

Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 22-132
District Docket Nos. VI-2018-0012E and
VI-2018-0015E

In the Matter of
James R. Lisa
An Attorney at Law

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Decision

Argued: October 20, 2022
Decided: January 11, 2023

Monique D. Moreira, Esq., appeared on behalf of District VI Ethics Committee
Peter R. Willis, Esq., appeared 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 recommendation for a reprimand filed by
the District VI Ethics Committee (the DEC). The formal ethics complaint
charged respondent with having violated RPC 1.4(b) (failing to communicate
with a client); RPC 1.5(a) (two instances – charging an unreasonable fee); RPC

1.5(b) (two instances – failing to set forth in writing the basis or rate of the legal fee); RPC 1.15(a) (two instances – failing to safeguard client property); RPC 1.16(d) (two instances – failing to protect a client’s interests upon termination of the representation); RPC 8.1(a) (making a false statement of material fact to disciplinary authorities); RPC 8.1(b) (two instances – failing to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter and failing to cooperate with disciplinary authorities); and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation),

For the reasons set forth below, we determine that a censure is the appropriate quantum of discipline for respondent’s misconduct.

Respondent was admitted to the New Jersey bar in 1984. At the relevant times, he maintained a practice of law in Jersey City, New Jersey.

In 1995, respondent received an admonition for violating the recordkeeping requirements of R. 1:21-6 and for failing to submit a required certification to the Office of Attorney Ethics (the OAE), indicating that he had corrected the recordkeeping deficiencies, in violation of both RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6) and RPC 8.1(b). In the Matter of James R. Lisa, DRB 95-124 (May 23, 1995) (Lisa I).

Effective March 24, 1998, the Court suspended respondent for three months for his unlawful possession of cocaine and drug paraphernalia and for

being under the influence of cocaine, in violation of RPC 8.4(b) (committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer). In re Lisa, 152 N.J. 455 (1998) (Lisa II).

Effective March 24, 1999, the Court suspended respondent for one year for his violation of RPC 5.5(a) (practicing law while suspended); RPC 8.4(c); and RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice). In re Lisa, 158 N.J. 5 (1999) (Lisa III). In that matter, during respondent's three-month term of suspension in Lisa II, he appeared before a New York State Supreme Court judge and requested permission to appear as co-counsel for a criminal defendant. In the Matter of James R. Lisa, DRB 98-283 (December 8, 1998) at 2. Respondent, however, failed to advise the New York judge of his suspension in Lisa II and misrepresented to the judge that he had filed the necessary New York pro hac vice application, which would have required him to state that he was an attorney, in good standing, in New Jersey. Id. at 2-3. In determining that a one-year suspension was the appropriate quantum of discipline, we weighed, in mitigation, that a serious childhood incident had caused respondent to be highly anxious of offending people or refusing their requests. Id. at 5-6.

Effective March 23, 2000, the Court suspended respondent for six months for his violation of RPC 8.4(a) (attempting to violate the Rules of Professional

Conduct). In re Lisa, 169 N.J. 419 (2001) (Lisa IV). In that matter, respondent attempted to establish an improper fee-sharing arrangement with a corrections officer. In the Matter of James R. Lisa, DRB 00-220 (May 29, 2001) at 4-5. Specifically, respondent approached the corrections officer and requested that he distribute respondent's business cards to inmates, in exchange for ten percent of the legal fee from any resulting business. Id. at 5. The corrections officer immediately reported the incident to his supervisor. Ibid. In imposing a six-month suspension, we noted that, although respondent's improper fee sharing arrangement did not come to fruition, his conduct was extremely serious and demonstrated his inability to conform to the high standards expected of attorneys. Id. at 10.

Effective January 10, 2002, the Court restored respondent to the practice of law. In re Lisa, 170 N.J. 254 (2002).

In 2008, respondent received a censure for negligently misappropriating a total of \$83,007.96 in entrusted client funds in connection with two separate real estate closings, in violation of RPC 1.15(a). In re Lisa, 197 N.J. 25 (2008) (Lisa V). Additionally, respondent improperly retained more than \$29,000 in excess recording fees in connection with more than three hundred real estate closings that had occurred in 2005, in violation of RPC 1.15(b) (failing to promptly deliver funds to clients). In the Matter of James R. Lisa, DRB 07-399 (May 7,

2008) at 6-7. In determining that a censure was the appropriate quantum of discipline, we considered that respondent's substantial prior discipline was unrelated to the misconduct under scrutiny, that he had fully cooperated with the OAE, and that he had begun reimbursing the excess recording fees to his clients. Id. at 12-13.¹

We now turn to the facts of this matter.

The Lamar Fields Matter (District Docket No. VI-2018-0012E)

In October 2010, Patricia Fields-Baxter retained respondent to represent her son, Lamar Fields, in connection with a criminal indictment alleging that he had sexually assaulted three separate victims. Respondent previously had not represented Fields-Baxter or Fields, who learned of respondent through the recommendation of a friend. During Fields-Baxter's initial meeting with respondent, she provided him with a \$500 retainer fee; respondent, however, did not provide her with a written agreement setting forth the basis of his fee, as RPC 1.5(b) requires. Instead, respondent told Fields-Baxter not to "worry about it" and that they would discuss fees "at some later time."

¹ Respondent's improper retention of excess recording fees pre-dated the Court's decisions in In re Fortunato, 253 N.J. 3 (2016), In re Masessa, 239 N.J. 85 (2019), and In re Li, 239 N.J. 141 (2019).

As the representation progressed, Fields-Baxter claimed that she “periodically” met with respondent and provided him with additional legal fees and costs associated with Fields’s matter, without respondent specifically requesting any such funds. During those visits, Fields-Baxter repeatedly questioned respondent regarding the balance of his legal fee. Respondent, however, would advise Fields-Baxter not to “worry about it.” Fields-Baxter also complained that it was difficult to meet with respondent in person because, during each visit, he smoked cigarettes in her presence, which forced her to leave his office because of her health condition.

Meanwhile, respondent successfully moved to sever the charges of the indictment, which allowed Fields’s matter to proceed as two separate trials, the first involving two victims and the second involving the third victim. Fields’s trials occurred in March and September 2013, respectively, and resulted in his convictions for, among other crimes, three counts of first-degree aggravated sexual assault while armed with a weapon, in violation of N.J.S.A 2C:14-2(a)(4). State v. Fields, 2017 N.J. Super. Unpub. LEXIS 1149 at *10 (May 11, 2017). During the pendency of the trials, Fields-Baxter claimed that, between court sessions, she attempted to communicate with respondent outside of the courtroom. However, Fields-Baxter alleged that respondent ignored her attempts at communication and left the courthouse to smoke cigarettes.

