

Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 22-088
District Docket Nos. XIV-2021-0267E,
VI-2021-0901E, and VI-2022-0900E

In the Matter of
Ulysses Isa
An Attorney at Law

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Decision

Argued: July 21, 2022

Decided: September 26, 2022

Amanda W. Figland appeared on behalf of the Office of Attorney Ethics.

Mario M. Blanch waived appearance on behalf of respondent.

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

This matter was before us on a disciplinary stipulation between the Office of Attorney Ethics (the OAE) and respondent. Specifically, respondent stipulated to having violated RPC 1.3 (lack of diligence); RPC 1.5(b) (failure to set forth in writing the basis or rate of the fee); RPC 1.15(d) (failure to maintain

financial records required by R. 1:21-6); RPC 5.3(a) (failure to supervise nonlawyer staff); RPC 5.3(b) (failure of a lawyer having direct supervisory authority over a nonlawyer employee to make reasonable efforts to ensure that the conduct of the employee is compatible with the professional obligations of the lawyer); and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

For the reasons set forth below, we determine that a six-month suspension, with a condition, is the appropriate quantum of discipline for respondent's misconduct.

Respondent earned admission to the New Jersey bar in 2006. During the relevant timeframe, he maintained a practice of law in Union City, New Jersey.

Respondent was administratively ineligible to practice law for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection (the CPF) from September 28 through October 19, 2009; from September 12 through October 6, 2016; and from August 28, 2017 until his temporary suspension, on May 9, 2018, detailed below. Respondent also has been ineligible to practice law, since November 21, 2016, for his failure to comply with continuing legal education requirements.

Effective May 9, 2018, the Court temporarily suspended respondent for his failure to comply with a fee arbitration award. In re Isa, ___ N.J. ___ (2018).

On December 7, 2018, the Court imposed a three-month disciplinary suspension on respondent for his violations of RPC 1.1(a) (gross neglect); RPC 1.3; RPC 1.4(b) (failure to keep a client adequately informed and to promptly reply to the client's reasonable requests for information); RPC 1.5(b); RPC 1.15(d); RPC 1.16(c) (failure to comply with applicable law when terminating representation; unauthorized practice of law); RPC 8.1(a) (false statement of material fact in connection with a disciplinary matter); and RPC 8.1(b). In re Isa, 236 N.J. 587 (2018) (Isa I). As a condition of any reinstatement, the Court ordered that respondent must practice under the supervision of a practicing attorney approved by the OAE.

Effective July 17, 2019, the Court again temporarily suspended respondent from the practice of law, this time for his failure to cooperate with an OAE investigation of the instant matter, as detailed below. In re Isa, 238 N.J. 515 (2019).

On July 19, 2019, in another disciplinary matter, the Court found that respondent violated RPC 1.7(a)(1) (conflict of interest) and RPC 8.1(b). In re Isa, 239 N.J. 2 (2019) (Isa II). Pursuant to our recommendation, the Court did not impose further discipline for these violations in light of the timing and nature of the misconduct in respect of the disciplinary matter resulting in his three-month suspension.

On September 24, 2020, respondent received a censure for his violations of RPC 1.3; RPC 1.4(b); RPC 1.4(c) (failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation); RPC 1.16(d) (on termination of representation, failure to refund the unearned portion of the retainer); and RPC 8.1(b). In re Isa, 244 N.J. 265 (2020) (Isa III). As a condition precedent to reinstatement from his ongoing disciplinary suspension, the Court required respondent to provide to the OAE copies of all his New Jersey Lawyers Assistance Program (NJLAP) monitoring reports and proof of his fitness to practice law, as attested to by a mental health professional approved by the OAE. Respondent also was ordered to refund to his client the \$750 retainer and filing fees his client paid to him.

To date, respondent has not satisfied the conditions of the temporary suspensions nor the disciplinary suspension and has not applied for the reinstatement of his license to practice law.

Respondent and the OAE entered into a disciplinary stipulation, dated May 3, 2022, which sets forth the following facts in support of respondent's admitted ethics violations.

Respondent's Failure to Cooperate and Recordkeeping Deficiencies

On June 6, 2018, Adriana Gomez filed an ethics grievance against respondent, alleging that he failed to act diligently, failed to communicate with her, and forged her name on a check which he then negotiated. Approximately one month later, the OAE docketed the matter and assigned it for investigation.

On July 30, 2018, the OAE sent a letter to respondent at his office address, notwithstanding his May 9, 2018 temporary suspension, along with a copy of Gomez's grievance, directing a written reply by August 13, 2018. On August 21, 2018, the regular mail was returned to the OAE marked "Vacant," "Unable to Forward," and "Return to Sender." Consequently, on August 23, 2018, the OAE sent a letter to respondent, at his home address of record, directing a written reply to the ethics grievance by September 7, 2018. The certified mail was delivered on August 28, 2019. However, respondent did not provide a written reply to Gomez's ethics grievance.

