Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 23-073
District Docket No. XB-2021-0013E

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

Corrected Decision

Decided: September 14, 2023

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

This matter was before us on a certification of the record filed by the District XB Ethics Committee (the DEC), pursuant to R. 1:20-4(f). The amended formal ethics complaint charged respondent with having violated RPC 1.3 (lacking diligence); RPC 1.4(b) (failing to keep a client reasonably informed about the status of a matter and to comply with reasonable requests for information); RPC 1.6(a) (failing to maintain confidential information); RPC

1.16(d) (failing to protect a client's interest upon termination of the representation); RPC 8.1(b) (two instances – failing to cooperate with disciplinary authorities);[1] and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

For the reasons set forth below, we determine that a one-year suspension, consecutive to the two-year suspension imposed in connection with DRB 23-005 and 23-006, 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

[1] Due to respondent's failure to file an answer to the amended formal ethics complaint, and on notice to respondent, the DEC amended the complaint to include the second RPC 8.1(b) charge.

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, as the Rules require.

Effective November 19, 2020, the Court temporarily suspended respondent for his failure to comply with an Office of Attorney Ethics (the OAE) investigation of his financial records. 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).

On September 12, 2023, the Court suspended respondent for two years in connection with his misconduct underlying two consolidated default matters. In re Stack, __ N.J. __ (2023), In the Matters of Robert James Stack, DRB 23-005 and 23-006 (May 18, 2023) (Stack III).

In the first matter comprising Stack III, between approximately 2010 and 2016, respondent grossly mishandled a single client's three distinct matters, which resulted in the issuance of three judgments, totaling more than $128,192, against the client personally. During that timeframe, respondent altogether failed to advise his client of the adverse judgments or the significant

developments in his matters. It was not until April 2020, when the client was attempting to obtain a mortgage, that the client independently discovered the three outstanding judgments, each of which had been issued several years earlier. Respondent failed to cooperate in any way with the OAE's investigation of his misconduct underlying the client's matters, which investigation spanned between June and December 2020.

In the second matter comprising Stack III, between May and December 2020, respondent altogether failed to cooperate with the OAE's investigation of his issuance of "questionable" attorney trust account (ATA) checks, made payable to himself, in round numbers, and negotiated for cash. Respondent's total failure to cooperate resulted in his November 19, 2020 temporary suspension. Additionally, respondent failed to comply with numerous recordkeeping requirements of R. 1:21-6. Finally, based on respondent's failure to place descriptions on numerous ATA transactions, the OAE was unable to determine what happened to $800 in settlement funds in connection with one client matter and funds in a confidential settlement in connection with a separate client matter. Consequently, throughout 2020, respondent continuously and negligently misappropriated the settlement funds in both client matters.

In the third matter comprising Stack III, respondent practiced law while suspended before the United Stated Bankruptcy Court for the District of New

Jersey. Specifically, on November 20, 2020, the day after respondent's temporary suspension became effective, he paid his client's $335 Bankruptcy Court filing fee from his attorney business account. Weeks later, on December 14, 2020, respondent filed with the Bankruptcy Court a letter, on his law firm's letterhead, requesting an extension to reply to a creditor's motion based on his claim that he was "embroiled" in a "submission" to our Court. Between January and March 2021, respondent failed to cooperate, in any way, with the OAE's investigation of his practice of law while suspended before the Bankruptcy Court.

In the fourth matter comprising Stack III, respondent practiced law in New Jersey while suspended on at least two separate occasions. Specifically, in October 2021, eleven months after his temporary suspension, respondent appeared at the Court Clerk's Office and unsuccessfully attempted to file documents in connection with a client's previously dismissed notice of petition for certification. 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 client's matter. Finally, between June and August 2022, respondent failed to cooperate in any way with the OAE's investigation of his practice of law while suspended before the Court.

In determining that a two-year suspension was the appropriate quantum of discipline for the totality of respondent's misconduct, we weighed, in aggravation, respondent's repeated attempts to practice law while suspended, his outright refusal to cooperate with disciplinary authorities, and the default status of DRB 23-005 and DRB 23-006. The Court agreed with our recommended discipline.