Following Fields's convictions, the Criminal Part sentenced him to an extended term of life imprisonment plus three consecutive twenty-year prison terms. Thereafter, on June 17, 2014, respondent appealed Fields's convictions to the Appellate Division. Fields, 2017 N.J. Super. Unpub. LEXIS 1149 at *10-11. Although respondent did not request any additional legal fees in connection with the appeal, he failed to provide Fields-Baxter with a written agreement setting forth the basis of his fee. Fields-Baxter claimed that she was unaware that respondent had filed the appeal.

Following Fields's sentencing, Fields-Baxter maintained that she went to respondent's office approximately ten times to attempt to retrieve Fields's "discovery" file and "transcript."² However, Fields-Baxter alleged that respondent either was not present at his office or could not meet with her. Nevertheless, during one visit to respondent's office, Fields-Baxter claimed that she saw approximately "three boxes" that respondent claimed contained Fields's trial transcripts. Fields-Baxter alleged that respondent had advised her that she could return to the office and retrieve the boxes after he had "sort[ed] them out." However, when Fields-Baxter returned to retrieve the boxes of Fields's file, she claimed that respondent told her that the boxes had been relocated to the home

² Fields-Baxter alleged that she wanted to view the client file to determine "what went on" at trial, given that she was not allowed in the courtroom due to her status as a potential witness.

of his secretary. Thereafter, when Fields-Baxter returned to respondent's office one additional time, she claimed that respondent informed her that his secretary had passed away and that the boxes were unavailable.

In addition to her in-person visits, Fields-Baxter claimed that she attempted to call respondent's office approximately twenty times to arrange for the retrieval of Fields's client file. However, Fields-Baxter alleged that respondent was unavailable to take her calls. Despite her numerous attempts, spanning almost two years, Fields-Baxter maintained that respondent had failed to provide her with "any documents" from Fields's file.

Meanwhile, on May 11, 2017, the Appellate Division affirmed Fields's convictions and sentence. Fields, 2017 N.J. Super. Unpub. LEXIS at *26. Following the Appellate Division's decision, Fields-Baxter claimed that respondent failed to follow through on his commitment to file a petition for certification to the Court. By the conclusion of the representation, Fields-Baxter had provided respondent a total of \$6,000 in legal fees and an additional \$1,000 in costs toward both trials and the appeal. Fields-Baxter did not object to the amount of respondent's legal fee.

On March 26, 2018, Fields-Baxter filed with the DEC a grievance alleging, among other things, that respondent had failed to provide her with a copy of Fields's client file and had failed to file the promised petition for

certification to the Court. Three days later, on March 29, 2018, the DEC sent respondent a copy of the grievance and requested that he reply in writing, within ten days, to the allegations contained therein. On April 12, 2018, the DEC granted respondent's request for a ten-day extension to file his reply.

On April 18, 2018, respondent sent the DEC a written reply to the grievance, maintaining that, in September 2017, he had discussed with Fields-Baxter "the option" of filing a petition for certification to the Court. Respondent, however, claimed that he never had told Fields-Baxter that he would file the petition and alleged that he "was never retained to do so."³ Finally, respondent claimed that he had, "in storage[,] "boxes of materials which were made available for pick up from [sic] [Fields-Baxter]."

On May 2, 2018, the DEC sent respondent a letter requesting that he provide Fields's entire client file. On June 7, 2018, respondent's counsel sent the DEC a letter purporting to enclose Fields's "complete file" However, the DEC maintained, in its formal ethics complaint, that it had received only one "redwell" folder of documents.⁴

³ In his verified answer to the formal ethics complaint, respondent alleged that a petition for certification to the Court would have been "meritless" and "borderline frivolous."

⁴ In his verified answer, respondent denied that he had sent the DEC one "redwell" folder of documents. Respondent, however, failed to elaborate on the basis of his denial, as R. 1:20-4(e) requires.

On July 16, 2018, Fields-Baxter went to the DEC investigator's office and received a copy of the materials that respondent had provided to the DEC. Fields-Baxter alleged that the materials comprised only "half of one box" and that respondent had failed to provide the DEC with the entire file.

On September 13, 2018, the DEC sent respondent another letter, stating that he had provided only a portion of Fields's client file and requesting that he provide the remaining portion of the file. Respondent, however, failed to reply. Consequently, on November 9, 2018, the DEC sent respondent an additional letter, again requesting the remaining portion of the client file. On November 19, 2018, respondent's counsel sent the DEC a reply letter, stating that respondent had "turned over every document in his possession regarding" Fields's matter and that he was "unable to provide any additional information other than that which has already been sent."

The Phillip Edwards Matter (District Docket No. VI-2018-0015E)

On September 27, 2013, Phillip Edwards retained respondent in connection with the New Jersey Department of Banking and Insurance's (the Department) attempts to revoke Edwards's insurance producer license for allegedly misappropriating insurance premiums paid by senior citizens. Respondent agreed to represent Edwards in connection with his hearing before the Office of Administrative Law (the OAL) regarding the revocation of his

license. The record is unclear, however, whether respondent charged Edwards any legal fee or whether respondent and Edwards executed a written fee agreement in connection with the representation.⁵

In March 2014, respondent, along with his associate attorney, represented Edwards at the OAL hearing. Following the hearing, respondent and his associate withdrew as counsel and, on May 4, 2017, the Department issued a decision revoking Edwards's license. New Jersey Department of Banking and Insurance v. Phillip G. Edwards, 2017 N.J. AGEN LEXIS 503 at *9, *55.

Following the Department's revocation of his license, Edwards requested that respondent represent him in connection with his appeal of the Department's decision, to the Appellate Division. Respondent and Edwards executed a fee agreement providing for a non-refundable \$1,500 retainer fee in connection with the appeal. Although Edwards provided respondent \$700 toward the \$1,500 retainer, he failed to provide respondent with the remaining funds. Consequently, respondent refunded the \$700 to Edwards and did not file the appeal.

⁵ Although the formal ethics complaint alleged that respondent and Edwards had executed a written fee agreement providing for a \$1,500 retainer fee, respondent's correspondence with the DEC reveals that the \$1,500 fee agreement did not govern respondent's representation of Edwards before the OAL.

On May 7, 2018, Edwards filed with the DEC a grievance alleging, among other things, that respondent had lied about his disciplinary history, failed to communicate, and improperly terminated the representation.