Thus, on September 14, 2018, the OAE sent another letter to respondent, via certified mail, to his home address, directing a written reply to the ethics grievance. Respondent did not provide a written reply, although the OAE received the executed green card, which was signed by "Elvira Isa."

On January 4, 2019, the OAE sent a third letter to respondent, via certified mail, to his home address, directing that he provide a written reply to Gomez's

ethics grievance no later than January 18, 2019. The OAE again received a signed green card with the signature of “Elvira Isa,” but did not receive a written reply from respondent concerning the ethics grievance.

On May 1, 2019, due to respondent’s failure to cooperate with the OAE’s investigation, the OAE petitioned the Court for respondent’s temporary suspension from the practice of law. On July 17, 2019, the Court granted the OAE’s motion and temporarily suspended respondent, pursuant to R. 1:20-11. In re Isa, 238 N.J. 515.

Thereafter, on August 9, 2019, the Blanch Legal Firm contacted the OAE’s disciplinary investigator to advise that Mario M. Blanch, Esq., would represent respondent in connection with the ethics investigation. Thus, on August 22, 2019, the OAE sent a letter to Blanch and requesting respondent’s written reply to Gomez’s ethics grievance no later than September 7, 2019. On September 5, 2019, the OAE received respondent’s written reply, in the form of a signed, sworn affidavit.

On October 29, 2019, the OAE conducted a demand interview with respondent. During the demand interview, respondent referenced his personal circumstances and stated that he had been “ignoring things” as a result of his mental health struggles. Additionally, respondent acknowledged receipt of the OAE’s multiple letters directing a written reply to Gomez’s ethics grievance.

Also during the demand interview, respondent provided the OAE with an unsigned affidavit from A.C., a former office employee, which was not notarized; a signed affidavit from S.C., a second former office employee, which was not notarized; a letter respondent received from the NJLAP; and documents dating back to May 2017, which corroborated his personal circumstances.

On November 13, 2019, following the demand audit, the OAE wrote a letter to Blanch requesting further documentation, from July 1, 2017 through July 17, 2019, which was to be inclusive of contact information for respondent's office staff; a list of all of respondent's clients; bank records from July 1, 2017 through July 31, 2019; an explanation of the efforts respondent had made to determine what clients were affected by forged and re-deposited checks; and proof that those clients had been made whole. The OAE directed that respondent submit the information no later than December 13, 2019. When the OAE did not receive the information, it sent respondent another letter, on January 7, 2020, requesting a reply to its original November 13, 2019 letter. Respondent again failed to provide the requested information, thus, on January 24, 2020, the OAE investigator called Blanch. One week later, on January 31, 2020, Blanch told the OAE that he was going to send the requested information via overnight mail service.

On February 3, 2020, the OAE received from respondent a certification, dated January 31, 2020, in which he provided contact information for his former office staff.

Accompanying his certification, respondent provided bank records only from January 2018 through January 2019, but failed to provide the requested bank records from July 1 through December 31, 2017, as well as February 1 through June 30, 2019. Respondent also failed to provide copies of “deposit items and cancelled checks” from July 1, 2017 through July 17, 2019.

With respect to recordkeeping, respondent admitted that he failed to maintain copies of all retainer and compensation agreements with clients from July 1, 2017 through July 17, 2019. Additionally, respondent failed to maintain originals of all checkbooks with running balances and check stubs; bank statements; pre-numbered canceled checks; and duplicate deposit slips from July 1, 2017 through December 31, 2017, in addition to February 1, 2019 through June 30, 2019, violations of R. 1:21-6(c)(C) and R. 1:21-6(c)(G).¹

¹ With the exception of July 1, 2017 through August 28, 2017, respondent was ineligible to practice law during the timeframe for which the OAE requested documents. Additionally, effective May 9, 2018, respondent was temporarily suspended from the practice of law.

The Adriana Gomez Matter

On November 22, 2017, in Bergen County Superior Court, Express Recycling & Sanitation (Express Recycling) filed a complaint against Adriana Gomez for nonpayment. On December 28, 2017, Gomez filed a pro se answer to the complaint. Two months later, Gomez retained respondent to represent her in the Express Recycling litigation. Respondent did not provide Gomez with a written retainer agreement for the representation. Instead, on February 28, 2018, Gomez paid respondent \$100 by TD Bank check number 188. Thereafter, respondent provided Gomez with a receipt for check number 188, which stated, “Court representation in Superior Court” and “First Payment \$100.” The second and final \$100 payment from Gomez was due when respondent was scheduled to appear in court on her behalf.

