SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket Nos. DRB 23-256 and DRB 24-026
District Docket Nos. IIA-2020-0025E and XIV-2020-0253E

In the Matters of Russell F. Anderson, Jr.
An Attorney at Law

Argued
April 25, 2024

Decided
May 24, 2024

Evelyn F. Nissirios appeared on behalf of the
District IIA Ethics Committee (DRB 23-256).

Colleen L. Burden appeared on behalf of the
Office of Attorney Ethics (DRB 24-026).

Respondent appeared pro se.

Table of Contents

Introduction

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey. We consolidated these matters for review.

Docket DRB 23-256 was before us on a recommendation for a censure filed by the District IIA Ethics Committee (the DEC). The formal ethics complaint charged respondent with having violated RPC 1.1(a) (gross neglect); RPC 1.3 (lack of diligence); RPC 1.4(b) (failure to keep a client reasonably informed about the status of a matter and to comply with reasonable requests for information); and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

Docket DRB 24-026 was before us on a disciplinary stipulation between the Office of Attorney Ethics (the OAE) and respondent. Respondent stipulated to having violated RPC 1.1(a); RPC 1.3; and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation).

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

Respondent earned admission to the New Jersey bar in 2006, the New York bar in 2007, and the Virginia bar in 2008.

At the relevant times, he was a partner at Honig & Anderson, LLC (the Firm), located in Waldwick, New Jersey, until December 2019, when he closed

the Firm. Thereafter, in January 2020, he moved to Virginia, where he worked until his employment ended due to the COVID-19 pandemic. Subsequently, he returned to New Jersey but did not resume the practice of law until June 2021, when he began working, in an "of counsel" capacity, for the law firm Bertone Piccini LLP, in Hasbrouck Heights, New Jersey.

On May 13, 2021, in a consent matter, the Court imposed a reprimand for respondent's violation of RPC 1.15(a) (two instances – failure to safeguard client funds and negligent misappropriation of client funds); RPC 1.15(b) (failure to promptly deliver funds to a client); and RPC 1.15(d) (failure to comply with the recordkeeping provisions of R. 1:21-6). In re Anderson, __ N.J. __ (2021), 2021 N.J. LEXIS 1327 (Anderson I).

In that case, in connection with two client matters, respondent negligently misappropriated funds totaling $52,500. In a third client matter, he failed to promptly disburse $24,575 in funds that he was holding in escrow. In the Matter of Russell F. Anderson, Jr., DRB 20-319 (April 22, 2021) at 1-3. He also violated recordkeeping requirements in multiple ways, including maintaining client ledger cards with debit balances and old, inactive balances. In addition to reprimanding respondent, the Court ordered him to disburse client funds held in his attorney trust account "to the clients identified and in the amounts specified in these proceedings" and to "deposit the funds belonging to any of said clients

whom he cannot locate into the Superior Court Trust Fund" (the SCTF) within sixty days of May 13, 2021, when the Order was entered. Anderson I, 2021 N.J. LEXIS 1327.

Subsequently, on June 20, 2023, the Court entered an additional Order in connection with Anderson I, requiring respondent, within thirty days, to comply with the May 13, 2021 Order that had required him to disburse the specified funds to clients or deposit them with the SCTF. In re Anderson, 254 N.J. 268 (2023). The Order further provided that, if he failed to do so within the allotted time, he would be "immediately temporarily suspended from the practice of law on the submission to the Court of a detailed certification" by the OAE.

On May 6, 2024, respondent submitted to us and to the OAE proof that he had deposited some of the funds at issue with the SCTF, in August 2023.

The Corniel Matter (DRB 23-256)

Facts

In or around 2008, Lissette Corniel co-signed a mortgage loan to enable a friend (the Friend) and his spouse (together, the Couple) to purchase a home in Wayne, New Jersey. Thereafter, when she attempted to take part in a New York City housing lottery but was turned down due to an unpaid mortgage obligation,

she discovered that the Couple had failed to make mortgage payments for the Wayne property.

According to Corniel, at the Couple's behest, she then signed a deed, transferring her interest in the Wayne property to them under the misguided belief it would effectuate her removal from liability for the mortgage. Instead, she remained listed as a co-signor on the loan and, according to her testimony at the ethics proceeding, was again rejected in her subsequent attempt to secure an apartment during another New York City housing lottery.

The loan servicing company, on behalf of the bank,[1] initiated a residential mortgage foreclosure suit against the Couple and Corniel, among other defendants. On December 22, 2016, the court granted the bank's unopposed motion for final judgment and issued a writ of execution.

On January 1, 2017, Corniel retained respondent to represent her in connection with the litigation and her efforts to be removed from liability under the mortgage and note. She paid a flat fee of $7,000 toward the representation.

[1] Lakeview Loan Servicing LLC filed the foreclosure litigation, whereas the mortgage and note were issued by M&T Bank. For ease of reference, the decision refers to the loan servicing company and M&T Bank collectively as "the bank."

In May 2017, respondent filed a motion to vacate the order for a sheriff's sale of the Wayne property. The Friend likewise filed opposition to the sale. As a result, in November 2017, the court issued an order to stay the sale.

Thereafter, the bank filed objections to the stay and, in January 2018, respondent filed a reply to the bank's objections. In addition, in April 2018, he filed a motion to reconsider, although the record does not clarify which order he sought to have reconsidered.

In or around August or September 2019, respondent and the Friend's attorney purportedly reached an agreement whereby Corniel would be relieved of liability under the mortgage and the note, based on unspecified representations made by the Friend to the bank. Consistent with respondent's understanding of this agreement, on October 8, 2019, the bank filed a motion to vacate the court's prior order and to reinstate the mortgage. The next day, respondent sent Corniel a message, by e-mail, informing her that the Friend had "struck a deal with the bank (FINALLY) and [the bank is] moving to reinstate the mortgage. Once the dismissal order is entered, you will (FINALLY) be free of all this nonsense."

Corniel then contacted the bank to find out how long it would take for her to be removed from the mortgage. In response, according to Corniel, the bank sent her a letter stating that the Friend had filed paperwork for a modification

loan, which would not result in her removal from liability under the mortgage.[2] To effectuate her removal, as she understood the matter, the Friend would need to either apply for a refinance loan or execute a release of liability.

On October 15, 2019, by e-mail message, Corniel forwarded to respondent the bank's letter to her, expressed confusion regarding its implications, and requested clarification. Later on the same date, respondent replied, by e-mail, stating that he would look into the matter and that "[t]he agreement clearly stated to me and set forth in writing was to have you removed as a borrower."[3]

Respondent next contacted Corniel on December 8, 2019, when he sent her a form letter, signed by him, and addressed to "Current and Former Clients of [the Firm]," announcing that he was relocating and that the Firm was closing. His letter specified that, if the Firm "is handling an active real estate file for you, [the Firm] will see it through to closing[;]" similarly, the Firm would complete estate planning matters. For "other types of files," the Firm "recommend[ed] that you immediately consult with another attorney to handle your matter for you."

