

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket Nos. DRB 24-121, 24-122, and 24-173
District Docket Nos. XI-2023-0008E, XI-2023-0009E,
and XI-2022-0017E

In the Matters of Nabil Nadim Kassem
An Attorney at Law

Decided
October 28, 2024

Certification of the Record

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Introduction

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

These matters are before us on certifications of the record filed by the District XI Ethics Committee (the DEC), pursuant to R. 1:20-4(f), and have been consolidated for our review.

Together, the three formal ethics complaints, comprising three client matters, charged respondent with having violated RPC 1.1(a) (three instances – engaging in gross neglect);¹ RPC 1.3 (three instances – lacking diligence); RPC 1.4(b) (three instances – failing to comply with a client’s reasonable requests for information);² and RPC 8.1(b) (six instances – failing to cooperate with disciplinary authorities).³

¹ The DEC complaints did not specify which subsection of RPC 1.1 was charged. Although there are three separate findings of gross neglect in three distinct client matters, respondent was not charged with having engaged in a pattern of neglect across all three matters and, thus, we cannot find a violation pursuant to RPC 1.1(b). However, respondent had adequate notice that the RPC 1.1 charge alleged that he engaged in gross neglect in the individual client matters, in violation of RPC 1.1(a), as opposed to a pattern of neglect requiring the mishandling of three distinct client matters, pursuant to RPC 1.1(b). See R. 1:20-4(b) (entitled “Contents of Complaint” and requiring, among other notice pleading requirements, that a complaint “shall set forth sufficient facts to constitute fair notice of the nature of the alleged unethical conduct”), and In re Roberson, 210 N.J. 220 (2012).

² Although the DEC complaints did not specify which subsection of the RPC 1.4 it intended to charge, the allegations make clear that the DEC intended to charge respondent pursuant to subsection (b).

³ Due to respondent’s failure to file verified answers to the formal ethics complaints and, on notice to him, the DEC amended the complaints to include additional RPC 8.1(b) charges.

For the reasons set forth below, we determine to recommend to the Court that respondent be disbarred.

Ethics History

Respondent earned admission to the New Jersey bar in 1994 and to the New York bar in 1995. At all relevant times, he maintained a practice of law in Clifton, New Jersey. He has an extensive disciplinary history in New Jersey.

Kassem I

On March 18, 2008, the Court censured respondent, on consent, for his violation of RPC 8.4(b), following his criminal conviction for possession of cocaine, a controlled dangerous substance (CDS), and his successful completion of a pretrial intervention program. In re Kassem, 194 N.J. 182 (2008) (Kassem I).

Kassem II

On December 9, 2021, the Court suspended respondent for three months, retroactive to February 7, 2020, for his violation of RPC 8.4(b), following his conviction for possession of heroin, another CDS. In re Kassem, 249 N.J. 97 (2021) (Kassem II). As a condition precedent to his reinstatement, the Court

required respondent to provide proof of fitness to practice law.

Temporary Suspension for Failing to Cooperate

On March 7, 2023, the Court temporarily suspended respondent for his failure to cooperate with the OAE's investigation underlying DRB 24-027, which involved allegations of engaging in the unauthorized practice of law while suspended.

Kassem III

On June 13, 2023, the Court reprimanded respondent, in consolidated default matters, for his violation of RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6); RPC 8.1(b) (three instances); and RPC 8.4(d). In re Kassem, 254 N.J. 307 (2023) (Kassem III). Specifically, following his three-month suspension in Kassem II, respondent failed to file the R. 1:20-20 affidavit of compliance required of all suspended attorneys and, further, committed recordkeeping infractions.

Kassem IV

Effective August 23, 2024, the Court suspended respondent for three months, in consolidated default matters, for his violation of RPC 1.3; RPC

1.4(b); and RPC 8.1(b) (two instances). In re Kassem, __ N.J. __ (2024) (Kassem IV). In those consolidated default matters, respondent accepted the representation of two clients in a personal injury action. After a successful arbitration, in which both clients were awarded damages, respondent failed to take any steps to coordinate the payment of those damage awards to his clients. Respondent's inaction deprived both of his clients of their arbitration proceeds for approximately three years. Making matters worse, he also ceased all communication with his clients and ignored their repeated attempts to contact him. Subsequently, he failed to cooperate with both DEC investigations and failed to file verified answers to the formal ethics complaints. We determined that respondent had violated RPC 1.3 (two instances), RPC 1.4(b) (two instances), and RPC 8.1(b) (four instances), and concluded that a three-month suspension was the appropriate quantum of discipline for his misconduct.

