

SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
Docket No. DRB 24-074  
District Docket No. XIV-2023-0076E

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In the Matter of Shevelle McPherson  
An Attorney at Law

Argued  
May 24, 2024

Decided  
September 5, 2024

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

Respondent waived appearance for oral argument.

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Table of Contents

Introduction..... 1

Ethics History..... 2

Facts..... 4

    October 17, 2018 - July 24, 2019 Pennsylvania Administrative Suspension.. 4

    August 20, 2021 - June 29, 2022 Pennsylvania Administrative Suspension .. 7

    Additional Misconduct in the A.A. Matter ..... 10

    The Pennsylvania Disciplinary Proceedings ..... 13

The Parties’ Positions Before the Board..... 16

Analysis and Discipline ..... 22

    Motions for Reciprocal Discipline ..... 22

    Violations of the Rules of Professional Conduct..... 24

        RPC 1.1(a), RPC 1.3, and RPC 1.4(b) ..... 26

        RPC 5.5(a)(1) ..... 27

        RPC 3.3(a)(1); RPC 3.3(a)(5); RPC 4.1(a); and RPC 8.4(c)..... 28

        RPC 8.1(a) and RPC 8.4(c) ..... 30

        RPC 8.1(b) and RPC 8.4(d)..... 32

        RPC 7.1(a)..... 34

    Quantum of Discipline..... 35

Conclusion ..... 44

## **Introduction**

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

This matter was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (the OAE), pursuant to R. 1:20-14(a), following the Supreme Court of Pennsylvania's issuance of a December 15, 2022 order suspending respondent, on consent, for one year and one day.

The OAE asserted that, in the Pennsylvania matter, respondent was determined to have violated the equivalents of New Jersey RPC 1.1(a) (committing gross neglect); 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 3.3(a)(1) (making a false statement of material fact to a tribunal); RPC 3.3(a)(5) (failing to disclose to a tribunal a material fact while knowing that the omission is reasonably certain to mislead the tribunal); RPC 4.1(a)(1) (knowingly making a false statement of material fact or law to a third person); RPC 5.5(a)(1) (practicing law while ineligible); RPC 7.1(a) (engaging in false or misleading communications about the lawyer, the lawyer's services, or any matter in which the lawyer has or seeks a professional relationship); RPC 8.1(a) (knowingly making a false statement of material fact in a disciplinary matter); RPC 8.1(b) (failing to cooperate with

disciplinary authorities); RPC 8.4(c) (two instances - engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); and RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice).

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

### **Ethics History**

Respondent earned admission to the New Jersey and Pennsylvania bars in 2001 and to the District of Columbia bar in 2002. Additionally, at the relevant times, she was a registered attorney with the United States Patent and Trademark Office (USPTO).<sup>1</sup> During the relevant period, she maintained a practice of law in Cherry Hill, New Jersey.

Respondent has no prior discipline in New Jersey but has prior discipline in other jurisdictions.

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<sup>1</sup> The USPTO is the federal agency that grants U.S. patents and registers trademarks, consistent with Article I, Section 8, Clause 8, of the U.S. Constitution, directing the legislative branch “[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” U.S. Const. art. I, §3 cl.8. See also U.S. Patent and Trademark Ofc., About Us, <https://www.uspto.gov/about-us>, (last visited August 19, 2024). The date on which respondent registered with the USPTO is unclear based on the record before us.

Specifically, in Pennsylvania, on April 5, 2017, respondent received a public reprimand after being found guilty of indirect criminal contempt by the Court of Common Pleas in connection with her effort to withdraw as counsel for a criminal defendant just days before trial. Office of Disciplinary Counsel v. McPherson, 212 DB 2016 (March 10, 2017).

On December 15, 2022, the Pennsylvania Supreme Court suspended respondent for one year and one day, on consent, in connection with the misconduct underlying the present matter. Office of Disciplinary Counsel v. McPherson, 142 DB 2022 (December 15, 2022), 2022 Pa. LEXIS 1807.

On December 11, 2023, based on respondent's disciplinary suspension in Pennsylvania, the USPTO imposed reciprocal discipline, suspending her for one year and one day. In the Matter of Shevelle McPherson, Proceeding No. D2023-34 (December 11, 2023).

Respondent has been administratively suspended in the District of Columbia for an unknown number of years.<sup>2</sup>

We now turn to the facts of this matter.

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<sup>2</sup> According to respondent, as of July 2022, she had been administratively suspended in the District of Columbia for many years. The online directory of the District of Columbia bar lists her as administratively suspended but does not specify when her administrative suspension took effect.

## **Facts**

### *October 17, 2018 - July 24, 2019 Pennsylvania Administrative Suspension*

In July 2018, respondent failed to timely pay Pennsylvania's annual attorney registration fee. Consequently, on September 17, 2018, the Pennsylvania Supreme Court ordered that she would be administratively suspended, effective October 17, 2018, if she failed to submit her registration form and fee by that date. On the same date, Pennsylvania's attorney registration office sent her a letter, enclosing the court's order and explaining that she would be administratively suspended if she failed to comply.

On October 17, 2018, after failing to comply with the annual registration requirements, respondent was administratively suspended in Pennsylvania.<sup>3</sup> She remained administratively suspended until July 24, 2019, when she was reinstated to active status after submitting the fees and required documents, described in greater detail below.

After her October 2018 administrative suspension took effect, respondent failed to comply with Pa. R.D.E. 217 (Rule 217),<sup>4</sup> governing attorneys who have

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<sup>3</sup> Attorneys who fail to comply with Pennsylvania's attorney registration or continuing legal education (CLE) requirements are "administratively suspended" by the Supreme Court of Pennsylvania. Pa. R.D.E. 219(g). Although termed a "suspension," an order of the Pennsylvania Supreme Court, administratively suspending an attorney on these grounds, is equivalent to an order from our Court deeming an attorney ineligible to practice law for failing to comply with an administrative requirement.

<sup>4</sup> Pennsylvania's Rule 217 is equivalent to New Jersey R. 1:20-20.

been disbarred, suspended, or transferred to disability inactive status in Pennsylvania, in the following ways:

- 1) she failed to submit, within ten days after the effective date of her administrative suspension, a verified statement of compliance (Pa. R.D.E. 217(e)(1));
- 2) in two criminal matters, in which she represented the defendants, she failed to notify her clients and opposing counsel that she was administratively suspended (and, consequently, unable to act as an attorney), and to move to withdraw from the representations (Pa. R.D.E. 217(b)); and
- 3) she continued to engage in communications that conveyed that she remained eligible to practice law in Pennsylvania (Pa. R.D.E. 217(d)(2)).

More specifically, as of October 17, 2018, respondent represented two defendants, A.J.<sup>5</sup> and R.M., in separate criminal matters then pending before the Pennsylvania Court of Common Pleas. Thereafter, on November 13, 2018, she also entered her appearance, in the Municipal Court of Philadelphia, on behalf of defendant H.H.

While administratively suspended, between October 2018 and January 2019, in the R.M. matter, respondent continued to represent the client by (1) requesting a continuance; (2) appearing for a scheduling conference; (3) representing the client in his guilty plea proceeding; and (4) representing the

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<sup>5</sup> Initials are used to provide anonymity to respondent's criminal clients.

client at his sentencing. On December 20, 2018, in the A.J. matter, she represented the client in a plea and sentencing proceeding. On November 13, 2018, in the H.H. matter, she represented the client in a municipal court proceeding.