[2] The record does not include the bank's letter to Corniel.

[3] The record does not include the written agreement to which respondent referred in his October 15, 2019 e-mail to Corniel.

The next day, on December 9, 2019, Corniel sent respondent a message, by e-mail, asking whether her matter was a real estate matter; if it was not, whether he could suggest another attorney; and, finally, "if you are not going to finish my case, how do we determine what is left for me to pass over to the next lawyer because of our agreed flat rate?" In addition, she informed respondent that she was "possibly dealing with a new situation regarding this case" and "would like to follow up given the time sensitive issue at hand."

On December 11, 2019, respondent sent Corniel a reply, by e-mail, stating that her matter was a "real estate/foreclosure" matter. Regarding the fee and his further handling of the matter, he wrote:

> As a foundational matter, I offered and you accepted to have me proceed as your attorney as a flat fee. Notwithstanding the fact that I have way more hours into this matter than was reasonably foreseeable, your fee was non-refundable.
>
> . . . because I took this as a flat fee file and whatever is left can be handled electronically, I am inclined to stay on to confirm completion. I will produce an invoice for all my time in the file for you to send to [the Friend]. He may do something for you because I know that he feels bad for you and his intention was to make it right. After that, it would be a case of misrepresentation. Once/if you get to the point where you want/need to sue him, I can make a litigation referral for you.

[P-7.][4]

Unbeknownst to respondent at the time, the foreclosure litigation had concluded approximately seven weeks earlier, after the court, on October 22, 2019, granted the bank's motion to vacate the December 2016 order of final judgment and writ of execution. This order brought the litigation to a close and reinstated the mortgage and note.

The record before us does not indicate when or how Corniel learned that the litigation had ended. However, it is uncontested that she did not receive this information from respondent.

Relying on respondent's December 11, 2019 e-mail, Corniel continued to regard him as her attorney. However, she testified that she and respondent "did not have any further communication regarding any progress or any substance to having [her] name removed from the loan." When she did not hear from respondent after receiving his December 2019 e-mail message, she "became worried, especially because I tried to apply for a loan and I was denied. I tried to apply for another loan so that I could help my parents repair their home after [an] earthquake . . . and it was also denied."

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[4] "P" refers to the presenter's exhibits that were admitted into evidence during the formal ethics hearing, held on January 23, 2023, in District Docket No. IIA-2020-0025E (DRB 23-256).
"T" refers to the transcript of the January 23, 2023 ethics hearing.
"S" refers to the stipulation, dated January 31, 2024, in District Docket No. XIV-2020-0253E (DRB 24-026).

Six months later, on June 15, 2020, Corniel wrote to respondent, by e-mail, requesting an update on her matter. A week later, having received no reply, she forwarded the same e-mail message to him. She copied respondent's former administrative assistant on both messages.

On June 22, 2020, respondent's former administrative assistant replied, by e-mail, advising Corniel that the Firm had closed and that respondent had relocated but was still "apparently working on some of the [Firm] files." Corniel responded, stating that she knew the Firm had closed, but that respondent had "confirmed to me that I am one of those cases" that he would continue to handle.

On July 6, 2020, Corniel sent a message, by e-mail, to respondent's former administrative assistant and asked her to forward it to respondent. Therein, she stated that, because respondent had not replied to her recent e-mail messages – and also had not replied to communications sent to him, on her behalf, by the person who had referred her to him – she planned to file a disciplinary complaint against him, in Virginia.

On July 18, 2020, respondent sent a message to Corniel, by e-mail, stating that "[t]he [Firm] is no longer open and I am only checking this email occasionally. I am available to speak to you on Monday to discuss. Please let me know when."

On July 22, 2020, Corniel replied stating that she had waited for him to call her on Monday but had not received his call. She further informed him that he could call her any day after 11:30 a.m.; wrote that she had not heard from him in six months and "[t]his entire process has become unethical on your part and frustrating and humiliating for me;" otherwise expressed dissatisfaction with his failure to keep her apprised of the matter; and stated she hoped to hear from him soon.

At the ethics hearing, respondent conceded that he failed to call Corniel after receiving her July 2020 correspondence. The two had no further communications regarding her matter.

On August 10, 2020, Corniel filed an ethics grievance against respondent.

On January 20, 2021, the DEC investigator sent respondent a copy of the grievance and requested his answer to the allegations within ten days of receipt. Respondent failed to timely reply to the grievance.

Consequently, on March 1, 2021, the investigator sent respondent a letter, enclosing another copy of the grievance and requesting his answer immediately. Thereafter, on or about March 25, 2021, respondent called the investigator and stated that he would send a written reply to the grievance; however, he failed to do so.

On June 14, 2021, the investigator wrote a third letter to respondent, stating that he had not received a written response to his two prior letters. Further, he directed respondent to provide him with the file on Corniel's matter and to call him immediately to schedule an interview. The investigator informed respondent that "[f]ailure to cooperate with ethics authorities will expose you to a violation of RPC 8.1(b)."

Respondent did not reply to the investigator's June 2021 letter.

On October 8, 2021, the DEC filed a formal ethics complaint, charging respondent with having violated RPC 1.1(a); RPC 1.3; RPC 1.4(b); and RPC 8.1(b). On June 24, 2022, respondent filed a verified answer to the complaint.

The Ethics Hearing

At the January 23, 2023 ethics hearing, the DEC heard testimony from respondent, Corniel, and the DEC investigator.

In addition to her statements incorporated above, Corniel testified that, in her view, the end of the litigation did not mark the conclusion of the matter for which she had retained respondent – that is, to have her "removed from [liability for] the loan." She acknowledged that the evidence before the DEC did not reflect all the times that she and respondent had communicated by e-mail message or telephone call during the course of his representation. She further

acknowledged that she knew that the Friend had "agreed to certain things that [respondent] represented back to [her] over the course of that three[-]year period that ultimately did not come to fruition[.]"

Respondent, in his testimony, asserted that he had represented Corniel "faithfully and diligently over the course of three years," attended every court appearance during the foreclosure litigation, and drafted all the documents that he had discussed with Corniel. He maintained that, although the e-mail messages that the presenter put into evidence reflected some of his communications with Corniel, he had many other exchanges with her by e-mail and telephone. He also asserted that he had been "in relatively consistent contact" with the Friend's attorney, addressing "the papers that were being drafted, and the submissions, and the court appearances that were made, all of the different motions to stay the sheriff's sale, that we all had to provide supporting paperwork for."

