Supreme Court of New Jersey
Disciplinary Review Board
Docket Nos. DRB 23-005 and 23-006
District Docket Nos. XIV-2020-0178E;
XIV-2020-0233E; XIV-2020-0571E;
and XIV-2022-0190E

In the Matters of	:
Robert James Stack	:
An Attorney at Law	:

Decision

Decided: May 18, 2023

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

These matters were before us on two certifications of the record filed by the Office of Attorney Ethics (the OAE), pursuant to R. 1:20-4(f). We consolidated these matters for review.

The formal ethics complaint in DRB 23-005 charged respondent with having violated RPC 5.5(a)(1) (practicing law while suspended) and RPC 8.1(b) (failing to cooperate with disciplinary authorities).

The formal ethics complaint in DRB 23-006 charged respondent with having violated RPC 1.1(a) (engaging in gross neglect); RPC 1.3 (lacking diligence); RPC 1.4(b) (two instances – failing to communicate with a client); RPC 1.4(c) (failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions); RPC 1.15(a) (engaging in negligent misappropriation of client funds); RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6); RPC 5.5(a)(1) and RPC 8.1(b) (three instances).

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

Respondent earned admission to the New Jersey bar in 1996. Prior to his November 2020 temporary suspension, he maintained a practice of law in Kinnelon, New Jersey.

On February 25, 2019, respondent received an admonition for violating RPC 1.7(a)(2) (engaging in a concurrent conflict of interest) and RPC 1.9(a) (representing a client whose interests are materially adverse to the interest of a former client, without obtaining the informed, written consent of the former client). In the Matter of Robert James Stack, DRB 18-393 (Feb. 25, 2019) (Stack I). Specifically, respondent represented a client in an uncontested matrimonial matter, despite the fact that he previously had represented both the client and

her husband in a foreclosure action and in the sale of their marital residence. Respondent failed to obtain the client's or the husband's written waiver to the conflicted representation.

Effective November 19, 2020, the Court temporarily suspended respondent for his failure to comply with the OAE's investigation of his financial records in connection with DRB 23-006. In re Stack, 244 N.J. 326 (2020). To date, he remains temporarily suspended.

On September 14, 2022, the Court reprimanded respondent, in a default matter, following his willful failure to comply with R. 1:20-20 following his November 2020 temporary suspension. In re Stack, __ N.J. __ (2022), 2022 N.J. LEXIS 737 (Stack II).

Service of process was proper in both matters.

Regarding DRB 23-005, on September 7, 2022, the OAE sent a copy of the formal ethics complaint, by certified and regular mail, to respondent's last known home address of record.[1] The certified mail was returned to the OAE

[1] New Jersey attorneys have an affirmative obligation to inform both the New Jersey Lawyers' Fund for Client Protection and the OAE of changes to their home and primary law office addresses, "either prior to such change or within thirty days thereafter." R. 1:20-1(c). Respondent's official Court records continue to reflect only the office and home addresses initially utilized for service in this matter.

marked "Unclaimed/Unable to Forward," and the regular mail was returned marked "Not Deliverable as Addressed/Unable to Forward."

On October 5, 2022, the OAE conducted a nationwide records search and discovered an alternate home address associated with respondent. Later that same day, the OAE sent a copy of the formal ethics complaint, by certified and regular mail, to respondent's alternate home address, with another copy sent by electronic mail, to respondent's e-mail addresses of record. The certified mail was returned to the OAE marked "Unclaimed/Unable to Forward," and the regular mail was returned marked "Moved" and "Not Deliverable as Addressed/Unable to Forward." The record does not reveal whether delivery to respondent's e-mail addresses was successful.

Regarding DRB 23-006, on August 11, 2022, the OAE sent a copy of the formal ethics complaint, by certified and regular mail, to respondent's home address of record, with another copy sent by electronic mail, to one of his e-mail addresses of record. The certified mail receipt was returned to the OAE, unsigned, and United States Postal Service tracking information does not indicate whether delivery was successful. The regular mail was returned to the OAE marked "Moved." The record does not reveal whether delivery to respondent's e-mail address was successful.

On October 5, 2022, following the OAE's nationwide records search, the OAE sent a copy of the formal ethics complaint, by certified and regular mail, to respondent's alternate home address, and by electronic mail, to both of respondent's e-mail addresses of record. The certified mail envelope was returned marked "No Forwarding," the certified mail receipt was returned separately marked "Moved," and the regular mail was returned marked "Attempted – Not Known/Unable to Forward." Finally, delivery to respondent's e-mail addresses was completed, although no delivery notification was sent by the destination server.

Regarding both matters, on November 11, 2022, the OAE filed a "Disciplinary Notice" in the "Daily Record[,]" a newspaper of general circulation in Morris County, New Jersey, advising respondent that formal ethics complaints had been filed against him, to contact the OAE immediately, and to file an answer within twenty-one days after the date of publication. On November 21, 2022, the OAE filed an identical "Disciplinary Notice" in the New Jersey Law Journal (the NJLJ).

As of December 27, 2022, respondent had not filed answers to the complaints, and the time within which he was required to do so had expired. Accordingly, the OAE certified these matters to us as defaults.

On January 23, 2022, Acting Chief Counsel to the Board sent respondent a letter, by certified and regular mail, to his home address of record, with another copy sent by electronic mail, to both of his e-mail addresses of record, informing him that these matters were scheduled before us on March 16, 2023, and that any motion to vacate must be filed by February 13, 2023. The certified mail was delivered on January 27, 2023, with an illegible signature written on the receipt. Neither the regular nor the electronic mail have been returned to the Office of Board Counsel (the OBC).

Finally, on January 24, 2023, the OBC published a notice in the NJLJ, stating that we would consider these matters on March 16, 2023. The notice informed respondent that, unless he filed a successful motion to vacate the defaults by February 13, 2023, his failure to answer would remain deemed an admission of the allegations of the complaints. Respondent did not file a motion to vacate the defaults.

We now turn to the allegations of the complaints.

I. The Metro Pools Matters (DRB 23-006) (District Docket No. XIV-2020-0233E)

Philip Picarello operates Metro Pool Services (Metro), a swimming pool servicing business. During Picarello's January 5, 2021 interview with the OAE,

he claimed that he had known respondent for approximately fifteen years because he had serviced respondent's swimming pool.