Turning to the instant matter, service of process was proper.

On April 14, 2022, the DEC sent a copy of the formal ethics complaint, by certified and regular mail, to respondent's home address of record, in light of his ongoing temporary suspension. The certified mail was returned to the DEC marked "No Mail Receptacle/Unable to Forward," and the regular mail was not returned.

On June 3, 2022, the DEC sent a second letter to respondent's home address, by certified and regular mail, informing him that, unless he filed a verified answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the record would be certified to us for the imposition of discipline, and the complaint would be deemed amended to charge a willful violation of RPC 8.1(b). The certified mail was returned to the DEC marked "Not Deliverable As Addressed/Unable to Forward," and the regular mail was not returned.

On June 10, 2022, the DEC sent a copy of the amended formal ethics complaint, by certified and regular mail, to respondent's home address of record. The certified mail was returned to the DEC marked "Not Deliverable As Addressed/Unable to Forward," and the regular mail was not returned.

On July 28, 2022, the DEC sent an additional letter to respondent's home address, by certified and regular mail, informing him that, unless he filed a verified answer to the amended complaint within five days of the date of the letter, the allegations of the amended complaint would be deemed admitted, the record would be certified to us for the imposition of discipline, and the amended complaint would be deemed amended to charge a willful violation of RPC 8.1(b). The certified mail was returned to the DEC marked "Unable to Forward," and the regular mail was not returned.

As of February 23, 2023, respondent had not filed an answer to the amended complaint, and the time within which he was required to do so had expired. Accordingly, the DEC certified this matter to us as a default.

On March 24, 2023, Acting Chief Counsel to the Board sent respondent a letter, by certified and regular mail, to his home address of record, and also by electronic mail, to both of his e-mail addresses of record, informing him that this matter was scheduled before us on May 24, 2023, and that any motion to vacate must be filed by April 17, 2023.

On April 5, 2023, the regular mail was returned to the Office of Board Counsel (the OBC) marked "Undeliverable/Unable to Forward." On April 10, 2023, the certified mail was returned to the OBC marked "Undeliverable." The electronic mail was not returned to the OBC.

Finally, on April 5, 2023, the OBC published a notice in the New Jersey Law Journal, stating that we would consider this matter on May 24, 2023. The notice informed respondent that, unless he filed a successful motion to vacate the default by April 17, 2023, his failure to answer would remain deemed an admission of the allegations of the amended complaint. Respondent did not file a motion to vacate the default.

We now turn to the allegations of the complaint.

On or around July 20, 2016, Frank and Marjorie Jonas retained respondent to secure the return of their $3,150 security deposit from their landlords, Todd and Daun Majka, following the conclusion of their residential tenancy at a property located in West Milford, New Jersey.

On November 7, 2016, respondent filed in the Superior Court of New Jersey, Law Division, Special Civil Part a complaint for "theft, fraud[,] and for violating the New Jersey Security Deposit Act." Thereafter, the Superior Court scheduled a trial for February 6, 2017.

On February 6, 2017, the parties appeared for trial, including Andrew Murray, Esq., who served as counsel for Todd and Daun. Respondent, however, failed to appear. Consequently, the Superior Court adjourned the trial date but ordered the parties to attend mediation that same day. Marjorie then called respondent to inquire about his whereabouts. Respondent answered Marjorie's telephone call and participated in the mediation, via telephone. During mediation, respondent spoke with Murray, who then relayed respondent's statements to Marjorie and Frank. At the conclusion of mediation, the parties reached a settlement, which required Todd and Daun to pay Marjorie and Frank a total of $7,000, via four monthly installment payments. Although Frank and Marjorie executed the settlement agreement and stipulation of dismissal, Todd and Daun did not execute the document.

Following the settlement, Todd and Daun failed to make any payments to Marjorie and Frank. Consequently, on March 21, 2017, respondent filed, in the Superior Court, a motion for "Entry of Default Judgment." Respondent's motion included a "Certification of Proof," a "Certification of Attorney and Defendants," and various exhibits in connection with Marjorie and Frank's underlying Special Civil Part lawsuit against Todd and Daun. Although Frank and Marjorie's purported signatures appeared on the signature lines of the two certifications, Frank and Marjorie neither signed nor reviewed those documents.