Moreover, respondent testified that, "when they came down to the end of the litigation," he was surprised that the agreement that he had reached with the Friend's counsel "was not being honored." Further, he explained that it "was not being honored . . . [,] as it turns out[,] because the motion to vacate had already been granted at that point." Subsequently, he reached out to the Friend's counsel on multiple occasions but received no response.

Respondent did not contest Corniel's testimony that he had failed to address her October 15, 2019 request for clarification after she learned, from the bank, that the Friend had not taken steps that would effectuate her removal from the mortgage and note. He had not communicated with her again until December 2019, when he sent her the Firm's closure notification. However, he asserted that, in the interim, he attempted to work on the litigation matter, while not realizing that "the litigation had been discontinued" and so "frankly there was nothing to work on."

Respondent conceded that, as of December 2019, he remained unaware that the litigation had ended with the trial court's October 22, 2019 order granting the bank's motion to vacate and reinstating the mortgage and note. Asked why he remained unaware of the litigation's conclusion, he replied, "I didn't complete my research to find out that it hadn't. I was reaching out to [the Friend's counsel], he didn't respond. I was already in Virginia and I didn't look any further."

In addition, respondent admitted that he had informed Corniel, in his December 11, 2019 e-mail message, that he would "stay on to confirm completion" of her matter. However, he asserted that this "was [a] misguided promise because it had already ended."

Respondent also admitted that he failed to call Corniel after she contacted him, in July 2020. He elaborated that "it would've been irrelevant anyway, because the litigation was over."

The following exchange ensued:

> **PRESENTER**: . . . So, is it your position that when the litigation ended you no longer had an obligation to [] Corniel?
>
> **RESPONDENT**: When the litigation ended it was over. I mean, there was nothing left to argue about, or to determine. The mortgage was done. Then when I submitted, again that letter with that email saying that I was going to take it to the end, I did not know at that time that it had already ended.
>
> **PRESENTER**: Is there anything in your communication that indicates to [] Corniel, that taking to the end meant the end of the litigation and not the end being the removal of her name from the mortgage?
>
> **RESPONDENT**: I object to the question. They're concurrent. You can't parse one from the other. There was no litigation that would've allowed that to happen. . . . [The Friend] was the defendant. So in order to do that, there would've had to have been another foreclosure action brought and there wasn't. And . . . Corniel had the opportunity once knowing that I was no longer in practice in New Jersey and she had already made an implication certainly in that email, that she was trying to figure out how to get other counsel involved, there was nothing else I could've done despite my knowledge to the contrary – I mean despite that I didn't know that.
>
> . . . I should've known it at the time, if we're going to be honest. I should've known that the litigation had

> ended, but I didn't. I was making statements on something that couldn't have been effectuated under any circumstances.
>
> [T56:7-57:14.]

Respondent further explained that he had been retained "to represent [Corniel] in the litigation" with the goal of "get[ting] her off a note so that the matter could be dismissed as to her." When it was pointed out to him that the litigation had concluded without her being removed from the note, he stated:

> Yes, but I'm not a guarantor of anything that happens with her legal affairs. I represented her. The litigation ended. There was no other way to effectuate the outcome, again despite . . . my lack of knowledge that the litigation had ended.
>
> I mean if every attorney were reduced to a guarantor there would be no end to obligations.
>
> [T58:21-59:6.]

Upon further questioning, respondent testified that:

> [t]he scope of my engagement was to participate in the foreclosure litigation with the goal of trying to get [] Corniel off the mortgage and the note [through] either a modification or refinance of some sort.[5] The purpose of participating in the foreclosure litigation was to make sure that the sheriff's sale didn't happen number one, and that M&T Bank as best as they could, could

[5] At another point, respondent stated, "to be clear, I am not sure that I understood the nature of what was going to happen in order to get [] Corniel off the mortgage and the note. All I was aware is that [the Friend] had agreed with M&T Bank that [sic] actually would be taken that would get her off the mortgage and the note. So whether it was a refinance, or a modification or whatever was frankly irrelevant, as long as the goal of getting her off the note and the mortgage was effectuated."

> stay engaged with [the Friend] to put together the necessary modification or refinance.
>
> [T61:23-62:6.]

Turning to the topic of the disciplinary investigation, the DEC investigator testified regarding each of the letters he had sent respondent, providing him with the grievance and requesting his reply. Midway through cross-examining the investigator, respondent stipulated that he had failed to reply to the correspondence. Later in the proceeding, he testified that he had not "contemporaneously receive[d]" the investigator's letters (which were forwarded to him from the Firm's address) and "missed the window to respond" to the final letter, sent in June 2020. He stated, however, that his failure to reply did not stem from disrespect for the attorney disciplinary system; rather, he was not employed in the legal field at the time, "didn't have the time and all the files were in storage," and "just didn't do it." He also pointed out that he did file an answer to the formal ethics complaint.

In the presenter's closing statement, she argued that respondent committed gross neglect by failing to either effectuate Corniel's purpose for retaining him (the removal of her liability from the mortgage) or to inform Corniel that this goal could not be accomplished. Although Corniel's correspondence to respondent in late 2019 clearly expressed her confusion and concerns regarding being removed from liability, respondent failed to address her questions; indeed,

he took no action at all after the litigation concluded, despite his December 2019 written promise to her that he would see her matter through to completion. The presenter acknowledged respondent's defense that he believed "completion" referred to the end of the litigation; nevertheless, the presenter urged, he engaged in gross neglect by discontinuing work on the matter and subsequently not communicating with Corniel. Moreover, instead of remaining apprised of the status of the litigation, "he, himself did not know the litigation had concluded."

The presenter next argued that respondent lacked diligence when, in late 2019, he "specifically indicated he would continue to work on [Corniel's] matter, and clearly never articulated that the representation was concluded," but then failed to "act with reasonable diligence and promptness in continuing to represent her" or in responding to her queries.

Third, the presenter asserted that respondent had "essentially stipulated that he was not in communication" with Corniel after the litigation concluded, contrary to RPC 1.4(b).

Finally, the presenter argued that respondent violated RPC 8.1(b) by knowingly failing to respond to the investigator's multiple letters and failing to provide the investigator with his file upon request. Moreover, the presenter urged, he had provided none of the additional e-mails that, at the hearing, he

relied on in his defense, nor did he "provide even a summary of those if he was unable to obtain his file and/or emails or other forms of communication."

Respondent, in his closing statement, argued that "during the course of the litigation from the beginning of 2017 up until the end of 2019," he had not "done anything to not stay abreast or undermine, or . . . take any action that would have harmed Dr. Corniel['s] interest[s]." Further, he emphasized that there had been "much more" communication between him and Corniel than was reflected in the record before the DEC. He asserted that, during the course of the litigation, he had represented Corniel "to the best of my ability competently and diligently[.]"