A. The Randall Corp v. Metro Pools Matter

Metro rented storefront space from its landlord, Randall Corp (Randall). In September 2008, Randall filed suit against Picarello and Metro, in the Superior Court of New Jersey, Morris County, for allegedly making improper structural changes to the storefront, failing to maintain the storefront, and failing to pay rent. Picarello initially retained counsel other than respondent to represent him and Metro in connection with Randall's lawsuit. That attorney filed an answer and a counterclaim and, following two arbitration hearings, an arbitrator issued an award in favor of Randall. Sometime thereafter, respondent substituted as counsel for Metro and Picarello and filed an unsuccessful motion to vacate the arbitration award.

Meanwhile, respondent and Picarello attended a mediation session with a representative of Randall. Following the mediation session, respondent ceased communicating with Picarello, who assumed that respondent had "worked it out." Thereafter, following another arbitration session, which respondent attended, an arbitrator issued an award in favor of Randall. Counsel for Randall

informed the OAE that, following the arbitration award, she could not recall respondent taking any further action in connection with the matter.

Randall filed a motion to confirm the arbitration award, which respondent failed to oppose. On December 23, 2010, the Superior Court issued an order confirming the arbitration award, which resulted in a judgment against Metro and Picarello for approximately $71,500. Respondent failed to advise Picarello of the judgment.

B. The Yellow Book Sales v. Metro Pools Matter

Yellow Book Sales and Distribution Company (Yellow Book) provided advertising services to Metro. In November 2009, Yellow Book filed suit against Metro and Picarello, in the Superior Court of New Jersey, Morris County, seeking to collect money owed to it for unpaid advertising fees. In March 2010, Yellow Book successfully served Picarello with the lawsuit, "via [s]heriff[.]" Thereafter, Picarello retained respondent to defend him and Metro in connection with the lawsuit.

In June 2010, respondent filed an answer and the parties exchanged discovery. In July 2011, following an arbitration hearing, an arbitrator issued a $21,299.74 award in favor of Yellow Book. Respondent requested a trial de novo, in the Superior Court, to attempt to contest the award.

Prior to the scheduled trial date, Yellow Book filed a motion for summary judgment. The Superior Court originally scheduled the motion for November 18, 2011, but respondent, with the consent of Marie Tenagila, Esq., counsel for Yellow Book, adjourned the motion to December 1, 2011.

On December 1, 2011, the Superior Court issued an order granting summary judgment in favor of Yellow Book. The Superior Court's order noted that respondent had failed to oppose the motion. On that same day, Tenagila received respondent's opposition to the motion, via Lawyers' Service.

On December 2, 2011, Tenagila sent respondent a copy of the Superior Court's order granting summary judgment, via facsimile and regular mail. Respondent, however, failed to reply to Tenagila, which prompted Tenagila to, eventually, docket the judgment against Picarello and Metro. Thereafter, Tenaglia made efforts to collect upon the judgment, but respondent failed to reply to Tenaglia. Sometime in 2012, respondent contacted Tenaglia to attempt to "resolve the matter." Respondent and Tenaglia, however, could not agree upon a resolution, after which respondent made no further effort to contact Tenaglia.

In Picarello's January 5, 2021 interview with the OAE, he observed that, at some point, respondent ceased communicating with him.

C. The Jet Line Products v. Metro Pools Matter

In or before 2014, Picarello acquired from Jet Line Products (Jet Line) pipes for Metro that he claimed "were defective and leaked." Picarello's use of the purported defective pipes for several Metro customers cost him between $50,000 and $60,000 to correct the problems caused by the pipes. Consequently, Picarello refused to pay Jet Line for the pipes and retained respondent to file suit against Jet Line because of the costs he had incurred due to the defective pipes. Respondent, however, never filed suit against Jet Line and, when Picarello would question respondent regarding the status of that lawsuit, respondent would usually reply "it's in the works."

Meanwhile, in September 2014, Jet Line filed suit against Metro and Picarello, in the Superior Court of New Jersey, Morris County, seeking payment for the pipes it had provided to Metro. Respondent filed an answer and a counterclaim, on behalf of Picarello and Metro, alleging that Jet Line had sold Metro defective products. Thereafter, respondent and Jet Line exchanged documents and requests for admission as part of discovery.

On September 8, 2015, Picarello appeared for a deposition at respondent's law office, where he learned, for the first time, that Jet Line had filed suit against him and Metro. Jordan Kaplan, Esq., counsel for Jet Line, observed that, during

the deposition, respondent "was smoking a vape cigarette[,] reading the [news]paper[,] and was not really paying attention to the proceedings."

Following the conclusion of discovery, respondent contacted Kaplan seeking his consent to extend discovery. Kaplan, however, who observed that respondent had conducted "no real discovery in the matter prior to the discovery end date," would not consent. Respondent then filed a motion to extend discovery and attempted to submit a "late expert report." In response, Kaplan filed a motion for summary judgment and a motion to bar respondent's belated expert report.

On January 8, 2016, the Superior Court issued a $35,393.25 judgment in favor of Jet Line and against Picarello and Metro. The Superior Court also dismissed Metro and Picarello's counterclaims and granted Jet Line's motion to bar respondent's belated expert report. In February 2016, respondent unsuccessfully moved for reconsideration of the final judgment.

In his January 5, 2021 interview with the OAE, Picarello noted that he last communicated with respondent when he encountered him at a convenience store. During that encounter, when Picarello queried respondent regarding the Jet Line case, respondent stated that he "lost it."

On April 30, 2020, when Picarello was attempting to obtain a mortgage, he first learned of the outstanding judgments against both Metro and him,

individually, in connection with the Randall, Yellow Book, and Jet Line matters. Following Picarello's discovery of the outstanding judgments, he retained new counsel to help him resolve the judgments by paying the appropriate entities.

D. Respondent's failure to cooperate with the OAE's investigation of the Metro Pools matters

On May 1, 2020, Picarello filed an ethics grievance against respondent for failing to communicate with him throughout the legal matters and for failing to notify him of the multiple judgments, which he claimed totaled more than $150,000.

On June 18, 2020, the OAE sent respondent a copy of Picarello's grievance, by certified and regular mail, to his office address of record, requiring that he submit a written reply to the grievance by July 2, 2020. The certified mail was delivered on June 29, 2020 and the regular mail was returned as undeliverable. Respondent, however, failed to reply.

On November 19, 2020, the OAE sent respondent a letter, by certified and regular mail, to his home address of record, and by electronic mail, to his e-mail address of record, requiring that he appear for a December 15, 2020 demand interview, via Microsoft Teams, and that he produce his client files related to each of Picarello's matters by December 8, 2020. The certified mail was delivered on November 25, 2020, the regular mail was returned as undeliverable,

and the electronic mail was not returned. Respondent failed to appear for the demand interview or to produce any of the documents requested by the OAE.

