SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 23-163
District Docket No. XIV-2021-0295E

In the Matter of Laura M. Rys
An Attorney at Law

Decided
January 8, 2024

Certification of the Record

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Introduction

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 Office of Attorney Ethics (the OAE), pursuant to R. 1:20-4(f). The formal ethics complaint charged respondent with having violated RPC 5.5(a)(1) (practicing law while suspended); RPC 8.1(b) (failing to cooperate with disciplinary authorities);[1] and RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice).

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 1993 and to the New York bar in 1996. At the relevant times, she maintained a practice of law in New York, New York.

Effective August 25, 2014, the Court declared respondent administratively ineligible to practice law for her failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection (the CPF), as R. 1:28-2 requires.

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

Effective November 17, 2014, the Court declared respondent administratively ineligible to practice law for her failure to comply with Continuing Legal Education (CLE) requirements.

Effective October 27, 2015, the Court declared respondent administratively ineligible to practice law for her failure to comply with the mandatory procedures for annual Interest on Lawyers Trust Accounts registration (IOLTA), as R. 1:28A-2(d) requires.

Respondent has not cured those CPF, CLE, or IOLTA deficiencies and, thus, remains ineligible to practice law in New Jersey on those three bases.

Moreover, effective April 25, 2016, the Court temporarily suspended respondent for her failure to comply with a fee arbitration determination. In re Rys, 224 N.J. 442 (2016).

On January 31, 2020, the Court suspended respondent for six months for her violation of RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6); RPC 3.3(a)(5) (failing to disclose a material fact to a tribunal knowing that its omission is reasonably certain to mislead the tribunal); RPC 5.5(a)(1) (engaging in the unauthorized practice of law – practicing while administratively ineligible); RPC 8.1(a) (making a false statement of material fact in connection with a disciplinary matter); RPC 8.1(b);

RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); and RPC 8.4(d). In re Rys, 241 N.J. 73 (2020) (Rys I).

In that matter, which also proceeded as a default, respondent represented two clients, separately, in state and federal court, despite knowing she was ineligible to do so. In the Matter of Laura M. Rys, DRB 19-026 (August 2, 2019) at 4-7,8. She failed to inform one of the tribunals of her temporary suspension and, during the ensuing investigation, made false statements to the OAE. Id. at 5-7. She also failed to maintain an attorney trust account and failed to file the required R. 1:20-20 affidavit following her temporary suspension. Id. at 8-9.

On July 15, 2020, the Court suspended respondent for one year, consecutive to the suspension imposed in Rys I, for her violation of RPC 1.5(b) (failing to set forth in writing the basis or rate of the legal fee); RPC 8.1(a); RPC 8.1(b); and RPC 8.4(c). In re Rys, 243 N.J. 193 (2020) (Rys II). In that matter, which also proceeded as a default, respondent failed to provide a client, whom she previously had not represented, a writing setting forth the basis of her legal fee. In the Matter of Laura M. Rys, DRB 19-299 (March 27, 2020) at 8. She also failed to maintain an attorney business account, made false statements to the OAE, and failed to cooperate with the OAE's investigation. Id.

To date, respondent remains suspended in connection with her temporary suspension and disciplinary suspensions.

Service of Process

Service of process was proper. On June 2, 2023, the OAE sent a copy of the formal ethics complaint, by certified and regular mail, to respondent's home address, which respondent had confirmed with the OAE on May 25, 2023.[2] According to the United States Postal Service (the USPS) tracking system, on June 8, 2023, the certified mail was delivered. The regular mail was not returned to the OAE.

On July 6, 2023, the OAE sent a letter to respondent's home address, by certified and regular mail, with an additional copy sent by electronic mail, informing her that, unless she 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

[2] The home address that respondent provided to the OAE was different from her home address of record with the Court. New Jersey attorneys have an affirmative obligation to inform the CPF 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).

violation of RPC 8.1(b). The certified mail was "still pending within the USPS," however, the regular mail was not returned to the OAE. The e-mail, which was sent to respondent's e-mail address of record, was returned as undeliverable.

As of July 26, 2023, respondent had not filed an answer to the complaint, and the time within which she was required to do so had expired. Accordingly, the OAE certified this matter to us as a default.