Rather, respondent forged Frank and Marjorie's signatures, without their authorization, in order to "expedite" the filing of the motion. On April 7, 2017, the Superior Court granted the motion and issued a $13,066.41 default judgment in favor of Marjorie and Frank and against Todd and Daun.

Meanwhile, between approximately February 21 and April 24, 2017, respondent, without Frank or Marjorie's knowledge or permission, exchanged a series of text messages with Todd which demonstrated a "familiar tone." Specifically, respondent addressed Todd as "Bro" several times, claimed that "We have a lot in common," and complained that Frank, whom he referred to as "F," "IS ALL OVER ME." Respondent also told Todd that he had received messages from Frank "at 2 a.m. !!!!!!" Additionally, at some point, respondent sent Todd a text message stating:

> a # of texts that Frank sent to me over the week, I'm sorry, TODAY was his 'extended' cut-off date for action!!! I hate to ruin your weekend W this, but it is WUT it is . . . Look this over and call me or I will call u, like I said it's really just about # S at this point. . ."
>
> [C¶20.][2]

Finally, respondent sent Todd several text messages that he received directly from Frank, again without Frank's knowledge or permission. Respondent

[2] "C" refers to the amended formal ethics complaint, dated June 6, 2022.

neither requested nor received Murray's consent to directly communicate with Todd, as RPC 4.2 (communicating with a person represented by counsel) requires.

On July 19, 2018, respondent filed with the Superior Court an application for a writ of execution to satisfy the April 7, 2017 default judgment in favor of Frank and Marjorie. In August 2018, the Superior Court issued the writ of execution, but respondent failed to serve the writ on any party or otherwise make any further attempt to levy upon the judgment. Consequently, no funds were ever collected in satisfaction of Frank and Marjorie's judgment. The judgment, however, operated as a lien on Todd and Daun's West Milford property.

On July 18, 2019, a mortgage holder filed a foreclosure complaint against Todd and Daun based on their purported default on their loan obligations encumbering the mortgaged West Milford property. The complaint also named Frank and Marjorie as defendants based on their subordinate judgment lien on the property. Given his representation of Frank and Marjorie, the mortgage holder served on respondent the complaint along with a subsequent (1) motion to correct the names of Frank and Marjorie, (2) a certificate of mailing, and (3) a notice of sheriff's sale.

Following the filing of the foreclosure action, Marjorie and Frank received an undated letter from George Caruso, who claimed that his attorney, Brian

Fleming, Esq., had attempted to contact respondent regarding Marjorie and Frank's judgment lien on the property, in light of his desire to purchase the property at a foreclosure sale scheduled for October 15, 2019. In his undated letter, Caruso requested that Frank and Marjorie instruct respondent to contact Fleming to discuss the judgment. Thereafter, Frank "immediately" provided respondent with Caruso's letter and instructed him to contact Fleming to attempt to collect upon their judgment.

Meanwhile, Fleming, on several occasions, attempted to contact respondent, via telephone, to negotiate a compromise of the judgment so that Caruso could purchase the property free of the judgment lien. Respondent, however, failed to communicate with Fleming.

On October 3, 2019, Fleming sent respondent a letter, stating, in part, that he had "attempted to reach you by telephone to discuss the above matter." Fleming further instructed respondent to contact him if he was "open to a discussion." Respondent again failed to reply.

On October 11, 2019, a closing took place on the sale of the West Milford property. Respondent, however, failed to contact Fleming or the settlement agent regarding Frank and Marjorie's judgment lien on the property. Frank and Marjorie were unaware of the closing, which took place without satisfying any portion of their judgment.

Meanwhile, on November 5, 2019, the mortgage holder filed a "motion to vacate" in connection with the foreclosure action.[3] Weeks later, on November 22, 2019, Marjorie sent respondent an e-mail containing the motion. Later, on November 22, 2019, respondent's secretary advised Marjorie that respondent already had a copy of the motion and instructed her to have Frank call respondent to discuss the motion. Although Frank attempted, on multiple occasions, to contact respondent regarding the motion, respondent failed to reply. Indeed, since November 2019, respondent failed to communicate in any way with Frank or Marjorie.

