

Supreme Court of New Jersey  
Disciplinary Review Board  
Docket No. DRB 22-208  
District Docket No. XIV-2022-0014E

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In the Matter of  
Stephen Paul Hildebrand  
An Attorney at Law

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Decision

Argued: February 16, 2023

Decided: May 1, 2023

Hillary K. Horton appeared on behalf of the Office of Attorney Ethics.

Respondent did not appear, despite proper notice.

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

This matter was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (the OAE), pursuant to R. 1:20-14(a), following the Supreme Court of Pennsylvania's issuance of a March 23, 2022 order

disbarring respondent, on consent, following his voluntary resignation from the Pennsylvania bar.

The OAE relied on respondent's acknowledgment that he could not defend against the allegations of misconduct set forth in a petition for discipline filed by the Pennsylvania Office of Disciplinary Counsel (the ODC), which alleged violations of that jurisdiction's rules corresponding to New Jersey's RPC 1.1(a) (gross neglect); RPC 1.2(a) (failure to abide by the client's decisions concerning the scope and objectives of representation); RPC 1.3 (lack of diligence); RPC 1.4(b) (failure to keep a client reasonably informed about the status of a matter); RPC 1.5(a) (unreasonable fee); RPC 1.5(b) (failure to set forth in writing the basis or rate of the legal fee); RPC 1.15(a) (failure to safeguard the property of clients that is in the lawyer's possession in connection with a representation); RPC 1.15(b) (failure to promptly deliver to the client any funds or other property the client is entitled to receive); RPC 1.16(c) (failure to comply with applicable law requiring notice to or permission of a tribunal when terminating a representation); RPC 1.16(d) (failure, upon termination of representation, to protect the client's interests and to refund the unearned portion of the fee); RPC 3.2 (failure to expedite litigation); and RPC 8.4(d) (conduct prejudicial to the administration of justice). The OAE further alleged, as had the ODC, that

respondent engaged in misconduct by failing to cooperate with Pennsylvania disciplinary authorities.

For the reasons set forth below, we determine to grant the motion for reciprocal discipline and conclude that a six-month suspension is the appropriate quantum of discipline for respondent's misconduct.

Respondent earned admission to the New Jersey and Pennsylvania bars in 2015. During the relevant period, he maintained a practice of law in Ardmore, Pennsylvania. He has no prior discipline in New Jersey.

On October 5, 2020, the Court declared respondent ineligible to practice law in New Jersey for his failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection.

On November 16, 2020, the Court again declared respondent ineligible to practice law in New Jersey for his failure to comply with continuing legal education requirements. Respondent remains administratively ineligible, on both bases, to date.

On March 23, 2022, the Pennsylvania Supreme Court disbarred respondent, on consent, after he filed a verified statement of resignation in connection with his misconduct underlying the instant matter. Office of Disciplinary Counsel v. Hildebrand, 2022 Pa. LEXIS 345. Respondent has no additional public discipline in Pennsylvania.

The facts of this matter are uncontested.

In 2021, the ODC investigated respondent in connection with three client matters, described below: the Chinchilla-Roque immigration matter, the Bailey immigration matter, and the Nathaniel criminal matter.

### **Respondent's Misconduct in the Chinchilla-Roque Matter**

In or after November 2019, Cresencio Chinchilla-Roque retained respondent to file an appeal with the Board of Immigration Appeals (BIA) from a removal order entered against Chinchilla-Roque on November 13, 2019. Chinchilla-Roque's brother paid respondent \$1,500 for the representation and arranged for him to meet with Chinchilla-Roque, who was incarcerated at the time. Respondent, who had not represented Chinchilla-Roque in the past, failed to provide a writing setting forth the basis or rate of his fee.

Although respondent filed a notice of appeal with the BIA, he never filed the supporting brief, which was due in February 2020.

In April 2020, Chinchilla-Roque's brother sent an e-mail to respondent, asking him "to send . . . the documents" and to refund the \$1,500 fee. Respondent failed to reply. Later that month, Rosina Stambaugh, Esq., sent an e-mail to respondent, asking if he currently represented Chinchilla-Roque. Respondent replied:

I was retained for a motion to reopen after the IJ [immigration judge] hearing where [Chinchilla-Roque] was pro se. They never got me anything we discussed. I put in an appeal to buy more time and explained I could not do anything without evidence based on the record. I did not hear from them for a while but they did recently contact me, I think they are trying to do something again. I spoke to his brother yesterday. If they want you to get involved ill get you what I have and the full rundown.<sup>1</sup>

[ODCp¶16.]<sup>2</sup>

Stambaugh asked respondent to provide her with the file; he replied that he would, then failed to do so, despite Stambaugh's repeated requests.

In June 2020, Stambaugh informed respondent that she would file a disciplinary action against him if he did not reply to her efforts to obtain Chinchilla-Roque's file. Respondent sent her an e-mail, stating:

Sorry I have been out a lot due to some health issues.

I was hired to do a consultation after he was denied at a IH [immigration hearing]. I met with his brother and I visited him at York. He told me that his brother had a lawyer for him but that person never came he did not know who it was and that he was forced to continue although he asked for time. Both he and his brother indicated that he was afraid to go home. I discussed the option of filing a Motion to Reopen with supporting documents. I did not receive those documents and as 30 days was approaching I filed a Notice of Appeal to the

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<sup>1</sup> All typographical errors within the e-mail and text messages quoted herein are contained in the original communications.

<sup>2</sup> "ODCp" refers to the ODC's September 9, 2021 Petition for Discipline.

BIA to preserve his appellate rights. I will go to the office to get documents to send to you.