On May 25, 2018, the DEC sent respondent a letter requesting that he reply to the allegations of the grievance in writing, within ten days. On June 26, 2018, the DEC granted respondent's request for an extension to file his written reply by July 2, 2018. Respondent, however, failed to submit his reply, which prompted the DEC to contact respondent, on July 20, 2018, regarding the status of his reply. On July 23, 2018, respondent finally submitted his reply to the grievance.⁶

On September 13 and November 9, 2019, the DEC sent respondent letters, requesting that he provide Edwards's "complete file." Respondent, however, failed to comply.

Respondent's Interview with the DEC and his Pre-Hearing Motion to the DEC

Following their exchange of correspondence in connection with both the Lamar Fields and Phillip Edwards client matters, the DEC requested that respondent appear for an interview, on December 20, 2018, to discuss both matters. Respondent, however, failed to appear for the interview and made no

⁶ The nature of respondent's reply to the grievance was not set forth in the record below.

attempt to reschedule it. Consequently, on December 28, 2018, the DEC contacted respondent and advised him that it had rescheduled the interview for January 4, 2019.

On January 4, 2019, respondent appeared for the interview and admitted that he had failed to provide Fields-Baxter with a written agreement setting forth the basis of his legal fee in connection with Fields's criminal trials and appeal. Additionally, respondent informed the DEC that he had provided "boxes of documents" to Fields-Baxter, who, respondent claimed, had signed a "receipt" acknowledging that she had received the documents. Respondent, however, failed to retain a copy of that purported receipt. Respondent also admitted to the DEC that he could not locate the remaining documents of the client file beyond those which he allegedly had provided to Fields-Baxter. However, respondent informed the DEC that he may have had "a couple of boxes in storage," given that he recently had relocated his law office. Finally, the DEC alleged that respondent had misrepresented that Fields-Baxter had retained Peter R. Willis, Esq., and not respondent, to represent her son in connection with his criminal trials.

Also during the January 4, 2019 interview, respondent advised the DEC that he could not locate Edwards's client file. Moreover, respondent denied that

he had failed to communicate with Edwards or that he had lied about his disciplinary history.

On December 21, 2021, two weeks before the ethics hearing, respondent filed a pre-hearing motion with the DEC to (1) compel the production of the DEC investigator's notes, if they existed; (2) "bifurcate" the Lamar Fields and Phillip Edwards matters "into separate hearings with separate panels;" and (3) to exclude the testimony of the DEC investigator. In support of his motion, respondent argued that, if the DEC investigator had failed to turn over any notes which he may have had, his testimony should be excluded. Respondent also argued that, if the same DEC hearing panel issued a decision regarding both the Lamar Fields and the Phillip Edwards matters, it would, in his view, result in "confusi[on]" for the hearing panel and unnecessary prejudice to respondent, given the cumulative adverse effect that two separate instances of misconduct may have on a single hearing panel.

On December 30, 2021, the DEC hearing panel denied respondent's motion, noting that respondent's requests for the DEC investigator's notes and the exclusion of his testimony were moot, in light of the DEC presenter's decision not to call the investigator as a witness. Additionally, the DEC hearing panel found that respondent had failed to assert any valid "legal or practical reason" regarding why it could not issue a decision regarding the misconduct

underlying both client matters.

Finally, at the outset of the January 5, 2022 ethics hearing, the DEC presenter stated that he did not intend “to go forward on the allegation” that respondent failed to communicate the basis of his legal fee in writing to Edwards, as alleged in the complaint. The DEC presenter, however, made no motion, pursuant to R. 1:20-5(d)(3), to dismiss that portion of the formal ethics complaint.

Respondent’s Positions Before the DEC

In respect of the Lamar Fields client matter, respondent admitted, in his verified answer to the formal ethics complaint and via his testimony at the ethics hearing, that he had failed to set forth the basis of his legal fee in writing. He denied, however, that he had committed any further misconduct.

Specifically, respondent claimed that he did not set forth the basis of his legal fee in writing because he did not believe that he “was go[ing] to charge [Fields-Baxter] anything.” Respondent also maintained that he was willing to undertake the representation “for free” because it was a “high[-]profile” matter.” Although respondent stated that he did not specifically request any legal fees from Fields-Baxter, he claimed that he had accepted her periodic payments, provided her with receipts, and informed not to “worry about” his legal fees, which they would discuss “at some later time.”

Also during the ethics hearing, respondent alleged that the boxes comprising Fields's client file "had been torn apart" because of his work on Fields's appeal, the fact that he had relocated his law office, and the fact that he had turned over much of the client file to the Public Defender's office to allow it to pursue Fields's post-conviction relief (PCR) petition.⁷ Although respondent alleged that he had provided Fields-Baxter with "the transcript," "a copy of the appeal[,]," and the Appellate Division's opinion affirming Fields's convictions and sentence, he admitted that he did not provide her with a copy of "the discovery," because he previously had sent the majority of the client file to the Public Defender's office to pursue the PCR petition. In that vein, respondent conceded that he may have "misplaced" portions of the client file after it "had been torn apart." Respondent further admitted that he did not provide the DEC with the entire client file because he had sent much of the file to the Public Defender's office, while other portions of the file "may have been in storage." Respondent, thus, stated that he had sent the DEC only the portions of the client file that he "could readily get [his] hands on," because he was in the midst of a trial and "was kind of rushed[.]"

⁷ On April 28, 2022, the Appellate Division affirmed the Criminal Part's order denying Fields's PCR, which alleged that respondent had provided ineffective assistance of counsel by failing to review discovery with Fields. State v. Fields, 2022 N.J. Super. Unpub. LEXIS 505 at *10-11 (April 28, 2022).

Further, in his testimony at the ethics hearing, respondent maintained that he had “numerous[,]” prolonged discussions with Fields-Baxter throughout the representation, including between court sessions during the trials. Respondent further alleged that he would speak with Fields-Baxter when she appeared at his office without an appointment. Moreover, following respondent’s unsuccessful appeal of Fields’s convictions and sentence, respondent claimed that he had advised Fields-Baxter that there “was no merit” in filing a petition for certification to the Court and that Fields could, instead, file a PCR petition.

Finally, in his verified answer, respondent denied that he had informed the DEC, during the January 4, 2019 interview, that Fields-Baxter had retained Peter R. Willis, Esq., to represent Fields in connection with his criminal matters, as the DEC alleged in its formal ethics complaint. Respondent claimed that he had informed the DEC, during the January 4, 2019 interview, that he had retained Willis to defend him in connection with the DEC’s ethics investigation. Respondent maintained that Willis was never involved in the representation of Fields and that the error in the DEC’s complaint was the result of “a misunderstanding.”