Following his November 2020 temporary suspension, respondent disconnected his telephone lines and closed his law office, which left Frank and Marjorie without any means to contract respondent.

On July 1, 2021, Frank filed with the OAE an ethics grievance against respondent. In turn, the OAE assigned the DEC to investigate this matter. Between August 2021 and March 2022, the DEC sent respondent three letters, to his home and business addresses of record, requesting that he file a written reply to the grievance. Respondent, however, failed to reply in any way to the DEC.

[3] The substance of the motion to vacate is unclear based on the record before us.

Based on respondent's text message conversations with Todd revealing his privileged discussions with Frank, the amended formal ethics complaint charged respondent with having violated RPC 1.6(a).

Additionally, based on respondent's failure to reply to Frank and Marjorie's repeated inquiries regarding the impending sale of the West Milford property and the status of their judgment, which respondent failed to take any reasonable steps to satisfy beyond obtaining an unserved writ of execution, the amended formal ethics complaint charged respondent with having violated RPC 1.3 and RPC 1.4(b).

Moreover, based on his "abandon[ment]" of Frank and Marjorie, and his failure to return their client file prior to his November 2020 temporary suspension and the closure of his law office, the amended formal ethics complaint charged respondent with having violated RPC 1.16(d).

Further, based on his decision to forge Frank and Marjorie's signatures on at least two certifications in connection with his March 2017 motion to enter a default judgment, the amended formal ethics complaint charged respondent with having violated RPC 8.4(c).

Finally, based on his total failure to cooperate with the DEC's investigation of Frank's ethics grievance, the amended formal ethics complaint charged respondent with twice having violated RPC 8.1(b).

Following a review of the record, we determine that the facts set forth in the formal ethics complaint support all the charges of unethical conduct. Respondent's failure to file an answer to the complaint 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).

First, respondent violated RPC 1.3 by failing to protect Frank and Marjorie's interests in connection with their attempts to recover their security deposit and to collect upon their default judgement against Todd and Daun. Moreover, respondent violated RPC 1.4(b) by consistently failing to keep Frank and Marjorie apprised of the significant developments of their matter or to reply to Frank's repeated inquiries.

Specifically, at the outset of the matter, respondent failed to appear for Frank and Marjorie's February 6, 2017 Special Civil Part trial. Although respondent attended mediation that same day, via telephone, he made no effort to directly communicate with his clients during mediation. Instead, respondent spoke directly with Murray, Todd and Daun's attorney, who then relayed respondent's statements to Frank and Marjorie.

Following Todd and Daun's failure to abide by the February 6, 2017 settlement agreement, which required them to pay a total of $7,000 in four monthly installment payments, respondent obtained an April 7, 2017 default

judgment in favor of Frank and Marjorie. Thereafter, in July 2018, based on Todd and Daun's continuing failure to satisfy the default judgment, respondent applied for the issuance of a writ of execution. Respondent, however, failed to serve the writ on the appropriate entities or to make any attempt to levy upon the judgment. The judgment, however, operated as a lien on Todd and Daun's West Milford property.

Thereafter, in July 2019, respondent received notice of a foreclosure lawsuit listing, as defendants, Todd and Daun, as the property owners, and Frank and Marjorie, as the holders of the subordinate judgment lien on the property. Additionally, sometime between July and October 2019, Frank provided respondent a letter from Caruso, who sought to negotiate a compromise of the judgment lien in connection with his intent to purchase the property. Frank instructed respondent to immediately contact Fleming, Caruso's attorney, to attempt to collect upon the judgment. Respondent, however, ignored Fleming's repeated attempts to communicate with him. Despite respondent's awareness of the foreclosure action and the impending the sale of the property, respondent made no effort to contact Fleming or the settlement agent to attempt to collect upon Frank and Marjorie's judgment. Consequently, at the October 11, 2019 sale closing, which took place without notice to Frank or Marjorie, no funds were disbursed in satisfaction of their judgment.