The same date, Gomez’s TD Bank check number 188 was deposited in respondent’s personal Discover Bank account (Discover account).²

On April 24, 2018, the same \$100 check was re-deposited by someone in respondent’s Discover account; however, the check number had been

² Gomez’s initial \$100 payment was a retainer fee payment to respondent, which was not “property of clients” and was not required to be held in an attorney trust account. See In re Stern, 92 N.J. 611 (1983). However, R. 1:21-6(a)(2) requires an attorney to maintain a business account “into which all funds received for professional services shall be deposited. It does not appear from the record that respondent maintained an attorney business account; instead, he utilized his personal account for business purposes.

improperly altered from “188” to “198.” Two days later, Gomez filed a pro se affidavit of forgery and/or alteration with TD Bank with respect to check number 188. On May 22, 2018, Gomez’s check number 188 for \$100 was re-deposited a third time in respondent’s Discover account; however, the check number was improperly altered from “188” to “199.”

On July 31, 2018, in Union City Municipal Court, respondent was criminally charged with committing forgery, a violation of N.J.S.A. 2C:21-1(a)(1).³ The criminal complaint alleged that respondent committed forgery by twice altering Gomez’s TD Bank check, in order to deposit a total of \$300 in his personal bank account. On January 18, 2019, respondent’s criminal matter was dismissed after he agreed to repay Gomez and did so.

Additionally, Gomez stated to the OAE that she provided respondent with interrogatories that opposing counsel served upon her in the Express Recycling matter. On an unknown date thereafter, Gomez appeared in Bergen County Superior Court for the Express Recycling matter and was told by court personnel that she had failed to answer the interrogatories, that her pro se answer had been struck, on March 13, 2018, and that the court had entered a default judgment

³ N.J.S.A. 2C:21-1(a)(1) provides that a person is guilty of forgery if, “with purpose to defraud or injure anyone, or with knowledge that he is facilitating a fraud or injury to be perpetrated by anyone, the actor [. . .] [a]lters or changes any writing of another without his authorization.”

against her, on May 3, 2018. When Gomez called respondent about the case, he advised her that he would take care of it.

However, on May 21, 2018, Gomez filed a pro se notice of motion to vacate default in the Express Recycling matter. After counsel for Express Recycling objected to Gomez’s motion, Gomez wrote to the court that she had:

hired a lawyer to this matter, and this lawyer named Ulysses Isa. He didn’t any labor to this case and he did not let me know anything about this case. When I came to court he didn’t show up and this day I found out the judge made default to my cause.

[S¶57;Ex.32.]⁴

Thereafter, counsel for Express Recycling advised the court that his law office may have failed to properly serve Gomez and, thus, he consented to an order vacating the default judgment. On November 27, 2018, Gomez and Express Recycling agreed to a settlement and the matter was dismissed.

The Nury Nunez Matter

On March 6, 2018, Nury Nunez retained respondent to assist her with evicting a tenant for non-payment of rent and paid him \$1,000, via TD Bank check number 8050. On April 6, 2018, Nunez’s TD Bank check number 8050

⁴ “S” refers to respondent’s May 3, 2022 disciplinary stipulation.
“Ex.” refers to the exhibits appended to the May 3, 2022 disciplinary stipulation.

was deposited in respondent's personal Discover account. Eighteen days later – on April 24, 2018, the same date the Gomez check was improperly re-deposited in respondent's personal account – Nunez's \$1,000 check was improperly re-deposited in respondent's Discover account; however, the check number was altered from "8050" to "8071," along with an alteration of the date from "03/06/18" to "04/06/18." On May 14, 2018, the same \$1,000 check was improperly re-deposited a third time in respondent's Discover account; however, the check number had been altered from "8050" to "8080," along with an alteration of the date from "03/06/18" to "04/06/18." On June 2, 2018, the same \$1,000 was re-deposited a fourth time in respondent's Discover account, with a check number that was altered from "8050" to "8081," along with a date alteration from "03/06/18" to "05/06/18."

On February 8, 2019, the OAE confirmed with Nunez that she had written only one \$1,000 check to respondent, and that she did not authorize respondent to access any additional funds.

Respondent ultimately failed to provide Nunez any legal services in her landlord/tenant matter. Furthermore, respondent failed to refund Nunez any portion of the \$1,000 she paid to him on March 6, 2018 toward the representation and failed to refund any portion of the excess \$3,000 that was improperly drawn

from her account from April 24, May 14, and June 2, 2018, and deposited in respondent's Discover account.

The Marcos Arroyo Matter

On April 16, 2018, Marcos Arroyo retained respondent to write a letter concerning his desire to obtain a dealer's license.⁵ Arroyo paid respondent \$150 via ConnectOne Bank check number 223. The same date, check number 223 was deposited in respondent's personal Discover account. On April 24, 2018, the same date the Gomez and Nunez checks were improperly re-deposited in respondent's Discover account, Arroyo's ConnectOne Bank check number 223 was also improperly re-deposited in respondent's Discover account; however, the check number was altered from "223" to "227," along with an alteration of the date from "04/16/2018" to "04/18/2018."

On February 7, 2019, Arroyo confirmed to the OAE that he had written only one check to respondent and did not authorize respondent to access additional funds.