On December 15, 2020, following respondent's failure to appear for the demand interview, the OAE called respondent's law office and spoke with his secretary, who claimed that respondent had just "stepped out." The OAE left a detailed message for the secretary 21directing that she advise respondent to contact the OAE as soon as possible. Respondent, however, failed to contact the OAE.

Based on respondent's mishandling of the three Metro Pools matters, his failure to advise Picarello of the significant developments of the lawsuits, including the three judgments issued against him personally, and his failure to cooperate with the OAE's investigation of his conduct, the formal ethics complaint charged respondent with having violated RPC 1.1; RPC 1.3; RPC 1.4(b) (two instances); RPC 1.4(c); and RPC 8.1(b).

II. Respondent's Recordkeeping, Negligent Misappropriation, and Failure to Cooperate with the OAE's Financial Audit (DRB 23-006) (District Docket No. XIV-2020-0178E)

On or around March 27, 2020, the OAE received a telephone call from Valley National Bank regarding respondent's issuance of several "questionable" attorney trust account (ATA) checks, made payable to himself, "in round

numbers." Respondent did not deposit the checks in his attorney business account (ABA), as R. 1:21-6(a)(2) requires. Rather, he went to Valley National Bank and negotiated the checks for cash.

On May 4, 2020, the OAE sent respondent a letter directing him to provide, by May 18, 2020, a written explanation for his conduct and relevant books and records maintained by his law firm, in accordance with R. 1:21-6, for the past two years. On May 17, 2020, respondent sent the OAE a letter requesting a "reasonable extension" to provide the required documents based on his claim that he was "embroiled in a very complex Supreme Court matter." On May 19, 2020, the OAE granted respondent's extension request and required him to submit the required documents by June 1, 2020.

On June 1, 2020, respondent sent the OAE a lengthy e-mail in which he described, in great detail, his views regarding an estate matter for which he was in the process of filing a petition for certification to the Court. Respondent stated that the matter had "dominated every facet of [his] life" and claimed that the OAE "would never want to jeopardize my ability to submit as thorough as possible of a Petition for Cert w[ith] the Supreme Court." Respondent neither addressed the allegations underlying his improper ATA checks nor requested an extension to provide the required documents to the OAE.

On June 10, 2020, the OAE sent respondent an e-mail, advising him that his June 1 e-mail failed to address his improper ATA checks and requesting that he provide, by June 25, 2020, his written reply to the OAE's May 4, 2020 letter, along with ATA (1) receipts and disbursements journals; (2) client ledger cards; (3) monthly three-way reconciliations; (4) bank statements; (5) cancelled checks; (6) deposits; and (7) "incoming and outgoing" "[w]ire confirmations."

On July 2, 2020, based on respondent's failure to reply to the OAE's June 10 e-mail, the OAE sent respondent a letter, by certified, regular, and electronic mail, advising him that, unless he provided the required written reply and financial records by July 13, 2020, the OAE would move for his temporary suspension for his failure to cooperate, pursuant to R. 1:20-3(g)(4) and R. 1:20-11. The certified mail was delivered on July 10, 2020, and the regular and electronic mail was not returned as undeliverable. Respondent, however, failed to reply.

On September 1, 2020, the OAE called respondent and advised him that it was filing a motion for his temporary suspension for his failure to cooperate. On that same day, the OAE filed its motion with the Court for respondent's temporary suspension.

On October 7, 2020, the Court issued an order requiring respondent to comply with the OAE's outstanding document and information requests within thirty days or face immediate temporary suspension without further notice.

On November 18, 2020, the OAE sent the Court a letter stating that respondent had failed to comply with the Court's order. The next day, on November 19, 2020, the Court issued an order temporarily suspending respondent for his failure to cooperate with the OAE. The Court's order further "restrained from disbursement" any funds "currently existing or hereinafter deposited" in respondent's ATA or ABA, except on application to the Court.

Also on November 19, 2020, the OAE sent respondent a letter requiring that he appear for the December 15, 2020 demand interview, via Microsoft Teams, in connection with the OAE's investigation of his financial records and his conduct in connection with the Metro Pools matters. As detailed above, respondent failed to appear for the demand interview or to otherwise contact the OAE.

Meanwhile, as part of its investigation, the OAE obtained respondent's September 2018 through March 2020 ATA bank statements. The OAE's review of the bank statements revealed "numerous checks and deposits" that lacked any information regarding the client matters for which the transactions were made. The OAE also discovered that, between September 2018 and January 2020,

respondent had issued twenty-two ATA checks, totaling $17,721.08, each made payable to himself, and had negotiated the checks for cash. Of those twenty-two ATA checks, eleven contained no notation on the memo line and failed to identify the client matter associated with the transaction.

Additionally, the OAE discovered that, on December 9, 2019, respondent made a $200 cash withdrawal from his ATA, which is prohibited pursuant to R. 1:21-6(c)(2). The purpose of the $200 cash withdrawal was not revealed in the bank statement.

Based on respondent's failure to cooperate with the OAE's investigation of his financial records, the OAE issued subpoenas to at least two attorneys who had been involved in legal matters with respondent. The OAE's subpoenas sought financial records and other documents to help determine whether respondent appropriately handled entrusted funds in those matters.

A. The Spooner Real Estate Matter

Specifically, on February 8, 2021, in response to an OAE subpoena, Robert C. Masessa, Esq., sent the OAE closing documents in connection with a residential real estate closing that took place on June 29, 2018. Respondent, who represented the buyers, Laurie and Kathleen Spooner, received an $1,100 legal

fee at closing while Masessa, who represented the seller, Charles Bastable, received a $1,895 legal fee.

Almost eleven months after the closing, in May 2019, a dispute arose between the buyers and the seller regarding the replacement of a fence on the property. On May 20, 2019, Masessa sent respondent a letter noting that the seller had offered to provide the buyers a $1,000 check to resolve their dispute. On June 4, 2019, respondent sent Masessa a letter stating that the buyers had agreed to the proposal. Respondent instructed Masessa to have the $1,000 check made payable to his ATA and to send the check to his law office.

On June 14, 2019, respondent deposited Massesa's $1,000 check in his ATA. Weeks later, on July 2, 2019, respondent issued a $200 ATA check, made payable to himself, with the notation "Bastable to Spooner fee" written on the memo line. On July 29, 2019, respondent went to Valley National Bank and negotiated the check for cash.

Because respondent failed to put explanatory notations on numerous ATA transactions, the OAE was unable to determine what had happened to the remaining $800 in funds owed to the Spooners. Indeed, the OAE was unable to identify any additional ATA transactions relating to the Spooners' client matter. However, on January 24, 2020, respondent reduced his ATA balance to $293.55, resulting in a $506.45 shortage in the buyers' entrusted client funds. Between

January 24, 2020 and December 31, 2020, respondent's ATA balance remained, with few exceptions, within one dollar of $293.55.