In respect of the Phillip Edwards client matter, during the ethics hearing, respondent did not explain whether he could locate the client file, as he discussed during his January 4, 2019 interview with the DEC, but instead

maintained that he did not provide the DEC with Edwards's client file in connection with the OAL hearing because, in his view, Edwards's grievance did not complain about his representation before the OAL. Additionally, respondent claimed that, because he did not file an appeal on behalf of Edwards, he had no client file in connection with that appeal to provide to the DEC. Respondent, however, denied that he had committed any misconduct and urged the DEC to dismiss the charges stemming from the Phillip Edwards client matter because Edwards did not testify at the ethics hearing.

In respect of the DEC's investigation of both client matters, respondent claimed that he had failed to appear for the initial December 20, 2018 interview with the DEC because he had a scheduled court appearance that same day in connection with an unrelated homicide trial. Respondent admitted that he had failed to inform the DEC of his unavailability, which forced the DEC to reschedule the interview for January 4, 2019.

Respondent highlighted, as mitigation, his cooperation with the DEC following the conclusion of the unrelated December 2018 homicide trial. Respondent also emphasized that, at the time of the DEC's investigations, his office was "short staffed" and that he had relocated his law office, which rendered it difficult for him to locate his client files. Respondent also presented the testimony of two character witnesses, who both discussed respondent's

reputation for honesty and integrity. Finally, in connection with the Lamar Fields client matter, respondent argued that he had undertaken two high-profile criminal trials and the subsequent appeal for a minimal fee.

The Hearing Panel's Findings

In connection with the Lamar Fields matter, the DEC did not find, by clear and convincing evidence, that respondent violated RPC 1.4(b) by failing to keep Fields-Baxter reasonably informed about the status of Fields's matter. The DEC acknowledged Fields-Baxter's testimony that respondent had failed to reply to her inquiries and was difficult to meet with in person due to his smoking and her medical conditions. The DEC, however, also acknowledged respondent's testimony that he had met with Fields-Baxter on multiple occasions and updated her regarding the status of Fields's matter. Because neither party had presented any corroborating evidence to support their positions, the DEC did not find, by clear and convincing evidence, that respondent violated RPC 1.4(b).

The DEC found, however, that respondent violated RPC 1.5(a) and (b) by failing to provide Fields-Baxter with a written agreement setting for the basis of his legal fee. Nevertheless, the DEC provided no explanation regarding why it determined that respondent's \$6,000 legal fee in connection with Fields's two criminal trials and appeal was unreasonable.

The DEC further found that respondent violated RPC 1.15(a) based on his failure to provide Fields-Baxter with the complete client file and his admission that portions of the client file may have been lost when he had relocated his law office.

The DEC, however, did not find, by clear and convincing evidence, that respondent violated RPC 1.16(d). Rather than discuss whether respondent violated RPC 1.16(d) by failing to return the complete client file to Fields-Baxter, as alleged in the formal ethics complaint, the DEC limited its analysis of RPC 1.16(d) to whether respondent and Fields-Baxter had reached an agreement regarding the filing of a petition for certification to the Court following Fields's unsuccessful appeal. The formal ethics complaint, however, contained no such theory regarding RPC 1.16(d). Despite the absence of such a theory in the formal ethics complaint, the DEC found no clear and convincing evidence that respondent violated RPC 1.16(d) because the parties did not corroborate their respective theories regarding whether respondent had agreed to file a petition for certification to the Court.

Finally, although the DEC found that respondent provided "conflicting statements" to the DEC investigator "regarding the status and contents" of Fields's client file, the DEC did not find, by clear and convincing evidence, that respondent "knowingly" engaged in deception to the investigator or failed to

cooperate. Thus, the DEC did not find, by clear and convincing evidence, that respondent violated RPC 8.1(a), RPC 8.1(b), or RPC 8.4(c).

In connection with the Phillip Edwards matter, the DEC did not find, by clear and convincing evidence, that respondent violated RPC 1.5(a) and (b). The DEC noted that respondent “provided []Edwards with a fair fee and communicated same in writing” to him.

Although charged in the formal ethics complaint, the DEC neither engaged in any discussion nor made any findings regarding whether respondent violated RPC 1.15(a) and RPC 1.16(d) by failing to provide the DEC investigator with a copy of Edwards’s client file, which respondent allegedly failed to locate. Similarly, the DEC made no findings regarding whether respondent violated RPC 8.1(b), as alleged in the complaint, by failing to cooperate in the investigation of the Phillip Edwards matter.

In recommending the imposition of a reprimand, the DEC noted that, despite respondent’s disciplinary history, he has had no ethics infractions since his 2008 censure, in Lisa V. The DEC also found credible the two character witnesses who testified regarding respondent’s reputation for honesty and integrity.

Proceedings Before the Disciplinary Review Board

At oral argument, the DEC hearing panel chair recited the procedural history of this matter and urged us to adopt its decision recommending a reprimand.

Respondent likewise urged the imposition of a reprimand because, in his view, the DEC found him guilty of only non-serious ethics infractions. Although respondent admitted that he had failed to set forth the basis of his legal fee in writing to Fields-Baxter, he emphasized that he undertook the representation for a minimal fee. Additionally, respondent acknowledged his extensive disciplinary history but noted that much of his prior misconduct occurred more than two decades ago. Finally, respondent highlighted his efforts to serve low-income clients; his commitment to the practice of law and charitable causes; and his success as a criminal defense attorney, a profession which, he claimed, provides him far less compensation than his prior career as a tax accountant.

Following a review of the record, we are satisfied that there is clear and convincing evidence that respondent violated RPC 1.5(b) and RPC 1.16(d) in connection with the Lamar Fields matter. We also are satisfied that there is clear and convincing evidence that respondent violated RPC 8.1(b) by failing to cooperate with the DEC in connection with its investigations of both the Lamar Fields and Philip Edwards client matters.

However, in connection with the Lamar Fields matter, we determine that the evidence does not clearly and convincingly support the finding that respondent violated RPC 8.1(b) by failing to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or RPC 1.4(b); RPC 1.5(a); RPC 1.15(a); RPC 8.1(a); or RPC 8.4(c).

Similarly, in connection with the Phillip Edwards matter, we determine that the evidence does not clearly and convincingly support the finding that respondent violated RPC 1.5(a); RPC 1.5(b); RPC 1.15(a); or RPC 1.16(d).