⁵ The record does not indicate what type of dealer's license Arroyo sought.

Respondent failed to refund the \$150 Arroyo paid him on April 16, 2018, or the additional \$150 that was improperly re-deposited in respondent's Discover account.

Respondent's Certifications and Mental Health

In his September 3, 2019 certification, respondent "vehemently" denied that he committed any forgery or improperly took any client funds. Rather, respondent stated that it would have been "virtually impossible" for him to engage in such criminal conduct because he was "suffering from a mental disability that prevented [him] from working." Respondent claimed that, from 2017 through 2019, he was suffering from "deep depression" and "was not running the law office at all."

Respondent stated that his three secretaries, A.C., S.C., and F.S., were "basically running [his] office." In order to run the office, respondent's secretaries were "depositing checks, withdrawing checks, writing checks on [his] behalf, including forging [his] signature to checks." Respondent stated that his secretaries also had access to his debit card and online banking account, and that he had given them his used iPhones in order to make electronic deposits.

When arrested by the Union City police, respondent claimed he had "no idea" why he was being arrested because he was "unaware of any forgeries."

Respondent asserted that he did not know who forged his clients' checks, but that he had:

[his] suspicions, but cannot verify the fact. I personally believe that [F.S.] was the person engaging in the thefts. I came to learn that she had a severe opioid addiction and stole cash receipts, my watch and other office supplies from the office. I also found that the office checks were being overdrawn. I realized this was happening when checks that I wrote started to bounce.⁶

[Ex.17¶10.]

Respondent attributed his inability to run his law practice to his mental illness because he was "incapable of dealing with 'life' in general."

However, respondent explained that, as of the date of his certification, he was under the care of a psychiatrist. Respondent stated that he was taking his prescribed medication and attending weekly therapy sessions, which, by letter dated July 8, 2019, his psychiatrist confirmed.

Respondent stated that, although he would never risk his freedom or law license "for such petty amounts of money," he took responsibility for the mismanagement of his law practice. Respondent claimed that he was working toward making the affected clients whole.

⁶ The record does not reflect that respondent filed any criminal charges against F.S. for forging his clients' checks. To the contrary, respondent's own criminal charges relating to the forgery of Gomez's checks were dismissed after he agreed to repay Gomez.

In respondent's January 31, 2020 certification, he provided the OAE with the names and contact information of the three individuals whom he employed.⁷ Respondent reiterated that, for "portions of that time frame," he was suffering from untreated mental disorders that complicated his ability to manage his law office. Respondent stated that, due to his untreated mental health during 2017 through 2018, he could not perform many tasks and therefore, could not provide the OAE with the client list it requested. Respondent reiterated that he was seeking employment in non-legal fields and "look[ed] forward" to making his clients whole "as soon as possible."

Respondent provided the OAE with an unsigned affidavit from A.C., his former office manager. In her affidavit, A.C. explained that she began working for respondent in May 2016. She observed that, in September 2017, respondent's personal circumstances began to deteriorate, which led to him moving back in with his parents.⁸ Thereafter, she "began to see less and less of him in the office" and, by the end of 2017, A.C. stated that respondent "even stopped answering

⁷ Respondent conceded that the contact information for F.S. was likely outdated. Indeed, the OAE used the telephone number respondent provided for F.S., but was unable to make contact.

⁸ Neither A.C.'s unsworn affidavit nor the disciplinary stipulation as a whole addressed how living with his parents impacted respondent's work or supervision of his office staff. Nor did either attempt to explain how respondent was well enough to take on new legal work for Gomez, Nunez, and Arroyo and accept legal fees for their representation, but was unable to provide them with legal services. Finally, no nexus was offered between respondent's mental illness and the improper deposit, and subsequent re-deposits, of his clients' checks in his Discover account.

his cell phone.” Eventually, A.C. had to leave respondent’s law practice for another employment opportunity, because respondent was not generating income to pay her.

A.C. explained her belief that “stealing small sums of money from clients is entirely out of [respondent’s] character” and that, at the time client checks were re-deposited into his personal account, respondent was home with his parents. A.C. stated that a childhood friend of respondent, F.S., wanted to be a part of respondent’s law office, but that due to the serious injuries F.S. sustained in an accident, combined with the pain medication F.S. took, there were times F.S. was unable to be of help. Nevertheless, F.S. volunteered to work for free, and consequently had access to respondent’s office cellular telephone and applications to manage the office. A.C. corroborated the information contained in the unsigned affidavit when the OAE interviewed her by telephone.

In her signed affidavit, S.C. stated that she met respondent in June 2017 when F.S. introduced her to him. S.C. explained that when A.C. had to take a leave of absence due to illness, respondent asked S.C. to work for him as a part-time office manager. Even after A.C. returned to the office, respondent asked S.C. to continue to work for him on a part-time basis.