[ODCP¶32.]

This was the last communication from respondent relating to the matter. Respondent did not send Stambaugh the documents, despite a final request from her a month later. In the interim, he also failed to respond to a July 2020 query from Chinchilla-Roque's brother, asking if he was still working on the case.

In September 2020, Stambaugh filed with the BIA an emergency motion for substitution of counsel, along with a motion to reset the briefing schedule. The BIA denied the latter motion.

In January 2021, Stambaugh filed a brief in support of Chinchilla-Roque's appeal, accompanied by a motion to file the brief late. In support of the late filing, she represented that she still had not received the file and that respondent's "ineffective assistance . . . and his failure to file a brief have significantly prejudiced [Chinchilla-Roque's] appellate process."

On February 10, 2021, the BIA denied the appeal, determining, among other things, that Chinchilla-Roque had "not made sufficient specific arguments" regarding the immigration judge's decision and had "not meaningfully challenged any of the findings of fact or conclusions of law underlying the denial of his applications for relief and protection."

On March 5, 2021, the ODC sent respondent a Form DB-7,<sup>3</sup> via e-mail, requesting respondent's statement of position regarding allegations of misconduct in handling Chinchilla-Roque's matter. The DB-7 further advised respondent that "failure to respond to this request for your statement of position without cause is an independent ground for discipline" pursuant to Pa. R.D.E. 203(b)(7). Respondent received the DB-7 but failed to reply.

The ODC again requested respondent's position on the allegations in a DB-7 dated July 13, 2021, sent via e-mail and by certified mail to his office. The certified mail was returned as "unclaimed." Respondent failed to reply.

### **Respondent's Misconduct in the Bailey Matter**

On or about November 16, 2019, Ryan Bailey retained respondent to represent him at a hearing before the immigration court. Bailey initially paid respondent \$1,000 and agreed to pay \$2,000 total for his representation. Respondent, who previously had not represented Bailey, failed to provide a writing setting forth the basis or rate of his fee.

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<sup>3</sup> A form DB-7 (Request for Statement of Respondent's Position) is used by the district offices of Pennsylvania's Office of Disciplinary Counsel to notify an attorney of allegations of professional misconduct and to seek the attorney's response to the allegations. See Pa. Disciplinary Bd. R. 87.7(b).

Respondent arranged for Michael Lambert, Esq., to accompany Bailey to the November 20, 2019 hearing. At the hearing, Bailey and Lambert learned that, earlier that day, Bailey had been ordered removed from the country.

Lambert filed a motion to re-open and a request for an automatic stay of removal pending that motion's consideration. In January 2020, the immigration court denied the motion to re-open.

In February 2020, respondent filed with the BIA a notice of appeal from Bailey's removal order. However, respondent subsequently failed to file the required brief in support of the appeal.

In or about June 2020, Bailey called respondent, and respondent asked Bailey to pay the remaining \$1,000 toward the \$2,000 legal fee. Bailey paid respondent another \$300. Respondent met with Bailey soon after this exchange, and Bailey paid him another \$200; respondent assured Bailey that he would file the brief.

Between July and October 2020, Bailey repeatedly tried to contact respondent by telephone call and text message to ascertain the status of his appeal. Respondent replied only once, sending Bailey a text message, on August 19, 2020, in which he wrote: "Hey, I've been sick your on my list to give you a call on other line I'm going to call you today." He failed to call Bailey that day or any day thereafter. Bailey sent respondent another text message a week later,



asking respondent to provide the file to Lambert, but respondent neither replied nor provided the file.

On September 17, 2020, the BIA dismissed Bailey's appeal, noting that Bailey had failed to file a supporting brief.

On September 25, 2020, Bailey sent a text message to respondent, writing:

I paid you \$1000 deposit of the \$2000 to do my appeal, but you did nothing. You was supposed to write and file a brief for my appeal in 30 days after Michael [Lambert] filed the appeal and you did nothing. Now the Court dismiss my appeal and it's all your fault. What should I do? Can you give me my file now. The file needs to go to another lawyer yesterday. I have to save me. I don't know what happened to you but my life must go on. Give me my file or send it to Michal Lambert. I am hiring new lawyer today and he is waiting for your file

[ODCp¶83 (emphasis in original).]

Respondent replied:

I never got a briefing schedule in this case. I don't know what happened. I'm happy to get everything to whomever. I'm also happy to file a motion to reopen for you that I did not receive the briefing schedule to reopen.

[ODCp¶84.]

In response, Bailey reiterated his request for the file, offering to pick it up right away. Respondent neither replied to this message nor provided the file; he likewise failed to respond to Bailey's two later attempts to contact him; and he never refunded any of the \$1,500 that Bailey had paid him.

On March 30, 2021, the ODC sent respondent a DB-7, via e-mail, requesting his statement of position regarding allegations related to his handling of Bailey's matter. Although respondent received the DB-7, he failed to reply.

On or around July 13, 2021, the ODC sent the DB-7 to respondent again, via both e-mail and certified mail. The certified mail was returned, marked "unclaimed." Respondent failed to reply.

### **Respondent's Misconduct in the Nathaniel Matter**

On August 8, 2019, respondent entered an appearance on behalf of Timothy Nathaniel, III, in Magisterial District Court 03-1-04 (Northampton County, Pennsylvania), in connection with criminal proceedings against Nathaniel, based on October 2017 charges alleging theft by unlawful taking and unauthorized use of a motor vehicle.

On September 27, 2019, respondent represented Nathaniel at a preliminary hearing, at which the Magisterial District Court found sufficient grounds for the case to proceed. Accordingly, the matter was transferred to the Northampton County Court of Common Pleas, where respondent further entered his appearance on Nathaniel's behalf.

