permit him the opportunity to present character evidence on his own behalf prior to rendering our decision. Following oral argument, on April 25, 2022, we denied respondent's motion on the basis that he had ample opportunity to present any mitigating evidence, including character evidence, during the formal ethics hearing.

The DEC did not submit a brief for our consideration but, during oral argument, reiterated that respondent had grossly neglected his clients, and had demonstrated a profound disrespect for the process, misconduct deserving severe discipline.

Following a de novo review of the record, we are satisfied that the DEC's finding that respondent's conduct was unethical is fully supported by clear and convincing evidence, and find that respondent violated RPC 1.1(a), RPC 1.3; RPC 1.4(b); and RPC 8.4(c). We determine, however, that, contrary to the findings of the DEC, the evidence does not clearly and convincingly support the charged violations of RPC 1.5(a), RPC 8.1(b), and RPC 8.4(d).

Specifically, respondent committed gross neglect and lacked diligence, in violation of RPC 1.1(a) and RPC 1.3, by accepting a fee to assist the Pizzolis' collection of a debt, and then failing to effectuate, or even attempt to effectuate, service upon the defendants, resulting in the dismissal of his client's case. For more than two months, respondent failed to take any formal action to reinstate the complaint. Respondent eventually filed a motion to reinstate. However, as a result of his failure to serve a courtesy copy upon the trial court, that motion was denied. Respondent took no further action until August 28, 2019, when he filed a second motion to reinstate the complaint. Respondent, again, however, failed to cure the fundamental service defect that had resulted in the denial of his first motion, and the motion was denied.

Had respondent acted with diligence, he could have effectuated service upon the defendants; avoided the dismissal of the complaint; and moved toward obtaining a judgment in his client's favor. Instead, respondent did nothing, allowing the complaint to be dismissed, and then failing to timely inform his client that the motions to reinstate had been denied. Respondent's gross neglect forced his clients to retain other counsel, at their own expense, to attempt to spur respondent to action.

Respondent failed to communicate with the Pizzolis, failed to inform them that their case had been dismissed, and subsequently lead them to believe that

their matter would be reinstated, in violation of RPC 1.4(b). The record is replete with evidence that respondent ignored the clients' requests for information and, often, weeks would pass before he returned his clients' e-mails or telephone calls.

Respondent also repeatedly misrepresented the status of the case to the Pizzolis. First, he falsely claimed the complaint was dismissed as the result of the court's error, rather than acknowledging the complaint had been dismissed due to his own failure to effectuate service. Respondent next misrepresented that the first motion to reinstate was denied due to a service issue, rather than advising his clients that he had failed to serve a courtesy copy upon the motion judge that resulted in the motion's denial. Respondent subsequently misled his clients into believing that a second motion to reinstate had been filed, before respondent had actually done so. Last, for more than a month, respondent refused to inform his clients that the second motion to reinstate had been denied. Respondent's repeated acts of dishonesty, deceit, and misrepresentation were violative of RPC 8.4(c).

Contrary to the DEC's finding, however, we determine that respondent did not violate RPC 1.5(a) by accepting a $2,500 fee from the Pizzolis. First, the record lacks any analysis of the eight factors set forth in RPC 1.5(a). Thus, we cannot conclude, on this record, that, had respondent performed the work for

which he had been retained, the fee charged would have been unreasonable. Indeed, the DEC specifically stated in its report that a "flat fee of $2,500 in the geographic area … is reasonable." Rather, the DEC heavily weighed the fact that respondent failed to return the unearned portion of the fee, until required to do so via fee arbitration. Such conduct would support a violation of RPC 1.16(d), which was not charged, but cannot support the RPC 1.5(a) charge. Therefore, in the absence of clear and convincing evidence, we determine to dismiss this charge, as we have done in prior cases, including Manganello III. See In the Matter of Christopher Michael Manganello, DRB 20-199 and 20-235 (April 6, 2021) at 23, so ordered, 250 N.J. 363 (2022). See also In the Matter of Brian LeBon Calpin, DRB 21-082 (September 27, 2021) at 9-10 (final discipline pending with Court); In the Matter of Dennis Aloysius Durkin, DRB 19-254 (June 3, 2020) at 29-30 (dismissing RPC 1.5(a) charges where the record lacked clear and convincing proof of unreasonableness as established through the eight-factor balancing test of that Rule), so ordered, 243 N.J. 452 (2020).