B. The R.W. Estate Matter

On February 26, 2021, in response to an OAE subpoena, Peter J. Kurshan, Esq., sent the OAE pleadings and settlement correspondence in connection with a contested estate matter in which respondent had received settlement funds. Specifically, on August 23, 2017, respondent filed, in the Superior Court of New Jersey, Chancery Division, Probate Part a verified complaint and order to show cause seeking to (1) admit to probate the last will and testament of R.W., whose estate previously had been administered by her nephew under the laws of intestacy, (2) appoint R.W.'s friend, G.P., as the executor of R.W.'s estate, and (3) compensate G.P. for the services he had provided R.W. prior to her death. Kurshan and another attorney at his law firm represented R.W.'s nephew in connection with the litigation.

In August 2018, the parties executed a confidential settlement agreement resolving their dispute and, on September 4, 2018, respondent deposited the settlement funds in his ATA.

During its investigation, the OAE was able to determine how respondent had disbursed a mere sixty percent of the settlement funds entrusted to him. However, because respondent failed to place descriptions on numerous ATA

transactions, the OAE was unable to determine what had happened to the remaining settlement funds. Nevertheless, on November 26, 2019, respondent reduced his ATA balance, which resulted in a shortage of the entrusted settlement funds. Thereafter, between November 26, 2019 and December 31, 2020, respondent's ATA balance remained, with few exceptions, well below the amount respondent was required to hold in connection with the settlement.

C. Respondent's Recordkeeping Violations

The OAE's investigation of respondent's ATA and ABA records revealed numerous recordkeeping infractions. Specifically, respondent failed to (1) maintain ATA and ABA receipts and disbursements journals, as R. 1:21-6(c)(1)(A) requires; (2) maintain client ledger cards, as R. 1:21-6(c)(1)(B) requires; (3) maintain a separate ATA ledger card identifying attorney funds for bank fees, as R. 1:21-6(d) requires; (4) provide client identifying information on his checks, as R. 1:21-6(c)(G) requires; (5) deposit legal fees in his ABA, as R. 1:21-6(a)(2) requires; and (6) prepare monthly, three-way ATA reconciliations, as R. 1:21-6(c)(1)(H) requires. Similarly, respondent's deposit slips lacked sufficient detail, as R. 1:21-6(c)(1)(A) requires. Finally, respondent made cash withdrawals from his ATA, as R. 1:21-6(c)(1)(A) prohibits. Because respondent

failed to cooperate with the OAE's investigation, his recordkeeping violations have remained uncorrected.

Based on respondent's total failure to cooperate with the OAE's investigation of his financial records; his numerous, unaddressed recordkeeping infractions; and his continued, negligent misappropriation of the Spooners' entrusted client funds and the entrusted settlement funds in the R.W. estate matter, the formal ethics complaint charged respondent with having violated RPC 1.15(a); RPC 1.15(d); and RPC 8.1(b).

III. Respondent's Practice of Law While Suspended Before The United States Bankruptcy Court For The District of New Jersey (DRB 23-006) (District Docket No. XIV-2020-0517E)

On November 16, 2020, three days before his November 19, 2020 temporary suspension for his failure to cooperate with the OAE's financial audit, respondent filed a Chapter 7 Bankruptcy petition, on behalf of a debtor, in the United States Bankruptcy Court for the District of New Jersey.

On December 7, 2020, a creditor filed a motion to lift the automatic bankruptcy stay and to disqualify respondent from representing the debtor (Ex.27).[2] Four days later, on December 11, 2020, the Bankruptcy Court

[2] The details underlying the motion to disqualify respondent as counsel are unclear based on the record before us.

dismissed the debtor's petition based on respondent's failure to file required information related to his client's bankruptcy estate, including a summary of his client's assets and liabilities.

Despite his November 19 temporary suspension and the December 11 dismissal of his client's petition, on December 14, 2020, respondent filed with the Bankruptcy Court a letter, on his law firm's letterhead, requesting a "one (1) week adjournment" to allow him to reply to his adversary's motion, based on his claim that he was "embroiled in a submission to the Supreme Court which has caused me not to leave my office this past weekend."

On December 15, 2020, the Bankruptcy Court sent the OAE a letter advising it of respondent's December 14, 2020 submission, in violation of the Court's temporary suspension order.

On January 6, 2021, the OAE sent respondent a letter, via e-mail, requesting that he reply in writing, by January 21, 2021, to the Bankruptcy Court's grievance regarding his practice of law while suspended. The OAE's e-mail was not returned as undeliverable. Respondent, however, failed to reply.

On February 24, 2021, the OAE sent respondent a letter, via e-mail, requiring that he appear for a demand interview, via Microsoft Teams, on March 8, 2021. The OAE's e-mail was not returned as undeliverable. On March 8, 2021, following respondent's failure to appear for the scheduled demand

interview, the OAE called respondent's office telephone number and left a detailed voicemail message directing him to immediately contact the OAE. The OAE also called respondent's home telephone number but could not leave a message because respondent's voicemail inbox was full. Respondent failed to return the OAE's telephone calls.

On April 9, 2021, the OAE conducted a telephonic interview of respondent's former legal secretary, who had left her employment with respondent, on December 21, 2020, due to a downturn in respondent's business.

During the interview, the secretary informed the OAE that, at the time she left her employment, respondent had been "heavily involved" in the In re Estate of Jensen matter, which respondent was preparing to appeal to the Court. The secretary also advised the OAE that she became aware of respondent's suspension by reviewing "e-mails from the OAE and seeing the Court order requiring respondent to provide information within thirty days." The secretary claimed that she spoke with respondent regarding the Court's Order and expressed her concern that his law license "might be in jeopardy." The secretary advised the OAE that she was "sure" that respondent was working on the Jensen estate matter following his November 2020 temporary suspension.

Meanwhile, during its investigation, the OAE reviewed respondent's ATA and ABA activity between his November 19, 2020 temporary suspension and

December 31, 2020. During that timeframe, respondent's ATA had no activity and had a continuous $293.55 balance. However, respondent's ABA records revealed significant account activity.

First, respondent made three cash deposits, totaling $2,365, in his ABA. The purpose of those deposits was not revealed in the ABA records. Second, on November 20, 2020, respondent deposited a $500 check, issued by Tracy and Jeffrey Newlander, in his ABA. The $500 check was dated November 16, 2020 and contained a partially legible memo line that stated "Stanton Ridge." Third, on November 20, 2020, respondent conducted a $335 ABA debit purchase, which contained the notation "COURTS USBC NJ P."[3] Finally, between November 27 and December 3, 2020, respondent's ABA revealed two "PNC Merchant Deposit[s]," totaling $450. The purpose of the deposits was not revealed in the ABA statements.