Moreover, he reiterated that, in December 2019, when he wrote to Corniel that he would "see to the end of the litigation," he was unaware that the litigation had concluded. He explained that his failure to respond to her did not arise from ill will or malintent, but rather, resulted because "I was in another job in another state working very hard to get everything together down there during COVID." He admitted that, during that time, he had "not stay[ed] abreast of [his] communication responsibilities" to Corniel.

He again acknowledged that he had failed to respond to the DEC investigator's letters. However, he asserted that he had not received them contemporaneously; had "got[ten] busy with another job;" and had not meant to undermine the disciplinary process but, rather, simply ran out of time.

In closing, he stated, "I am confident that I did not commit any ethical violations" and urged the DEC to dismiss the matter.

The DEC's Findings

The DEC found, by clear and convincing evidence, that respondent violated RPC 1.1(a); RPC 1.3; RPC 1.4(b); and RPC 8.1(b).

As a preliminary matter, the DEC credited respondent with filing multiple pleadings during the course of his representation of Corniel to stop the foreclosure proceedings and to prevent the sale of the Wayne property. The DEC also found that "[t]he testimony regarding the issue of whether [respondent] communicated to [] Corniel the status of the case after his October 9, 2019, email to [her] is not definitive," and noted that "[n]either party presented any documentary evidence to substantiate their claims that [] Corniel was or was not notified of the final Order [t]o Vacate the Sale." Further, the DEC found that respondent, in his December 11, 2019 e-mail message to Corniel, "advised [her] . . . that he would continue to represent her to completion of her matter."

Analyzing each of the charged violations of the Rules of Professional Conduct, the DEC determined that respondent had committed gross neglect by failing to work on Corniel's matter after December 11, 2019 and communicating with her only once more, in July 2020, after she threatened to file a disciplinary

action against him in Virginia. The DEC found that he had a continuing obligation to represent Corniel, who had retained him to accomplish her removal from liability for the mortgage; he failed to accomplish that goal and, further, he stopped communicating with her regarding the status of her case; and Corniel had never instructed him to discontinue work on the matter. Accordingly, the DEC concluded that he had abandoned Corniel's matter, in violation of RPC 1.1(a).

Turning to RPC 1.3, the DEC concluded that the same evidence that supported a finding of gross neglect also supported a finding that, following Corniel's December 2019 e-mail exchange with respondent, he failed to act with reasonable diligence and promptness in handling her matter.

Next, the DEC found that respondent failed to keep Corniel reasonably informed about the status of her matter and to promptly comply with reasonable requests for information, in violation of RPC 1.4(b), when he stopped communicating with her following the December 2019 exchange.

Finally, the DEC determined that respondent violated RPC 8.1(b) by admittedly failing to cooperate with the DEC's investigation of Corniel's grievance.

Turning next to mitigating and aggravating factors, the DEC accorded little weight to respondent's testimony that he had not acted with malintent

toward Corniel and that she suffered no harm from his conduct. In aggravation, the DEC noted that respondent failed to appear for the first prehearing conference in the ethics proceeding and provided no excuse for his absence. In addition, the DEC found that, during the hearing, he "did not show remorse regarding his conduct even when he admitted to certain charges;" "his demeanor was detached;" and "he did not show concern that he may face disciplinary charges to the point where the gravity of the proceeding and its potential consequences did not matter to him." The DEC also observed that he had "presented no documentary evidence to support his defense except for the Efiling Foreclosure Case Summary."

Further, the DEC weighed respondent's reprimand in Anderson I in aggravation. Specifically, the DEC noted that we had issued our decision underlying that matter on April 22, 2021, and that the Court issued its disciplinary Order on May 13, 2021. Thus, the DEC determined, respondent "should have been compliant with the investigation and should have shown more respect for the integrity of the process." The DEC noted that Anderson I involved "matters related to his prior attorney trust accounts" and that his RPC violations in that matter differed from the violations at issue here. Nevertheless, citing In re Witherspoon, 203 N.J. 343 (2010), the DEC concluded, "his recent prior

history of receiving a reprimand indicates that [his] conduct requires a greater level of discipline than was previously rendered."

Accordingly, the DEC recommended a censure for respondent's misconduct.

The Estate Matter (DRB 24-026)

Facts

In 2005 or 2006, Justin O'Connor had befriended a neighbor (the Neighbor), then in her nineties, and had begun assisting her in a variety of capacities.

In September 2012, respondent – a long-time friend of O'Connor's – prepared for the Neighbor a last will and testament, a general durable power of attorney, and an advance medical directive. In her will, the Neighbor designated O'Connor as the sole beneficiary of her estate. She also nominated him to serve as executor of her estate, with respondent as successor executor in the event of O'Connor's incapacity. Similarly, in her durable power of attorney, she identified O'Connor to serve as her agent, with respondent as his successor. Finally, in her advance health care directive, she nominated O'Connor to serve as her representative, also with respondent as his successor.

On August 28, 2013, the Superior Court appointed respondent to serve as the Neighbor's attorney-in-fact, authorizing him to act pursuant to the September 2012 durable power of attorney. Thereafter, respondent managed the Neighbor's financial affairs until November 3, 2017, when she died.

After the Neighbor passed away, O'Connor declined to serve as executor of her estate (the Estate). Accordingly, on November 22, 2017, respondent was appointed executor. He also served as the attorney for the Estate.

At the time of her death, the Neighbor had two bank accounts, each of which is described in greater detail below. Relevant here, prior to receiving a tax waiver, a bank may release up to fifty percent of the funds held in the name of a decedent to certain enumerated recipients. N.J.A.C. 18:26-11.16. The balance of funds remaining in a decedent's bank account may be released only upon receipt of a tax waiver, which is contingent on payment of the New Jersey transfer inheritance tax and estate tax, if applicable. N.J.A.C. 18:26-3C.1; N.J.A.C. 18:26-11.1, 11.2, and 11.4(b).

Here, in addition to filing inheritance and estate taxes as part of administering the Estate, respondent had an obligation to file the Neighbor's personal income tax return for 2017.

The various bank accounts maintained by the Neighbor at the time of her death, as well as related accounts established by respondent for the Estate, are discussed below.

Valley National Bank Accounts

At the time of her death, the Neighbor had an account at Valley National Bank (VNB) (Decedent's VNB Account), with a balance of $38,474.

On January 8, 2018, respondent opened an account at VNB in the name of "Estate of [Decedent] – Russell F. Anderson Executor" (VNB Estate Account). He deposited half of the funds ($19,237) from Decedent's VNB Account into this new account.