Further, we determine that the presenter did not establish an RPC 8.1(b) violation by clear and convincing evidence. That Rule requires that a lawyer cooperate with disciplinary authorities. In this case, the complaint alleged that respondent had stopped communicating with the ethics investigator and failed to respond to the grievance, an allegation that respondent denied in his verified

answer. The presenter introduced no additional testimony or evidence at the hearing.

Although the DEC determined that respondent's continuous and prolonged delay tactics during the formal ethics hearing constituted a violation of RPC 8.1(b), we cannot consider such subsequent, uncharged conduct to support a finding of a violation of this Rule as charged in the complaint. See R.1:20-4(b); In re Roberson, 210 N.J. 220 (2012). Thus, in the absence of clear and convincing evidence that respondent failed to answer the grievance or otherwise participate in the underlying ethics investigation, we dismiss this charge.

Likewise, although respondent accepted a fee from the Pizzolis and then largely abandoned his matter, we determine to dismiss the RPC 8.4(d) charge. Although respondent's gross neglect and lack of diligence in his handling of the Pizzoli matter resulted in the dismissal of the complaint, it cannot be said that respondent's conduct was prejudicial to the administration of justice. Such misconduct may have constituted a violation of RPC 3.2, but that Rule was not charged in this matter. Furthermore, in our view, respondent's misconduct is adequately addressed by the other sustained charges.

In sum, we find that respondent violated RPC 1.1(a); RPC 1.3; RPC 1.4(b); and RPC 8.4(c). We determine to dismiss the RPC 1.5(a); RPC 8.1(b)

and RPC 8.4(d) charges. The sole issue remaining for our determination 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 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 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 the accrual of $40,000 in interest and the imposition of 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)); to return the client file upon termination of the representation (RPC 1.16(d)); and to 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 expressed remorse and had suffered a stroke that forced him to cease practicing law); In re Abasolo, 235 N.J. 326 (2018) (reprimand for attorney who grossly neglected and lacked diligence in a personal injury 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)).

A censure may be appropriate in cases where an attorney's gross neglect, lack of diligence, and failure to communicate are accompanied by serious aggravating factors, such as the presence of additional, serious ethics

infractions, an egregious disciplinary history, severe prejudice to the client, or a lack of contrition. See In re Jaffe, 230 N.J. 456 (2017) (censure for an attorney, in two consolidated client matters, who violated RPC 1.1(a); RPC 1.3; RPC 1.4(b); RPC 1.16(d); RPC 8.1(b); and RPC 8.4(c) and (d); in the first client matter, the attorney failed to file an expungement petition for his client, despite his client's numerous attempts to obtain information regarding his case; following the client's termination of the representation, the attorney immediately filed with the court a deficient expungement petition, without his client's knowledge, that mispresented to the court that he still represented his client; in the second client matter, the attorney failed to diligently defend his client in a criminal matter, ignored numerous requests for information regarding the case, and failed to provide his client or replacement counsel with the client file; in aggravation, the attorney failed to cooperate with disciplinary authorities in the first client matter, repeatedly engaged in dismissive treatment toward his clients, and was previously reprimanded twice – the first time for gross neglect; lack of diligence; failure to communicate; and failure to cooperate with disciplinary authorities; and the second time for lack of candor to the tribunal).