Moreover, while administratively suspended, respondent maintained a website on which she stated that she was “admitted to practice law in New Jersey, Pennsylvania and the District of Columbia.” In addition to falsely representing that she was admitted to practice law in Pennsylvania, despite her suspension, this statement also misrepresented her status in the District of Columbia, where she remained administratively suspended.

On July 24, 2019, respondent filed a “2019-2020 Pennsylvania Administrative Change in Status Form,” requesting to change her status from administratively suspended to active. She also filed the certified statement of compliance with Rule 217 and paid \$1,150 in fees. She was reinstated to practice on the same date.

In respondent’s July 24, 2019 certification, she stated (among other representations) that she had (1) provided notification of her suspension to the clients whom she represented in pending litigation, as well as opposing counsel in each of those matters, and (2) stopped using communications that “expressly or implicitly convey[ed] eligibility to practice law” in Pennsylvania, including



“websites and references to admission to the Pennsylvania Bar.” She later stipulated that, by making these representations, she “knew or recklessly disregarded” that she had neither provided the required notices to clients and opposing counsel, nor refrained from communicating that she was eligible to practice law in Pennsylvania, insofar as she continued to represent clients and maintained a website stating that she was admitted to practice in that jurisdiction.

August 20, 2021 - June 29, 2022 Pennsylvania Administrative Suspension

As of December 31, 2020, respondent had failed to comply with Pennsylvania’s continuing legal education (CLE) requirements. Consequently, on February 19, 2021, the Pennsylvania Supreme Court’s CLE Board informed her of her noncompliance, assessed a \$100 late fee, and directed that, if she failed to comply with the CLE requirement and to pay the fee within sixty days, she would be assessed a second \$100 late fee and be included on the noncompliant report to the Pennsylvania Supreme Court.

On May 26, 2021, after respondent failed to comply with the first deficiency notice, the CLE Board sent her a second notice, again alerting her that she was noncompliant with her CLE requirement. In addition, the notice informed her that (1) she had been assessed a second \$100 late fee, (2) if she did

not comply by June 25, 2021, she would be included on the noncompliant report to the Pennsylvania Supreme Court, and (3) upon receiving the report, the court would “initiate an [o]rder to administratively suspend [her] license to practice law in the Commonwealth of Pennsylvania and a third \$100 late fee [would] be assessed.” Nevertheless, respondent failed to complete her CLE credits or pay the late fees.

Consequently, by order dated July 21, 2021, the Pennsylvania Supreme Court administratively suspended respondent, effective August 20, 2021, for her noncompliance with CLE requirements. On the same date, the CLE Board sent her a letter, enclosing the court’s order and explaining that, to avoid suspension, she would need to satisfy the outstanding CLE requirements prior to the effective date of her suspension.

On August 11, 2021, the CLE Board sent respondent an e-mail, reminding her that she had not yet complied with the CLE requirement and stating that she had until August 18, 2021 to do so in order to avoid an administrative suspension. Respondent admittedly received this e-mail; however, she neither satisfied the CLE requirement nor paid the fines she owed.

Accordingly, effective August 20, 2021, respondent was administratively suspended from the Pennsylvania bar. She remained administratively suspended until June 29, 2022.

After her August 2021 administrative suspension took effect, respondent failed to comply with Rule 217 in the following ways:

- 1) she failed to submit, within ten days after the effective date of her administrative suspension, a verified statement of compliance;
- 2) she failed to notify the clients and opposing counsel in two matters (the A.A. and S.T. matters), then pending before the Court of Common Pleas, that she was administratively suspended and to move to withdraw from those representations; and
- 3) she continued to engage in communications that conveyed that she remained eligible to practice law in Pennsylvania, including by maintaining a website stating that she was admitted to practice law in that jurisdiction.<sup>6</sup>

More specifically, as of August 20, 2021, the effective date of her administrative suspension, respondent represented two criminal defendants, A.A. and S.T., in separate matters then pending before the Pennsylvania Court of Common Pleas. Thereafter, on October 12, 2021, she also entered her appearance, in the Court of Common Pleas, on behalf of L.F., also a criminal defendant. Moreover, on January 26, 2022, she entered her appearance, in municipal court, on behalf of criminal defendant N.T.

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<sup>6</sup> Although respondent eventually took down this website, she did not do so until October 31, 2022, after her administrative suspension had ended.

Between September and December 2021, while administratively suspended, respondent accepted two payments, totaling \$6,000, in the A.A. matter, and represented the client before the Court of Common Pleas, at which time “an agreement was reached to dismiss the charges” against A.A.<sup>7</sup> On September 7, 2021, in the S.T. matter, respondent represented the client at his sentencing proceeding. On October 13, 2021, in the L.F. matter, she filed a waiver of appearance at arraignment on the client’s behalf and, on April 27, 2022, she requested a continuance, which the court granted.<sup>8</sup> On February 14, 2022, in the N.T. matter, she represented the client during a municipal court matter.

*Additional Misconduct in the A.A. Matter*

A.A. retained respondent on December 7, 2020 (during a period when she was not suspended from the practice of law), to represent her in a criminal matter, starting with an initial bail hearing in Lackawanna County, Pennsylvania. As A.A.’s matter progressed, she continued to retain respondent, pursuant to a

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<sup>7</sup> Respondent’s representation of A.A. underpins charges that she violated Pa. RPC 1.1(a) and Pa. RPC 1.3, addressed more fully in the next section.

<sup>8</sup> Subsequently, in June 2022, new counsel entered an appearance on behalf of the defendant in the L.F. matter.

series of retainer agreements, each of which designated the nature of the proceeding to which it applied and set forth the applicable flat fee.

On February 2, 2021, respondent represented A.A. before the Magisterial District Court, which found sufficient grounds for the case to proceed. Accordingly, the matter was transferred to the Court of Common Pleas, where respondent again entered her appearance on A.A.'s behalf. On February 22, 2021, A.A. posted bail and was released from custody. In or around March 2021, respondent and A.A. entered into a retainer agreement, whereby respondent would represent A.A. in a jury trial on the matter.

By order dated April 22, 2021, the trial court directed that A.A., respondent, and the prosecutor appear before the court for a pretrial conference on May 20, 2021, if the case remained unresolved at that time. Respondent received the court's order, via e-mail, but failed to inform A.A. that they both needed to attend court on May 20, 2021.

In the days leading up to the pretrial conference, the prosecutor attempted, without success, to contact respondent to discuss the case. However, because her voicemail inbox was full, the prosecutor could not leave her a message.

On May 20, 2021, neither respondent nor A.A. appeared for the pretrial conference and, consequently, the court issued a bench warrant for A.A.'s arrest. Following the proceeding, the prosecutor spoke to respondent and informed her

that the trial court had issued the bench warrant. Nevertheless, respondent failed to take any steps to vacate the warrant.

Subsequently, on July 6, 2021, A.A. was detained on the bench warrant. On July 8, 2021, the trial court revoked A.A.'s bail and remanded her to jail.