On May 30, 2023, Acting Chief Counsel to the Board sent a letter to respondent, by certified and regular mail, to her home address, informing her that the matter was scheduled before us on October 19, 2023, and that any motion to vacate the default must be filed by September 18, 2023. On September 28, 2023, the certified mail was returned to the Office of Board Counsel (the OBC) as undeliverable. The regular mail was not returned to the OBC.

Moreover, on September 4, 2023, the OBC published a notice in the New Jersey Law Journal, stating that we would review this matter on October 19, 2023. The notice informed respondent that, unless she filed a successful motion to vacate the default by September 18, 2023, her failure to answer would remain deemed an admission of the allegations of the complaint.

Respondent did not file a motion to vacate.

We now turn to the allegations of the complaint.

Facts

On March 24, 2016, the Deputy Clerk of the Court sent respondent a letter, to her office and home addresses of record, enclosing a copy of the Court's temporary suspension Order entered that same date. In that letter, the Deputy Clerk informed respondent that, in addition to her impending temporary suspension, which would become effective April 25, 2016, she also was administratively ineligible to practice law due to her failure to comply with CPF, IOLTA, and CLE requirements.

Subsequently, when respondent received disciplinary suspensions in connection with Rys I and Rys II, the Court provided her with copies of both suspension Orders.

Despite her suspended status, in the summer of 2021, respondent agreed to represent Freddy Herrera in connection with his cannabis business. Respondent provided Herrera with two retainer agreements, one erroneously dated January 15, 2020, and the other dated June 22, 2021. The agreement dated January 15, 2020 stated that the scope of representation was "to represent [Herrera's] interests in obtaining a cannabis license in the State of New York and New Jersey." The agreement dated June 22, 2021 contained similar language, however, it limited the scope of representation to Herrera's interests

in obtaining a cannabis license in New York. Herrera did not sign either agreement and the representation was not otherwise memorialized in writing.

On July 2, 2021, Herrera paid respondent a $12,500 retainer fee, via wire transfer. At Herrera's request, respondent agreed to register his cannabis business in both New York and New Jersey, despite her knowledge that she was suspended from the practice of law in New Jersey. On July 23, 2021, Herrera paid respondent an additional $1,500 toward the representation.

On August 8, 2021, respondent formed a limited liability company, "GOT YOUR SIX OF NEW JERSEY LLC," on Herrera's behalf. Specifically, respondent applied for and received, on behalf of the business, an Employer Identification Number from the Internal Revenue Service. Respondent also completed and filed an online certificate of formation with the New Jersey Department of Treasury. Respondent signed the certificate of formation as "Laura M. Rys, Esq."

On August 23, 2021, Herrera notified respondent, in writing, that he was terminating her services as his attorney. According to his letter, Herrera was dissatisfied with certain documents respondent had drafted for him and, further, he felt misled by respondent, because she had not disclosed to him her ineligibility or suspension from the practice of law. He demanded a refund of

the $12,500 he had paid to her on July 2, 2021, as well as a copy of his file.

Subsequently, Herrera contacted the CPF and was provided with a claim form. On August 18, 2021, the CPF referred the matter to the OAE. Thereafter, the OAE commenced an investigation and directed respondent to provide a written reply to the allegation that she had practiced law while suspended.

On March 15, 2022, respondent, through her counsel, Todd A. Rossman, Esq., submitted a written reply to the OAE, asserting that respondent had performed extensive work for Herrera in New York, and that her act of "forming a company" did not constitute the practice of law. Respondent also maintained that she did not perform "legal services in New Jersey . . . at any time."

On June 27, 2022, during an interview with the OAE, respondent admitted that she had been suspended from the practice of law throughout her representation of Herrera. Further, respondent admitted that she prepared the certificate of formation, a legal document, for GOT YOUR SIX OF NEW JERSEY LLC on Herrera's behalf, and that her actions in filing the certification of formation created a business entity governed by New Jersey law.

Based on the above facts, the OAE asserted that respondent violated RPC 5.5(a)(1) by preparing and filing in New Jersey the certificate of formation for GOT YOUR SIX OF NEW JERSEY LLC, in August 2021, despite knowing that

her license to practice law in New Jersey had been suspended since April 25, 2016. Further, the OAE asserted that respondent had violated RPC 8.4(d) and R. 1:20-20(b)(3) by acting in derogation of the Court's March 24, 2016 temporary suspension Order.