Standing alone, misrepresentations to clients require the imposition of a reprimand. In re Kasdan, 115 N.J. 472, 488 (1989). A reprimand still may be imposed even if the misrepresentation is accompanied by other, non-serious

ethics infractions. See, e.g., In re Dwyer, 223 N.J. 240 (2015) (attorney made a misrepresentation by silence to his client, failing to inform her, despite ample opportunity to do so, that her complaint had been dismissed, a violation of RPC 8.4(c); the complaint was dismissed because the attorney had failed to serve interrogatory answers and ignored court orders compelling service of the answers, violations of RPC 1.1(a), RPC 1.3, and RPC 3.2; the attorney also violated RPC 1.4(b) by his complete failure to reply to his client's requests for information or to otherwise communicate with her; the attorney never informed his client that a motion to compel discovery had been filed, that the court had entered an order granting the motion, or that the court had dismissed her complaint for failure to serve the interrogatory answers and to comply with the court's order, violations of RPC 1.4(c)); In re Ruffolo, 220 N.J. 353 (2015) (knowing that the complaint had been dismissed, the attorney assured the client that his matter was proceeding apace, and that he should expect a monetary award in the near future; both statements were false, in violation of RPC 8.4(c); the attorney also exhibited gross neglect and a lack of diligence by allowing his client's case to be dismissed, not working on it after filing the initial claim, and failing to take any steps to prevent its dismissal or ensure its reinstatement thereafter, violations of RPC 1.1(a) and RPC 1.3; the attorney also violated RPC 1.4(b) by failing to promptly reply to the client's requests for status updates); In

re Falkenstein, 220 N.J. 110 (2014) (attorney led the client to believe that he had filed an appeal and concocted false stories to support his lies, a violation of RPC 8.4(c); he did so to conceal his failure to comply with his client's request that he seek post-judgment relief, violations of RPC 1.1(a) and RPC 1.3; because he did not believe the appeal had merit, the attorney's failure to withdraw from the case was a violation of RPC 1.16(b)(4); the attorney also practiced law while ineligible, although not knowingly, a violation of RPC 5.5(a)).

Thus, standing alone, the totality of respondent's misconduct in this single client matter would likely warrant a reprimand or censure. However, to craft the appropriate discipline in this case, we must consider any mitigating and aggravating factors.

There is no mitigation to consider.

In aggravation, respondent caused demonstrable harm to his clients, whose complaint was dismissed and, to date, has not been reinstated. The record does not reveal whether his clients have since fully collected on the debt and, thus, we are unable to quantify the extent of the harm to the Pizzolis. Nonetheless, the Pizzolis clearly were harmed by respondent's misconduct.

Further, this is respondent's sixth disciplinary matter before us, albeit our fourth decision as the result of our consolidation of Manganello II (DRB 20-108 and DRB 20-109) and Manganello III (DRB 20-199 and DRB 20-235). The

Court has signaled an inclination toward progressive discipline and the stern treatment of repeat offenders. In such situations, enhanced discipline is appropriate. See In re Kantor, 180 N.J. 226 (2004) (disbarment for abandonment of clients and repeated failure to cooperate with the disciplinary system).

To that end, and in view of its proximity to respondent's instant misconduct, a review of respondent's disciplinary timeline is appropriate. Particularly, we observe that some of the misconduct addressed in our March 29 and April 6, 2021 decisions overlaps with the misconduct in this matter, as described in detail below.

The 2017 censure we imposed in Manganello I for respondent's violations of RPC 1.3, RPC 1.4(b), and RPC 8.4(c) stemmed from conduct similar to the instant matter. There, respondent undertook representation of a client to exhume the remains of her deceased child, and then failed to take any steps in furtherance of that representation, despite his representations to the client that the case was nearly complete. Respondent and the OAE consented to the imposition of a censure for his neglectful handling of a matter involving a vulnerable client; although we considered, in mitigation, respondent's unblemished career and cooperation with the disciplinary proceedings, we determined that the aggravating factors warranted the enhanced discipline of a censure and the Court agreed.