Kassem V

On July 24, 2024, we transmitted to the Court our decision in In the Matter of Nabil Nadim Kassem, DRB 24-027, DRB 24-057, and DRB 24-080 (July 24, 2024) (Kassem V). In those consolidated default matters, comprising seven client matters, we determined respondent had violated RPC 1.1(a) (two instances); RPC 1.3 (three instances); RPC 1.4(b) (six instances); RPC 1.15(b)

(three instances – failing to promptly deliver client funds); RPC 5.1(b) (failing to make reasonable efforts to ensure that a lawyer, over whom the lawyer has direct supervisory authority, conforms to the Rules of Professional Conduct); RPC 5.5(a)(1) (four instances – engaging in the unauthorized practice of law while suspended); RPC 8.1(b) (eleven instances); RPC 8.4(b) (four instances); RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation). Our consolidated decision is pending before the Court.

To date, respondent remains suspended from the practice of law in connection with Kassem II, Kassem IV, and the March 2023 temporary suspension.

We now turn to the matters currently before us.

Service of Process

Service of process was proper in each matter.

DRB 24-121 and DRB 24-122

On February 21, 2024, the DEC sent separate letters to respondent's home address of record, by certified and regular mail, enclosing copies of the formal

ethics complaints.⁴ Both certified mailings were returned “RETURN TO SENDER – INSUFFICIENT ADDRESS – UNABLE TO FORWARD.” The regular mail was not returned to the DEC.⁵

Respondent failed to file the required answers by the deadline and failed to request an extension of time to do so. Consequently, on April 9, 2024, the DEC sent two additional letters to respondent’s home address, by certified and regular mail, stating that, unless he filed verified answers to the complaints within five days of the date of the letter, the allegations of the complaints would be deemed admitted, the records would be certified to us for the imposition of discipline, and the complaints would be deemed amended to charge a willful violation of RPC 8.1(b) by reason of his failure to answer. According to the United States Postal Service (the USPS) tracking system, on April 11, 2024, the certified mail was delivered to an individual at respondent’s home address. The regular mail was not returned to the DEC. Accordingly, the DEC certified these matters to us as a default.

On July 29, 2024, Chief Counsel to the Board sent respondent a letter, by

⁴ At the time the DEC served the complaints, respondent was suspended from the practice of law. Accordingly, the DEC served him at his home address.

⁵ New Jersey attorneys have an affirmative obligation to inform both the New Jersey Lawyers’ Fund for Client Protection and the OAE of changes to their home and primary law office addresses, “either prior to such change or within thirty days thereafter.” R. 1:20-1(c). Respondent’s official Court record continues to reflect the same home address to which the DEC mailed the complaint.

certified and regular mail, to his home address of record, informing him that this matter was scheduled before us on September 19, 2024, and that any motions to vacate must be filed by August 19, 2024. On August 7, 2024, the certified mail was returned as “UNCLAIMED.” The regular mail was not returned to the Office of Board Counsel (the OBC).

Moreover, on August 5, 2024, the OBC published a notice in the New Jersey Law Journal, stating that we would consider this matter on September 19, 2024. The notice informed respondent that, unless he filed a successful motion to vacate the default by August 19, 2024, his prior failure to answer the complaints would remain deemed an admission of the allegations of the complaints.

Respondent did not file a motion to vacate the defaults.

On August 26, 2024, respondent was notified, via regular and certified mail sent to his home address on record, that these matters were being adjourned to October 17, 2024. The regular mail was not returned to the OBC, however, the certified mail was returned as unclaimed.

DRB 24-173

On May 22, 2024, the DEC sent a letter to respondent’s home address of record, by certified and regular mail, enclosing a copy of the formal ethics

complaint. The certified mailing was returned “RETURN TO SENDER – NOT DELIVERABLE AS ADDRESSED – UNABLE TO FORWARD.” The regular mail was not returned to the DEC.