On July 19, 2021, A.A. was released from custody, following a proceeding at which the trial court lifted the bench warrant and reinstated her bail. Respondent failed to appear for that proceeding. However, during the Pennsylvania disciplinary proceedings, she informed the Office of Disciplinary Counsel (the ODC) that she had told a member of the court's staff that she could not appear on July 19, 2021, due to traveling out of state.

As detailed above, the Pennsylvania Supreme Court subsequently administratively suspended respondent. Notwithstanding her administrative suspension, in or around the first week of December 2021, she represented A.A. in the Court of Common Pleas, and "an agreement was reached to dismiss the charges" against A.A. Accordingly, by order dated January 4, 2022, the trial court dismissed A.A.'s case "pursuant to agreement . . . as defendant has been fully compliant with Pre-Trial Services."

*The Pennsylvania Disciplinary Proceedings*

On an unspecified date, A.A. filed a complaint against respondent with the ODC. Thereafter, on May 26, 2022, the ODC wrote to respondent, informing her of the allegations of misconduct against her (including not only those related to her representation of A.A., but also those related to her practice of law during her August 2021 to June 2022 administrative suspension) and requesting her response. In July 2022, respondent, through counsel, submitted her reply to the allegations. Therein, among other statements, she asserted that she had not become aware of her August 2021 administrative suspension until January 2022.

On November 18, 2022, the ODC and respondent filed with the Pennsylvania Disciplinary Board a Joint Petition in Support of Discipline on Consent, pursuant to Pa. R.D.E. 215(d), recommending a one-year-and-one-day suspension.<sup>9</sup> In respondent's accompanying affidavit, she "acknowledge[d] the material facts set forth in the joint petition are true." In the petition, she admitted having violated the following Pennsylvania Rules of Professional Conduct and

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<sup>9</sup> Pa. R.D.E. 215(d) and (e), governing discipline by consent, provide that "[a]t any stage of a disciplinary investigation or proceeding, a respondent-attorney and [the ODC] may file," with the Pennsylvania Disciplinary Board, "a Joint Petition in Support of Discipline on Consent. The Petition shall include the specific factual allegations that the attorney admits he or she committed, the specific Rules of Professional Conduct and Rules of Disciplinary Enforcement allegedly violated and a specific recommendation for discipline." The petition also must be accompanied by an affidavit "stating that the attorney consents to the recommended discipline" and containing other specific acknowledgments set forth by the Rule. Pa. R.D.E. 215(d).

Rules of Disciplinary Enforcement: Pa. RPC 1.1; Pa. RPC 1.3; Pa. RPC 5.5(a), (b)(1), and (b)(2); Pa. RPC 7.1; Pa. RPC 8.4(c) and (d); Pa. R.D.E. 203(b)(3); and Pa. R.D.E. 217(b), (d)(2), (e)(1), (j)(1), and (j)(4).

In mitigation, the ODC and respondent submitted that respondent “admitted engaging in misconduct and violating the charged Rules of Professional Conduct and Rules of Disciplinary Enforcement;” cooperated with the ODC; was remorseful; and understood that her actions warranted the imposition of discipline. In addition, respondent represented that, during the period when she engaged in her misconduct:

she was experiencing issues in her personal life that adversely impacted her ability to handle her legal practice. Specifically . . . at or around the time of her first administrative suspension (in 2018), her mother became ill and she has needed to take care of her since that time. In December 2020, Respondent’s husband left her, without any advance notice, which caused her to suffer from depression. Respondent left New Jersey, where her office was located, in December and stayed with family and friends. During this time, she represented her clients remotely. Respondent did not adequately monitor the mail sent to her office – a “virtual office” which operated as a mail drop – and, as a result, did not receive the notices of her deficient CLE credits that were sent there until she returned to the office in January 2022.

[ODCp¶86.]<sup>10</sup>

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<sup>10</sup> “ODCp” refers to the ODC’s November 18, 2022 Petition for Discipline. “OAEb” refers to the OAE’s April 5, 2024 brief in support of its motion for reciprocal discipline.



Nevertheless, respondent acknowledged that she remained “responsible for keeping track of her CLE credits and her license to practice law.”

Also in mitigation, respondent represented that, as of the date she entered into the joint petition, “she [was] engaged in therapy to address the personal issues that affected her conduct.”

In jointly recommending the imposition of a suspension for a period of one year and one day, the ODC and respondent specified that they had “taken into account that this discipline will require Respondent to petition for reinstatement and prove her fitness to practice law before she can be reinstated to the practice of law.” See Pa. R.D.E. 218(c).<sup>11</sup> They noted that “[t]his is particularly significant in this case, as respondent will need to show that she has addressed the personal issues she had identified as adversely impacting her ability to practice law.”

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<sup>11</sup> Pa. R.D.E. 218(c) provides that if an attorney has been suspended for more than one year in Pennsylvania, then the attorney must file a petition for reinstatement with the state’s Disciplinary Board; the petition and the ODC’s response are then referred to a hearing committee; and, during a hearing before the committee, the “suspended attorney shall have the burden of demonstrating by clear and convincing evidence that such person has the moral qualifications, competency and learning in law required for admission to practice law in this Commonwealth and that the resumption of the practice of law within the Commonwealth by such person will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest.” In contrast, an attorney who receives a disciplinary suspension of one year or less is eligible for reinstatement by the Court upon the Board’s certification to the Court that the attorney filed the required verified statement of compliance with Rule 217 with the necessary filing fee (subject to certain exceptions, such as additional pending disciplinary proceedings). Pa. R.D.E. 218(g).

On December 15, 2022, the Supreme Court of Pennsylvania suspended respondent, on consent, for a period of one year and one day. McPherson, 2022 Pa. LEXIS 1807.

On February 2, 2023, as R. 1:20-14(a)(1) requires, respondent notified the OAE of her Pennsylvania discipline.

### **The Parties' Positions Before the Board**

The OAE asserted, in its written submission to us and during oral argument, that respondent's unethical conduct in Pennsylvania constituted violations of RPC 1.1(a); RPC 1.3; RPC 1.4(b); RPC 3.3(a)(1); RPC 3.3(a)(5); RPC 4.1(a)(1); RPC 5.5(a)(1); RPC 7.1(a); RPC 8.1(a); RPC 8.1(b); RPC 8.4(c) (two instances); and RPC 8.4(d).<sup>12</sup>

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<sup>12</sup> Among the Pennsylvania Rules that respondent was charged with violating, Pa. RPC 1.3, and Pa. RPC 8.4(d), as well as the relevant portions of Pa. RPC 8.4(c), are identical to New Jersey's corresponding Rules of Professional Conduct, but for minor grammatical differences. Pa. RPC 5.5(a) is substantively the same as RPC 5.5(a)(1). Pa. RPC 5.5(b) provides that "[a] lawyer who is not admitted to practice in this jurisdiction shall not: (1) except as authorized by these Rules, Pa. B.A.R. 302 or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction." Pa. RPC 7.1, like RPC 7.1, prohibits "false or misleading" communication "about the lawyer" or "the lawyer's services," but does not include the additional clause prohibiting such communications about "any matter in which the lawyer has or seeks a professional involvement." Pa. RPC 1.1 provides that "[a] lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation," whereas RPC 1.1(a) provides that "[a] lawyer shall not: . . . [h]andle or neglect a matter entrusted to the lawyer in such manner that the lawyer's conduct constitutes gross negligence." Pa. R.D.E. 203(b)(3) provides that "[w]ilful violation of any other provision of the [Pennsylvania] Enforcement Rules" "shall also be  
*(footnote cont'd on next page)*