As a preliminary matter, we find that the DEC hearing panel properly denied respondent's pre-hearing motion. Respondent's motion sought to compel any "notes" of the DEC investigator or, if they could not be produced, to exclude the investigator's testimony. Because the DEC presenter declined to call the investigator as a witness, the DEC hearing panel properly denied the relief as moot.

Additionally, respondent sought to sever the Lamar Fields and Philip Edwards client matters such that each matter would be heard before a separate hearing panel. Respondent argued that, if the same hearing panel ruled upon the allegations underlying both matters, it would result in confusion for the hearing panel and unfair prejudice for respondent.

In attorney disciplinary matters, “[a] complaint may include any number of charges against a respondent.” R. 1:20-4(c). In that vein, the Rule does not prohibit a complaint from including allegations underlying multiple client matters. To the contrary, ethics complaints spanning numerous client matters are routinely consolidated, both for hearing and for our and the Court’s de novo review.

Respondent’s argument for severance appears to be based on principles of criminal procedure, whereby a criminal court may order separate trials if it appears that a defendant will be prejudiced by the joinder of offenses. See R. 3:15-2(b). However, such principles are inapplicable to disciplinary proceedings, which “are neither civil nor criminal in nature.” See R. 1:20-7(a). Consequently, the DEC properly denied respondent’s motion to sever the Lamar Fields and Philip Edwards client matters.

In connection with the Lamar Fields matter, respondent, by his own admission, violated RPC 1.5(b) by failing to set forth, in writing, the basis of his legal fee for Fields-Baxter or her son, neither of whom respondent previously had represented. Respondent’s failure to set forth the basis of his fee resulted in significant confusion for Fields-Baxter, who, throughout the representation, paid respondent various amounts, totaling \$6,000, towards his legal fee. Although Fields-Baxter repeatedly questioned respondent regarding the amount

of his outstanding fee, respondent consistently would accept payments from Fields-Baxter and inform her not to “worry about” his legal fees, which he claimed they would discuss “at some later time.” Respondent, however, altogether failed to inform Fields-Baxter of the amount, basis, or rate of his legal fee.

“The very purpose of RPC 1.5(b) is to have the client fully informed as to the terms of the hiring and know without question his or her financial responsibility, as well as to prevent an attorney from overcharging.” Degraff v. Fusco, 282 N.J. Super. 315, 320 (App. Div. 1995). Respondent’s failure to communicate the amount of his fee, in writing, prompted Fields-Baxter to repeatedly provide respondent with piecemeal legal fees, without knowing what additional amounts, if any, she owed to respondent. Respondent’s conduct, thus, resulted in the very confusion that RPC 1.5(b) was designed to prevent.

Second, respondent violated RPC 1.16(d) by failing to provide Fields-Baxter with the complete client file upon termination of the representation. Specifically, during the ethics hearing, Fields-Baxter alleged that, following Fields’s sentence, respondent altogether failed to provide her with the trial transcripts or the discovery file, as she had requested. By contrast, during the ethics hearing, respondent claimed that he had provided Fields-Baxter with the “transcript,” “a copy of the appeal[,]” and the Appellate Division’s opinion

affirming Fields's convictions and sentence. Respondent, however, conceded that he had failed to provide Fields-Baxter with "the discovery" portion of the client file because he had "torn" the client file "apart" after (1) working on Fields's appeal, (2) relocating his law office, and (3) providing the Public Defender's office most of the client file to pursue Fields's PCR petition. Despite respondent and Fields-Baxter's disagreement regarding whether respondent had turned over portions of the appellate documents, respondent admitted that he had failed to provide Fields-Baxter with the full file, as she had requested. Respondent, thus, failed to protect Fields-Baxter or Fields's interests of upon termination of the representation by failing to maintain and surrender the complete client file.

Third, in connection with both the Lamar Fields and Phillip Edwards matters, respondent violated RPC 8.1(b) by failing to timely and adequately cooperate with the DEC's investigations of those matters.

R. 1:20-3(g)(3) requires a lawyer to cooperate in a disciplinary investigation and to reply, in writing, within ten days of receipt of a request for information. R. 1:20-3(g)(3) further requires a lawyer to "produce the original of any client or other relevant office file for inspection and review, if requested [. . .]." RPC 8.1(b), in turn, prohibits a lawyer from knowingly failing to reply to a lawful demand for information from a disciplinary authority.

In connection with the Lamar Fields matter, on May 2, 2018, the DEC sent respondent a letter, requesting that he provide the complete client file. On June 7, 2018, respondent's counsel sent the DEC a reply letter, alleging that he had enclosed Fields's "complete file." However, based on Fields-Baxter's claim that respondent had provided the DEC only a portion of the client file, the DEC sent respondent another letter, dated September 13, 2018, requesting that respondent submit the entire client file. Respondent, however, failed to comply. Almost two months later, on November 9, 2018, the DEC sent respondent a follow up letter, again requesting the entire client file. On November 19, 2018, respondent's counsel advised the DEC that he had "turned over every document in his possession" regarding Fields's matter and that he could provide no "additional information other than that which has already been sent."

In connection with the Phillip Edwards matter, respondent failed, for two months, to provide the DEC with his written reply to Edwards's ethics grievance. Thereafter, respondent failed to comply with the DEC's September 13 and November 9, 2018 written requests for Edwards's client file.

In connection with both matters, respondent failed to appear for the December 20, 2018 interview with the DEC and made no attempt to inform the DEC of his unavailability or to reschedule the interview. Thereafter, respondent appeared for the January 4, 2019 interview and admitted that could not locate

Edwards's client file or any additional portions of Fields's client file beyond that which he allegedly had provided to Fields-Baxter. Respondent also informed the DEC that he may have had "a couple of boxes" of Fields's client file "in storage" because he recently had relocated his law office.

During the ethics hearing, respondent did not reiterate his claim that he could not locate Edwards's client file. Rather, respondent claimed that he did not provide the DEC with the client file in connection with Edwards's OAL hearing because, in his view, Edwards's grievance did not complain about his representation before the OAL. However, regardless of the contents of Edwards's grievance, or respondent's subjective view of same, respondent was required to fully cooperate with the DEC by providing his complete client file, as the DEC had requested.