Respondent failed to file the required answer by the deadline and failed to request an extension of time to file an answer. Consequently, on June 19, 2024, the DEC sent an additional letter to respondent’s home address, by certified and regular mail, stating that, unless he filed a verified answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the record would be certified to us for the imposition of discipline, and the complaint would be deemed amended to charge a willful violation of RPC 8.1(b) by reason of his failure to answer. According to the USPS tracking system, on June 28, 2024, the certified mail was forwarded and delivered to the front desk/reception/mail room at an address in North Maimi Beach, Florida. The regular mail was not returned to the DEC. Accordingly, the DEC certified this matter to us as a default.

On August 26, 2024, Chief Counsel to the Board sent respondent a letter, by certified and regular mail, to his home address of record, informing him that this matter was scheduled before us on October 17, 2024, and that any motions to vacate must be filed by September 16, 2024. The certified mail receipt was returned to the OBC, signed and indicating delivery on September 9, 2024. The

regular mail was not returned to the OBC.

Moreover, on August 30, 2024, the OBC published a notice in the New Jersey Law Journal, stating that we would consider this matter on October 17, 2024. The notice informed respondent that, unless he filed a successful motion to vacate the default by September 16, 2024, his prior failure to answer the complaints would remain deemed an admission of the allegations of the complaint.

Respondent did not file a motion to vacate the default.

We now turn to the allegations of the complaints.

Facts

*DRB 24-121 and DRB 24-122*⁶

In or around August 2018, Alejandro DeLeon and Milagros DeLeon retained respondent to represent them in connection with an automobile accident that occurred on August 4, 2018, which resulted in both parties sustaining injuries that required medical treatment and surgery.

Almost two years later, on July 14, 2020, respondent filed a complaint on behalf of both Alejandro and Milagros in the Superior Court of New Jersey, Law

⁶ The facts underlying DRB 24-121 and DRB 24-122 are identical and, thus, have been consolidated for our decision.

Division.⁷

On March 16, 2021, following an unopposed motion to dismiss the complaint for failure to answer interrogatories, to respond to document requests, and to provide signed medical authorizations, the court dismissed the matter, without prejudice. On July 6, 2021, following an unopposed order to show cause, the court dismissed the matter with prejudice.

Respondent failed to communicate with either Alejandro or Milagros; to keep them informed of the status of their matter; to respond to numerous requests to meet; and to attend numerous scheduled meetings at his office.

On September 7, 2022, Alejandro and Milagros each filed an ethics grievance against respondent.

Although the DEC complaints did not set forth the specific efforts of the DEC to contact respondent and secure his cooperation with the investigations, the complaints charged respondent with having violated RPC 8.1(b) for failing

⁷ According to public court records available through eCourts, the case information statement and complaint designated respondent as trial counsel. The complaint, however, was signed by another attorney in respondent's firm. On August 13, 2020, defendant's counsel served both the discovery requests and the medical authorizations on the attorney handling the matter. On January 29, 2021, defendant's counsel served the notice of motion to dismiss the complaint without prejudice on the attorney handling the matter. On May 21, 2021, defendant's counsel served the notice of motion to dismiss the complaint with prejudice on the attorney handling the matter. On June 15, 2021, the court ordered respondent (and not the other attorney in his firm) to appear on June 25, 2021 for the order to show cause. On July 6, 2021, the court dismissed the complaint, with prejudice, based on neither respondent, nor the attorney handling the matter, filing opposition to the motion to dismiss. This information was not included in the record before us.

to cooperate with the DEC investigations.

Based on the above facts, the two formal ethics complaints each charged respondent with having violated RPC 1.1(a) and RPC 1.3 by failing to oppose the motion to dismiss the complaint, respond to the order to show cause, and allowing the complaint to be dismissed with prejudice; RPC 1.4(b) by failing to communicate with either client concerning the status of their case and to respond to their reasonable requests for information; and RPC 8.1(b) by failing to cooperate with disciplinary authorities.

DRB 24-173

In or around May 2018, Jocelin DeLeon retained respondent to represent her in connection with an automobile accident that occurred on May 29, 2018.

Almost two years later, on March 9, 2020, respondent filed a complaint on behalf of Jocelin in the Superior Court of New Jersey, Law Division. On September 23, 2022, the court dismissed the matter, without prejudice.⁸

On or about July 7, 2022, Jocelin requested that respondent forward her

⁸ The complaint indicates that the matter was dismissed on September 23, 2023. However, according to public court records available through eCourts, the matter was dismissed on September 23, 2022.

client file to her new attorney. Respondent, however, failed to forward her file.⁹ On August 4, 2022, Jocelin filed an ethics grievance against respondent.