Analysis and Discipline

Violations of the Rules of Professional Conduct

Following a review of the record, we determine that the facts set forth in the formal ethics complaint support some, but not all, of the charges of unethical conduct. Respondent's failure to file an answer to the complaint is deemed an admission that the allegations of the complaint 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. See In re Pena, 164 N.J. 222 (2000) (stating that the Court's "obligation in an attorney disciplinary proceeding is to conduct an independent review of the record, R. 1:20-16(c), and determine whether the ethical violations found by the [Board] have been established by clear and convincing evidence"); see also R. 1:20-4(b) (entitled "Contents of Complaint" and requiring, among

other notice pleading requirements, that a complaint "shall set forth sufficient facts to constitute fair notice of the nature of the alleged unethical conduct").

We, therefore, decline to find a violation of a Rule of Professional Conduct where the facts within the certified record do not constitute clear and convincing evidence that an attorney violated a specific Rule. See, e.g., In the Matter of Philip J. Morin, III, DRB 21-020 (September 9, 2021) at 26-27 (declining to find a charged RPC 3.3(a)(4) violation based upon insufficient evidence in the record), so ordered, 250 N.J. 184 (2022); In the Matter of Christopher West Hyde, DRB 16-385 (June 1, 2017) at 7 (declining to find a charged RPC 1.5(b) violation due to the absence of factual support in the record), so ordered, 231 N.J. 195 (2017); In the Matter of Brian R. Decker, DRB 16-331 (May 12, 2017) at 5 (declining to find a charged RPC 8.4(d) violation due to the absence of factual support in the record), so ordered, 231 N.J. 132 (2017).

Here, we conclude that the facts recited in the complaint support the allegations that respondent violated RPC 5.5(a)(1) and RPC 8.1(b). We determine, however, that the evidence does not clearly and convincingly support the charged violation of RPC 8.4(d).

Respondent violated RPC 5.5(a)(1) by practicing law while suspended,

despite knowing that she was suspended from the practice of law in New Jersey. Specifically, in July 2021, respondent agreed to represent Herrera in connection with his New Jersey business aspirations. She then prepared and filed documents, on Herrera's behalf, including a certificate of formation that she filed with the New Jersey Department of the Treasury in furtherance of the representation. Further, respondent held herself out as an attorney by signing the certificate of formation, "Laura M. Rys, Esq."

Next, respondent violated RPC 8.1(b), which requires an attorney to "respond to a lawful demand for information from . . . [a] disciplinary authority." She violated this Rule by failing to file a verified answer to the formal ethics complaint, despite proper notice, and allowing this matter to proceed as a default. R. 1:20-4(f).

By contrast, however, we determine to dismiss the allegation that respondent violated RPC 8.4(d). The OAE alleged that respondent violated this Rule by practicing law during her suspension and failing to adhere to the requirements of R. 1:20-20(b)(3). Typically, a violation of RPC 8.4(d) is found when the record demonstrates that an attorney's misconduct caused a waste of judicial resources, which is not the case here. In our view, respondent's misconduct is appropriately addressed by the other charged violations. See In

the Matter of Young Min Kim, DRB 19-134 (November 27, 2019) at 14 (finding that the attorney, who engaged in two transactional matters, did not violate RPC 8.4(d) simply by practicing law while suspended and that the misconduct was adequately addressed by RPC 5.5(a)(1)), so ordered, 241 N.J. 350 (2020).

Lastly, we address the OAE's allegation that respondent violated R. 1:20-20(b)(3), which states that suspended attorneys "shall not furnish legal services, give an opinion concerning the law or its application or any advice with relation thereto, or suggest in any way to the public an entitlement to practice law, or draw any legal instrument." Although respondent violated this Rule, the misconduct is encapsulated by the RPC 5.5(a)(1) charge and, based on New Jersey jurisprudence, does not implicate RPC 8.4(d).

In sum, we find that respondent violated RPC 5.5(a)(1) and RPC 8.1(b). We determine to dismiss the charge that respondent violated RPC 8.4(d). The sole issue remaining for our determination is the appropriate quantum of discipline for respondent's misconduct.