Meanwhile, respondent failed to reply to Frank's repeated inquiries regarding the mortgage holder's November 2019 motion to vacate, following which respondent failed to communicate in any way with Frank or Marjorie, even though their collection matter remained unresolved.

Similarly, respondent violated RPC 1.16(d) by unilaterally "abandon[ing]" his representation of Frank and Marjorie, in November 2019, when respondent altogether ceased communicating with Frank and Marjorie and failed to return their client file. Following his November 2020 temporary suspension, respondent closed his law office and disconnected his telephone lines, leaving Frank and Marjorie without any means to communicate with him.

Additionally, respondent violated RPC 1.6(a) by brazenly revealing Frank's privileged communications with Todd, who himself was represented by counsel.

Specifically, between February and April 2017, respondent, without Frank or Marjorie's knowledge or consent, provided Todd with several of Frank's privileged text messages, which Frank had sent to respondent regarding the status of his matter. During that timeframe, respondent complained, via text messages to Todd, that Frank was "ALL OVER ME," that he had received messages from Frank "at 2 a.m." and that he had received "a # of texts that Frank sent to me over the week." As noted in the amended formal ethics complaint,

respondent's messages with Todd demonstrated a "familiar tone," given that respondent referred to Todd as "Bro" several times, claimed that they had "a lot in common," and apologized to Todd for "ruin[ing] [his] weekend [with] this."

Moreover, respondent communicated with Todd without the knowledge or consent of Todd's attorney, as RPC 4.2 requires. Although the amended formal ethics complaint did not charge respondent with having violated RPC 4.2, we view such conduct in aggravation. See In re Steiert, 201 N.J. 119 (2014) (evidence of unethical conduct contained in the record can be considered in aggravation, even though such unethical conduct was not charged in the formal ethics complaint).

Further, respondent violated RPC 8.4(c) by forging Frank and Marjorie's signatures on at least two certifications in connection with his March 21, 2017 motion for entry of default judgment to the Superior Court. Respondent forged Frank and Marjorie's signatures without their knowledge or permission and without affording them the opportunity to review the certifications. Respondent filed the deceptive certifications with the Superior Court in order to "expedite" the filing of the motion.

Finally, respondent violated RPC 8.1(b) by altogether failing to cooperate with the DEC in two respects. First, respondent failed to reply in any way to the DEC's three letters, dated between August 2021 and March 2022, requiring that

he submit a written reply to Frank's ethics grievance. Second, respondent failed to file an answer to the formal ethics complaint and allowed this matter to proceed as a default.

In sum, we find that respondent violated RPC 1.3; RPC 1.4(b); RPC 1.6(a); RPC 1.16(d); RPC 8.1(b) (two instances); and RPC 8.4(c). The sole issue left for our determination is the appropriate quantum of discipline for the totality of respondent's misconduct.

The timeframe underlying respondent's misconduct in this matter completely overlaps with the timeframe underlying his misconduct in Stack III, for which we determined that a two-year suspension was the appropriate quantum of discipline based, primarily, on respondent's practice of law while temporarily suspended. Consequently, based on past precedent, we must determine whether discipline greater than a two-year suspension would have resulted had this matter been considered with Stack III. See In re Milara, 241 N.J. 27 (2020) (no additional discipline for attorney where the misconduct at issue was similar to the misconduct underlying a prior matter and occurred during an overlapping period; based on those facts, we determined that, had the matters been considered together, no discipline greater would have resulted).

Unlike in Milara, we determine that, based on respondent's abandonment of Frank and Marjorie, his brazen disregard for the sanctity of their privileged

communications, and his egregious falsification of his client's signatures in at least two certifications filed with the Superior Court, had this matter been considered with Stack III, additional discipline would have been warranted.

Here, respondent committed client abandonment by unilaterally terminating his representation of Frank and Marjorie, without notice, shuttering his law office and disconnecting his telephone lines, and leaving Frank and Marjorie without a means to communicate with him any further. See In the Matter of Kevin C. Fogle, DRB 17-352 (April 11, 2018) at 16 (noting that client abandonment requires a clear and convincing showing that the attorney disappeared and cannot be found), so ordered, 235 N.J. 417 (2018).