Based on respondent's practice of law while suspended by making at least one improper ABA transaction and by requesting an adjournment to reply to a creditor's Bankruptcy Court motion, the formal ethics complaint charged respondent with having violated RPC 5.5(a)(1). Moreover, based on his total

[3] Although not set forth expressly in the formal ethics complaint, a review of the Bankruptcy Court's records demonstrates that the $335 transaction constituted respondent's payment of the debtor's Bankruptcy Court filing fee.

failure to cooperate with the OAE's investigation of his practice of law while suspended, the formal ethics complaint charged respondent with having violated RPC 8.1(b).

IV. Respondent's Practice of Law While Suspended Before The New Jersey Supreme Court (DRB 23-005) (District Docket No. XIV-2022-0190E)

On January 20, 2020, the Appellate Division issued an opinion affirming the dismissal of respondent's client's amended complaint contesting the validity of Leokadia Jensen's last will and testament. See In re Estate of Jensen, 2020 N.J. Super. Unpub. LEXIS 212 (App. Div. 2020). In February 2020, respondent filed with the Court a notice of petition for certification of the Appellate Division's opinion. Thereafter, between June and December 2020, the Supreme Court Clerk's Office received several telephone calls from respondent and his staff in reply to various deficiency notices the Clerk's Office had sent to respondent regarding his petition for certification.

On December 4, 2020, two weeks after respondent's temporary suspension, a member of respondent's staff left a voicemail message for the Clerk's Office and advised that respondent would be filing documents related to his petition for certification, via hand delivery, that same day. The record is

unclear, however, whether respondent or a member of his staff had attempted to file any submissions with the Clerk's Office on December 4, 2020.

On January 26, 2021, the Court dismissed respondent's notice of petition for certification based on his failure to comply with Court Rules "and the instructions of the Clerk's Office." Despite the dismissal of respondent's notice of petition and his November 2020 temporary suspension, in October 2021, respondent appeared at the Clerk's Office and attempted to file documents in connection with the Jensen estate matter. However, the Clerk's Office rejected respondent's submission as improper.

Six months later, on April 8, 2022, respondent again appeared at the Clerk's Office and attempted to file similar documents in connection with the Jensen estate matter. Clerk's Office staff observed that respondent's submission was voluminous, "messy," and bound with what appeared to be electrical tape. Additionally, Clerk's Office staff determined that respondent's submission appeared to be an application for an Order to Show Cause, which should have been filed with the trial court.

On April 27, 2022, the Clerk's Office sent respondent and the OAE a letter, rejecting respondent's submission and reminding respondent of his temporary suspension from the practice of law in New Jersey.

On June 29, 2022, the OAE sent respondent a letter, enclosing the Clerk's Office's April 27, 2022 letter and requiring that he reply in writing, by July 11, 2022, to the Clerk's Office's allegation that he had practice law while suspended. The OAE sent the letter to respondent's home address, via certified and regular mail, and to his e-mail address of record. None of the mail was returned to the OAE. Respondent, however, failed to reply.

On July 12, 2022, the OAE sent respondent a letter, via regular and certified mail, to his home address, advising him of his failure to reply to the OAE's June 29 letter and requiring that he appear for an August 2, 2022 demand interview, via Microsoft Teams. None of the mail was returned to the OAE. Respondent, however, failed to appear for the demand interview.

Based on respondent's practice of law while suspended before the Court and his repeated failure to comply with the OAE's investigation of his conduct, the formal ethics complaint charged respondent with having violated RPC 5.5(a)(1) and RPC 8.1(b).

Following a review of the record, we determine that the facts set forth in the complaint support all but one of the charges of unethical conduct by clear and convincing evidence. Respondent's failure to file an answer to the complaints is deemed an admission that the allegations are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).

Notwithstanding that Rule, each charge in the complaint must be supported by sufficient facts for us to determine that unethical conduct has occurred.

Regarding DRB 23-006, respondent violated RPC 1.1(a) and RPC 1.3 by grossly mishandling Picarello's three distinct matters, which resulted in the issuance of three judgments, totaling more than $128,192, against Picarello personally. Similarly, respondent violated RPC 1.4(b) and RPC 1.4(c) by altogether failing to advise Picarello of the adverse judgments and by failing to keep Picarello apprised of the significant developments of his matters.

Specifically, in connection with the Randall Corp matter, respondent and Picarello attended an unsuccessful mediation session with a representative of Randall, which had instituted litigation against Metro and Picarello seeking unpaid rent, among other damages. Following mediation, respondent failed to communicate any further with Picarello, who had assumed that respondent had "worked it out." Respondent, however, attended an arbitration hearing, without Picarello's knowledge, which resulted in the issuance of an award in favor of Randall. Thereafter, Randall filed a motion with the Superior Court to confirm the arbitration award, which respondent failed to oppose. Respondent's inaction resulted in the issuance of a December 2010 judgment against Metro and Picarello, for $71,500. Respondent, however, failed to advise Picarello of the adverse judgment.

In connection with the Yellow Book matter, Yellow Book filed suit against Metro and Picarello seeking unpaid advertising fees. In July 2011, an arbitrator issued a $21,299.74 award in favor of Yellow Book, which award respondent attempted to contest, in the Superior Court, by requesting a trial de novo. Prior to the scheduled trial date, Yellow Book filed a motion for summary judgment. On December 1, 2011, the Superior Court granted Yellow Book's motion, noting that respondent had not filed any opposition. On that same date, counsel for Yellow Book received a copy of respondent's opposition to the motion. Although counsel for Yellow Book notified respondent of the Superior Court's order granting summary judgment, respondent made no significant effort to vacate the judgment, eventually forcing Yellow Book to docket the judgment against Picarello and Metro. Thereafter, sometime in 2012, respondent contacted counsel for Yellow Book in an unsuccessful attempt to "resolve the matter." Following that discussion, respondent made no further effort to vacate the judgment or to otherwise notify Picarello of same, even though the judgement had been issued against Picarello personally. Indeed, Picarello noted that, at some point, respondent ceased communicating with him altogether and that he "never heard anything" from respondent.