Quantum of Discipline

The crux of respondent's misconduct was her practice of law while suspended. Attorneys who practice law while suspended receive 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 (presentment; one-year suspension for an attorney who, during a three-month term of suspension, called the Motor Vehicle Commission (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 MVC's demand that he 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 Stack, 255 N.J. 325 (2023) (default; two-year suspension for an attorney who practiced law while

temporarily suspended in two matters spanning more than a year apart; in the first matter, the attorney wrote to a bankruptcy court to seek an adjournment, even though his client's case had already been dismissed; in the second matter, the attorney twice appeared, in person, at the Clerk's Office in an attempt to file documents; in addition to his practicing while suspended, the attorney also grossly mishandled, on behalf of a single client, three distinct matters causing the issuance of judgments against his client totaling $128,192; the attorney also negligently misappropriated client funds, committed recordkeeping violations, and failed to cooperate with the OAE; the attorney previously had received an admonition for a conflict of interest and a reprimand for failing to file an R. 1:20-20 affidavit); In re Boyman, 236 N.J. 98 (2018) (default; three-year suspension for an attorney 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 stated that the threshold discipline for practicing law while suspended is a one-year suspension, but that that quantum was enhanced to two years due to the attorney's default; in further aggravation, we weighed 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; due to these aggravating factors, we recommended a three-year suspension and the Court agreed); In re Kim __ N.J. __ (2022), 2022 N.J. LEXIS 1068 (default; the attorney was disbarred 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).

Here, respondent's misconduct is most analogous to that of the attorney in Gonzalez, whose practice of law while suspended was confined to one client matter. Also like the attorney in Gonzalez, respondent previously has been suspended from the practice of law for her misconduct – in her case, twice. However, unlike the attorney in Gonzalez, who fully participated in the disciplinary proceedings, respondent allowed this matter to proceed as a default. In this respect, respondent's misconduct is more serious and warrants greater discipline than in that case. However, respondent's practice of law in this single business transaction is not nearly as pervasive as that of the attorney in Boyman, who received a three-year suspension based primarily on his practice of law while suspended for more than four years in connection with nineteen, high-value real estate matters. Based upon the foregoing disciplinary precedent, we determine that respondent's misconduct should be met with an eighteen-month or two-year term of suspension. In crafting the appropriate discipline, however, we also consider any relevant mitigating and aggravating circumstances.

There is no mitigation to consider.

In aggravation, we accord significant weight to respondent's recent disciplinary history, outlined above, consisting of a six-month suspension (January 2020) in Rys I, and a one-year consecutive suspension (July 2020) in

Rys II, both of which respondent allowed to proceed as defaults. Moreover, respondent previously was disciplined, in Rys I, for practicing law while she was administratively ineligible, failing to inform the bankruptcy court of her 2016 temporary suspension, and subsequently failing to comply with her obligations under R. 1:20-20 – conduct which is remarkably similar to her instant misconduct. In our view, respondent has failed to utilize her experiences with the disciplinary system as a foundation for reform. In re Zeitler, 182 N.J. 389, 398 (2005)

Further, by failing to answer the formal ethics complaint and allowing this matter to proceed as a default, as she did in Rys I and Rys II, respondent has refused to account for her misconduct and has demonstrated a penchant for non-cooperation with the attorney disciplinary system that is designed to protect the public. "[A]n [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." In re Kivler, 193 N.J. 332, 342 (2008).

Conclusion

On balance, we conclude that a two-year suspension is the appropriate quantum of discipline for respondent's misconduct. Further, we recommend that the Court require respondent to show cause why she should not be disbarred or otherwise disciplined, pursuant to R. 1:20-16(b).

Chair Gallipoli and Members Hoberman and Petrou voted to recommend to the Court that respondent be disbarred.

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
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Laura M. Rys
Docket No. DRB 23-163

Decided: January 8, 2024

Disposition: Two-year suspension

Members	Two-Year Suspension	Disbar
Gallipoli		X
Boyer	X	
Campelo	X	
Hoberman		X
Joseph	X	
Menaker	X	
Petrou		X
Rivera	X	
Rodriguez	X	
Total:	6	3

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