Respondent also failed to communicate with Jocelin, to keep her informed of the status of her matter, and to respond to her numerous requests to discuss her case.

Although the DEC complaint did not set forth the specific efforts of the DEC to contact respondent and secure his cooperation with the investigation, the complaint charged respondent with having violated RPC 8.1(b) for failing to cooperate with the DEC investigation.

Based on the above facts, the formal ethics complaint charged respondent with having violated RPC 1.1(a) and RPC 1.3 by allowing Jocelin's complaint to be dismissed and taking no action in furtherance of the representation, RPC 1.4(b) by failing to communicate with Jocelin concerning the status of her matter and to respond to her reasonable requests for information, and RPC 8.1(b) (two instances) for failing to cooperate with disciplinary authorities.

⁹ Respondent's failure to turn over the client's file could constitute a violation of RPC 1.16(d). However, respondent was not charged with having violated this Rule in the formal complaint. We can consider uncharged misconduct in aggravation. See In re Steiert, 201 N.J. 119 (2014) (evidence of unethical conduct contained in the record can be considered in aggravation, even though such unethical conduct was not charged in the formal ethics complaint).

Analysis and Discipline

Violations of the Rules of Professional Conduct

Following our review of the records in these consolidated matters, we determine that the facts set forth in the formal ethics complaints support all the charges of unethical conduct. Respondent's failure to file answers to the complaints is deemed an admission that the allegations are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).

Specifically, we conclude that the record clearly and convincingly establishes respondent's violations of RPC 1.1(a) (three instances); RPC 1.3 (three instances); RPC 1.4(b) (three instances); and RPC 8.1(b) (six instances).

RPC 1.1(a) prohibits lawyers from handling matters entrusted to them in a manner that constitutes gross neglect. The Rule was designed to address ““deviations from professional standards which are so far below the common understanding of those standards as to leave no question of inadequacy.”” In the Matter of Dorothy L. Wright, DRB 22-100 (November 7, 2022) at 17, so ordered, 254 N.J. 118 (2023). (quoting Report of the New Jersey Supreme Court Committee on the Model Rules of Professional Conduct, Section VI Lawyer Competence, Rule 1.1 (June 24, 1983)). Further, RPC 1.3 requires lawyers to act with reasonable diligence and promptness in representing clients.

Here, respondent, as the attorney of record for Alejandro and Milagros

DeLeon, was obligated to pursue the litigation his firm had filed on their behalf. However, he failed to oppose the motion to dismiss their complaint and to respond to the order to show cause. Consequently, respondent allowed their matter to be dismissed with prejudice. Likewise, respondent accepted the representation of Jocelin DeLeon but delayed filing the complaint for two years. He then failed to take any further action and allowed her case to be dismissed. Thus, the record clearly and convincingly demonstrates that respondent violated RPC 1.1(a) (three instances) and RPC 1.3 (three instances).

RPC 1.4(b) provides that an attorney “shall keep a client reasonably informed about the status of a matter and promptly comply with a client’s reasonable requests for information.” The evidence clearly and convincingly demonstrates that respondent violated this Rule by failing to keep his three clients informed about the status of their matters. Making matters worse, respondent ignored their attempts to contact him. Thus, respondent violated RPC 1.4(b) (three instances).

Next, respondent violated RPC 8.1(b), which requires an attorney to “respond to a lawful demand for information from . . . [a] disciplinary authority.” First, he wholly failed to cooperate with the DEC investigations underlying the Alejandro, Milagros, and Jocelin matters. Respondent then violated this Rule repeatedly by failing to file verified complaints to the three formal ethics

complaints. Thus, respondent violated RPC 8.1(b) (six instances).

In sum, we find that respondent violated RPC 1.1(a) (three instances); RPC 1.3 (three instances); RPC 1.4(b) (three instances); and RPC 8.1(b) (six instances). The sole issue left for our determination is the appropriate quantum of discipline for respondent's misconduct.