Specifically, the OAE argued that respondent violated RPC 5.5(a)(1) by practicing law while administratively suspended in Pennsylvania between October 2018 and July 2019, and again between August 2021 and June 2022, representing a total of seven criminal defendants. Although recognizing that an attorney’s knowledge of her ineligibility is not required to sustain an RPC 5.5(a)(1) charge, the OAE pointed out that the level of discipline is enhanced when an attorney knowingly practices law while ineligible. Accordingly, the OAE weighed whether respondent knew that she was ineligible during the relevant periods. The OAE urged that

[although] there is no evidence in the record to confirm she was aware of her first period of ineligibility, her acknowledgment that she received the Court’s July 21, 2021 Order when she returned to her New Jersey office during her second period of ineligibility constitutes clear and convincing evidence she engaged in the unauthorized practice of law knowing she was administratively ineligible.

[OAEb25.]

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grounds for discipline;” here, this charge was based on respondent’s admitted violations of multiple rules governing the conduct of administratively suspended and other “formerly admitted” attorneys. See Pa. R.D.E. 217.

The OAE also charged respondent with a number of violations of the Rules of Professional Conduct that the Pennsylvania joint petition did not include. These additional charged violations were RPC 1.4(b), RPC 3.3(a)(1); RPC 3.3(a)(5); RPC 4.1(a)(1); RPC 8.1(a); and RPC 8.1(b).

In addition, based on respondent having learned, in January 2022, that she was administratively ineligible to practice law in Pennsylvania, the OAE argued that she violated RPC 3.1(a)(1) by falsely holding herself out as a licensed Pennsylvania attorney in the N.T. and L.F. matters after January 2022. Similarly, the OAE argued that respondent violated RPC 3.3(a)(5) by failing to disclose to Pennsylvania state courts her ineligibility to practice law, when the omission was certain to mislead the tribunal. By the same conduct, the OAE alleged that respondent violated RPC 4.1(a)(1) “by failing to disclose she was ineligible to practice when she was aware of her ineligibility.”<sup>13</sup>

Moreover, the OAE charged respondent with having violated RPC 7.1(a) by “continu[ing] to state on her website that she was admitted to practice in Pennsylvania” and, thus, “falsely represent[ing] the status of her license despite knowing she was ineligible to practice.”

Further, the OAE charged respondent with having violated RPC 8.1(b) and RPC 8.4(d) by failing to timely file her Pa. R.D.E. 217(e)(1) verified statement of compliance with the rules governing suspended Pennsylvania attorneys. The OAE noted that the Pa. R.D.E. 217(e)(1) statement of compliance is equivalent

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<sup>13</sup> The OAE, in its recitation of the RPC 4.1(a)(1) charge, failed to specify “a third person” to whom respondent allegedly made false statements. However, in its brief, the OAE set forth sufficient factual bases for the charge, highlighting her failure to notify opposing counsel of her administrative suspension.

to the R. 1:20-20(b)(15) affidavit that all suspended New Jersey attorneys must file in connection with their suspensions. Because the failure to timely file the required R. 1:20-20 affidavit in New Jersey constitutes per se violations of RPC 8.1(b) and RPC 8.4(d), the OAE asserted that respondent's failure to timely file the equivalent document in Pennsylvania constituted violations of both Rules.

Finally, in connection with respondent's first period of administrative ineligibility, the OAE argued that she violated RPC 8.1(a) and RPC 8.4(c) by falsely stating, in her July 2019 verified statement of compliance, that she had notified all affected clients, parties, and other tribunals, courts, agencies, and jurisdictions that she had been administratively suspended, when she had "altogether failed to notify anyone of her administrative suspension as the Pennsylvania rules require."

In addition, in connection with the A.A. matter, the OAE alleged that respondent committed gross neglect, lacked diligence, and failed to communicate with the client, in violation of RPC 1.1(a); RPC 1.3; and RPC 1.4(b). Specifically, the OAE asserted that she violated these Rules by failing to inform her client of the requirement to appear for the May 2021 court proceeding; failing to communicate with the prosecutor in advance of that proceeding; failing to appear for the proceeding, which led to the issuance of a bench warrant for the client's arrest; and "fail[ing] to take any steps to have the

court lift the bench warrant, causing her client to be detained.” Thus, as set forth in the ODC’s petition, the OAE likewise urged that “[w]hile the ultimate result of the case was favorable and the criminal charge was dismissed, Respondent’s neglect led to her client being detained on a bench warrant for over a week.”

Turning to the quantum of discipline, the OAE urged that New Jersey precedent warranted less severe discipline than the one-year-and-one-day suspension imposed by Pennsylvania. Rather, the OAE argued that her misconduct warranted the imposition of a censure.

The OAE analogized respondent’s conduct to that of the censured attorney in In re Garagozzo, 240 N.J. 53 (2019). Following his administrative suspension in Pennsylvania, Garagozzo failed to comply with Pennsylvania rules governing suspended attorneys and continued to practice law, despite knowledge of his suspended status. In the Matter of John Joseph Garagozzo, DRB 18-330 (March 25, 2019) at 3. When Garagozzo applied for reinstatement, he falsely certified, in his Pa. R.D.E. 217(e)(1) statement of compliance, that he had fully complied with applicable disciplinary rules governing suspended attorneys, despite having failed to inform his clients, adversaries, and the appropriate courts of his suspension. We found that Garagozzo had knowledge of his ineligible status, based on his receipt of both the Pennsylvania Supreme Court’s suspension order and the Attorney Registration Office’s notice of his impending suspension. In

determining that a censure was the appropriate quantum of discipline, we weighed Garagozzo's failure to participate in the Pennsylvania disciplinary proceeding against his otherwise unblemished career of more than thirty years at the bar.

The OAE noted that, in contrast to the matter at hand, Garagozzo's ethics complaint proceeded as a default in Pennsylvania. However, the OAE also pointed out that respondent practiced law while ineligible during two periods of time, whereas Garagozzo did so during only one. Thus, the OAE urged, although respondent and Garagozzo practiced while ineligible for roughly the same number of months (approximately nineteen months, in respondent's case, and eighteen months, in Garagozzo's case), respondent's "additional period of unauthorized practice would at least warrant a separate admonition." Moreover, the OAE emphasized that respondent had engaged in additional misconduct in her handling of the A.A. matter, asserting that this misconduct would warrant "at least a reprimand, as it resulted in her client's loss of liberty." Thus, the OAE concluded, the totality of respondent's misconduct warranted a sanction of a censure or a three-month suspension.

In mitigation, the OAE urged that respondent had admitted her misconduct, cooperated in her disciplinary proceedings, expressed remorse, and had no disciplinary history in New Jersey. The OAE also asserted, in mitigation,

that respondent had represented that, “at the time of her misconduct, she was experiencing issues in her personal life that adversely impacted her ability to handle her legal practice and, at the time the joint petition was filed in Pennsylvania, was engaged in therapy to address the personal issues that affected her conduct.”