While employed by respondent, S.C. observed that, by December 2017, “weeks would go by where [respondent] would not [go] to the office or even

answer his phone.” Just like A.C., S.C. was forced to find employment elsewhere because respondent could not pay her. S.C. also stated that F.S. volunteered to work for free, and that, consequently, F.S. was given the office cellular telephone and access to the office computers. S.C. stated her belief that, due to respondent’s personal circumstances, he “mismanaged his office, cases and his staff,” but maintained that she did not believe that respondent would commit theft of client funds.

Although the stipulation contains information regarding respondent’s misconduct and his mental health through January 31, 2020, the OAE was not able to provide us with any information regarding its investigation, or respondent’s mental health, after January 31, 2020.

Importantly, the OAE stated that, following its investigation in the Gomez, Nunez, and Arroyo matters, it did not find clear and convincing evidence that respondent negligently or knowingly misappropriated client funds, in violation of RPC 1.15(a); In re Wilson, 81 N.J. 451 (1979); and In re Hollendonner, 102 N.J. 21 (1985). Furthermore, the OAE’s investigation did not produce clear and convincing evidence that respondent was directly responsible for the repeated forgeries of the checks Gomez, Nunez, and Arroyo provided him for representation. The OAE noted that respondent and two of his prior secretaries certified that only F.S. worked for respondent during the year 2018,

and had access to his business and personal bank accounts. Moreover, respondent provided evidence that, during 2018, he suffered from a significant mental health condition, and was not properly supervising or managing F.S.

Based on the foregoing facts, respondent admitted that he violated RPC 1.3 in the Gomez matter by failing to file answers to interrogatories on her behalf, which resulted in the court entering a default judgment against her. Respondent also admitted that he violated RPC 1.5(b) by failing to prepare a written fee agreement for Gomez in her litigation with Express Recycling.

Additionally, respondent admitted that he violated RPC 1.15(d) by failing to comply with the recordkeeping provisions of R. 1:21-6. Specifically, he failed to maintain copies of all retainer and compensation agreements with clients from July 1, 2017 through July 17, 2019, a violation of R. 1:21-6(c)(C), and failed to maintain originals of his checkbooks, along with running balances and check stubs, bank statements, prenumbered canceled checks, and duplicate deposit slips from his Discover account from July 1 through December 31, 2017, as well as from February 1 through June 30, 2019, a violation of R. 1:21-6(c)(G).

Furthermore, respondent admitted that he violated RPC 5.3(a) and (b) by failing to adopt and maintain reasonable efforts to ensure that the conduct of his nonlawyer staff was compatible with his own professional obligations and by failing to make reasonable efforts to ensure that the conduct of his nonlawyer

staff, over whom he had supervisory authority, was compatible with his own professional obligations.

Finally, respondent admitted that his failure, on multiple occasions, and for one year, to timely provide requested records and to reply to letters from the OAE, violated RPC 8.1(b).

The OAE argued that respondent's misconduct harmed his clients. Specifically, respondent's failure to properly supervise F.S. resulted in Gomez's \$100 check being deposited in his Discover account three times; Nunez's \$1,000 check being deposited in his Discover account four times; and Arroyo's \$150 check being deposited in respondent's Discover account twice. Moreover, respondent failed to represent Gomez or Nunez in the matters for which he was retained.

In aggravation, the OAE argued that respondent has three prior disciplinary matters involving similar misconduct. Additionally, the OAE asserted that, in 2018, respondent knew he was "struggling to competently represent" his clients due to his mental health condition. Respondent nonetheless took on new client matters even though he could not get out of bed.⁹ Thus, he

⁹ Even though the OAE acknowledged respondent's mental health condition impaired his ability to represent his clients, it did not charge respondent with a violation of RPC 1.16(a)(2) (failure to withdraw from a representation when the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client).

abdicated his responsibilities to F.S., which caused substantial harm to Gomez, Nunez, and Arroyo.

In further aggravation, the OAE argued that respondent has failed to pay restitution to Nunez or Arroyo.

In mitigation, the OAE cited our decision in In the Matter of Ulysses Isa, DRB 19-361 (June 23, 2020), in support of its contention that respondent was suffering from significant mental health issues during 2017 and 2018. Additionally, respondent entered into a disciplinary stipulation with the OAE, thus, saving the OAE “valuable resources.” See In the Matter of John E. Maziarz, DRB 18-251 (January 9, 2019).

Because the OAE asserted that the aggravating factors outweighed the mitigating factors, the OAE recommended the imposition of a three-month suspension for respondent’s misconduct and additionally recommended that we order respondent to make restitution to Nunez and Arroyo as a condition precedent to reinstatement.

During oral argument before us, the OAE reiterated the contents of the disciplinary stipulation. In response to our questions, the OAE indicated it lacked any records from which it might provide an update on the status of respondent’s mental health treatment after January 31, 2020.

Respondent did not provide us with a submission for consideration.