Quantum of Discipline

Generally, conduct involving gross neglect, lack of diligence, and failure to communicate with clients 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 J. 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 mitigation, the attorney had an otherwise unblemished thirty-five year career), In the Matter of Leonard Roy Boyer, DRB 22-054 (June 21, 2022) (admonition for an attorney who waited six months to file a motion to vacate the default, even though the motion should have been filed within three months; the attorney attempted to file the motion three times, but each time his filings were rejected for deficiencies; violations RPC 1.1(a) and RPC 1.3; the attorney demonstrated no remorse and the client was barred from further participating in the litigation due to the default; we considered, in mitigation, the attorney's limited disciplinary history of one private reprimand (now, an admonition) in 1993, as well as the fact that the attorney's misconduct was not for financial gain and only involved one matter); In re Olive, 249 N.J. 354 (2022) (reprimand, in a default matter, for an attorney who neglected a landlord-tenant matter for five months, causing it to be dismissed without prejudice; the attorney's subsequent motion to vacate the dismissal was denied; the attorney failed to communicate with the client, and did not respond to his district ethics committee's inquiry into his misconduct); 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))); we weighed the quantity of the

attorney's ethics violations, and the harm caused 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 another client's case; significant mitigating factors included his cooperation, his nearly unblemished career in more than forty years at the bar, and his testimony concerning his mental health condition).

Moreover, when an attorney fails to cooperate with disciplinary authorities, and previously has been disciplined, reprimands or censures have been imposed. See In re Howard, 244 N.J. 411 (2020) (reprimand for an attorney who altogether failed to respond to the DEC's four requests for a written reply to an ethics grievance; additionally, during a two-year period, the attorney grossly neglected his client's appeal of an adverse social security administration determination; the attorney also failed to communicate with his client and failed to promptly refund an unearned portion of his fee until the client was forced to seek redress through fee arbitration; however, the record contained insufficient information for us to determine the extent to which the client may have been harmed by the attorney's conduct; the attorney received a prior 2017 censure for similar misconduct in which he also failed to cooperate with disciplinary authorities; in mitigation, the attorney stipulated to some of his misconduct), and In re Nussey, ___ N.J. ___ (2023), 2023 N.J. LEXIS 149 (censure for an

attorney who altogether ignored the DEC's October 2018 request for a reply to the ethics grievance; although the attorney eventually filed an answer to the formal ethics complaint, in August 2019, that answer came ten months after the DEC's initial request that he reply to the grievance; the attorney also failed to produce a copy of his client's file as directed until January 2020; moreover, the attorney repeatedly failed to provide his client with a single invoice in a divorce matter, despite her dogged requests that he do so during an eighteen-month period; in aggravation, this matter represented the attorney's third disciplinary proceeding in less than four years; we also found that the attorney had a heightened awareness of his obligations to adhere to the RPCs considering the timing of his prior 2020 reprimand).

Respondent's conduct underlying this matter represents a continuation of his alarming pattern of gross neglect and failure to communicate that he exhibited in Kassem IV and Kassem V. On June 20, 2024, we considered Kassem V, which represented respondent's fifth, sixth, and seventh consecutive defaults – all of which occurred in the year 2024 alone. Had we considered the instant matter in conjunction with Kassem V, which included violations of RPC 1.1(a) (two instances); RPC 1.3 (three instances); RPC 1.4(b) (six instances); RPC 1.15(b) (three instances); RPC 5.1(b); RPC 5.5(a)(1) (four instances); RPC 8.1(b) (eleven instances); RPC 8.4(b) (four instances) and RPC 8.4(c),

respondent's misconduct would have included additional violations of RPC 1.1(a) (three instances); RPC 1.3 (three instances); RPC 1.4(b) (three instances); and RPC 8.1(b) (six instances).

In a vacuum, the totality of respondent's misconduct could warrant a reprimand or a censure. In crafting the appropriate discipline, however, we also consider mitigating and aggravating factors.

There is no mitigation to consider. Respondent has altogether failed to comply with his obligation to cooperate with disciplinary authorities. Here, for the fourteenth consecutive time, he has refused to cooperate with the underlying investigations.¹⁰ Due to his ongoing refusal to abide by the Rules requiring him to cooperate with disciplinary authorities and file answers to the complaints, respondent has provided us with no information to consider and, thus, there are no mitigating factors for us to find.

However, as we set forth in Kassem V, there are several profound aggravating factors to which we accord significant weight. There is no reason for us to deviate from our earlier findings in Kassem V and, thus, we do not reiterate those findings here.