In closing, the OAE argued that the balance of mitigating and aggravating factors supported the imposition of a censure.

Respondent waived oral argument and indicated, on her oral argument form, that she “agree[d] with the conclusions and recommendations of the trier of fact.” She did not submit a brief for our consideration.

## **Analysis and Discipline**

### *Motions for Reciprocal Discipline*

Following our review of the record, we determine to grant the OAE’s motion for reciprocal discipline and to recommend the imposition of discipline for most of the Rules of Professional Conduct charged by the OAE.

Pursuant to R. 1:20-14(a)(5), “a final adjudication in another court, agency or tribunal, that an attorney admitted to practice in this state . . . is guilty of unethical conduct in another jurisdiction . . . shall establish conclusively the facts on which it rests for purposes of a disciplinary proceeding in this state.”



Thus, with respect to motions for reciprocal discipline, “[t]he sole issue to be determined . . . shall be the extent of final discipline to be imposed.” R. 1:20-14(b)(3).

In Pennsylvania, the standard of proof in attorney disciplinary proceedings is that the “[e]vidence is sufficient to prove unprofessional conduct if a preponderance of the evidence establishes the conduct and the proof . . . is clear and satisfactory.” Office of Disciplinary Counsel v. Kissel, 442 A.2d 217, 219 (Pa. 1982) (quoting Office of Disciplinary Counsel v. Grigsby, 425 A.2d 730, 732 (Pa. 1981)). Moreover, “[t]he conduct may be proven solely by circumstantial evidence.” Ibid. (citation omitted). Here, in the joint petition in support of discipline, respondent admitted to the material facts and misconduct that formed the bases for the petition.

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

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

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

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

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

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

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

In our view, subsection (E) applies here because the unethical conduct established by the record warrants substantially different discipline. As discussed below, the crux of respondent's misconduct was twofold: (1) her practice of law while administratively ineligible, and (2) her gross neglect of the A.A. matter. Pursuant to New Jersey disciplinary precedent, respondent's misconduct warrants a three-month suspension, rather than the one-year suspension that would be the equivalent to the one-year-and-one-day suspension imposed in Pennsylvania.

#### Violations of the Rules of Professional Conduct

Turning to the application of New Jersey's Rules of Professional Conduct, in the context of a motion for reciprocal discipline, the Court's review "involves 'a limited inquiry, substantially derived from and reliant on the foreign jurisdiction's disciplinary proceedings.'" In re Barrett, 238 N.J. 517, 522 (2019) (quoting In re Sigman, 220 N.J. 141, 153 (2014)). Nevertheless, clear and

convincing evidence must support each of our findings that respondent violated the New Jersey Rules. See Barrett, 238 N.J. at 521; In re Pena, 164 N.J. 222 (2000).

Consistent with that body of law, we have, on occasion, declined to find particular RPCs charged by the OAE in motions for reciprocal discipline. See In the Matter of Robert Captain Leite, DRB 22-164 (February 24, 2023) (granting the OAE's motion for reciprocal discipline but declining to find a violations of RPC 1.2(d), RPC 3.3(a)(1), RPC 8.4(a), RPC 8.4(b), RPC 8.4(d), where the underlying facts did not support the charges), so ordered, 254 N.J. 275 (2023), and In the Matter of Richard C. Gordon, DRB 20-209 (April 1, 2021) at 19-20 (granting the OAE's motion for reciprocal discipline but declining to find a violation of RPC 8.4(d) where underlying facts did not support the charge), so ordered, 249 N.J. 15 (2021).

Here, we determine that the record contains clear and convincing evidence that respondent violated RPC 1.1(a); RPC 1.3; RPC 3.3(a)(1); RPC 3.3(a)(5); RPC 4.1(a)(1); RPC 5.5(a)(1); RPC 7.1(a); RPC 8.1(b); RPC 8.4(c); and RPC 8.4(d). However, we determine to dismiss the charges that she violated RPC 1.4(b), RPC 8.1(a), and the additional charged violation pursuant to RPC 8.4(c).

RPC 1.1(a), RPC 1.3, and RPC 1.4(b)

In the A.A. matter, respondent violated RPC 1.1(a) and RPC 1.3 by exhibiting gross neglect and a lack of diligence when she admittedly failed to inform the client of the need to appear for the May 2021 pretrial conference; likewise failed to attend the pretrial conference herself; and, after the court issued a bench warrant when she and her client did not appear, failed to undertake any steps to have the warrant vacated. Although the matter ended favorably, with the court dismissing the criminal charges against respondent's client, respondent admitted that her misconduct resulted in her client's arrest and jailing for more than a week.

However, we determine to dismiss the charge that respondent violated RPC 1.4(b) in connection with the A.A. matter. Although the joint petition set forth a single, egregious incident when she failed to adequately communicate with A.A. – namely, her failure to inform A.A. that she needed to attend the May 2021 proceeding – this apparently one-time lapse did not, in isolation, give rise to any charged violation of inadequate communication under Pennsylvania's equivalent Rule. Rather, the joint petition addressed the incident as one among several instances when respondent mishandled the A.A. matter, and these several instances, in combination, supported the finding of gross neglect and lack of diligence. Where the Pa. RPC 1.1(a) and Pa. RPC 1.3 charges encompassed the

one-time failure to communicate for purposes of the Pennsylvania disciplinary matter, we similarly find this lapse adequately addressed by the RPC 1.1(a) and RPC 1.3 violations here.

RPC 5.5(a)(1)

RPC 5.5(a)(1) prohibits an attorney from engaging in the unauthorized practice of law by, among other scenarios, practicing law while administratively ineligible.

Here, respondent violated RPC 5.5(a)(1) by practicing law while administratively suspended, in Pennsylvania, between October 2018 and July 2019, following her failure to complete the annual attorney registration form and pay the accompanying assessment for the 2018 through 2019 compliance period. She did so again, between August 2021 and June 2022, following her failure to submit proof of compliance with Pennsylvania's CLE requirements. During her first period of administrative ineligibility, she took part in court proceedings in the R.M., H.H., and A.J. matters. During her second period of administrative ineligibility, she took part in court proceedings in the A.A.; S.T.; L.F.; and N.T. matters.