It is well-settled that cooperation short of the full cooperation required by the Rules has resulted in the finding that the attorney violated RPC 8.1(b). See, e.g., In re Wolfe, 236 N.J. 450 (2019); In the Matter of Marc Z. Palfy, DRB 15-193 (March 30, 2016) at 48 (wherein we viewed the attorney's partial "cooperation as no less disruptive and frustrating than a complete failure to cooperate[,]") noting that "partial cooperation can be more disruptive to a full and fair investigation, as it forces the investigator to proceed in a piecemeal and disjointed fashion"), so ordered, 225 N.J. 611 (2016).

Here, respondent's piecemeal and delayed compliance certainly is not the "full, candid, and complete disclosure" contemplated by the Rules and case law. See In re Gavel, 22 N.J. 248, 263 (1956). Moreover, respondent had a heightened awareness of his obligation to fully cooperate with disciplinary authorities in light of his extensive experience with the attorney disciplinary system. Despite his heightened awareness, respondent failed to promptly provide the DEC with complete information regarding the status of Fields's client file; failed to submit a timely written reply to Edwards's grievance; failed to comply with the DEC's written requests for Edwards's client file; and failed to appear for the initial December 20, 2018 interview with the DEC.

We find, however, that there is insufficient evidence to prove, by clear and convincing evidence, that respondent violated the remaining RPC charges.

First, the record does not clearly and convincingly establish that respondent violated RPC 1.4(b) by failing to communicate with Fields-Baxter in connection with her request for the client file, as alleged in the complaint.

During the ethics hearing, Fields-Baxter claimed that, following Fields's sentence, she made numerous attempts to contact respondent to retrieve Fields's trial transcripts and discovery file. Fields-Baxter maintained that respondent was either was not present in his office or was otherwise unavailable to speak with her. Nevertheless, Fields-Baxter described three separate instances where

respondent spoke with her, in his office, regarding Fields's client file. During her first visit, Fields-Baxter claimed that respondent had informed her that she could retrieve the boxes containing Fields's trial transcripts after respondent had "sort[ed] them out." During the second and third visits, Fields-Baxter alleged that respondent had informed her that the boxes were unavailable because they had been moved to the home of his secretary, who had since passed away.

By contrast, during the ethics hearing, respondent denied that he had failed to communicate with Fields-Baxter and insisted that he had "numerous" discussions with Fields-Baxter throughout the representation. Respondent also maintained that he would speak with Fields-Baxter when she appeared at his office without an appointment.

As the DEC hearing panel correctly explained, neither party submitted any evidence to corroborate their positions regarding respondent's efforts at communication. In the absence of such corroborating evidence, the conflicting testimony of respondent and Fields-Baxter do not clearly and convincingly establish that respondent violated RPC 1.4(b).

Second, the record does not clearly and convincingly establish that respondent violated RPC 8.1(a), RPC 8.1(b), or RPC 8.4(c) by exhibiting a lack of candor in connection with the DEC's investigation of the Lamar Fields matter, as alleged in the complaint.

RPC 8.1(a) prohibits an attorney from “knowingly mak[ing] a false statement of material fact” “in connection with a disciplinary matter.” Similarly, the relevant portion of RPC 8.1(b) prohibits an attorney from “fail[ing] to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter.” Moreover, RPC 8.4(c) prohibits an attorney from “engag[ing] in conduct involving dishonesty, fraud, deceit[,] or misrepresentation.” A violation of RPC 8.4(c) requires intent. See, e.g., In the Matter of Ty Hyderally, DRB 11-016 (July 12, 2011).

Here, the formal ethics complaint alleged that, during respondent’s January 4, 2019 interview with the DEC, he misrepresented that Fields-Baxter initially had retained Peter R. Willis, Esq., and not respondent, to represent Fields in connection with his criminal matters.

In respondent’s correspondence to the DEC, in his verified answer, and via his testimony at the ethics hearing, respondent consistently maintained that he had represented Fields-Baxter and Fields throughout Fields’s criminal matters. Respondent claimed that, during his January 4, 2019 interview, he had informed the DEC that he had retained Willis to represent him in connection with the ethics investigation. Respondent denied that he had misrepresented to the DEC that Fields-Baxter ever had retained Willis, who, as Fields’s trial and appellate records demonstrate, never represented Fields or Fields-Baxter. Based

on these facts, the DEC's allegation that respondent knowingly misrepresented his role in Fields's criminal matters appears to be the result of a misunderstanding, as respondent suggests, rather than a knowing act of deception.

Additionally, the formal ethics complaint alleged that respondent initially had misrepresented to the DEC that he had provided the investigator with Fields's complete client file.

Specifically, on June 7, 2018, respondent's counsel sent the DEC a letter stating that he had enclosed Fields's "complete file." Thereafter, following the DEC's requests for additional portions of the client file that appeared to have been omitted from respondent's counsel's June 2018 submission, respondent's counsel sent the DEC a November 19, 2018 letter, alleging that respondent had "turned over every document in his possession" regarding Fields's matter and that he could not "provide any additional information other than that which has already been sent." During respondent's January 4, 2019 interview with the DEC, he claimed that he could not locate additional documents of the client file beyond those which he allegedly had provided to Fields-Baxter. Finally, during his testimony at the ethics hearing, he admitted that he did not provide the DEC with the entire client file, given that he had sent portions of the client file to the Public Defender's office while other portions "may have been in storage."

Respondent admitted that he may have “misplaced” portions of the client file after it “had been torn apart”; he maintained, however, that he had sent the DEC the portions of the client file that he “could readily get [his] hands on.”

Although respondent’s counsel’s June 7, 2018 letter to DEC purporting to enclose the “complete file” failed to explain that respondent had sent only the portions of the client file that respondent had readily available, the record does not clearly and convincingly establish that respondent knowingly engaged in deception by misrepresenting the whereabouts of the entire client file. Specifically, the record is unclear whether respondent had reviewed his counsel’s letters to the DEC regarding the client file. Moreover, during his testimony at the ethics hearing and at his January 4, 2019 interview with the DEC, respondent readily admitted that he could not locate the entire client file. Although respondent’s counsel’s truncated correspondence to the DEC failed to accurately explain the status of the entire client file, it is unclear whether that failure was the result of dishonest conduct. See In the Matter of David Uffelman, DRB 08-355 (June 19, 2009) at 11 (noting that a misrepresentation “does not occur simply because an attorney is mistaken or his statement is later proved false, due to changed circumstances[;]” we dismissed the RPC 8.4(c) charge because the attorney’s unmet assurances to the client that he was working on various aspects of the case were the result of gross neglect rather than dishonest

conduct), so ordered, 200 N.J. 260 (2009). Consequently, in our view, the record lacks clear and convincing evidence that respondent violated RPC 8.1(a), RPC 8.1(b), or RPC 8.4(c).