Suffice it to say, these matters, unfortunately, represent two additional

¹⁰ Specifically, respondent failed to cooperate with one investigation in connection with Kassem III; two investigations in connection with Kassem IV; eight investigations in connection with Kassem V; and three investigations in connection with the instant matter (Kassem VI).

clients who have had their claims extinguished by respondent’s habitual gross neglect of his duties to his clients, continuing the pattern of misconduct addressed in Kassem IV and Kassem V.

We accord significant weight to respondent’s escalating pattern of violating the Rules of Professional Conduct. When considering the misconduct found in Kassem III, since June 2023, he has committed the following RPC violations:

<u>RPC Violation</u>	<u>Number of Violations</u>
1.1(a)	5
1.3	8
1.4(b)	11
1.15(b)	3
1.15(d)	1
5.1(b)	1
5.5(a)(1)	4
8.1(b)	24
8.4(b)	4
8.4(c)	1
8.4(d)	1

We accord significant weight to respondent’s substantial disciplinary history, detailed above and discussed at length in Kassem V. Consistently, the Court has signaled an inclination toward progressive discipline and stern treatment of repeat offenders. In such a scenario, enhanced discipline is

appropriate. See In re Kantor, 180 N.J. 226 (2004) (disbarment for abandonment of clients and repeated failure to cooperate with the disciplinary system).

We also consider, in further aggravation, that this consolidated matter represents respondent's eighth, ninth, and tenth consecutive default. It is rare for us to be confronted with such a substantial disciplinary history, with so many defaults, and an attorney who utterly refuses to reform his conduct to attempt to save himself from further discipline. Generally, attorneys who reach this number of consecutive defaults are disbarred. See In re Kivler, 197 N.J. 255 (2009) (the attorney was disbarred following his eighth default, all of which were consolidated for our consideration). Like the attorney in Kivler, respondent chooses to continue down his path of ignoring the Rules, and the Court, seemingly without impunity because he still possesses, albeit a suspended, license to practice law.

By defaulting for the eighth, ninth, and tenth consecutive time, respondent has, once again, refused to acknowledge or account for his wrongdoing, let alone express remorse for his gross mishandling of his client matters. “[A] respondent’s default or failure to cooperate with the investigative authorities operates as an aggravating factor, which is sufficient to permit a penalty that would otherwise be appropriate to be further enhanced.” In re Kivler, 193 N.J. 332, 342 (2008) (citations omitted).

Undoubtedly, an attorney's cooperation with the disciplinary system (and discipline for failing to do so) serves as the cornerstone for the public's confidence that it will be protected from attorneys who, like respondent, no longer consider themselves bound by their professional obligations. Considering respondent's conduct in the instant matters, he has failed to cooperate with disciplinary authorities thirteen times in ten default matters. It is unmistakable that he believes his conduct need not conform to RPC 8.1(b). See In re Brown, 248 N.J. 476 (2021) (we observed that the attorney's obstinate refusal to participate, in any way, in the disciplinary process across five client matters was "the clearest of indications that she has no desire to practice law in New Jersey;" we recommended the attorney's disbarment based, in part, on her utter lack of regard for the disciplinary system with which she was duty-bound to cooperate but rebuffed at every turn).

Additional disciplinary precedent supports respondent's disbarment. In In re Spagnoli, 115 N.J. 504 (1989), cited in Kassem V, the attorney accepted retainers from fourteen clients over a three-year period without any intention of performing services for them. He lied to the clients, assuring them that their cases were proceeding. After neglecting their cases to the point that judgments had been entered against his clients, the attorney ignored their efforts to contact him by telephone. To explain his prior failure to appear in court, he lied to a

judge. Afterward, the attorney failed to cooperate in the disciplinary process.

The Court adopted our findings and recommendation that Spagnoli be disbarred:

Respondent's repetitive, unscrupulous acts reveal not only a callous disregard for his responsibilities toward his clients and disdain for the entire legal system [It also] shows that respondent's conduct is incapable of mitigation. A lesser sanction than disbarment will not adequately protect the public from this attorney, who has amply demonstrated that his "professional good character and fitness have been permanently and irretrievably lost."

[Id. at 517-18 (quoting Matter of Templeton, 99 N.J. 365, 376 (1985)).]