Abandonment of clients almost invariably results in a suspension, the duration of which depends on the circumstances of the abandonment, the presence of other misconduct, and the attorney's disciplinary history. See, e.g., In re Nwaka, 178 N.J. 483 (2004) (three-month suspension for attorney who was disbarred in New York for abandoning one client and for failing to cooperate with New York ethics authorities, by neither filing an answer to the complaint nor complying with their requests for information about the disciplinary matter; prior three-month suspension); In re Austin, __ N.J. __ (2022), 2022 N.J. LEXIS 992 (six-month suspension for attorney, in a default matter, who abandoned a single client, who had retained the attorney to represent him in a dispute

regarding the estate of his late brother; the client provided the attorney a $3,000 legal fee and a $28,387 check, which represented the estate funds to be held by the attorney pending resolution of the dispute; for five years, the attorney took no demonstrable action to further her client's interests; during that timeframe, the client was unable to get any information regarding his case; when the attorney shuttered her law practice, she failed to promptly deliver the entrusted estate funds to the client, which required the client to hire new counsel to attempt to induce the attorney to disgorge the estate funds; no prior discipline during her seven-year career at the bar); In re Manganello, 250 N.J. 359 (2022) (six-month suspension for attorney, in two consolidated default matters, who abandoned two clients; in the first matter, the attorney accepted a $3,500 legal fee to advise a client regarding a potential medical malpractice action; during that matter, the attorney sent a letter to a potential defendant beyond the applicable statute of limitations, failed to return the client's telephone calls, and misled the client to believe his litigation could proceed, despite the expiration of the statute of limitations; in the second matter, the attorney accepted a $1,300 legal fee to file a bankruptcy petition on his client's behalf; the attorney failed to perform the work and falsely assured his client that her case was proceeding apace; in both matters, the attorney failed to cooperate with disciplinary authorities; prior censure); In re Saponaro, 249 N.J. 352 (2022) (one-year suspension for attorney,

in a default matter, who abandoned three clients before closing his law office and disconnecting his telephone lines; in all three client matters, the attorney performed almost no legal work; the attorney improperly retained legal fees in two of the client matters and failed to comply with a fee arbitration committee decision requiring that he disgorge his unearned fee in one of the client matters; throughout the OAE's investigation, the attorney inconsistently communicated with disciplinary authorities, which led the OAE to believe that he would comply with his obligations to cooperate; despite his representations to the OAE, the attorney failed to cooperate in connection with the investigations of all three client matters).

Respondent, however, also revealed the content of Frank's privileged text messages to Todd, without Frank's knowledge or consent. Attorneys who divulge or threaten to divulge confidential client information typically receive an admonition or a reprimand, depending on the circumstances. See, e.g., In the Matter of Thomas Evans Seeley, DRB 21-106 (September 27, 2021) (admonition for attorney who disclosed to plaintiff's counsel, without consent, his client's e-mail, which sought the attorney's legal advice about a proposed counteroffer to the plaintiff in the pending litigation; in mitigation, the attorney committed no other ethics infractions, lacked any malicious intent in disclosing the e-mail, and had no prior discipline in his twenty-one years at the bar); In re

Lord, 220 N.J. 339 (2015) (reprimand for attorney who provided her adversary a copy of a letter to her clients that contained confidential attorney-client information; no prior discipline in more than thirty years at the bar); In re Chatarpaul, 175 N.J. 102 (2003) (reprimand for attorney who, with the assistance of nonlawyer staff, sent a letter to his client threatening to divulge the client's privileged information in an attempt to collect outstanding legal fees; in mitigation, we considered the attorney's inexperience and remorse).