Third, the complaint charged respondent with having collected an unreasonable \$6,000 fee for Fields's two criminal trials for first-degree aggravated sexual assault and his subsequent appeal. The complaint further alleged that respondent collected an unreasonable \$1,500 legal fee for his representation of Edwards.

RPC 1.5(a) contains eight factors that aid in establishing the reasonableness of an attorney's fee. The complaint, however, contains no reference to those factors and is devoid of any discussion regarding why respondent's minimal \$6,000 legal fee for Fields's two serious criminal matters was unreasonable. Moreover, during the ethics hearing, the DEC did not present any proofs to support the RPC 1.5(a) charge regarding either fee.

The record is similarly devoid of any such proofs in connection with the Phillip Edwards matter. Although it is unclear what legal fees, if any, respondent received for his representation of Edwards before the OAL, respondent received from Edwards only \$700 of his \$1,500 retainer fee to commence Edwards's appeal. Because Edwards failed to pay the full amount of the \$1,500 retainer, respondent never filed the appeal and ultimately refunded the \$700 to Edwards.

The complaint, however, contains no discussion regarding why respondent's \$1,500 fee would have been unreasonable, had Edwards paid respondent the requested retainer.

Because the record contains no explanation regarding why respondent's legal fees were unreasonable, we find that the record lacks clear and convincing evidence that respondent violated RPC 1.5(a) in connection with both client matters.

Fourth, in connection with the Philip Edwards matter, the complaint alleged that respondent failed to explain the basis of his legal fee, in writing. However, the record contains no information regarding whether respondent and Edwards had executed such a writing in connection with the representation before the OAL. Additionally, respondent communicated, in writing, the basis of his \$1,500 retainer fee for Edwards's appeal. Based on these facts, and the DEC presenter's decision to abandon this charge at the outset of the ethics hearing, we find that the record lacks clear and convincing evidence that respondent violated RPC 1.5(b) in connection with the Philip Edwards matter.

Fifth, the complaint alleged that respondent violated RPC 1.16(d) by failing to provide the DEC with a copy of Edwards's client file. RPC 1.16(d), however, addresses an attorney's failure to protect a client's interests upon termination of the representation. It does not address an attorney's failure to

cooperate with disciplinary authorities. Consequently, we dismiss the RPC 1.16(d) charge in connection with the Phillip Edwards matter.

Finally, the complaint alleged that respondent violated RPC 1.15(a) by failing to preserve the complete client files in connection with the Lamar Fields and Philip Edwards client matters for seven years.

RPC 1.15(a) provides that:

A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in a financial institution in New Jersey. Funds of the lawyer that are reasonably sufficient to pay bank charges may, however, be deposited therein. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of seven years after the event that they record.

RPC 1.15(a), however, does not apply to client documents. See In the Matter of Russell T. Kivler, DRB 08-155 (October 21, 2008) (dismissing an RPC 1.15(a) charge as inapplicable when the attorney either lost or refused to return his clients documents; we determined that RPC 1.16(d) more appropriately encompassed the attorney's misconduct), so ordered, 197 N.J. 255 (2009).

Here, RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6) would have more appropriately addressed respondent's failure to

preserve his clients' files. Specifically, R. 1:21-6(c)(1)(I) required respondent to preserve his client files for seven years. Nevertheless, by his own admission during the January 4, 2019 interview with the DEC, respondent could not locate Edwards's client file. Moreover, during the ethics hearing, respondent admitted that he could not provide the DEC with Fields's complete client file because he had sent much of that file to the Public Defender's office. Although respondent failed to properly preserve his clients' files, as R. 1:21-6(c)(1)(I) requires, because the complaint did not charge respondent with having violated RPC 1.15(d), we cannot independently sustain that charge.

In sum, we find that, in both client matters, respondent violated RPC 8.1(b) (failing to cooperate with disciplinary authorities). We also find that respondent violated RPC 1.5(b) and RPC 1.16(d) in connection with the Lamar Fields matter. We determine to dismiss the charges that respondent violated RPC 1.5(a) and RPC 1.15(a) in connection with both client matters. We also dismiss the charges that respondent violated RPC 1.4(b) (Lamar Fields); RPC 1.5(b) (Philip Edwards); RPC 1.16(d) (Philip Edwards); RPC 8.1(a) (Lamar Fields); RPC 8.1(b) (failing to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter – Lamar Fields); and RPC 8.4(c) (Lamar Fields). The sole issue left for determination is the appropriate quantum of discipline for respondent's misconduct.

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 In the Matter of Robert E. Kingsbury, DRB 21-152 (October 22, 2021) (the attorney failed to set forth the basis of his \$1,500 flat legal fee in writing; the attorney also mishandled the client’s matter for almost three years before the client retained substitute counsel to complete her matter; in mitigation, the attorney completely refunded the client, who suffered no ultimate financial harm; the attorney had no prior discipline).

However, reprimands have been imposed on attorneys who, in addition to violating RPC 1.5(b), have defaulted, have a disciplinary history, or have committed other acts of misconduct, such as failing to cooperate with disciplinary authorities. See, e.g., In re Osterbye, ___ N.J. ___ (2022) (in a default matter, the attorney failed to memorialize his legal fee in connection with his clients’ two small claims court lawsuits; the attorney had a prior 2020 reprimand, which gave him a heightened awareness of his obligation to cooperate with disciplinary authorities); In re Jaffe, 240 N.J. 433 (2020) (the attorney failed to set forth the basis of his fee in writing in connection with his client’s driving while intoxicated (DWI) matter; the client advised the attorney, via e-mail, that she could pay a total of \$1,000 for the representation; in reply, the attorney alleged that he was “happy to start defending [her]”; thereafter, the

client provided the attorney an initial \$500 check toward the representation; the attorney, however, informed the client that he could not cash the check, which he claimed should have been made payable to an expert; the client maintained that she believed that the cost of the expert was included in the attorney's \$1,000 fee and was unwilling to spend any additional funds; ultimately, the client declined to hire an expert and, through the attorney, pleaded guilty to DWI; the attorney also failed to comply with the DEC's requests to produce the client file, in violation of RPC 8.1(b); the attorney had a prior 2017 censure, a 2012 reprimand, and a 1998 reprimand); In re Yannon, 220 N.J. 581 (2015) (the attorney failed to memorialize the basis of his fee in connection with his client's two real estate transactions; discipline was enhanced based on the attorney's 2013, one-year suspension for his involvement in an illegal property transaction); In re Gazdzinski, 220 N.J. 218 (2015) (the attorney failed to prepare a written fee agreement in a matrimonial matter; the attorney also failed to comply with the DEC investigator's repeated requests for the entire client file, in violation of RPC 8.1(b); the attorney also violated RPC 8.4(d) by entering into an agreement with the client to dismiss the ethics grievance against him, in exchange for a resolution of the fee arbitration between them; the attorney displayed an "obvious" lack of contrition at the ethics hearing but had no prior discipline).