On or around the date that respondent opened the VNB Estate Account, he issued a $15,000 check from that account to O'Connor. He subsequently issued a check in the amount of $4,038.15, payable to his firm, apparently for services provided by his firm to the Neighbor before her death.

The remaining $198.85 covered monthly bank service fees of $15 until September 2019, when the VNB Estate Account was closed out, with a zero balance.

As of July 2020, when the OAE investigated the matter, the other half (that is, $19,237) of the funds held in Decedent's VNB Account remained in that account.

Bank of America Accounts

At the time of her death, the Neighbor had an account at Bank of America (BOA) (Decedent's BOA Account). As of January 16, 2018, this account held $34,267.79. In addition, between then and July 2018, a monthly pension benefit of $272.31 continued to be deposited in Decedent's BOA Account.

On January 22, 2018, respondent opened an account at BOA in the name of "Estate of [Decedent] – Russell F Anderson Jr Exe" (BOA Estate Account). He deposited half of the funds ($17,133.90) from Decedent's BOA Account into this new account. Of this amount, he then distributed $15,000 to O'Connor. As of July 2020, the balance of $2,133.90 remained in the BOA Estate Account.

As of September 2020, the other half (that is, $17,133.90) of the funds of the funds held in Decedent's BOA Account when respondent opened the BOA Estate Account, along with $1,639.85 in pension payments, together totaling $18,773.75, remained in Decedent's BOA Account.

The Freedom Bank Account

Following the Neighbor's death, on December 18, 2017, respondent opened an account at Freedom Bank in the name of "Estate of [Decedent]" (Freedom Bank Estate Account) wherein he deposited reimbursements that the Estate received for prepaid fees. A total of $4,787.41 in checks was deposited in this account.

On December 27, 2017, respondent disbursed $4,500 to O'Connor from the Freedom Bank Estate Account. As of July 2020, the balance of $287.41 remained in that account.

Respondent and the OAE stipulated that altogether, as of September 2020, a total of $40,432.04[6] in Estate funds remained in the VNB, BOA, and Freedom Bank accounts. Moreover, respondent had yet to obtain the tax waiver needed for the banks to release the funds.

Respondent's failure to obtain the tax waiver reflected his underlying failure to file the Neighbor's personal tax return for 2017, the year of her death. Although respondent had hired an accountant to prepare the Neighbor's annual tax returns years earlier, the accountant advised respondent, in or about March 2018, that he had not yet received any of the tax information that he needed to

[6] Although the total of the amounts listed earlier in this decision would be $40,392.06, or roughly $40 less than the total set forth in the stipulation, the difference in amount is not material for purposes of our analysis.

prepare her 2017 return. Consequently, respondent told the accountant that he would collect the documents needed to prepare the return and would forward them.

Despite this assurance, respondent made minimal attempts to secure the relevant documents. Moreover, in 2018 or 2019, he "determined that he could not afford to spend any more time trying to secure the tax documents" to prepare the 2017 return. Indeed, more than five years after the court's appointment of him as executor,he still had not secured the documents, and the 2017 personal tax return remained unfiled. In the interim, according to respondent, he drafted a tax return for the Estate; however, as long as the personal tax return for 2017 remained unfiled, respondent could not file the tax return for the Estate.

As years passed following the Neighbor's death, O'Connor periodically asked respondent about the status of the Estate. On multiple occasions, respondent admittedly misrepresented to O'Connor, in reply, that his administration of the Estate was proceeding apace, even though "he had, in effect, ceased working on the Estate."

Eventually, as the Estate administration still was not completed, on May 21, 2020, O'Connor filed the ethics grievance underlying the Estate matter (DRB 24-026).

Subsequently, on November 23, 2020, the OAE conducted a demand interview of respondent. At that time, the OAE requested that respondent provide, within the next month, proof that he was progressing toward completion of the administration of the Estate. The OAE memorialized this request in a letter sent to respondent on the same date, wherein the OAE also wrote that "[i]f we do not receive such information by then, we will assume you are taking no steps to finalize the [E]state consistent with your fiduciary responsibilities and [will] proceed accordingly." Respondent failed to provide the requested proof by the December 21, 2020 deadline. Thereafter, by letter dated January 5, 2021, the OAE requested that he provide the information immediately; however, he failed to do so.[7]

The OAE's investigation, however, revealed no evidence that respondent had misappropriated or mishandled Estate funds. Further, the OAE found no evidence that he had paid himself either fees for his legal services to the Estate or commissions for his services as executor of the Estate, although he was entitled to such commissions.

[7] On December 18, 2023, the OAE sought the appointment of an attorney-trustee to complete the Estate. As of January 2024, when respondent and the OAE entered into the disciplinary stipulation, he had not provided proof to the OAE that he was completing the Estate administration.

Based on the above facts, respondent stipulated that he violated RPC 1.1(a) by not completing and filing the personal and estate tax returns, a prerequisite to the issuance of tax waivers, which resulted in [O'Connor] not receiving the Estate funds to which he was entitled; RPC 1.3 in that he did not act with reasonable diligence and promptness in the administration of the Estate; and RPC 8.4(c) by misrepresenting to [O'Connor] that the administration of the Estate was proceeding apace and that [O'Connor] would soon be receiving the funds to which [O'Connor] was entitled, when respondent knew that he was not doing anything to complete the administration of the Estate.

For respondent's stipulated misconduct, the OAE recommended the imposition of a censure.[8] In support, the OAE surveyed relevant disciplinary precedent to assert that discipline ranging from a reprimand to a term of suspension has been imposed on attorneys who commit gross neglect, lack diligence, and fail to communicate with clients (a charge not present in this matter, but which the OAE asserted was informative to the analysis). In addition to surveying cases in which attorneys received discipline less than a term of suspension, the OAE surveyed cases in which the Court has imposed

[8] The stipulation erroneously set forth two differing recommendations by the OAE: one for an admonition, the other for a censure. In response to Office of Board Counsel's inquiry, on February 12, 2024, OAE clarified that it was recommending a censure.

suspensions, characterizing these cases as "estate and trust matters involving more egregious neglect."

The OAE analogized respondent's gross neglect and lack of diligence in handling the Estate to that of the attorney in In re Cook, 233 N.J. 328 (2018). There, the attorney received a censure for failing to diligently administer and complete an estate with a single beneficiary; failing to communicate with the beneficiary, despite her numerous and persistent attempts to obtain information regarding the status of the estate; and failing to cooperate with the disciplinary investigation, in violation of RPC 1.3, RPC 1.4(b), RPC 1.15(b) (failure to promptly notify a third party of receipt of funds and failure to promptly disburse funds), and RPC 8.1(b). In the Matter of Peter A. Cook, DRB 16-243 (March 30, 2017) at 16-21. Although the attorney had a prior admonition, we declined to weigh it in aggravation because the attorney's mishandling of the estate predated the imposition of discipline in the admonition matter.