On February 12 and June 15, 2020, respondent represented Nathaniel at pre-trial conferences, where respondent requested and was granted

continuances. He did not make any further appearances in the proceedings or communicate with Nathaniel after June 2020.

In September 2020, respondent missed a pre-trial conference. The next month, he missed a hearing to show cause why he should not be held in contempt for his September failure to appear. Nathaniel, appearing pro se, requested and was granted a continuance of his trial, which had been scheduled for November 2020.

In January 2021, respondent failed to appear for another pre-trial conference; Nathaniel, again appearing pro se, received an additional continuance. Respondent also failed to answer or return three calls from the judge's chambers between September 2020 and January 2021.

On May 3, 2021, respondent failed to appear for Nathaniel's criminal trial. He subsequently failed to appear for two hearings to show cause why he should not be held in contempt for failing to appear at previous proceedings. Consequently, on June 29, 2021, the trial court entered an order holding respondent in willful contempt for failing to appear for the two show cause proceedings. The court also imposed a \$5,000 fine.

In June 2021, at Nathaniel's request, the trial court removed respondent as his counsel.

On July 13, 2021, the ODC sent respondent a DB-7, by certified mail and e-mail, requesting his statement of position regarding allegations related to his handling of Nathaniel's case. The certified mail was returned, marked "unclaimed." Respondent failed to reply.

In July 2021, respondent submitted his 2021-2022 Pennsylvania Attorney Annual Fee form, in which he requested to remain on active status and provided the same office and e-mail addresses to which the ODC had sent the DB-7s in the Chinchilla-Roque, Bailey, and Nathaniel matters. On the updated form, he designated that e-mail address as "secondary" and added another e-mail address.

Starting in August 2021, the ODC undertook disciplinary action that jointly addressed the Chinchilla-Roque, Bailey, and Nathaniel matters. In correspondence dated August 11, 2021, sent by certified mail to respondent's office and by e-mail to both of respondent's e-mail addresses of record, the ODC re-sent to respondent the DB-7s for each of the three matters. The certified mail addressed to respondent's office was returned as "unclaimed." Respondent failed to reply to the correspondence.

Accordingly, on September 9, 2021, the ODC filed a petition for discipline with the Disciplinary Board of the Supreme Court of Pennsylvania. The ODC alleged that respondent had violated the following Pennsylvania Rules of Professional Conduct and Rules of Disciplinary Enforcement: Pa. RPC 1.1; Pa.

RPC 1.2(a); Pa. RPC 1.3; Pa. RPC 1.4(a)(2), (3), and (4); Pa. RPC 1.5(a) and (b); Pa. RPC 1.15(b), (e), and (i); Pa. RPC 1.16(c) and (d); Pa. RPC 3.2; Pa. RPC 8.4(d); and Pa. R.D.E. 203(b)(1) and (7). The ODC’s petition also alleged seven violations of the federal regulations governing the conduct of immigration law practitioners. See 8 C.F.R. §§ 1003.101 to .111.

On March 2, 2022, based on the pending prosecution of the allegations set forth in the ODC’s petition for discipline, respondent filed a voluntary resignation from the Pennsylvania bar, pursuant to Pa. R.D.E. 215.<sup>4</sup> In his supporting verified statement, respondent acknowledged that he was submitting his “resignation because he knows that he could not successfully defend himself against the charges of professional misconduct” in the petition. See Pa. R.D.E. 215(a)(4). Respondent further “acknowledge[d] that the material facts which form the basis of this Petition for Discipline are true.” See Pa. R.D.E. 215(a)(3).

On March 23, 2022, having considered respondent’s verified statement in support of his resignation, the Pennsylvania Supreme Court disbarred respondent on consent. Office of Disciplinary Counsel v. Hildebrand, 2022 Pa.

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<sup>4</sup> Pa. R.D.E. 215(a), governing discipline on consent, provides that “[a]n attorney who is the subject of an investigation into allegations of misconduct by the attorney may submit a resignation,” provided it is accompanied by a verified statement containing specific acknowledgments set forth by the rule. Upon the filing of the verified statement, the Pennsylvania Supreme Court “shall enter an order disbarring the attorney on consent.” Pa. R.D.E. 215(b).

LEXIS 345. Contrary to Rule 1:20-14(a)(1), respondent failed to notify the OAE of his Pennsylvania disbarment.

In its submission to us, the OAE set out, in a footnote, the assertion that the Pennsylvania rules that respondent admitted having violated correspond to New Jersey RPC 1.1(a); RPC 1.2(a); RPC 1.3; RPC 1.4(b); RPC 1.5(a) and (b); RPC 1.15(a) and (b); RPC 1.16(c) and (d); RPC 3.2; and RPC 8.4(d).<sup>5</sup> The OAE also alleged a violation of the New Jersey Rules of Professional Conduct based on respondent's failure to cooperate with Pennsylvania's disciplinary authorities.<sup>6</sup>

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<sup>5</sup> Regarding the ODC's allegations that respondent violated the federal rules governing immigration practitioners, the OAE posited that, because these rules apply only to immigration matters, they have no New Jersey equivalents; in addition, the OAE explained, the misconduct addressed by the charges of federal rule violations is encompassed by the charges under the state Rules of Professional Conduct.

Regarding the ODC petition's charge that respondent violated Pa. R.D.E. 203(b)(1) (conviction of a crime), the OAE's brief did not incorporate or address this charge under New Jersey law; moreover, that charge's factual basis is not evident from the ODC's petition. Accordingly, no charge correlating to Pa. R.D.E. 203(b)(1) was before us.