The record does not include evidence that she knew she was administratively ineligible when she represented R.M., H.H., and A.J., between

October 2018 and July 2019, or that she was aware of her second administrative suspension prior to January 2022, when she returned from her overseas travels. However, she admittedly became aware of her ineligible status once she returned to her office. Accordingly, she knowingly practiced law while administratively ineligible in the L.F. matter, when she sought a continuance on April 27, 2022, and also in the N.T. matter, when she entered her appearance on January 26, 2022 and, subsequently, represented her client in municipal court on February 14, 2022.<sup>14</sup>

RPC 3.3(a)(1); RPC 3.3(a)(5); RPC 4.1(a); and RPC 8.4(c)

RPC 3.3(a)(1) prohibits a lawyer from knowingly making a false statement of material fact or law to a tribunal, while RPC 3.3(a)(5) prohibits a lawyer from failing to disclose to a tribunal a material fact, knowing that the omission is reasonably certain to mislead the tribunal. RPC 4.1(a) prohibits a lawyer, in representing a client, from knowingly making a false statement of material fact or law to a third person. In similar vein, RPC 8.4(c) prohibits an

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<sup>14</sup> In early December 2021, prior to learning of her administrative ineligibility, respondent represented the client in A.A. in court. Subsequently, on January 4, 2022, the court entered an order dismissing the A.A. matter; however, the record does not clarify whether respondent knew about her ineligibility by this early date in January 2022.

attorney from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Attorneys who knowingly misrepresent the status of their law licenses to courts and third parties have been found to have violated RPC 3.3(a)(1) and (5) and RPC 4.1(a). See In re Feinstein, 216 N.J. 229 (2013) (one-year suspension for an attorney who knowingly made multiple misrepresentations about his eligibility to practice law to his clients, his adversaries, the court, and courtroom personnel by handling forty-eight client matters after his license had been administratively revoked because, for twelve consecutive years, he had failed to pay the annual attorney assessment to the New Jersey Lawyers' Fund for Client Protection; while aware of the administrative revocation of his license, he appeared for a Superior Court trial in a matter in which he also, previously, had corresponded with the court and defense counsel and otherwise falsely held himself out as duly licensed; before the jury was brought in, the judge's court clerk asked whether he knew that his name did not appear in the current Lawyers' Diary and Manual; the attorney replied that he did not understand why the volume did not include his name; defense counsel then jokingly asked whether he was eligible to practice law, and he replied that he was; thereafter, the attorney advised the judge, in her chambers, that he was not licensed to

practice law in New Jersey and requested that she admit him pro hac vice for trial; the judge refused and adjourned the proceeding).

Here, when respondent represented N.T. and L.F., notwithstanding her knowledge that she was administratively ineligible to practice law in Pennsylvania at the time, she likewise made knowing misrepresentations and omissions of material fact concerning her status as an attorney to the courts. Further, she misrepresented her status to third parties – specifically, at a minimum, to the prosecutors in the N.T.W. and L.F. matters.

Finally, by failing to alert N.T.W. and L.F. of her ineligibility and of the need for them to seek other counsel, respondent made misrepresentations by silence, in violation of RPC 8.4(c).

#### RPC 8.1(a) and RPC 8.4(c)

RPC 8.1(a) prohibits lawyers from making a knowingly false statement in connection with a disciplinary matter, and RPC 8.4(c) proscribes conduct that involves dishonesty, fraud, deceit or misrepresentation. As to the latter, it is well-settled that a violation of RPC 8.4(c) requires intent. See In the Matter of Ty Hyderally, DRB 11-016 (July 12, 2011). In contrast, under Pennsylvania disciplinary precedent, a violation of Pa. RPC 8.4(c) may be found “where the record establishes that the misrepresentation was knowingly made, or made with



reckless ignorance of the truth or falsity of the representation.” Office of Disciplinary Counsel v. Barrish, 2005 Pa. LEXIS 3303 (Pa. 2005).

Here, the OAE asserted that respondent violated RPC 8.1(a) and RPC 8.4(c) based on her misrepresentations in her July 24, 2019 verified statement of compliance. However, according to the joint petition, in completing that statement, she either “knew or recklessly disregarded” (emphasis added) that she (1) had not provided the required Rule 217 notices regarding her administrative suspension, and (2) had continued to communicate that she was eligible to practice law in Pennsylvania by continuing to represent clients and by maintaining a website stating that she was admitted to practice there.

The ODC did not charge respondent with violating Pennsylvania’s equivalent of RPC 8.1(a) and, consequently, respondent neither had opportunity to defend against this charge nor did she admit it in the Pennsylvania disciplinary matter. Moreover, her admission that she may have recklessly disregarded the truth of information that she misrepresented on her Rule 217 verified statement of compliance prevents us from concluding, by clear and convincing evidence, that she made these misrepresentations intentionally.

Accordingly, absent adequate proof that respondent acted with the requisite knowledge or intent to violate RPC 8.1(a) and RPC 8.4(c), respectively,

we determine to dismiss those charges in connection with her July 2019 statement of compliance.<sup>15</sup>

#### RPC 8.1(b) and RPC 8.4(d)

RPC 8.1(b) requires an attorney to “respond to a lawful demand for information from . . . [a] disciplinary authority.” In turn, RPC 8.4(d) prohibits an attorney from engaging in conduct prejudicial to the administration of justice.

The OAE argued that respondent violated these RPCs by failing to timely file her Pa. R.D.E. 217(e)(1) verified statement of compliance following her administrative suspension.<sup>16</sup>

In New Jersey, R. 1:20-20(b)(15) requires a suspended attorney, within thirty days of an order of suspension, to “file with the Director the original of a detailed affidavit specifying by correlatively numbered paragraphs how the disciplined attorney has complied with each of the provisions of this rule and

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<sup>15</sup> The OAE noted that in In the Matter of Royce W. Smith, DRB 23-159 (January 3, 2024), on a motion for reciprocal discipline, the Board determined that the attorney violated RPC 8.1(a) and RPC 8.4(c) based on representations in his Rule 217 statement of compliance. There, however, the attorney elected to lie in his verified statement of compliance because he anticipated being restored to practice shortly after he filed the statement and, in his view, it would have been “devastating” to notify his clients of his suspension at that time. Smith, DRB 23-159 at 41-42. Here, in contrast to the facts of Smith, the record before us does not include any facts relating to respondent’s knowledge or intent at the time she completed her statement of compliance.

<sup>16</sup> Although the OAE’s brief refers to “suspension” in the singular, the joint petition includes respondent’s admissions that she failed to timely file the required statement of compliance following the effective date of each of her two administrative suspensions.

the Supreme Court’s order.” In the absence of an extension from the Director, failure to file this affidavit within the time prescribed “constitute[s] a violation of RPC 8.1(b) . . . and RPC 8.4(d).” R. 1:20-20(c).

In In re Fogle, 235 N.J. 417 (2018), the Pennsylvania Supreme Court administratively suspended the attorney for failing to renew his annual attorney registration and pay the accompanying assessment to the Attorney Registration Office. In the Matter of Kevin C. Fogle, DRB 17-358 (April 11, 2018) at 3, 22. Following his administrative suspension, he failed to notify his clients, adversaries, and the appropriate courts of his ineligible status, as Pa. R.D.E. 217 requires, and continued to practice law. Id. at 22. Additionally, he failed to file the required Pa. R.D.E. 217(e)(1) statement of compliance, which we determined was the equivalent of the R. 1:20-20(b)(15) affidavit of compliance in New Jersey. Ibid. Citing R. 1:20-20(c), we found that the attorney’s failure to file the required Pennsylvania statement of compliance constituted violations of RPC 8.1(b) and RPC 8.4(d). Ibid.

Here, as in Fogle, respondent violated RPC 8.1(b) and RPC 8.4(d) by failing to file, with the Attorney Registration Office, the required Pa. R.D.E. 217(e)(1) verified statement of compliance within ten days of the effective date of either of her administrative suspensions, as that Pennsylvania rule requires. Regarding her first administrative suspension, she became ineligible on October

17, 2018, yet failed to file the required verified statement until July 24, 2019, almost nine months after the expiration of the ten-day deadline. Regarding the second, she admittedly failed to file the statement within the ten-day period following her administrative suspension, although the record does not indicate how much time passed before her eventual compliance.