The OAE noted that the attorney in Cook, unlike respondent, failed to respond to the beneficiary's inquiries; however, the OAE further noted that, although respondent answered O'Connor's queries, he did so by misrepresenting that he continued to work diligently on the administration of the Estate. The OAE also asserted that both respondent and the attorney in Cook had prior formal discipline, each with one prior contact with the disciplinary system.

Nevertheless, distinguishing the two matters, the OAE acknowledged that the attorney in Cook further failed to cooperate with disciplinary authorities; here, in contrast, respondent cooperated with the OAE's investigation in connection with the Estate matter.

In addition, the OAE observed that, standing alone, misrepresentations to clients require the imposition of a reprimand. See In re Kasdan, 115 N.J. 472, 488 (1989). The OAE further asserted that a reprimand or censure may be imposed even if the attorney's misrepresentation is accompanied by other, non-serious ethics infractions.

In aggravation, the OAE highlighted respondent's 2021 reprimand; the Court's June 2023 Order providing for his temporary suspension if he did not comply with the Court's 2021 Order requiring the disbursement of certain funds;[9] the alleged similarity between the misconduct underlying his prior discipline and the present matter, "in that both involve failure to timely disburse entrusted funds;" his ongoing failure to complete the administration of the Estate, constituting failure to remediate misconduct despite opportunities to do

[9] Although the OAE described respondent as having been temporarily suspended by the Court's Order of June 20, 2023, that Order did not effectuate respondent's temporary suspension. In re Anderson, 254 N.J. 268 (2023). Rather, the Order provided that if he failed to comply with the Order – and if, consequently, the OAE filed a certification detailing his noncompliance – then the Court would suspend him. To date, respondent remains listed in the Central Attorney Management System (CAMS) as eligible to practice law in New Jersey.

so; and injury to O'Connor based on the unreasonable delay in the administration of the Estate.

The parties did not identify any mitigating factors.

Based on applicable disciplinary precedent, as well as the aggravating and mitigating factors, the OAE recommended a censure for respondent's misconduct.

The Parties' Positions Before the Board

During oral argument before us on the Corniel matter (DRB 23-256), the DEC presenter urged that respondent's misconduct warranted a censure. The presenter reiterated that, following respondent's December 2019 e-mail exchange with the client, in which he stated that he would continue to represent her, he failed to perform any other work on her matter. In addition, he later failed to cooperate with the DEC's investigation.

For his part, respondent asserted that, by the time he and Corniel exchanged e-mail messages in December 2019, Corniel already knew that the foreclosure litigation had been dismissed, but she failed to inform him of this fact. Asked why, in December 2019, he still did not know that the litigation had been dismissed in October 2019, he conceded that he had relied on information from another attorney. He admitted that, after the December 2019 exchange, he

had not communicated with Corniel regarding the mortgage matter. However, as he had asserted before the hearing panel, he again argued that, after the foreclosure litigation was dismissed, in his view, there was nothing further he could do to address Corniel's obligation under the note and mortgage. Notably, in reply to our questions, he demonstrated no knowledge of what steps or approaches could have succeeded in advancing his client's interests.

In addition, respondent contested the DEC's characterization that he had displayed a "detached" demeanor during the ethics hearing. He admitted his mistakes in handling Corniel's matter, especially regarding his lack of communication with her after the December 2019 exchange. He likewise acknowledged that starting his own firm had been a mistake, contrasting his experience in running the Firm with his more recent and positive experience of being employed by a firm. While acknowledging that his misconduct in the Corniel matter warranted discipline, he urged us not to impose a suspension.

Regarding the Estate matter (DRB 24-026), the OAE asserted that a reprimand or a censure would be appropriate discipline for respondent's mishandling of that matter. The OAE also confirmed that respondent still had not provided documentation that the administration of the Estate was completed.

For his part, respondent informed us that, as of early 2023, he had filed the final tax return for the Estate; that O'Connor had received all disbursements

due him from the Estate; and, further, that the Estate had not incurred any penalties as a result of the delinquent filings.

Respondent accepted responsibility for his misconduct and apologized to O'Connor. He further argued that the OAE had cited cases with more egregious facts in which attorneys nevertheless received reprimands. In conclusion, in connection with the Estate matter, he acknowledged that discipline was appropriate but requested that we not suspend him from the practice of law.

In response to questioning regarding his compliance with the Court's prior Orders, respondent stated that, within approximately the last six months, he had complied with the Court's June 2023 and May 2021 Orders, requiring him to disburse certain specified funds to clients or deposit them with the SCTF. Further, he agreed to provide to us, within ten days, proof that he had done so.

On May 6, 2024, respondent submitted to the OBC an e-mail stating that "checks drafted by [respondent] and sent to the Superior Court Trust Fund were cashed." As proof, respondent attached photocopies of one check for $23,500 and one for $2,000, totaling $25,500; as well as a transaction history associated with the Firm's ATA for a period spanning September 18, 2023 through May 10 2024. A review of the SCTF's Summary of Docket Activity by Case report confirmed respondent's $25,500.00 deposit.

Despite the OBC's request that he also produce confirmation that he had concluded the Estate's administration, filed all necessary taxes, and disbursed any proceeds, respondent simply stated, in his May 6, 2024 e-mail, that he was "working on the other proofs for the filing of taxes. A federal return was not required, and the state return has been processed. I was in receipt of the tax waivers for each account. As directed in previous communication, all accounts were closed by me." Respondent, however, did not attach any documents related to the Estate taxes, nor any proof that all accounts have been closed.

Analysis and Discipline

Violations of the Rules of Professional Conduct

Following our de novo review of the records in both matters, we are satisfied that the evidence clearly and convincingly establishes respondent's unethical conduct. We separately address each matter below.

The Corniel Matter (DRB 23-256)

In the Corniel matter (DRB 23-256), following our de novo review of the record, we conclude that the DEC's determination that respondent violated RPC 1.1(a); RPC 1.3; RPC 1.4(b); and RPC 8.1(b) is supported by clear and convincing evidence.

At issue is respondent's handling of the Corniel matter beginning in late 2019. Until then, respondent actively had pursued the matter on Corniel's behalf since January 2017. Moreover, in October 2019, he reported to her a favorable development: he and the Friend's counsel purportedly had reached an agreement, whereby the Friend would take steps to effectuate Corniel's removal from liability under the applicable mortgage and note. However, soon after, respondent and Corniel learned that the Friend had not undertaken these steps. Accordingly, in late October 2019, when the court granted the bank's motion to dismiss the prior order of final judgment (thus, bringing the foreclosure litigation to a close), Corniel remained liable for the loan obligation.