Following a de novo review of the record, we are satisfied that the facts contained in the stipulation clearly and convincingly support the finding that respondent violated RPC 1.3; RPC 1.5(b); RPC 1.15(d); RPC 5.3(a); RPC 5.3(b); and RPC 8.1(b).

Specifically, as respondent admitted, he took no action on Gomez's civil litigation, despite receipt of his agreed \$100 fee, a violation of RPC 1.3. Respondent's inaction on the matter led to the court entering a default judgment against Gomez. Furthermore, respondent violated RPC 1.5(b) by failing to prepare written fee agreements for his clients, particularly Gomez. Additionally, respondent's failure to comply with the recordkeeping provisions of R. 1:21-6, specifically, his failure to maintain copies of all retainer and compensation agreements and his failure to maintain originals of all checkbooks with running balances and check stubs, bank statements, prenumbered cancelled checks, and duplicate deposit slips from his Discover account for two years, violated RPC 1.15(d).

Moreover, respondent's abdication of his supervisory responsibilities, and his failure to adopt any reasonable efforts to ensure that the conduct of his nonlawyer office staff was compatible with the Rules of Professional Conduct, was a violation of both RPC 5.3(a) and RPC 5.3(b). Finally, respondent's failure, for one year, to cooperate with the OAE's investigation, which ultimately led to

his July 17, 2019 temporary suspension from the practice of law, violated RPC 8.1(b).

Although we are extremely troubled that three client checks were altered and deposited in respondent's personal bank account a total of six times, the OAE asserted that, in its four years of investigating this matter, it could not find clear and convincing evidence that respondent was responsible for the criminal conduct. Thus, there is no basis for us to conclude that respondent violated RPC 1.15(a), Wilson, or Hollendonner.

In sum, we find that respondent violated RPC 1.3; RPC 1.5(b); RPC 1.15(d); RPC 5.3(a); RPC 5.3(b); and RPC 8.1(b). The sole issue left for us to determine is the appropriate quantum of discipline for respondent's misconduct.

Generally, an admonition is the appropriate form of discipline for lack of diligence and failure to communicate with the client. See, e.g., In the Matter of Christopher J. LaMonica, DRB 20-275 (January 22, 2021) (the attorney promised to take action to remit his client's payment toward an owed inheritance tax; despite the attorney's assurances that he would act, he failed to remit the payment until two years later; the attorney also failed to return his client's telephone calls or to reply to correspondence; violations of RPC 1.3 and RPC 1.4(b); we considered, in mitigation, the attorney's unblemished disciplinary history in more than twenty-five years at the bar); In the Matter of Christopher

G. Cappio, DRB 15-418 (March 24, 2016) (after the client had retained the attorney to handle a bankruptcy matter, paid the fee, and signed the bankruptcy petition, the attorney failed to file the petition or to return his client's calls in a timely manner); In the Matter of Charles M. Damian, DRB 15-107 (May 27, 2015) (the attorney filed a defective foreclosure complaint and failed to correct the deficiencies, despite notice from the court that the complaint would be dismissed if they were not cured; after the complaint was dismissed, he took no action to vacate the dismissal, a violation of RPC 1.3; the attorney also failed to tell the clients that he never amended the original complaint or filed a new one, that their complaint had been dismissed, and that it had not been reinstated, a violation of RPC 1.4(b); in mitigation, the attorney had no other discipline in thirty-five years at the bar; staffing problems in his office negatively affected the handling of the foreclosure case; he was battling a serious illness during this time; and other family-related issues consumed his time and contributed to his inattention to the matter).

Conduct involving the failure to memorialize the basis or rate of a fee, as RPC 1.5(b) requires, typically results in an admonition, even if accompanied by other, non-serious ethics offenses. See, e.g., In the Matter of Peter M. Halden, DRB 19-382 (February 24, 2020) (the attorney failed to set forth in writing the basis or rate of the legal fee, a violation of RPC 1.5(b); he also failed to abide

by the client's decisions concerning the scope of the representation; no prior discipline); In the Matter of Kenyatta K. Stewart, DRB 19-228 (October 22, 2019) (the attorney failed to set forth in writing the basis or rate of the legal fee, a violation of RPC 1.5(b); concurrent conflict of interest also found; no prior discipline); In the Matter of Alan Monte Kamel, DRB 19-086 (May 30, 2019) (the attorney failed to provide the client with a writing setting forth the basis or rate of his fee in a collection action, a violation of RPC 1.5(b); he also failed to communicate with the client and failed to explain the method by which a contingent fee would be determined; no prior discipline).

Recordkeeping irregularities ordinarily are met with an admonition, so long as they have not caused a negligent misappropriation of clients' funds. See, e.g., In the Matter of Eric Salzman, DRB 15-064 (May 27, 2015); In the Matter of Leonard S. Miller, DRB 14-178 (September 23, 2014); In the Matter of Sebastian Onyi Ibezim, Jr., DRB 13-405 (March 26, 2014).