#### RPC 7.1(a)

RPC 7.1(a) prohibits an attorney from making a false or misleading communication about the lawyer, the lawyer's services, or any matter in which the lawyer has or seeks a professional involvement. In relevant part, a communication is false or misleading under RPC 7.1(a) if it "contains a material misrepresentation of fact or law or omits a fact necessary to make the statement considered as a whole not materially misleading."

Attorneys who continue to hold themselves out as eligible to practice law, during periods of ineligibility, through their use of letterhead identifying themselves as members of the bar, have been found to violate this Rule. See In the Matter of Rhashea Lynn Harmon, DRB 21-228 (March 29, 2022) (the attorney violated RPC 7.1(a) by misrepresenting, on her letterhead, that she was admitted to practice law in Pennsylvania, even though she was administratively suspended). In addition, the inclusion of material misrepresentations on an

attorney's website comes within the scope of the Rule's prohibition. See In the Matter of Alan N. Walkow, DRB 23-062 (August 15, 2023) (the attorney, a solo practitioner, violated RPC 7.1(a) by using a website that referenced "attorneys").

Here, while administratively ineligible to practice law in Pennsylvania, respondent continued to hold herself out, by means of her website, as an attorney admitted to practice law in that jurisdiction.<sup>17</sup> Although she later took her website down, she did not do so until October 2022, after her periods of administrative ineligibility had ended.

In sum, respondent violated RPC 1.1(a); RPC 1.3; RPC 3.3(a)(1); RPC 3.3(a)(5); RPC 4.1(a)(1); RPC 5.5(a)(1); RPC 7.1(a); RPC 8.1(b); RPC 8.4(c); and RPC 8.4(d). However, we determine to dismiss the charges that she violated RPC 1.4(b) and RPC 8.1(a), as well as the additional charged violation of RPC 8.4(c) in connection with her Pa. R.D.E. 217(e)(1) verified statement of compliance, filed in July 2019.

### Quantum of Discipline

Ordinarily, when an attorney practices law while ineligible, and is aware of the ineligibility, either a reprimand or a censure will result, depending on the

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<sup>17</sup> Although the record indicated that respondent's website also falsely reflected that she remained eligible to practice law in the District of Columbia, the OAE did not include this as a basis for the charged violation of RPC 7.1(a).

existence and nature of aggravating factors. See In re Mordas, 246 N.J. 461 (2021) (reprimand for an attorney who, despite his awareness of his ineligibility to practice law, twice appeared before the Superior Court in connection with one client's criminal matter; the attorney's trust account records also revealed that he had engaged in the unauthorized practice of law through a minimum of five ATA transactions in connection with three client matters; in mitigation, the attorney stipulated to his misconduct and had a remote disciplinary history), and In re Freda, \_\_\_ N.J. \_\_\_ (2022) (censure for an attorney, in a default matter, who knowingly practiced law while ineligible in connection with seven client matters; the attorney's bank statements demonstrated that, for more than one year, the attorney continued to provide unauthorized legal services; in mitigation, the attorney had no prior discipline in nearly thirty years at the bar).

Reprimands and censures also have been imposed in motions for reciprocal discipline, even after the attorney received substantially greater discipline in Pennsylvania for practicing law while administratively suspended. See In re Marzano, 195 N.J. 9 (2008) (reprimand for an attorney who represented three clients while knowing that she had been placed on inactive status in Pennsylvania; nine-month suspension imposed in Pennsylvania), and In re Garagozzo, 240 N.J. 53 (2019) (censure for an attorney who represented at least

four clients while knowing that he had been placed on inactive status in Pennsylvania; two-year suspension imposed in Pennsylvania).

Discipline ranging from a censure to a one-year suspension has been imposed where an attorney has knowingly practiced law while administratively ineligible and committed other ethics improprieties, such as grossly neglecting a client matter, making a false or misleading communication about the lawyer or the lawyer's services, or failing to cooperate with disciplinary authorities. See, e.g., In re Crotty, 227 N.J. 50 (2016) (on motion for discipline by consent, censure for an attorney who failed to take action to keep two claims against a bank (one venued in New York state court and the other in the United States District Court for the Southern District of New York (the SDNY)) moving forward, resulting in a dismissal, and then failed to file motions to vacate the dismissal in the state court matter; although the attorney appeared in the New York state and federal courts, he was not licensed to practice law in either jurisdiction; from the inception of the case, he misrepresented that he was admitted to practice law in New York in his interactions with the New York state court, the SDNY, the Pennsylvania bankruptcy court, the law firm partner who employed him as "of counsel," and the bankruptcy trustee for whom his law firm served as special litigation counsel; moreover, he kept his client in the dark about important events in the case, such as the dismissal and a failed motion to vacate

a dismissal, and misrepresented to his client and supervising partner that all was well in the case; he also filed documents with three courts containing materially false information about his status to practice in New York; finally, after his firm terminated his employment, he used outdated letterhead from the firm to send a letter to the SDNY judge, again misrepresenting that he was licensed to practice law in that court and, additionally, misrepresenting that he was still affiliated with his former law firm; violations of RPC 1.3, RPC 1.4(b) and (c), RPC 3.3(a)(1) and (5), RPC 5.5(a)(1), RPC 7.1(a)(1), RPC 7.5(a) (improperly using a professional designation that violates RPC 7.1), and RPC 8.4(c); in mitigation, the attorney had no disciplinary history in forty years at the bar, was a Vietnam veteran, and had provided service to his community; however, we concluded that the seriousness of respondent's misconduct rendered the mitigating factors insufficient to justify the imposition of discipline less than a censure); In re Horowitz, 180 N.J. 520 (2004) (in a default matter, three-month suspension for an attorney who practiced law while ineligible; the attorney also lacked diligence in the representation of the client and did not inform the client of the dismissal of the client's complaint; in addition, the attorney then failed to cooperate with disciplinary authorities); In re Wright, \_\_\_ N.J. \_\_\_ (2019), 2019 N.J. LEXIS 1690 (on a motion for reciprocal discipline, one-year suspension for an attorney who, in one client matter, knowingly practiced law while ineligible



to do so in Pennsylvania, appearing before four judges over the course of five months; on her first appearance, the prosecutor questioned her about the status of her law license, but she denied that she was ineligible to practice law; she also used her Pennsylvania attorney registration number on court filings and falsely asserted on letterhead used in correspondence with the court that she was licensed in Pennsylvania; despite warnings, she persisted in her conduct until a trial judge ordered her to cease representation, removed her as counsel, and ordered her to report her conduct to the Pennsylvania Disciplinary Board; the delay caused by her repeated attempts to practice before the Court of Common Pleas disrupted the court and its services; violations of RPC 3.3(a)(1), RPC 5.5(a)(1), RPC 7.1(a), RPC 7.5(a), RPC 8.4(c), and RPC 8.4(d); in aggravation, the attorney failed to comply with the Pennsylvania disciplinary proceedings, failed to report her Pennsylvania discipline to the OAE, and demonstrated a lax attitude toward her duty to cooperate during proceedings before us, where she twice requested last minute adjournments and ultimately failed to participate, even when afforded the opportunity to take part by telephone); In re Colby, 232 N.J. 273 (2018) (in a default matter, one-year suspension for an attorney who knowingly practiced law while ineligible in two matters; in the first matter, he failed to file an answer to a complaint, did not apprise his client of the matter's status (including the fact that he could not appear in court, owing to his