<sup>6</sup> The ODC's petition charged respondent with violating Pa. R.D.E. 203(b)(7), which provides that "[f]ailure by a respondent-attorney without good cause to respond" to a DB-7 "shall also be grounds for discipline." However, the OAE's list of New Jersey equivalents to the Pennsylvania charges did not include this charge.

The OAE's motion for reciprocal discipline and supporting brief, which serve as the charging documents, must satisfy the pleading requirements of Rule 1:20-4(b) (requiring that a disciplinary complaint "set forth sufficient facts to constitute fair notice of the nature of the alleged unethical conduct, specifying the ethical rules alleged to have been violated."). In the instant matter, although the OAE failed to cite RPC 8.1(b) specifically, in our view, its brief served as adequate notice of a charge under this Rule and in conformity with In re Roberson, 194 N.J. 557 (2008) (citing In re Ruffalo, 390 U.S. 544, 551 (1968)). Specifically, the OAE's brief informed respondent of the charge by (1) incorporating the charges from the ODC's petition, which included violating

(footnote cont'd on next page)

Specifically, the OAE alleged that, in all three matters, respondent lacked diligence and competence; failed to communicate with the client; “ultimately abandoned” each client; failed to refund unearned retainer fees and files; and failed to cooperate with Pennsylvania disciplinary authorities. In the Nathaniel matter, respondent also failed to appear for criminal court proceedings, answer calls from judicial chambers, or appear on orders to show cause.

Although respondent was disbarred, on consent, in Pennsylvania, the OAE observed that, “under R. 1:20-14(a)(4)(e), it would appear that substantially different discipline would be warranted in this jurisdiction when compared to that meted out by Pennsylvania.” Thus, it argued that “respondent should receive a six-month suspension for his Pennsylvania misconduct, including the abandonment of three vulnerable clients.”

The OAE drew its recommendation for a six-month suspension from the Court’s recent Order and our underlying analysis in In re Austin, \_\_\_ N.J. \_\_\_ (2022). In that case, Austin mishandled an estate matter by abandoning the client “after collecting a \$3,000 retainer fee,” while failing “to communicate with him . . . transmit the file to substitute counsel, and . . . to fully cooperate in the OAE’s

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Pennsylvania’s equivalent of RPC 8.1(b); (2) repeatedly asserting that respondent had failed to cooperate with the Pennsylvania disciplinary authorities, in language that tracked the RPC 8.1(b) prohibition of “fail[ure] to respond to a lawful demand for information from [a] . . . disciplinary authority”; and (3) setting out the factual bases for charging respondent with violating RPC 8.1(b), namely, respondent’s admitted failure to respond to any of the DB-7s.

investigation in the matter,” violating RPC 1.1(a); RPC 1.3; RPC 1.4(b); RPC 1.15(b); RPC 1.16(d); and RPC 8.1(b) (failure to cooperate with disciplinary authorities).<sup>7</sup> In the Matter of Michele S. Austin, DRB 21-191 (February 25, 2022). We determined that Austin’s abandonment of the client, standing alone, warranted a three-month suspension under New Jersey disciplinary precedent. Weighing the matter’s default status and other aggravating factors, we recommended a one-year suspension. The Court determined to suspend Austin for six months.

Here, the OAE acknowledged that the attorney in Austin, unlike respondent, made false statements to disciplinary investigators and practiced law while suspended. The OAE argued that the same quantum of discipline should nevertheless apply, because respondent’s misconduct involved three clients (whereas Austin’s involved one) and respondent’s clients were “vulnerable . . . including two immigration clients who had been ordered removed from the United States, and one criminal law client who was facing serious felony charges[.]” The OAE also argued, in aggravation, that respondent failed to notify the OAE of his Pennsylvania discipline. In mitigation, the OAE

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<sup>7</sup> The reference to “RPC 8.1(d)” in the OAE’s brief appears to be typographical error; RPC 8.1(b) corresponds to the parenthetical that follows: “(failure to cooperate with disciplinary authorities).”



noted that respondent had no prior ethics history, but it argued that this factor merited little weight because he did not appear to have had a significant practice in this jurisdiction.

Respondent did not submit a brief for our consideration.

Following our review of the record, we determine to grant the OAE's motion for reciprocal discipline. Pursuant to R. 1:20-14(a)(5), "a final adjudication in another court, agency or tribunal, that an attorney admitted to practice in this state . . . is guilty of unethical conduct in another jurisdiction . . . shall establish conclusively the facts on which it rests for purposes of a disciplinary proceeding in this state." Thus, with respect to motions for reciprocal discipline, "[t]he sole issue to be determined . . . shall be the extent of final discipline to be imposed." R. 1:20-14(b)(3).

In Pennsylvania, the standard of proof in attorney disciplinary proceedings is that the "[e]vidence is sufficient to prove unprofessional conduct if a preponderance of the evidence establishes the conduct and the proof . . . is clear and satisfactory." Office of Disciplinary Counsel v. Kissel, 442 A.2d 217 (Pa. 1982) (quoting In re Berland, 328 A.2d 471 (Pa. 1974)). Moreover, "[t]he conduct may be proven solely by circumstantial evidence." Office of Disciplinary Counsel v. Grigsby, 425 A.2d 730 (Pa. 1981) (citations omitted). In this matter, respondent admitted, in his verified tender of resignation in

Pennsylvania, to the material facts and misconduct that formed the bases for the ODC's petition for discipline.