Attorneys who fail to supervise their nonlawyer staff typically receive discipline ranging from an admonition to a censure, depending on the presence of other ethics infractions, prior discipline, or aggravating and mitigating factors. See, e.g., In the Matter of Vincent S. Verdiramo, DRB 19-255 (January 21, 2020) (admonition; as a result of the attorney's abrogation of his recordkeeping obligations, his nonlawyer assistant was able to steal more than

\$149,000 from his trust account; mitigating factors were the attorney's prompt actions to report the theft to affected clients, law enforcement, and disciplinary authorities; his deposit of \$55,000 in personal funds to replenish the account; his extensive remedial actions; his acceptance of responsibility for his misconduct; and his unblemished, thirty-three year career); In the Matter of Jill Cadre, DRB 19-283 (November 25, 2019) (admonition by consent for attorney who failed to supervise her employee, upon whom she relied almost completely to handle the attorney trust account bookkeeping; the employee stole \$783,809.97 in client funds; the attorney failed to safeguard client funds in violation of RPC 1.15(a) and failed to perform recordkeeping obligations pursuant to RPC 1.15(d); in mitigation, the attorney retained an accounting firm to identify all fraudulent activity; expressed genuine remorse; cooperated with the investigation; promptly reimbursed the stolen funds; and submitted letters attesting to her good character; no prior discipline in sixteen years at the bar); In re Bardis, 210 N.J. 253 (2012) (admonition; as a result of the attorney's failure to review and reconcile his attorney records, his bookkeeper was able to steal \$142,000 from his trust account, causing a shortage of \$94,000; mitigating factors were the attorney's deposit of personal funds to replenish the account; numerous other corrective actions; his acceptance of responsibility for his misconduct; his deep remorse and humiliation for not having personally handled

his own financial affairs; and his lack of a disciplinary record); In re Deitch, 209 N.J. 423 (2012) (reprimand; as a result of the attorney's failure to supervise his paralegal-wife and poor recordkeeping practices, \$14,000 in client or third-party funds were invaded; the paralegal-wife stole the funds by negotiating thirty-eight checks issued to her by forging the attorney's signature or using a signature stamp; no prior discipline); In re Marcus, 250 N.J. 188 (2022) (attorney censured after admitting that he committed multiple recordkeeping infractions, despite previously having been disciplined for the same misconduct; his abdication of his recordkeeping and supervisory responsibilities created the environment which led to his secretary's theft of \$223,208.16 from his attorney business account over an extended period).

When an attorney fails to cooperate with disciplinary authorities, and previously has been disciplined, but the attorney's ethics record is not serious, reprimands have been imposed. See, e.g., In re Larkins, 217 N.J. 20 (2014); In re Wood, 175 N.J. 586 (2003); In re DeBosh, 174 N.J. 336 (2002); In re Williamson, 152 N.J. 489 (1998).

An attorney's failure to cooperate, however, can result in discipline greater than a reprimand if the attorney intentionally stonewalls a serious ethics investigation or demonstrates a failure to learn from their previous instances of non-cooperation. See, e.g., In re Huneke, 237 N.J. 432 (2019) (censure, in a

default matter, for an attorney who systematically failed to comply with the OAE's extensive attempts to audit his financial records, despite numerous extensions, specific OAE directives, and the threat of suspension; the OAE's unsuccessful audit revealed numerous recordkeeping infractions, which the attorney failed to correct; specifically, in connection with real estate matters spanning four years, the attorney wrote eighty-seven checks for attorney's fees, totaling \$64,400.30, but did not negotiate those checks; those attorney's fees, thus, remained in his trust account, along with \$6,040.41 of undisbursed client funds and almost \$50,000 in unidentified funds, in violation of RPC 1.15(a); additionally, the OAE's investigation uncovered that the attorney withdrew \$1,092 from his second trust account and then deposited those funds into a personal bank account; the attorney, however, failed to comply with the OAE's requests for an explanation of his right to those funds, in violation of RPC 1.15(a) (failure to safeguard client funds); in imposing a censure, we noted that, "[a]bsent the default component, the disciplinary precedent for the [attorney's] ethics violations would warrant a reprimand"); In re Diciurcio, 234 N.J. 339 (2018) (censure for an attorney who repeatedly failed to reply to the disciplinary investigator's document requests regarding his alleged practice of law while ineligible; three months after the investigator's initial letter to the attorney, he finally submitted a reply; however, he failed to produce any of the requested