Generally, admonitions or reprimands have been imposed on attorneys who have failed to return their clients' files, even when accompanied by additional, non-serious ethics violations. See, e.g., In the Matter of Eralides Eric Cabrera, DRB 21-216 (January 21, 2022) (admonition for attorney who failed to comply with his client's and replacement counsel's repeated requests to return the client file; in mitigation, the attorney's misconduct spanned only one client matter and the attorney purportedly had taken remedial efforts to ensure that no similar errors would occur in the future; the attorney had no prior discipline in his thirty years at the bar); In the Matter of Gary A. Kraemer, DRB 14-085 (June 24, 2014) (admonition for attorney who failed to file his appearance for several months in two litigation matters and, in one of the matters, he also failed to take prompt action to compel an independent medical examination of the plaintiff, in violation of RPC 1.3 (engaging in a lack of diligence); in addition, throughout the representation, the attorney repeatedly failed to reply to his client's – and his prior counsel's – numerous requests for information about the two matters; in violation of RPC 1.4(b); finally, several months after final judgment was entered against his client, the attorney failed to turn over the file to appellate counsel, in violation of RPC 1.16(d); the attorney had no prior discipline in his thirty-five years at the bar); In re Keeley-Cain, 247 N.J. 196 (2021) (reprimand for attorney who grossly mishandled his clients' foreclosure matter and

consumer fraud counterclaim, resulting in the dismissal of the clients' answer and counterclaim, with prejudice; thereafter, the clients terminated the representation and hired new counsel, who, for several months, repeatedly requested that the attorney execute a substitution of attorney and return the clients' file; the attorney failed, for ten months, to sign and return the substitution of attorney form; the attorney altogether failed to return the client file; although the attorney had a prior 2005 admonition for similar misconduct, that misconduct did not serve to enhance the discipline, given the passage of time).

Here, like the reprimanded attorney in Jaffe, respondent failed to set forth the basis of his legal fee in writing in connection with his representation of Fields-Baxter and Fields. In Jaffe, the attorney's failure to communicate the basis of his fee in writing resulted in significant confusion for his client, who erroneously believed that the attorney's \$1,000 legal fee covered all the costs of the representation. Like Jaffe, respondent's failure to communicate the basis of his legal fee resulted in significant confusion for Fields-Baxter, who, throughout the representation, provided respondent with piecemeal legal fees without knowing what additional amounts, if any, she owed to respondent. Although respondent claimed, during the ethics hearing, that he was willing to undertake the representation for "free[,]," respondent failed to inform Fields-Baxter of his

purported intent, continued to accept Fields-Baxter's payments, and refused to directly answer Fields-Baxter's inquiries regarding the amounts she owed. Nevertheless, despite respondent's failure to communicate the basis of his legal fee, the fact remains that he handled two serious criminal trials and an appeal for a minimal fee.

Additionally, respondent failed to provide Fields-Baxter with Fields's complete client file, as she requested. Nevertheless, unlike the reprimanded attorney in Keely-Cain, who completely failed to provide successor counsel with the client file, respondent provided the Public Defender's office with much of Fields's client file, which allowed Fields to pursue his PCR petition on the merits. Respondent's failure to provide Fields-Baxter with the entire client file, thus, did not appear to prejudice Fields's ability to pursue his post-conviction remedies or result in any ultimate harm to Fields or Fields-Baxter. In that vein, respondent's misconduct appears to have been the result of his failure to maintain complete copies of the client file, as R. 1:21-6(c)(1)(I) requires, rather than his outright refusal to turn over documents that he had in his possession.

Respondent's disciplinary history, however, is far more egregious than that of the reprimanded attorney in Jaffe, who had two remote reprimands and a recent censure, and the reprimanded attorney in Keely-Cain, who had a remote admonition. By contrast, respondent has (1) a 1995 admonition for

recordkeeping infractions; (2) a 1998 three-month suspension for possessing controlled dangerous substances; (3) a 1999 one-year suspension for practicing law while suspended; (4) a 2000 six-month suspension for attempting to establish an inappropriate fee-sharing agreement with a corrections officer; and (5) a 2008 censure for negligently misappropriating entrusted client funds and retaining excess recording fees in connection with numerous real estate closings. Although much of respondent's prior misconduct occurred more than two decades ago, his 2008 censure demonstrates that he has had not enjoyed a prolonged period in which he has maintained consistent compliance with the Rules of Professional Conduct.

Moreover, despite his extensive experiences with the attorney disciplinary system, respondent failed to adequately cooperate with the DEC's investigation of his misconduct. Specifically, respondent intentionally refused to provide the DEC with Edwards's client file based on his irrelevant and subjective view that Edwards did not complain about his representation before the OAL. Respondent, however, was well-aware of his obligation to fully cooperate with disciplinary authorities, irrespective of his subjective views of Edwards's grievance. Additionally, respondent failed to provide the DEC with Fields's complete client file; failed to promptly inform the DEC that he did not possess the entirety of Fields's client file; failed to submit a timely written reply to Edwards's

grievance; and failed to appear for the initial December 2018 interview with DEC.

On balance, weighing respondent's failure to cooperate with the DEC and the significant confusion he caused to Fields-Baxter against the applicable disciplinary precedent, we determine that a censure is the appropriate quantum of discipline necessary to protect the public and to preserve confidence in the bar.

Vice-Chair Boyer and Members Hoberman and Petrou voted for a reprimand.

Member Menaker 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: /s/ Timothy M. Ellis
Timothy M. Ellis
Acting Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of James R. Lisa
Docket No. DRB 22-132

Argued: October 20, 2022

Decided: January 11, 2023

Disposition: Censure

| <i>Members</i> | Censure | Reprimand | Absent |
|----------------|---------|-----------|--------|
| Gallipoli | X | | |
| Boyer | | X | |
| Campelo | X | | |
| Hoberman | | X | |
| Joseph | X | | |
| Menaker | | | X |
| Petrou | | X | |
| Rivera | X | | |
| Total: | 4 | 3 | 1 |

/s/ Timothy M. Ellis

Timothy M. Ellis
Acting Chief Counsel