Reciprocal discipline proceedings in New Jersey are governed by R. 1:20-14(a)(4), which provides in pertinent part:

The Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record on which the discipline in another jurisdiction was predicated that it clearly appears that:

(A) the disciplinary or disability order of the foreign jurisdiction was not entered;

(B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;

(C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;

(D) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(E) the unethical conduct established warrants substantially different discipline.

We determine that subsection (E) applies here because the unethical conduct established by the record warrants substantially different discipline. Specifically, pursuant to New Jersey disciplinary precedent, respondent's violations of the Rules of Professional Conduct, although diverse and serious, warrant the imposition of a term of suspension, not permanent disbarment or

indeterminate suspension (New Jersey’s closest equivalent to disbarment in Pennsylvania, where an attorney who has been disbarred may apply for reinstatement after five years, pursuant to Pa. R.D.E. 218).

Turning to the application of New Jersey’s Rules of Professional Conduct to the instant matter, in the context of a motion for reciprocal discipline, the Court’s review “involves ‘a limited inquiry, substantially derived from and reliant on the foreign jurisdiction’s disciplinary proceedings.’” In re Barrett, 238 N.J. 517, 522 (2019) (quoting In re Sigman, 220 N.J. 141, 153 (2014)). Nevertheless, clear and convincing evidence must support each of our findings that respondent violated the New Jersey Rules. See Barrett, 238 N.J. at 521; In re Pena, 164 N.J. 222 (2000).

Here, the record contains clear and convincing evidence that, in the Chinchilla-Roque, Bailey, and Nathaniel matters, respondent violated RPC 1.1(a); RPC 1.3; RPC 1.4(b); RPC 1.16(d); RPC 3.2; and RPC 8.1(b). In the Chinchilla-Roque and Bailey matters, respondent further violated RPC 1.5(b). In addition, in the Nathaniel matter, respondent violated RPC 8.4(d).

However, we determine that our “limited inquiry, substantially derived from and reliant on” Pennsylvania’s disciplinary proceedings, leaves us unable to conclude that respondent violated RPC 1.2(a); RPC 1.5(a); RPC 1.15(a); RPC 1.15(b); and RPC 1.16(c).

Respondent's admitted misconduct clearly established, in each of the three client matters, violations of RPC 1.1(a); RPC 1.3; RPC 1.4(b); RPC 1.16(d); and RPC 3.2. Specifically, in the Chinchilla-Roque matter, respondent failed to file the BIA brief; failed to keep the client informed about the status of his matter, while also ignoring reasonable inquiries from Stambaugh and the client's brother; and had not provided the file to Stambaugh by the time she filed the untimely brief, roughly eleven months after it had been due and about eight months after she first asked respondent for the file.

In the Bailey matter, respondent failed to file the BIA brief, resulting in the dismissal of the appeal seven months later. He also failed to reply to most of the client's requests for information and did not provide the client file to Lambert or the client, despite the client's repeated requests that he do so.

In the Nathaniel matter, although respondent represented the client adequately from August 2019 to June 2020, thereafter, he failed to appear for any court proceedings; to answer or return calls from chambers; and to maintain communication with the client. As a result, the client twice appeared pro se and eventually had to request that the court dismiss respondent as his counsel.

In further violation of RPC 1.16(d), in the Bailey matter, respondent admitted he failed to refund any portion of the client's aggregate payments of \$1,500. However, the ODC petition does not clearly state as fact, or recite among

its allegations, that respondent failed to refund any of the fees paid by Chinchilla-Roque; and the account of the Nathaniel matter contained in the petition does not include any information about fees. Accordingly, respondent did not admit to failing to return fees to Chinchilla-Roque or Nathaniel.

In the Chinchilla-Roque and Bailey matters, respondent violated RPC 1.5(b) by concededly failing to enter into a written fee agreement, despite having not previously represented either client. This violation cannot apply to the Nathaniel matter, because the petition does not address fees in that matter.

In all three matters, respondent also failed to cooperate with the Pennsylvania disciplinary authorities' requests for statements of position, in violation of RPC 8.1(b). Further, in the Nathaniel matter, respondent prejudiced the administration of justice, in violation of RPC 8.4(d), by repeatedly failing to appear and burdening the court with a show cause matter.

However, we determine to dismiss the allegation that respondent violated RPC 1.2(a), which requires that an attorney "abide by a client's decisions concerning the scope and objectives of representation" and "consult with the client about the means to pursue them." The OAE did not identify client decisions that respondent overrode or disregarded, nor describe instances when respondent unilaterally determined the means of pursuing a client's objectives.

In addition, the record does not support a finding that respondent charged an unreasonable fee, in violation of RPC 1.5(a). Chinchilla-Roque and Bailey each paid respondent \$1,500 in advance fees. Respondent performed some work on behalf of both clients. Given these facts, the OAE's brief does not analyze the reasonableness of these fees under the factors set out in the Rule and, thus, leaves us unable to determine, on this record, that, had respondent performed the work for which he had been retained, the fees charged would have been unreasonable.

We also determine to dismiss the charges that respondent violated RPC 1.15(a) and (b). The OAE's brief did not identify any client property that respondent commingled with his own, failed to safeguard, or failed to deliver to clients or third parties. RPC 1.16(d) is the more applicable Rule and adequately addresses respondent's failures to provide client files and return unearned portions of fees.

Furthermore, although respondent's failure to appear for multiple court proceedings in the Nathaniel matter supports a finding that he violated RPC 8.4(d), the record does not clearly support a finding that his conduct prejudiced the administration of justice in the Chinchilla-Roque and Bailey matters. Compare In re Grannan, 250 N.J. 319 (2022) (determining that attorney wasted court resources in multiple matters where the record documented failures to

prepare or present witnesses for hearings, submit material evidence, and file accurate or complete documents; in addition, in that case, the Pennsylvania Disciplinary Board expressly had concluded that the attorney’s “conduct burdened the court system, which had to contend with his repeated incompetence.”).