documents which would have shed light on his alleged activities during his period of ineligibility; because of the attorney's failure to comply with the investigator's requests, the investigator was forced to contact eighty-one municipal courts and ten county courts to inquire as to whether the attorney had practiced in that jurisdiction during his period of ineligibility; in imposing a censure, we considered that, as of the date of its decision, the attorney had still failed to comply with the investigator's requests for information, which failure resulted in the significant expenditure of the investigator's resources; we also weighed, in aggravation, the attorney's 2012 reprimand for the same misconduct); In re Winters, 228 N.J. 464 (2017) (censure, in a default matter, for an attorney who initially cooperated with the OAE's investigation of his trust account overdraft; however, the attorney, thereafter, "declined" further cooperation and invoked his Fifth Amendment privilege against self-incrimination, noting that, in his twenty-two-year career at the bar, he had never performed the required three-way reconciliations or maintained his books and records, as R. 1:21-6 requires; despite the attorney's invocation of his Fifth Amendment privilege, he offered to produce certain exculpatory records if the OAE first revealed the identities of the individuals whose funds had been taken; the OAE, however, declined and required the attorney to submit all the previously requested information and documentation, which he, thereafter,

failed to produce; in imposing a censure, we considered the attorney's failure to cooperate in an OAE investigation of knowing misappropriation and the default status of the matter; the attorney had no prior discipline).

Here, as in Marcus, respondent's most serious misconduct was his total abdication of his supervisory responsibilities, which led to the theft of client funds for which he has still failed to pay restitution, even after three years of OAE involvement. Thus, respondent's violation of RPC 5.3(a) and (b) would typically warrant a censure. Similarly, both respondent and Marcus failed to keep proper records. Unlike in Marcus, however, respondent previously has been disciplined for many of the same RPCs: three times for his failure to cooperate with disciplinary authorities; two times for lack of diligence; once for recordkeeping violations; and once for failing to communicate in writing the rate or basis of his fee, in addition to other RPC violations.

Moreover, it is clear that respondent has not utilized his four prior experiences with the disciplinary system as a foundation for reform. See In re Zeitler, 182 N.J. 389, 398 (2005) (“[d]espite having received numerous opportunities to reform himself, respondent has continued to display his disregard, indeed contempt, for our disciplinary rules and our ethics system”). Indeed, this is respondent's fourth consecutive matter for substantially similar misconduct in approximately four years, including his fourth time being found

guilty of failing to cooperate with disciplinary authorities. The Court has signaled an inclination toward progressive discipline and stern treatment of repeat offenders. In such cases, 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).

Thus, based upon the above precedent, we determine that the baseline level of discipline for respondent's misconduct is a censure. However, to craft the appropriate discipline in this case, we considered both the mitigating and aggravating factors.

In aggravation, this is respondent's fourth time before us in as many years for substantially the same type of misconduct. Importantly, this is respondent's fourth time before us for failing to cooperate with disciplinary authorities, evidencing a troubling inability to learn from past mistakes, a factor we accord significant weight. Furthermore, respondent is, partially, before us in this matter because, notwithstanding his knowledge that his mental health condition precluded him from competently representing his clients in 2018, he still took on new client matters.

Egregiously, respondent has failed to pay restitution to Nunez or Arroyo, despite the passage of four years since their checks were improperly deposited into his personal account, and despite the passage of two years since respondent

stated he was working to pay them back. Thus, those clients have suffered demonstrable financial harm, another factor we accord significant weight.

In mitigation, in our decision in In the Matter of Ulysses Isa, DRB 19-361 (June 23, 2020), we found respondent was “suffering from significant mental health issues” during the years 2017 through 2018. Indeed, respondent has provided credible evidence that he had been battling through severe mental health disorders, but has since sought treatment. Although the documentation appended to the stipulation reflects ongoing compliance with treatment through 2019, it is silent as to his current compliance with treatment.

We note that the conditions precedent to respondent’s reinstatement to the practice of law previously imposed by the Court remain in place. In connection with Isa I, the Court ordered that respondent must practice under the supervision of a practicing attorney approved by the OAE. In connection with Isa III, the Court ordered that respondent provide to the OAE copies of all his New Jersey Lawyers Assistance Program monitoring reports and proof of his fitness to practice law, as attested to by a mental health professional approved by the OAE. Respondent also was ordered to refund to his client the \$750 retainer and filing fees his client paid to him. In this matter, as an additional condition precedent to respondent’s reinstatement, we require that he pay restitution to Nunez and Arroyo, with proof of same provided to the OAE.

On balance, we determine that a six-month suspension, with an additional condition, is the quantum of discipline necessary to protect the public and preserve confidence in the bar.

Vice-Chair Boyer and Members Rivera and Singer voted to impose a three-month suspension, with the same conditions.

Member Joseph was recused from this matter.

Member Hoberman was absent.

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
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 Ulysses Isa
Docket No. DRB 22-088

Argued: July 21, 2022

Decided: September 26, 2022

Disposition: Six-Month Suspension

<i>Members</i>	Six-Month Suspension	Three-Month Suspension	Recused	Absent
Gallipoli	X			
Boyer		X		
Campelo	X			
Hoberman				X
Joseph			X	
Menaker	X			
Petrou	X			
Rivera		X		
Singer		X		
Total:	4	3	1	1



Johanna Barba Jones
Chief Counsel