On March 29, 2021, in Manganello II, we determined to impose a six-month suspension on respondent, in two default matters, for his gross neglect (RPC 1.1(a)); lack of diligence (RPC 1.3); and failure to communicate with his clients (RPC 1.4(b)), among other violations. The Court agreed. The misconduct in one client matter (the Hardy matter) occurred from April 2018 through July 2019, a date range that overlaps with the time period of respondent's misconduct in the instant matter. The misconduct in the second matter (the Giordano matter) occurred from approximately 2009 through 2019, perhaps also overlapping with the time period of the misconduct in this matter.[13] Moreover, the underlying ethics investigations commenced in or around August 2019, contemporaneous with the period of misconduct in the instant matter. Respondent defaulted in both matters, but the record clearly indicates that respondent received the grievances in August 2019, failed to respond, and was found to have violated RPC 8.1(b) as a result.

More recently, on April 6, 2021, in Manganello III, we considered two additional matters that were consolidated for our review. In that case, we determined to impose a consecutive one-year suspension for respondent's violations of RPC 1.1(a); RPC 1.3; RPC 1.4(b); RPC 1.5(a); RPC 1.5(b); RPC

[13] The Giordano grievance was dated July 12, 2019 and docketed August 21, 2019. However, the record in that default matter does not precisely indicate the dates of the misconduct, other than that it was ongoing.

1.16(d); RPC 8.1(b); and RPC 8.4(c). The Court agreed. The misconduct in one client matter (the Long/Behl matter) occurred from September 2016 through August 2017, and the complaint was filed in December 2018. This timeframe predates the period of misconduct in the instant matter and, thus, should have placed respondent on heightened awareness regarding his obligations as an attorney pursuant to the Rules of Professional Conduct. In the second consolidated client matter (the Conboy matter), the misconduct occurred from June 2018 through June 2019, when the underlying ethics investigation commenced. In determining to impose a consecutive one-year term of suspension, we weighed respondent's failure to learn from his 2017 censure, as well as his heightened awareness stemming from his prior defaults under Manganello II.

Here, we determine that additional discipline would serve no purpose. In at least two matters – the Hardy matter (Manganello II) and the Conboy matter (Manganello III) – the misconduct occurred during the same time frame as respondent's misconduct in the instant matter and was of the same nature. We determine that, had the instant matter been consolidated with the above-discussed matters for our review and imposition of a global sanction, the aggregate quantum of discipline – an eighteen-month suspension – would have been the same. Further, as we stated in our April 6, 2021 decision in Manganello

III, our determination to enhance respondent's discipline to a one-year, consecutive suspension was premised upon respondent's failure to reform his conduct despite his prior discipline and enhanced knowledge. Accordingly, the nature and timing of the facts underpinning the instant matter buttress our April 6, 2021 determination that "a one-year suspension consecutive to the six-month suspension imposed in [Manganello II], is the quantum of discipline necessary to protect the public and preserve confidence in the bar."

Accordingly, under these circumstances, we find that respondent violated RPC 1.1(a); RPC 1.3; RPC 1.4(b); and RPC 8.4(c), but determine that no additional discipline, beyond the terms of suspension recently imposed by the Court in connection with Manganello II and Manganello III, is required to protect the public and preserve confidence in the bar.

Chair Gallipoli and Member Rivera voted to recommend that respondent be disbarred.

Member Menaker voted to impose an eighteen-month concurrent suspension.

Member Petrou voted to impose a three-month concurrent suspension.

Member Joseph was absent.

Disciplinary Review Board
Hon. Maurice J. Gallipoli, A.J.S.C. (Ret.),
Chair

By: _____
Johanna Barba Jones
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Christopher Michael Manganello
Docket No. DRB 22-018

Argued: April 21, 2022

Decided: August 1, 2022

Disposition: No Additional Discipline

Members	No Additional Discipline	Three-Month Suspension	Eighteen-Month Suspension	Disbar	Absent
Gallipoli				X	
Boyer	X				
Campelo	X				
Hoberman	X				
Joseph					X
Menaker			X		
Petrou		X			
Rivera				X	
Singer	X				
Total:	4	1	1	2	1

Johanna Barba Jones
Chief Counsel