We also determine that RPC 1.16(c) is not sufficiently supported, as the facts set out in the OAE’s brief do not clearly establish that respondent sought to terminate his representation of any of the clients. He admittedly allowed each matter to languish for many months, but his failure to safeguard the clients’ interests after discontinuing work on their matters is more precisely addressed by RPC 1.16(d).

In sum, we grant the motion for reciprocal discipline and find that in the Chinchilla-Roque, Bailey, and Nathaniel matters, respondent violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.16(d), RPC 3.2, and RPC 8.1(b); that in the Chinchilla-Roque and Bailey matters, respondent further violated RPC 1.5(b); and that, in addition, in the Nathaniel matter, respondent violated RPC 8.4(d). We dismiss the charges that respondent further violated RPC 1.2(a); RPC 1.5(a); RPC 1.15(a) and (b); and RPC 1.16(c).

Attorneys who mishandle multiple client matters generally receive suspensions ranging from three months to one year. See, e.g., In re Gonzalez,

241 N.J. 526 (2020) (three-month suspension for attorney's violations of RPC 1.1(a), RPC 1.3, and RPC 1.4(b) and (c) in three matters; RPC 3.2 and RPC 3.4(d) in one matter; RPC 5.3(a) (failure to supervise nonlawyer staff) in six matters; RPC 8.1(a) (false statement of material fact in connection with a disciplinary matter); RPC 8.1(b); and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation); the attorney also negligently misappropriated funds in five matters, commingled funds, and failed to adhere to record keeping requirements, violating RPC 1.15(a) and (d); in aggravation, one client's case was dismissed with prejudice, and the attorney had disregarded the OAE's suggestion that he terminate the employment of a nonlawyer after he became aware of her repeated misconduct; in mitigation, the attorney had no prior discipline in twenty-two years at the bar); In re Pinnock, 236 N.J. 96 (2018) (three-month suspension for attorney whose misconduct spanned ten client matters; in nine matters, the attorney engaged in gross neglect, lacked diligence, and failed to communicate with clients; in four matters, she engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation; in aggravation, the attorney caused significant harm to her clients; in mitigation, she suffered from serious physical and mental health issues; prior reprimand); In re Tarter, 216 N.J. 425 (2014) (three-month suspension for misconduct in eighteen matters: lack of diligence and pattern of neglect spanning fifteen matters; gross neglect



in one matter; and failure to withdraw from the representation and to properly terminate the representation in all eighteen matters; in significant mitigation, the attorney was battling alcoholism, engaged in most of his misconduct within a three-month period, and had no prior discipline in his eight-year career); In re Drinkwater, 244 N.J. 195 (2020) (six-month suspension for attorney who was found guilty of gross neglect and lack of diligence in nine matters; failure to communicate with the client in three matters; failure to supervise nonlawyer staff in two matters; unreasonable fee in one matter; and pattern of neglect; in aggravation, the misconduct extended to nine client matters over four years; in mitigation, the attorney had no ethics history, suffered from serious mental health issues, expressed remorse, served as a volunteer trustee to wind down a practice for an attorney who died, applied for his own trustee when he realized he could no longer function as an attorney, and was no longer practicing law); In re Tyler, 235 N.J. 323 (2018) (six-month suspension for attorney who engaged in misconduct in five client matters, violating RPC 1.1(a) and (b) (pattern of neglect), RPC 1.3, RPC 1.4(b), and RPC 1.5(b); attorney also engaged in conduct involving dishonesty, fraud, deceit or misrepresentation (RPC 8:4(c)); two prior reprimands for similar misconduct); In re Tunney, 185 N.J. 398 (2005) (six-month retroactive suspension for misconduct in three client matters; violations included gross neglect, lack of diligence, failure to

communicate with clients, and failure to withdraw from the representation when the attorney's physical or mental condition materially impaired his ability to represent clients; in mitigation, the attorney suffered from serious depression; in aggravation, he had a prior six-month suspension for mishandling six client matters, as well as a prior reprimand); In re Perlman, 241 N.J. 95 (2020) (one-year retroactive suspension for attorney who committed misconduct in seven matters: lack of diligence in six matters; failure to communicate with the client and failure to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in five matters; failure to withdraw from the representation when continued representation would violate the RPCs and failure to comply with applicable law requiring notice to or permission of the tribunal when terminating a representation in one matter; conduct involving dishonesty, fraud, deceit or misrepresentation in one matter; engaging in conduct prejudicial to the administration of justice in one matter; and failure to notify clients of his suspension in three matters; in mitigation, the attorney suffered from serious mental health issues; in aggravation, he caused significant harm to his clients; prior one-year suspension); In re Calpin, 242 N.J. 75 (2020) (one-year suspension, in default matter, for attorney who performed little or no work on three matters, failed to communicate with his clients, and failed to return the unearned portion of the