Additionally, respondent forged Frank and Marjorie's signatures on at least two certifications submitted to the Superior Court. Generally, attorneys who improperly sign a party's name to a document receive a reprimand, provided that the attorney did not submit the document knowing that it contained any false substantive information. See, e.g., In re Bedell, 204 N.J. 596 (2011) (the attorney signed his clients' names on individual releases and then affixed jurats to them in an attempt to legitimize the documents; the attorney sent the releases to an automobile insurance company based on his mistaken belief that his clients had authorized him to settle their cases; when the attorney learned that his clients did not wish to settle their matters, the attorney notified the insurance company that his clients' cases were, in fact, not settled; the attorney, however, never informed his clients that he had sent their falsely executed releases to the insurance company; rather, the clients learned of their forged

signatures on the releases only after the insurance company filed a motion to enforce the settlements; no prior discipline); In re LaRussa, Jr., 188 N.J. 253 (2006) (attorney improperly directed a wife to sign a husband's name to a release in a personal injury action and then affixed his jurat to the document); In re Uchendu, 177 N.J. 509 (2003) (attorney signed his clients' names on documents filed with the Probate Division of the District of Columbia Superior Court and notarized some of his own signatures on the documents; the attorney claimed that he had his clients' permission to notarize the documents and that he did not know that his conduct was improper; the falsifications did not involve substantive information).

Finally, respondent failed to cooperate in any way with the DEC's investigation of Frank's ethics grievance. When an attorney fails to cooperate with disciplinary authorities and previously has been disciplined, but the attorney's ethics record is not serious, reprimands or censures have been imposed. See In re Howard, 244 N.J. 411 (2020) (reprimand for attorney who altogether failed to respond to the DEC's four requests for a written reply to an ethics grievance; the attorney received a prior 2017 censure for similar misconduct in which he had also failed to cooperate with disciplinary authorities; in mitigation, the attorney ultimately retained ethics counsel and stipulated to some of his misconduct); In re Nussey, __ N.J. __ (2023), 2023

N.J. LEXIS 149 (censure for attorney who altogether ignored the DEC's October 2018 request for a reply to the ethics grievance; although the attorney eventually filed an answer to the formal ethics complaint, in August 2019, that answer came ten months after the DEC's initial request that he reply to the grievance; the attorney also failed to produce a copy of his client's file as directed until January 2020; in aggravation, this matter represented the attorney's third disciplinary proceeding in less than four years; we also found that the attorney had a heighted awareness of his obligations to adhere to the RPCs considering the timing of his prior 2020 reprimand).

Here, like the attorney in Austin, who received a six-month suspension, in a default matter, for abandoning a single client, respondent abandoned Frank and Marjorie by ceasing all communication with them and shuttering his law office, without attempting to resolve their collection matter. As occurred in Austin, respondent's abandonment resulted in significant harm to Frank and Marjorie.

Specifically, after obtaining a default judgment and a writ of execution in favor of Frank and Marjorie, respondent failed to serve the writ on the appropriate entities or take any demonstrable action to collect upon the judgment. Indeed, despite his awareness of the impending sale of the West Milford property, upon which Frank and Marjorie held a subordinate judgment

lien, respondent failed to: (1) notify his clients of the October 11, 2019 sale closing, (2) reply to Fleming's repeated inquiries regarding Caruso's intent to negotiate a compromise of the judgment lien; or (3) otherwise attempt to intervene in the sale closing to collect upon the judgment. Consequently, based on respondent's abandonment of Frank and Marjorie, it appears that no funds ever have been paid in satisfaction of their judgment.

Moreover, like the reprimanded attorney in Bedell, who signed his clients' names on releases and then affixed jurats to them to attempt to legitimize the documents, respondent forged Marjorie and Frank's signatures on at least two certifications submitted to the Superior Court in connection with their March 2017 motion for entry of a default judgment. Although Marjorie and Frank neither reviewed the certifications nor authorized respondent to sign their names, the record is unclear whether the certifications, which respondent signed in order to expedite the motion filing, contained any false substantive information.

Further, like the admonished attorney in Seeley, who improperly revealed his client's privileged e-mail to his adversary's counsel, respondent deliberately revealed Frank's privileged text messages to Todd, who himself was a represented party. However, unlike Seeley, who revealed only one privileged e-mail due to his carelessness and without any malicious intent, respondent,

arguably, acted maliciously by providing Todd with Frank's privileged text messages during a two-month timespan, throughout which respondent complained to Todd about Frank while improperly attempting to establish a rapport with Todd, without his attorney's knowledge.