ineligibility), failed to inform the client of a court order that required the client to conduct an accounting and to pay fees and costs, and did not reply to inquiries from the client's new attorney; in the second matter, when counsel for another party confronted the attorney regarding his ineligibility, he assured her that he was "taking care of it" and expected it to be resolved "shortly" and sought to continue negotiations to resolve the parties' dispute; he also failed to communicate with the client, failed to inform her that he had failed to oppose a complaint and the court had entered an adverse determination, and did not reply to inquiries from the client's new attorney; in addition, in a third client matter, he failed to take any action on the clients' behalf, stopped communicating with them, and, after being declared administratively ineligible, neither informed them that he could no longer represent them nor took steps to terminate the representation; in addition, he failed to cooperate fully with the OAE's investigation; violations of RPC 1.1(a), RPC 1.3, RPC 1.4(b), and RPC 8.4(c) in three matters, RPC 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal) and RPC 5.5(a)(1) in two matters, and RPC 8.1(b); a six-month suspension was warranted for the totality of his misconduct, taking into account that he also allowed the disciplinary matter to proceed as a default; the quantum of discipline was enhanced because he engaged in a pattern of neglect, his

practice of law while ineligible continued for at least four years, and he had two prior reprimands).

Standing alone, misrepresentations to clients require a reprimand. In re Kasdan, 115 N.J. 472, 488 (1989). A reprimand or censure may be imposed even if the misrepresentation is accompanied by other, non-serious ethics infractions. See In re Rudnick, \_\_\_ N.J. \_\_\_ (2022), 2022 N.J. LEXIS 258 (reprimand for an attorney who allowed his client’s lawsuit to be dismissed for his failure to respond to interrogatories; thereafter, the attorney failed to attempt to reinstate his client’s matter; the attorney also failed to reply to his client’s inquiries regarding the case and misrepresented to his client that the entire case had been dismissed for reasons other than the attorney’s failure to respond to interrogatories; the attorney’s misconduct occurred during a one-year timeframe; in mitigation, the attorney had no prior discipline, accepted responsibility for his misconduct, and fully refunded the client’s fee, on his own accord).

Admonitions and reprimands have been imposed on attorneys who made false or misleading communications on their websites or in their general advertising campaigns. See In the Matter of Alan N. Walkow, DRB 23-062 (August 15, 2023) (admonition for an attorney whose website improperly referred to “attorneys,” even though he was a solo practitioner, and also

improperly compared his services to other lawyers' services by claiming to provide "LOWEST FEES IN THE STATE;" in addition, the attorney failed to cooperate with disciplinary authorities; prior reprimand), and In re Fritz, 253 N.J. 373 (2023) (reprimand for an attorney who committed numerous advertising violations; in a solicitation letter, the attorney claimed that his firm was "Bergen County Legal Center," failed to include the word "ADVERTISEMENT" on the envelope, claimed that traffic offenses could affect an offender's "freedom," and listed his law firm's address as the location of a UPS store; after the Committee on Attorney Advertising directed the attorney to stop using the solicitation letter, the attorney issued another letter that contained further violations).

Finally, an admonition or a reprimand is the baseline quantum of discipline for an attorney's failure to file a R. 1:20-20 affidavit. See In re Cottee, 255 N.J. 439 (2023) (reprimand for an attorney, in a default matter, who failed to file the required R. 1:20-20 affidavit of compliance, despite the OAE's specific directive that he do so).

Standing alone, based upon Garagozzo, respondent's practice of law while ineligible requires at least a censure. She, however, committed additional, serious misconduct by grossly neglecting the A.A. matter, resulting in her client's detention for more than a week. Among recent cases, the scope of

respondent's misconduct is most like that of the attorney in Crotty, who received a censure, and the attorney in Colby, whose underlying misconduct (prior to his default) warranted a one-year suspension.

In Crotty, the attorney allowed his client's claims to be dismissed while he represented the client in proceedings in two jurisdictions, knowing that he was not licensed to practice law in either. The misrepresentations by the attorney in Crotty were more extensive than those at issue here, in that he falsely assured the client that the matter was proceeding well, notwithstanding its dismissal or dismissals. In contrast, here, respondent apparently timely informed A.A. that a bench warrant had been issued, although she then failed to take steps to have the warrant lifted. In addition, the attorney in Crotty went to greater lengths to perpetuate one court's erroneous understanding that he was licensed to practice before it, by submitting correspondence to the court on outdated letterhead from a firm that had terminated his employment.

However, whereas the attorney in Crotty represented only one client in jurisdictions where he knew he was ineligible to practice, here, respondent represented two clients while knowingly ineligible to practice law in Pennsylvania, and five other clients while unaware of her Pennsylvania ineligibility. Moreover, the compelling mitigation advanced in Crotty, including the attorney's unblemished record in forty years at the bar, is not present here.

The attorney in Colby also engaged in a scope of misconduct comparable to the misconduct at issue here. Specifically, there, the attorney grossly neglected three client matters, while also knowingly practicing law while ineligible in two of the matters. However, in comparison to respondent, the attorney in Colby engaged in more pervasive unethical conduct in his mishandling of three client matters.

In our view, respondent's misconduct should be met with discipline greater than the censure imposed in Crotty but less than the one-year suspension imposed in Colby. To craft the appropriate discipline in this case, we also consider aggravating and mitigating factors.

In significant aggravation, respondent's gross neglect of the A.A. matter resulted in her client being jailed for more than a week.

In mitigation, respondent stipulated to her misconduct; consented to her suspension in Pennsylvania; expressed remorse; and has no prior discipline in her twenty-three years at the New Jersey bar.

## **Conclusion**

On balance, we find that the mitigating factors are outweighed by the egregious effect of respondent's misconduct on A.A., who suffered a loss of liberty for more than a week owing to respondent's failures to attend a court

proceeding and, thereafter, to take any steps whatsoever to attempt to have the resulting bench warrant lifted. Accordingly, we determine to grant the motion for reciprocal discipline and conclude that a three-month suspension is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

In addition, because the joint petition indicated the need for respondent to prove her fitness to practice law before being reinstated in Pennsylvania, we also determine to recommend the condition that, prior to reinstatement in New Jersey, she provide to the OAE proof of her fitness to practice law, as attested to by a medical doctor approved by the OAE.

Member Campelo 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. 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 Matter of Shevelle McPherson  
Docket No. DRB 24-074

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Argued: May 24, 2024

Decided: September 5, 2024

Disposition: Three-month suspension

<i>Members</i>	Three-month suspension	Absent
Cuff	X	
Boyer	X	
Campelo		X
Hoberman	X	
Menaker	X	
Petrou	X	
Rivera	X	
Rodriguez	X	
Spencer	X	
Total:	8	1

*/s/ Timothy M. Ellis*

Timothy M. Ellis  
Chief Counsel