The record establishes that, thereafter, respondent did not communicate with Corniel in any substantive manner regarding her obligations under the mortgage and note. Moreover, from December 2019 on, he admittedly did no further work to advance her interests.

RPC 1.1(a) prohibits a lawyer from handling a client matter in a way that constitutes gross neglect. Likewise, RPC 1.3 requires a lawyer to "act with reasonable diligence and promptness in representing a client." Respondent violated both Rules by performing no work on Corniel's matter following their December 2019 e-mail exchange, in which he assured her that he would "stay on to confirm completion" of her matter.

Respondent's defense – that he did not know the litigation had ended and that, once the litigation concluded, his inaction made no difference because there purportedly was no way to achieve Corniel's aims – does not alter the duties he owed Corniel at the time. As an initial matter, he was obligated to keep himself apprised of the status of the foreclosure litigation, for which he was Corniel's attorney of record. Moreover, after unequivocally informing her that he would continue to handle her matter after his Firm closed, and specifically stating that he would "confirm completion" and "produce an invoice," he had a duty to follow through; instead, he apparently ignored the matter altogether after the December 2019 e-mail exchange. Even if, as he testified, there were no avenues remaining to effectuate her removal from the mortgage and note, he remained obligated to inform Corniel about the significance of the litigation's dismissal, to advise her if he could do nothing more on her behalf, and to properly terminate the representation. Making matters worse, respondent's testimony during the ethics hearing and his statements during oral argument before us made clear that, despite accepting the representation and the flat fee from his client, he did not fully understand what steps or approaches could have addressed Corniel's circumstances, and he certainly failed to provide any viable paths forward to his client.

Based on the above, starting in December 2019, respondent clearly engaged in gross neglect and failed to act with reasonable diligence in his handling of Corniel's matter. Arguably, he also lacked competence to accept the representation and then spent no clinical time gaining an understanding of the concepts of in personam and in rem liability.

RPC 1.4(b) provides that an attorney "shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information." Here, respondent admittedly failed to fully address Corniel's October 15, 2019 query regarding the matter's status; reply to her June 15 and June 22, 2020 requests for an update; or call her, as he stated he would in his July 18, 2020 e-mail. Thus, from late October 2019 forward, respondent failed to keep her reasonably informed, and from December 2019 forward, he failed to keep her informed in any manner about her matter's status.

Finally, respondent violated RPC 8.1(b) by failing to cooperate with the disciplinary investigation. He never complied with the DEC's three letters, dated between January and June 2021, requiring him to submit a written reply to the ethics grievance. Moreover, he failed to respond to the investigator's June 2021 request that he provide his file and contact the investigator to schedule an interview.

The Estate Matter (DRB 24-026)

In the Estate matter (DRB 24-026), following our review of the record, we determine that the stipulated facts clearly and convincingly support all the charged violations of the Rules of Professional Conduct.

Specifically, respondent violated of RPC 1.1(a) and RPC 1.3 by exhibiting gross neglect and a lack of diligence in his handling of the Estate when he admittedly discontinued efforts to obtain the documents needed to complete the Neighbor's 2017 personal tax return and, more generally, ceased work on the Estate altogether. As a result, according to the stipulation, in December 2023, more than six years after the Neighbor's death, the OAE applied for the appointment of an attorney-trustee to resolve the Estate; and, as of the date of this decision, we still had not received proofs that respondent ever completed the Estate administration. Respondent stated, in his May 6, 2024 e-mail to the OBC that, as of that date, he was "working on the other proofs for the filing of taxes."

Further, respondent violated RPC 8.4(c) by knowingly misrepresenting to O'Connor that the administration of the Estate was proceeding in a timely fashion and that O'Connor soon would receive the remaining funds to which he was entitled under the decedent's will.

Summary of RPC Violations

In sum, we find that respondent violated RPC 1.1(a) (Corniel and Estate matters); RPC 1.3 (Corniel and Estate matters); RPC 1.4(b) (Corniel matter); RPC 8.1(b) (Corniel matter); and RPC 8.4(c) (Estate matter).

The sole issue left for our determination is the appropriate quantum of discipline for respondent's misconduct.

Quantum of Discipline

The crux of respondent's misconduct is that he ceased all work on both the Corniel and the Estate matters without informing the affected parties, that is, Corniel (his client) and O'Connor (the beneficiary of the Estate). He avoided informing Corniel of his dereliction by failing to answer her repeated inquiries regarding the status of her matter. With O'Connor, he went a step further, misrepresenting that he was still working on the Estate and that the matter was proceeding apace, despite knowing that his efforts had come to a standstill.

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 In the Matter of Mark A. Molz, DRB 22-102

(September 26, 2022) (admonition for an 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 significant mitigation, the attorney had an otherwise unblemished career in more than thirty-five years at the bar), and In re Barron, __ N.J. __ (2022), 2022 N.J. LEXIS 660 (reprimand for an attorney who engaged in gross neglect in one client matter, lacked diligence in three client matters, failed to communicate in three client matters, and failed to set forth the basis or rate of his fee in one client matter (RPC 1.5(b)); in aggravation, we considered the quantity of the attorney's ethics violations and the harm to multiple clients (which included allowing a costly default judgment to be entered against two clients and failing to oppose summary judgment motions, resulting in the dismissal of a third client's case); in mitigation, we considered the attorney's cooperation, his nearly unblemished career in more than forty years at the bar, and his testimony concerning his mental health condition).

Attorneys who grossly neglect and lack diligence in estate matters have received discipline ranging from an admonition to a censure, even when the misconduct is accompanied by additional, less serious misconduct. See, e.g., In the Matter of Andrew V. Zielyk, DRB 13-023 (June 26, 2013) (admonition for an attorney who lacked diligence by failing to reply to a tax auditor's request for information, thereby delaying the completion of the estate's tax returns; the attorney also failed to keep the estate beneficiaries adequately informed, for a period of fifteen months, about the status of the estate; further, he failed to set forth in writing the basis or rate of his fee; in mitigation, he had no prior discipline in his twenty-seven-year career); In re Burro, 235 N.J. 413 (2018) (reprimand for an attorney who grossly neglected and lacked diligence in an estate matter for ten years and failed to file inheritance tax returns, resulting in the accrual of $40,000 in interest and the imposition of a lien on property belonging to the executrix; the attorney also failed to keep the client (the estate's executrix) reasonably informed about events in the case, return the client file upon termination of the representation (RPC 1.16(d)), and cooperate with the ethics investigation; 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); In re Ludwig, 233 N.J. 99 (2018) (reprimand for