Respondent's cavalier attitude towards the interests of his clients, however, did not end there. Specifically, respondent failed to appear for Marjorie and Frank's February 6, 2017 Special Civil Part trial. That same day, after Marjorie called respondent to determine his whereabouts, respondent agreed to participate in mediation, via telephone, but made no effort to directly communicate with his clients during mediation. Rather, respondent spoke only with Todd's attorney, Murray, who relayed his discussions with respondent to Frank and Marjorie.

Moreover, respondent ignored Frank's pleas to communicate with Fleming regarding Caruso's proposal to a negotiate a compromise of the judgment lien, which remains unsatisfied. Similarly, respondent failed to keep Frank and Marjorie apprised of the significant developments of their collection matter, including the October 2019 sale closing on the West Milford property. Finally, respondent failed to reply to Frank's repeated inquiries regarding the mortgage holder's November 2019 motion to vacate and, instead, refused to

communicate any further with Frank or Marjorie before shuttering his law office.

In aggravation, we find that respondent's abandonment of Frank and Marjorie was exacerbated by his failure, in Stack II, to comply with his obligations as a suspended attorney, pursuant R. 1:20-20, which required that he notify his clients of his suspension. See In re Kramer, 172 N.J. 609 (2002) (an attorney's failure to notify his clients and the appropriate courts of his suspension created "confusion" and "havoc" because the courts were required to adjourn matters and to inform clients of the need to obtain substitute counsel, an obligation that the attorney failed to fulfill; more than two months after the attorney's suspension, one of the clients stated, in a letter to the court, that she was "shocked to realize that I have no legal representation at this time"). Like the clients in Kramer, Frank and Marjorie likely experienced the same "shock" and confusion when they eventually discovered that respondent had abandoned them.

In further aggravation, as in Stack II and III, where he failed to cooperate in any way with the OAE and allowed those matters to proceed as defaults, respondent failed to cooperate in any way with the DEC's investigation of Frank's ethics grievance and allowed this matter to proceed as a default. 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").

The crux of respondent's misconduct in Stack III was his repeated attempts to practice law while suspended following his November 2020 temporary suspension, conduct for which we determined that a two-year suspension was the appropriate quantum of discipline. The crux of his misconduct in the instant matter was his abandonment of Frank and Marjorie, conduct which largely preceded the timeframe underlying his practice of law while suspended in Stack III.

Based on disciplinary precedent, and considering the significant harm caused by respondent's abandonment of Frank and Marjorie, his continued refusal to cooperate in any way with disciplinary authorities, and the default status of this matter, we find that, had this matter been considered with Stack III, an aggregate three-year suspension would have been the appropriate quantum of discipline. To achieve that result, we determine that a one-year suspension, consecutive to the two-year suspension recently imposed in Stack III (DRB 23-005 and DRB 23-006), is the appropriate quantum of discipline necessary to protect the public and to preserve confidence in the bar.

Finally, in light of respondent's abandonment of his law practice and his outright refusal to participate in multiple disciplinary investigations within the past three years, we recommend to the Court that respondent be required to show cause why he should not be disbarred or otherwise disciplined, pursuant to R. 1:20-16(b).

Chair Gallipoli and Member Menaker voted to recommend to the Court that respondent be disbarred, having accorded significant aggravating weight to respondent's total failure to participate in the DEC's investigation of this matter and the significant harm caused to Marjorie and Frank, whom respondent unilaterally abandoned after shuttering his law practice.

Member Boyer was absent.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

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

By: */s/ Timothy M. Ellis*
Timothy M. Ellis
Acting Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Robert James Stack
Docket No. DRB 23-073

Decided: September 14, 2023

Disposition: One-year suspension

Members	One-year suspension	Disbar	Absent
Gallipoli		X	
Boyer			X
Campelo	X		
Hoberman	X		
Joseph	X		
Menaker		X	
Petrou	X		
Rivera	X		
Rodriguez	X		
Total:	6	2	1

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