In connection with the Jet Line matter, Picarello requested that respondent file suit against Jet Line for allegedly selling Metro defective pipes. Respondent,

however, failed to file suit against Jet Line and, when Picarello would query respondent for updates on that lawsuit, respondent would merely reply "it's in the works." In September 2014, Jet Line filed suit against Metro and Picarello, seeking payment for the pipes it had sold. Although respondent filed an answer and counterclaim on behalf of Metro and Picarello, respondent failed to notify Picarello of Jet Line's lawsuit. Indeed, Picarello learned of the lawsuit against him and Metro only after he had appeared at respondent's office, in September 2015, for a deposition. In January 2016, following respondent's unsuccessful efforts to submit a "late expert report[,]" the Superior Court issued a $35,393.25 judgment in favor of Jet Line and against Picarello and Metro. As in the Randall Corp and Yellow Book matters, respondent failed to notify Picarello of the judgment. Indeed, Picarello noted that his last communication with respondent occurred when he encountered him, at some later date, at a convenience store. During that encounter, when Picarello questioned respondent regarding outcome of the Jet Line matter, respondent merely acknowledged that he had "lost it."

It was not until April 30, 2020, when Picarello was attempting to obtain a mortgage, that he independently discovered the three outstanding judgments, each issued several years earlier, against him personally. Thereafter, Picarello was forced to retain new counsel to help him resolve the judgments by paying the appropriate entities.

Additionally, respondent violated RPC 8.1(b) by failing to cooperate with the OAE's investigation of Picarello's grievance. Specifically, between June and November 2020, the OAE sent respondent correspondence requiring him to reply to Picarello's ethics grievance, produce his client files related to each of Picarello's client matters, and to appear for a December 15, 2020 demand interview. Respondent, however, altogether failed to reply to the OAE. On December 15, 2020, following respondent's failure to appear for the demand interview, the OAE called respondent's office and left a detailed message with his secretary directing that respondent immediately contact the OAE. Respondent again failed to reply.

However, we determine to dismiss the second RPC 1.4(b) charge in connection with Picarello's client matters.

Specifically, the formal ethics complaint charged respondent with having violated RPC 1.4(b) by failing to keep Picarello reasonably informed about the status of his matters. The formal ethics complaint also charged respondent with having violated a second instance of RPC 1.4(b), along with RPC 1.4(c), by failing to explain the matters to Picarello to the extent reasonably necessary to permit him to make informed decisions regarding the representation. Given that RPC 1.4(c) more precisely captures respondent's misconduct in that regard, we determine to dismiss the second RPC 1.4(b) charge.

Additionally, respondent violated RPC 1.15(a) by continuously and negligently misappropriating the Spooners' client funds and the settlement funds in the R.W. estate matter.

Specifically, regarding the R.W. estate matter, in September 2018, respondent deposited in his ATA settlement funds in connection with the parties' August 2018 confidential settlement agreement. Although the OAE was able to determine how respondent had disbursed sixty percent of the settlement funds, because respondent failed to place descriptions on numerous ATA transactions, the OAE was unable to account for the remaining settlement funds. Nevertheless, on November 26, 2019, respondent reduced his ATA balance, which resulted in a shortage of the entrusted settlement funds. Thereafter, throughout 2020, respondent's ATA balance remained well below the amount that respondent was required to hold in connection with the settlement.

Regarding the Spooner real estate matter, on May 20, 2019, almost one year after respondent's clients, the Spooners, had purchased real property from the Bastables, respondent received a $1,000 settlement check from Bastable's attorney to resolve a dispute regarding the replacement of a fence on the property. On June 14, 2019, respondent deposited the $1,000 settlement check in his ATA and, on July 29, 2019, respondent negotiated for cash a $200 ATA check, made payable to himself, with the notation "Bastable to Spooner fee"

written on the memo line. As in the R.W. estate matter, respondent's poor recordkeeping practices failed to reveal what had happened to the Spooners' remaining $800 in settlement funds. Nevertheless, on January 24, 2020, respondent reduced his ATA balance to $293.55, resulting in a $506.45 shortage in the Spooners' entrusted client funds. Thereafter, throughout the remainder of 2020, respondent's ATA balance remained well below the $800 that respondent was required to hold on behalf of the Spooners.

Respondent also violated RPC 1.15(d) by failing to comply with the recordkeeping requirements of R. 1:21-6. Specifically, as the OAE's investigation revealed, respondent failed to (1) maintain ATA and ABA receipts and disbursements journals; (2) maintain client ledger cards; (3) maintain a separate ATA ledger card identifying attorney funds for bank fees; (4) provide client identifying information on his checks; (5) deposit legal fees in his ABA; and (6) prepare monthly, three-way ATA reconciliations. Similarly, respondent's deposit slips lacked sufficient detail, and respondent made prohibited cash withdrawals from his ATA.

Moreover, respondent violated RPC 8.1(b) by completely failing to cooperate with the OAE's audit of his financial records. Specifically, between May and December 2020, the OAE sent respondent numerous correspondence requiring him to explain, in writing, his "questionable" ATA checks, made

payable to himself "in round numbers" and negotiated for cash, and to produce his ATA and ABA records for a two-year period. Although respondent initially received an extension, until June 1, 2020, to comply with the OAE's requests, he then failed to request a further extension or to comply with the OAE's audit. Rather, on June 1, 2020, respondent sent the OAE a lengthy e-mail describing his views regarding an estate matter for which he was in process of filing a petition for certification to the Court that had "dominated every facet of [his] life."[4] Following respondent's e-mail, he failed to reply to the OAE's numerous communications, spanning several months, attempting to elicit his compliance with the investigation.

Respondent's total failure to cooperate with the OAE resulted in the OAE's September 1, 2020 motion for his temporary suspension. Although the Court issued an October 7, 2020 order affording respondent an additional thirty days to cooperate, respondent failed to comply with the Court's directive, resulting in his November 19, 2020 temporary suspension. Thereafter, respondent failed to appear for the OAE's December 15, 2020 demand interview regarding Picarello's client matters and his financial records.

[4] It appears that respondent's e-mail was describing the Jensen estate matter for which he attempted to submit to the Court his petition for certification despite his suspension from the practice of law in New Jersey. However, respondent's e-mail did not specifically identify any court or client matter.

Despite his temporary suspension, respondent continued to practice law, in violation of RPC 5.5(a)(1), by representing a client in a bankruptcy matter.

Specifically, on November 20, 2020, respondent paid his client's $335 Bankruptcy Court filing fee, from his ABA, in connection with his client's Chapter 7 bankruptcy petition. Weeks later, on December 7, 2020, a creditor filed a motion to lift the automatic stay and to disqualify respondent from serving as the debtor's counsel. Three days later, on December 11, 2020, the Bankruptcy Court dismissed the bankruptcy petition based on respondent's failure to file information related to his client's bankruptcy estate.