an attorney who lacked diligence by failing to finalize an estate matter for eight years following the decedent's death; the attorney failed to distribute more than $75,000 owed to the estate's eighteen beneficiaries, obtain a discharge of a judgment that had been improperly filed against the estate, liquidate estate assets, file any of the required 2008 estate tax returns, promptly provide an interim accounting, or file the final accounting; the attorney also ignored the beneficiaries' requests for information; further, the attorney failed to fully cooperate with the OAE's investigation; in mitigation, the attorney had no prior discipline in thirty-eight years at the bar); In re Trella, __ N.J. __ (2023) (censure for an attorney who failed to timely administer two estate matters by not promptly paying inheritance taxes; the attorney also negligently misappropriated estate funds that should have been held in escrow (RPC 1.15(a)) and, in both estate matters, charged excessive fees (RPC 1.5(a)); in a third client matter, the attorney engaged in a conflict of interest by loaning funds to his client, and also made misrepresentations to the OAE with respect to the loan (RPC 1.8(a), RPC 8.1(a), and RPC 8.4(c)); we determined that the attorney's unblemished fifty-year career was insufficient mitigation to warrant a downward departure from the baseline discipline of a censure given the totality of the misconduct, spanning three client matters; we also weighed, in aggravation, the harm to the clients caused by the attorney's delay, as well as the attorney's

admission that he rarely entered into written fee agreements with his clients); In re Cook, 233 N.J. 328 (2018) (censure for an attorney who failed to diligently administer and complete an estate with a single beneficiary; in addition, the attorney failed to communicate with the beneficiary and to cooperate with the disciplinary investigation; prior admonition).

Varying terms of suspension have been imposed in estate and trust matters involving more egregious neglect or more significant disciplinary history, depending on the seriousness of other factors. See In re Avery, 194 N.J. 183 (2008) (in two default matters, three-month suspension for an attorney who mishandled four estates, grossly neglected the estates, failed to disburse funds, and failed to turn over accounting records, resulting in financial harm of $160,000 in penalties and interest to one estate; the attorney also failed to cooperate with disciplinary authorities; no prior discipline), and In re Onorevole, 185 N.J. 169 (2005) (in a default matter, six-month suspension for an attorney who was retained to probate an estate but then failed, for more than three years, to file the tax forms for the estate, which he then filed without the necessary signature; as a result of the attorney's errors, interest was charged against the estate; the attorney also failed to communicate with the client; although we determined that the underlying conduct, without more, would generally lead to a reprimand, we determined to impose a six-month suspension based on the

default status of the matter and the attorney's disciplinary history, including a prior admonition and two reprimands for similar misconduct).

Standing alone, misrepresentations to third parties are met by reprimands. See In re Walcott, 217 N.J. 367 (2014) (the attorney misrepresented to a third party, in writing, that he was holding $2,000 in escrow from his client as collateral for a settlement agreement; violations of RPC 4.1(a)(1) (false statement of material fact to a third person) and RPC 8.4(c)).

Admonitions generally are imposed for failure to cooperate with disciplinary authorities if the attorney has a limited or no disciplinary history. See In the Matter of Giovanni DePierro, DRB 21-190 (January 24, 2022) (the attorney failed to respond to letters from the investigator in the underlying ethics investigation, in violation of RPC 8.1(b); the attorney also violated RPC 1.4(b), RPC 1.5(c) (failure to set forth in writing the basis or rate of the attorney's fee in a contingent fee case), and RPC 1.16(d) (failure to protect the client's interests upon termination of the representation)).

In our view, based upon the above disciplinary precedent, the totality of respondent's misconduct in these consolidated matters could be met with a censure.

To craft the appropriate discipline, however, we also consider aggravating and mitigating factors.

There is no mitigation to consider.

In aggravation, in the Estate matter, respondent failed to take remedial steps even after the OAE prompted him to do so, thereby further delaying the completion of the Estate and O'Connor's receipt of funds to which he was entitled.

Also of note, in addressing aggravation, is the timeline of respondent's prior discipline. Of particular importance, all the misconduct under scrutiny in the Estate matter, and most of the misconduct underpinning the Corniel matter occurred before the Court issued the May 2021 Order reprimanding respondent in Anderson I. Specifically, in the Estate matter, respondent's underlying misconduct occurred between 2018 or 2019 (when respondent discontinued efforts to complete the necessary tax returns), and January 2021 (when he failed to respond to the OAE's final request for proof that he was taking steps to finalize the Estate). In the Corniel matter, respondent's misconduct in connection with the representation occurred between late 2019 (when he ceased keeping Corniel reasonably informed and, ultimately, stopped working on her matter) and August 2020 (when Corniel filed her grievance). Moreover, by May 2021, when the reprimand in Anderson I issued, respondent already had failed to reply to two of the DEC's three attempts to secure his cooperation with the

investigation of Corniel's grievance. Accordingly, the concept of progressive discipline does not apply.

Nevertheless, in the Corniel matter, during the months when respondent was failing to cooperate with the investigation, we issued our April 2021 decision, and the Court then issued the May 2021 Order, reprimanding respondent in Anderson I. Thus, when he received and failed to comply with the DEC investigator's third letter, sent in June 2021, he recently had been reprimanded by the Court. Accordingly, we weigh, in aggravation, respondent's heightened awareness of his obligation to cooperate with disciplinary authorities.

Importantly, however, respondent's misconduct in the matters at issue was diverse from the misconduct underpinning his 2021 reprimand. Thus, although much of the misconduct at issue here occurred during the same timeframe as the misconduct underlying Anderson I, the ensuing reprimand would not have served as a global sanction for respondent's misconduct, had the matters currently before us been consolidated with that earlier matter for our review and imposition of discipline.

Conclusion

On balance, we determine that the aggravating factors are not so compelling as to require the enhancement of discipline to a three-month suspension. Thus, we determine that a censure remains the appropriate quantum of discipline to protect the public and preserve confidence in the bar.

In addition, based on respondent's representations during oral argument before us, we recommend that, in connection with the Estate matter, respondent be required to submit proof to the OAE, within 30 days of the Court's disciplinary Order in this matter, that (1) the beneficiary of the Estate received the remainder of the funds to which he was entitled; (2) the administration of the Estate is complete; and (3) all required tax returns related to the Estate have been filed.

Members Hoberman and Rivera 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. Mary Catherine Cuff, P.J.A.D. (Ret.),
Chair

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

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matters of Russell F. Anderson, Jr.
Docket Nos. DRB 23-256 and DRB 24-026

Argued: April 25, 2024

Decided: May 24, 2024

Disposition: Censure

Members	Censure	Absent
Cuff	X	
Boyer	X	
Campelo	X	
Hoberman		X
Menaker	X	
Petrou	X	
Rivera		X
Rodriguez	X	
Spencer	X	
Total:	7	2

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