fees to each client; respondent also lied to disciplinary authorities and disclosed client information not generally known to the public; violations of RPC 1.1(a) and (b), RPC 1.3, RPC 1.4(b), RPC 1.9(c), RPC 1.15(b), RPC 1.16(d), RPC 8.1(b), and RPC 8.4(c); we determined that, although a censure would be the minimum sanction for respondent's misconduct, aggravating factors – including the attorney's default, disciplinary history of a reprimand and an admonition for similar ethics infractions, and use of social media to disparage a former client – warranted enhanced discipline); In re Suarez-Silverio, 226 N.J. 547 (2016) (one-year suspension for attorney who, over thirteen years, mishandled twenty-three client matters before the Third Circuit Court of Appeals, many of which ended by procedural termination; attorney also disobeyed court orders and made a misrepresentation to the court clerk, which escalated the otherwise appropriate six-month suspension; prior admonition and reprimand for similar misconduct); In re Rosenthal, 208 N.J. 485 (2012) (one-year suspension for attorney whose misconduct spanned seven default matters, for gross neglect in two matters; pattern of neglect; lack of diligence in four matters; failure to keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information in seven matters; failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in one matter; charging an unreasonable

fee in three matters; failure to communicate in writing the basis or rate of the fee in one matter; failure to expedite litigation in one matter; failure to cooperate with disciplinary authorities in seven matters; conduct involving dishonesty, fraud, deceit, or misrepresentation in two matters; and conduct prejudicial to the administration of justice in two matters; he also abandoned six of the seven clients; the attorney had an unblemished disciplinary history in his more than twenty years at the bar).

Generally, admonitions have been imposed on attorneys who have failed to turn over their clients' files to new counsel, even when additional ethics violations, such as failure to cooperate, gross neglect, lack of diligence, and failure to communicate with a client, are found. See, e.g., In the Matter of Gary A. Kraemer, DRB 14-085 (June 24, 2014) (among other misconduct, attorney failed to turn over the file to appellate counsel); In the Matter of Robert A. Ungvary, DRB 10-004 (March 31, 2010) (attorney failed to promptly deliver portions of file to new counsel); In the Matter of Brian J. Muhlbaier, DRB 08-165 (October 1, 2008) (upon termination of representation, attorney ignored, over a period of months, several requests of client's new counsel to turn over his files).

Similarly, conduct involving the failure to memorialize the basis or rate of a fee 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); In the Matter of Kenyatta K. Stewart, DRB 19-228 (October 22, 2019); In the Matter of Alan Monte Kamel, DRB 19-086 (May 30, 2019).

Admonitions typically are imposed for failure to cooperate with disciplinary authorities, if the attorney does not have an ethics history, if the attorney's ethics history is remote, or if compelling mitigation is present. See, e.g., In the Matter of Michael C. Dawson, DRB 15-242 (October 20, 2015) (attorney failed to reply to repeated requests for information from the district ethics committee investigator regarding his representation of a client in three criminal defense matters); In re Gleason, 220 N.J. 350 (2015) (attorney failed to file an answer to the formal ethics complaint and ignored the district ethics committee investigator's multiple attempts to obtain a copy of his client's file; the attorney also failed to inform his client that a planning board had dismissed his land use application, a violation of RPC 1.4(b)); In the Matter of Raymond A. Oliver, DRB 12-232 (November 27, 2012) (attorney failed to submit a written, formal reply to the grievance and a copy of the filed pleadings in the underlying case, despite repeated assurances that he would do so).

Ordinarily, a reprimand is imposed on an attorney who fails to obey court orders, even if the infraction is accompanied by other, non-serious violations. In

re Ali, 231 N.J. 165 (2017) (attorney disobeyed court orders by failing to appear when ordered to do so and by failing to file a substitution of attorney, violations of RPC 3.4(c) and RPC 8.4(d); he also lacked diligence (RPC 1.3) and failed to expedite litigation (RPC 3.2) in one client matter and engaged in ex parte communications with a judge, a violation of RPC 3.5(b); in mitigation, we considered his inexperience, unblemished disciplinary history, and the fact that his conduct was limited to a single client matter); In re Cerza, 220 N.J. 215 (2015) (attorney failed to comply with a bankruptcy court's order compelling him to comply with a subpoena, which resulted in the entry of a default judgment against him; violations of RPC 3.4(c) and RPC 8.4(d); he also failed to promptly turn over funds to a client or third person, violations of RPC 1.3 and RPC 1.15(b); prior admonition); In re Gellene, 203 N.J. 443 (2010) (attorney was guilty of conduct prejudicial to the administration of justice and knowingly disobeying an obligation under the rules of a tribunal for failing to appear on the return date of an appellate court's order to show cause and failing to notify the court that he would not appear; the attorney also was guilty of gross neglect, pattern of neglect, lack of diligence, and failure to communicate with clients; mitigating factors included the attorney's financial problems, battle with depression, and significant family problems; prior admonition and two private reprimands).

The OAE argued that the instant matter should be analyzed under the abandonment precedent that we set out in Austin. However, it is well-settled that “client abandonment requires a clear and convincing showing that the attorney disappeared and cannot be found.” In the Matter of Kevin C. Fogle, DRB 17-352 (April 11, 2018), at 16, so ordered, 235 N.J. 417 (2018); compare In re Ashton, \_\_ N.J. \_\_ (2022) (May 17, 2022) (finding abandonment of three clients where attorney was no longer renting the office from which he had practiced law, and clients were unable to contact or locate him; for gross neglect and other misconduct, two-year suspension), and In re Saponaro, 249 N.J. 352 (2022) (attorney abandoned his law practice and could not be located; we determined that respondent’s abandonment of three clients warranted at least a three-month suspension; one-year suspension based on aggravating factors), with In the Matter of Stephanie Julia Brown, DRB 19-039 (September 5, 2019) (although the formal ethics complaint characterized the attorney’s misconduct as “abandonment,” we did not employ this analysis, where the attorney terminated the client’s representation midway through litigation, without explanation and without informing the client about upcoming hearing, causing the client to be subject to fees and sanction; the attorney further delayed returning file to the client; based on this and other misconduct, including making misrepresentations to the client, failing to abide by the client’s decisions concerning objectives of

representation, and conduct prejudicial to the administration of justice, we determined the baseline quantum of discipline to be a reprimand but found a three-month suspension warranted based on harm to client and the matter's default nature), so ordered, 246 N.J. 456 (2021).