Despite his temporary suspension and the dismissal of his client's petition, on December 14, 2020, respondent filed with the Bankruptcy Court a letter, on his law firm's letterhead, requesting a one-week extension to reply to the creditor's motion based on his claim that he was "embroiled" in a Supreme Court "submission." Respondent's letter to the Bankruptcy Court, thus, demonstrates that he continued to practice law while suspended in connection with at least two client matters.

Additionally, although respondent's ATA records do not reveal any transactions between his November 19, 2020 temporary suspension and December 31, 2020, respondent's ABA records during that timeframe reveal several questionable transactions, which the formal ethics complaint alleged

constituted the practice of law while suspended. Specifically, respondent made three cash deposits, totaling $2,365, for an unknown purpose. Additionally, on November 20, 2020, respondent deposited a $500 check, issued by Tracy and Jeffrey Newlander, which contained the phrase "Stanton Ridge" on the memo line. Finally, respondent's ABA statement revealed two "PNC Merchant Deposit[s]," totaling $450, for unknown purposes. However, without more information regarding the cash deposits, the Newlander check, and the PNC Merchant Deposits, the record lacks clear and convincing evidence that these ABA transactions constituted the practice of law while suspended.

Following the Bankruptcy Court's December 15, 2020 grievance to the OAE, respondent again violated RPC 8.1(b) by refusing to cooperate with the OAE's investigation of his practice of law while suspended before the Bankruptcy Court. Specifically, between January and March 2021, respondent failed to reply to the OAE's correspondence requiring that he submit a written reply to the Bankruptcy Court's grievance. Moreover, respondent failed to appear for a March 8, 2021 demand interview regarding his conduct. Finally, respondent failed to reply to the OAE's March 8, 2021 voicemail message directing that he immediately contact the OAE.

Regarding DRB 23-005, respondent violated RPC 5.5(a)(1) by practicing law while suspended, on at least two separate occasions, before the Court.

Specifically, on December 4, 2020, two weeks after respondent's temporary suspension, a member of his staff left a voicemail message for the Court Clerk's Office noting that respondent intended to hand deliver documents related to his petition for certification in connection with the Jensen estate matter. However, the record does not reveal whether respondent attempted to file any submissions with the Clerk's Office on December 4, 2020. Nevertheless, in October 2021, eleven months after his temporary suspension, and nine months after the Court had dismissed respondent's notice of petition for certification, respondent appeared at the Clerk's Office and unsuccessfully attempted to file documents in connection with the Jensen estate matter. Six months later, on April 8, 2022, respondent again appeared at the Clerk's Office and attempted to file a similar submission in connection with the Jensen estate matter. On April 27, 2022, the Clerk's Office sent respondent and the OAE a letter, rejecting respondent's submission and reminding him of his ongoing temporary suspension.

Thereafter, respondent violated RPC 8.1(b) by failing to cooperate with the OAE's investigation of his practice of law while suspended before the Court. Specifically, between June and July 2022, respondent failed to reply to the OAE's correspondence seeking his written reply to the allegation that he had practiced law while suspended. Thereafter, respondent failed to appear for an August 2022 demand interview regarding his conduct.

In sum, regarding DRB 23-005, we find that respondent violated RPC 5.5(a)(1) and RPC 8.1(b). Regarding DRB 23-006, we find that respondent violated RPC 1.1(a); RPC 1.3; RPC 1.4(b) (one instance); RPC 1.4(c); RPC 1.15(a); RPC 1.15(d); RPC 5.5(a)(1); and RPC 8.1(b) (three instances). We determine to dismiss the second RPC 1.4(b) charge as duplicative of the RPC 1.4(c) charge. The sole issue left for our determination is the appropriate quantum of discipline for the totality of respondent's misconduct.

The crux of respondent's misconduct is his repeated practice of law while suspended. Attorneys who practice law while suspended, including those who fail to cooperate with disciplinary authorities in connection thereto, have received discipline ranging from a lengthy term of suspension to disbarment, depending on the presence of other misconduct, the attorney's disciplinary history, and aggravating or mitigating factors. See, e.g., In re Gonzalez, __ N.J. __ (2022), 2022 N.J. LEXIS 996 (one-year suspension for attorney who, during a three-month term of suspension, called the Motor Vehicle Commission (the MVC) on behalf of a friend whose driver's license had been suspended, identified himself as an attorney, and requested information on how to adjourn the friend's MVC hearing; thereafter, the attorney accompanied his friend, in a representative capacity, to the MVC hearing, where the attorney presented an MVC employee with a business card of another lawyer with an active law

license; following the attorney's failure to produce his own driver's license or social security number to confirm his identity, the attorney left the MVC; we weighed the fact that the attorney's misconduct was confined to a singular matter against his prior discipline, which included a 1995 reprimand, a 2012 admonition, and a 2017 three-month suspension); In re Choi, 249 N.J. 18 (2021) (two-year suspension for attorney who, following his indefinite suspension, in New York, for federal criminal convictions for money laundering and submitting false statements to federal authorities, represented a client, in New York state court, where he falsely certified that he was admitted to practice in New York; the attorney also maintained a law firm website that improperly claimed that he was admitted to practice in New York; finally, the attorney failed to comply with New York's affidavit of compliance rule for suspended or disbarred attorneys); In re Boyman, 236 N.J. 98 (2018) (three-year suspension for attorney, in a default matter, who, for more than four years following his temporary suspension, represented borrowers in nineteen, predominately commercial, real estate transactions involving the same title company; when the title company discovered the attorney's suspended status, the attorney misrepresented to the title company that he had been reinstated to practice; additionally, despite the OAE's numerous attempts, spanning almost nine months, seeking the attorney's written reply to the ethics grievance, the attorney

failed to respond, despite acknowledging receipt of the OAE's letters in a telephone conversation; we weighed, in aggravation, the attorney's 2010 and 2014 censures, in default matters, in which he also failed to cooperate with disciplinary authorities; we also weighed the fact that the attorney's misconduct had continued, unabated, for four years, in numerous high-value matters); In re Kim __ N.J. __ (2022), 2022 N.J. LEXIS 1068 (attorney disbarred, in a default matter, for practicing while suspended for almost three and a half years following his temporary suspension, in connection with sixteen small business loan closings before the United States Small Business Administration (the SBA); during each loan closing, the attorney falsely certified that he maintained an active New Jersey law license; the attorney also ignored the OAE's communications, spanning several months, which required him to reply to the SBA's ethics grievance; the attorney had received a prior three-year suspension, in 2020, also for practicing law while suspended in connection with at least two client matters, among other misconduct).