In In re Moore, 143 N.J. 415 (1996), the attorney accepted retainers in two matters and then failed to take any action on behalf of his clients. Although he agreed to refund one of the retainers and was ordered to do so after a fee arbitration proceeding, he retained the funds and then disappeared. The attorney did not cooperate with the disciplinary investigation. In recommending disbarment, we remarked as follows:

It is unquestionable that this respondent holds no appreciation for his responsibilities as an attorney. He has repeatedly sported a callous indifference to his clients' welfare, the judicial system and the disciplinary process [We] can draw no other conclusion but that this respondent is not capable of conforming his conduct to the high standards expected of the legal profession.

[In the Matter of John A. Moore, DRB 95-163 (December 4, 1995).]

Similarly, in In re Cohen, 120 N.J. 304 (1990), the attorney, after accepting representation in a matter, failed to file the complaint until after the statute of limitations had expired. He compounded his misconduct by altering the filing date on the complaint to mislead the court and opposing counsel that he had timely filed the complaint. The attorney misrepresented the status of the matter to the client, giving assurances that the case was proceeding. The Court disbarred the attorney, observing that “[w]e are unable to conclude that respondent will improve his conduct.” Id. at 308. See also In re Vincenti, 152 N.J. 253 (1998) (attorney disbarred for his repeated abuses of the judicial process resulting in harm to his clients, adversaries, court personnel and the entire judicial system).

We also wish to echo, as we did in Kassem V., our decision in In the Matter of Marc D’Arienzo, DRB 16-345 (May 25, 2017) at 26-27, where we stated:

Given the contemptible set of facts present in these combined matters, we must consider the ultimate question of whether the protection of the public requires respondent’s disbarment. When the totality of respondent’s behavior in all matters, past and present, is examined, we find ample proof that . . . no amount of redemption, counseling, or education will overcome his penchant for disregarding ethics rules. As the Court held in another matter, “[n]othing in the record inspires confidence that if respondent were to return to practice [from his current suspension] that his conduct would

improve. Given his lengthy disciplinary history and the absence of any hope for improvement, we expect that his assault on the Rules of Professional Conduct would continue.” In re Vincenti, 152 N.J. 253, 254 (1998). Similarly, we determine that, based on his extensive record of misconduct and demonstrable refusal to learn from his mistakes, there is no evidence that respondent can return to practice and improve his conduct. Accordingly, we recommend respondent’s disbarment.

The Court agreed with our recommendation and disbarred D’Arienzo. In re D’Arienzo, 232 N.J. 275 (2018). See also In re Lowden, 248 N.J. 508 (2021) (disbarment for attorney who failed to comply with R. 1:20-20 following two temporary suspensions and a six-month term of suspension; the attorney had a significant disciplinary history, including a reprimand, a censure, two temporary suspensions for failing to comply with fee arbitration committee determinations, a six-month suspension in a default matter, and a two-year suspension in two consolidated default matters; in finding that the attorney reached the “tipping point” of disbarment, we observed that the attorney’s egregious ethics history demonstrated a repeated and deep disdain for not only the disciplinary system, but also for her clients).

In short, through his repeated misconduct, respondent conclusively has established that he is a detriment to the profession. Respondent has displayed complete disregard for his clients and the disciplinary system and has demonstrated total disinterest in maintaining his law license. He has refused to

answer the allegations made against him and demonstrated not only indifference for the Rules governing the practice of law in New Jersey, but also contempt for the attorney disciplinary system designed to protect the public. Such behavior by an attorney cannot be tolerated. Respondent, thus, is a danger to the public because he is “[in]capable of meeting the standards that must guide all members of the profession.” In re Cammarano, 219 N.J. 415, 421 (2014) (quoting In re Harris, 182 N.J. 594, 609 (2005)).

Conclusion

In order to confront respondent’s continuing disregard of the directives of New Jersey’s attorney disciplinary system, and the harm his conduct causes unwitting clients, we conclude he must be removed from the practice of law. Thus, in order to protect the public and preserve confidence in the bar, we recommend to the Court that respondent be disbarred.

Vice-Chair Boyer and Member Menaker 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 Matter of Nabil Nadim Kassem
Docket No. DRB 24-121, DRB 24-122 and DRB 24-173

Decided: October 28, 2024

Disposition: Disbar

<i>Members</i>	Disbar	Absent
Cuff	X	
Boyer		X
Campelo	X	
Hoberman	X	
Menaker		X
Petrou	X	
Rodriguez	X	
Spencer	X	
Total:	6	2

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