Austin's misconduct typified abandonment: she shuttered her office without informing the client and retained, for more than six years, the \$28,387 in disputed estate funds that were at the core of the client's litigation. DRB 21-191 at 7-9, 13-14. In contrast, here, respondent's conduct more closely parallels that of the attorney in Fogle, where the "failure to communicate with his clients and to take action on their cases suggest[ed] that he abandoned them," but the record included no "evidence that he had closed shop and disappeared, or accepted retainers without any intent to render services." DRB 17-352 at 16. Based on Fogle, and consistent with Austin, Saponaro, and Ashton, client abandonment precedent does not apply to the instant matter.

For purposes of determining the quantum of discipline, the most significant features of respondent's misconduct are that it extended to three separate client matters and that, in addition, respondent disobeyed court orders in one matter. As for the precedent addressing multiple client matters, no case squares precisely with the instant matter. Respondent's misconduct does not rise to the level of the attorneys' violations in Gonzalez, Pinnock, and Tarter, in



which attorneys received three-month suspensions for mishandling six, ten, and eighteen matters, respectively. In addition, unlike respondent, Gonzalez and Pinnock engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation. Gonzalez also was found to have negligently misappropriated funds in multiple matters and violated record keeping requirements. However, Gonzalez, Pinnock, and Tarter were not found to have violated RPC 1.16(d), and each of their disciplinary matters included significant mitigating factors.

Based on the above cases, respondent's mishandling of three matters could warrant a censure, as he mishandled fewer matters than attorneys who received a three-month suspension. See also In the Matter of Brian LeBon Calpin, DRB 19-172 (December 17, 2019), at 26, 30-31 (determining that a censure would be the minimum sanction for respondent's misconduct in four client matters, which included violations of RPC 1.1(a) in three matters; RPC 1.1(b) in two matters; RPC 1.3 in two matters; RPC 1.4(b) in three matters; RPC 1.9(c)(1) in one matter; RPC 1.15(b) in one matter; RPC 1.16(d) in one matter; and RPC 8.4(c) in one matter; in three matters, respondent's misconduct "border[ed] on abandonment," as he accepted legal fees but provided few if any legal services; discipline enhanced to one-year suspension based on matter's default status, disciplinary history, and use of social media to disparage a former client), so ordered, 242 N.J. 75 (2020).

Respondent's additional violation of RPC 8.4(d) warrants the enhancement of the appropriate quantum of discipline to a term of suspension.

To further craft the appropriate discipline in this case, we also consider aggravating and mitigating factors. In aggravation, as the OAE correctly argued, Chinchilla-Roque and Bailey were vulnerable clients, involved in immigration proceedings and subject to removal orders. We have “consistently viewed” immigration “as an inherently sensitive field of law.” In the Matter of Won Young Oh, DRB 20-104 and 20-146 (February 22, 2021) at 12, so ordered, 246 N.J. 184 (2021); see also In the Matter of Douglas Andrew Grannan, DRB 20-236 (June 2, 2021), at 40, 49-50 (noting, in aggravation, that the attorney's misconduct “caused serious harm to a vulnerable class of clientele who faced dire consequences – immigrants with a limited understanding of the English language and the United States' immigration court system, who were facing removal and deportation actions”), so ordered, 250 N.J. 319 (2022). In contrast, although the OAE argued that Nathaniel also was vulnerable, the sparse factual record does not clearly support that characterization of him, nor has disciplinary precedent treated the fact that a client is scheduled for trial on felony charges, standing alone, as an aggravating factor.

In mitigation, respondent has had no other disciplinary history in his seven years at the bar. In our view, however, this factor is entitled to little weight,

given that his practice in New Jersey appears to have been minimal (indeed, since 2020, he has failed to maintain administrative eligibility to practice here).

Also in mitigation, respondent eventually stipulated to the facts at issue, admitted he could not defend against the Pennsylvania charges of misconduct, tendered his resignation, and consented to disbarment in Pennsylvania, thus, preserving disciplinary resources there. But offsetting his eventual cooperation with the Pennsylvania proceedings, respondent failed both to notify the OAE of his Pennsylvania disbarment and to reply to the OAE's motion for reciprocal discipline, demonstrating indifference for New Jersey's attorney disciplinary system. See In re Ragucci, 112 N.J. 40, 43-44 (1988) (finding that attorney's failure to report New York disciplinary action to New Jersey authorities mitigated against recommending lesser discipline; the attorney also failed to appear at the hearing held before the Board).

On balance, we determine that the aggravating factors outweigh the mitigating factors, and that a six-month suspension is the quantum of discipline necessary to protect the public and preserve confidence in the bar.

Members Boyer; Campelo; Menaker; and Rodriquez voted to recommend a three-month suspension for respondent's misconduct.

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 Stephen Paul Hildebrand  
Docket No. DRB 22-208

Argued: February 16, 2023

Decided: May 1, 2023

Disposition: Six-month suspension

<i>Members</i>	Six-Month Suspension	Three-Month Suspension
Gallipoli	X	
Boyer		X
Campelo		X
Hoberman	X	
Joseph	X	
Menaker		X
Petrou	X	
Rivera	X	
Rodriguez		X
Total:	5	4

/s/ Timothy M. Ellis  
Timothy M. Ellis  
Acting Chief Counsel