Respondent, however, also negligently invaded client funds, as demonstrated by his poor recordkeeping practices that failed to reveal what had happened to the Spooners' remaining $800 and to the remaining forty percent of the settlement funds in the R.W. estate matter. Generally, a reprimand is the appropriate quantum of discipline for negligent misappropriation caused by poor

recordkeeping. See In re Osterbye, 243 N.J. 340 (2020) (attorney's poor recordkeeping practices caused a negligent invasion of, and failure to safeguard, funds owed to clients and others as a result of real estate transactions; his inability to conform his recordkeeping practices, despite multiple opportunities to do so, also violated RPC 8.1(b); the attorney had no prior discipline and stipulated to his misconduct).

Finally, conduct involving gross neglect, lack of diligence, and failure to communicate with clients ordinarily results in an admonition or a reprimand, depending on the number of client matters involved, the gravity of the offenses, the harm to the clients, the presence of additional violations, and the attorney's disciplinary history. See, e.g., In the Matter of Mark A. Molz, DRB 22-102 (September 26, 2022) (admonition for attorney whose failure to file a personal injury complaint allowed the applicable statute of limitations for his clients' cause of action to expire; approximately twenty months after the clients had approved the proposed complaint for filing, the attorney failed to reply to the clients' e-mail, which outlined the clients' unsuccessful efforts, spanning three months, to obtain an update on their case; the record lacked any proof that the attorney had advised his clients that he had failed to file their lawsuit prior to the expiration of the statute of limitations; in mitigation, the attorney had an otherwise unblemished thirty-five year career), and In re Burro, 235 N.J. 413

(2018) (reprimand for attorney who grossly neglected and lacked diligence in an estate matter for ten years and failed to file New Jersey Inheritance Tax returns, resulting in the accrual of $40,000 in interest and the imposition of a lien on property belonging to the executrix, in violation of RPC 1.1(a) and RPC 1.3; the attorney also failed to keep the client reasonably informed about events in the case (RPC 1.4(b)); to return the client file upon termination of the representation (RPC 1.16(d)); and to cooperate with the ethics investigation (RPC 8.1(b)); in aggravation, we considered the significant harm to the client and the attorney's prior private reprimand (now, an admonition); in mitigation, the attorney expressed remorse and had suffered a stroke that forced him to cease practicing law).

Here, respondent's misconduct is more severe than that of the attorney in Gonzalez, whose practice while suspended was minimal and confined to one client matter, resulting in a one-year suspension. By contrast, respondent continued to practice law while suspended in connection with at least two client matters spanning more than a year apart.

First, on November 20, 2020, the day after his temporary suspension, respondent paid his client's $335 Bankruptcy Court filing fee from his ABA. Weeks later, on December 14, 2020, respondent filed with the Bankruptcy Court

a letter seeking a one-week extension to reply to a creditor's motion based on his claim that he was "embroiled in a very complex Supreme Court matter."

Second, in October 2021 and April 2022, respondent appeared at the Court Clerk's Office and improperly attempted to file documents in connection with the Jensen estate matter. Consistent with respondent's December 14, 2020 letter to the Bankruptcy Court, respondent's secretary informed the OAE that she was "sure" that respondent had worked on the Jensen estate matter following his November 2020 temporary suspension. Indeed, the secretary noted that, at the time she had left her employment with respondent on December 21, 2020, respondent was "heavily involved" in the Jensen estate matter.

Additionally, like the attorney in Boyman, who, for several months, failed to cooperate with the OAE's investigation, respondent repeatedly ignored the OAE's good faith efforts, spanning more than a two-year period between May 2020 and August 2022, to elicit his participation in the disciplinary process. During that timeframe, respondent failed to appear for three separate demand interviews; failed to reply to the OAE's numerous correspondence regarding his financial records and his misconduct in connection with multiple client matters; and failed to comply with the Court's October 7, 2020 order requiring that he cooperate with the OAE, resulting in his November 19, 2020 temporary suspension.

Based on respondent's failure to cooperate, the OAE was unable to assist respondent in correcting his serious recordkeeping deficiencies, which, among other infractions, consisted of numerous, non-descriptive ATA checks, made payable to himself, and negotiated for cash. Additionally, based on respondent's grossly improper recordkeeping practices, the OAE could not determine what had happened to forty percent of the settlement funds in the R.W. estate matter and to the Spooners' client funds, which respondent continuously and negligently invaded throughout 2020.

Moreover, respondent's misconduct resulted in significant harm to Picarello, who, for several years, remained unaware of the three adverse judgments issued against him personally. By April 2020, when Picarello independently discovered the existence of the outstanding judgments, he claimed that they totaled more than $150,000.

Further, as in Stack II, respondent failed to answer the formal ethics complaints and allowed these matters to proceed as defaults. See In re Kivler, 193 N.J. 332, 342 (2008) ("an [attorney's] default or failure to cooperate with the investigative authorities operates as an aggravating factor, which is sufficient to permit a penalty that would otherwise be appropriate to be further enhanced").

Nevertheless, respondent's practice of law while suspended in connection with at least two client matters is not as pervasive as that of the attorney in Boyman, who received a three-year suspension, also in a default matter, based primarily on his practice of law while suspended for more than four years in connection with nineteen, high-value real estate matters.

Finally, respondent's disciplinary history, consisting of a 2019 admonition for engaging in a conflict of interest and a 2022 reprimand, in a default matter, for failing to comply with R. 1:20-20 following his temporary suspension, further demonstrates his penchant for non-cooperation and disdain for the attorney disciplinary system designed to protect the public. Nevertheless, respondent's disciplinary history is not as severe as Boyman's two prior censures, both in relatively recent default matters, in which he also failed to cooperate with disciplinary authorities.

In conclusion, considering respondent's repeated attempts to practice law while suspended, his outright refusal to cooperate with disciplinary authorities, and the default status of these two matters, we determine that a two-year suspension is the appropriate quantum of discipline necessary to protect the public and to preserve confidence in the bar.

Chair Gallipoli voted to recommend to the Court that respondent be disbarred, having accorded significant aggravating weight to respondent's

repeated failure to comply with multiple Court Orders and his complete indifference to the OAE's investigation, for more than two years.

Member Menaker voted for a three-year suspension.

Members Campelo and Hoberman were 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 Matters of Robert J. Stack
Docket Nos. DRB 23-005 and 23-006

Decided: May 18, 2023

Disposition: Two-year suspension

Members	Two-year suspension	Three-year suspension	Disbar	Absent
Gallipoli			X	
Boyer	X			
Campelo				X
Hoberman				X
Joseph	X			
Menaker		X		
Petrou	X			
Rivera	X			
Rodriguez	X			
Total:	5	1	1	2

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