

SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
Docket No. DRB 24-142  
District Docket No. XIV-2023-0285E

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In the Matter of Stephen Paul Hildebrand  
An Attorney at Law

Decided  
November 20, 2024

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Certification of the Record

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## **Introduction**

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

This matter was before us on a certification of the record filed by the Office of Attorney Ethics (the OAE), pursuant to R. 1:20-4(f). The formal ethics complaint charged respondent with having violated RPC 8.1(b) (two instances – failure to comply with R. 1:20-20 governing suspended attorneys and failure to cooperate with disciplinary authorities) and RPC 8.4(d) (conduct prejudicial to the administration of justice).<sup>1</sup>

For the reasons set forth below, we determine that a reprimand is the appropriate quantum of discipline for respondent’s misconduct.

## **Ethics History**

Respondent earned admission to the New Jersey and Pennsylvania bars in 2015. He previously maintained a practice of law in Ardmore, Pennsylvania.

On March 23, 2022, the Pennsylvania Supreme Court disbarred respondent, on consent, after he filed a verified statement of resignation in

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<sup>1</sup> Due to respondent’s failure to file an answer to the formal ethics complaint, and on notice to him, the OAE amended the complaint to include the second charged violation of RPC 8.1(b).

connection with his mishandling of three client matters. Office of Disciplinary Counsel v. Hildebrand, 2022 Pa. LEXIS 345 (2022).

Effective July 27, 2023, our Court suspended respondent from the practice of law in New Jersey for six months, as a matter of reciprocal discipline. In re Hildebrand, 254 N.J. 371 (2023) (Hildebrand I). That suspension was based on respondent's discipline on consent in Pennsylvania, which stemmed from unethical conduct that, in New Jersey, violated RPC 1.1(a) (three instances – gross neglect); RPC 1.3 (three instances – lack of diligence); RPC 1.4(b) (three instances – failure to keep a client reasonably informed about the status of a matter); RPC 1.5(b) (two instances – failure to set forth, in writing, the basis or rate of the legal fee); RPC 1.16(d) (three instances – upon termination of representation, failure to take steps to the extent reasonably practicable to protect a client's interests); RPC 3.2 (three instances – failure to expedite litigation); RPC 8.1(b) (three instances); and RPC 8.4(d).

Specifically, Hildebrand I arose from respondent's misconduct in three client matters. In the first matter, while representing a client in an immigration appeal, he failed to file the appellate brief, keep the client informed about the status of his appeal, or provide the client's file and relevant information to replacement counsel. In the Matter of Stephen Paul Hildebrand, DRB 22-208 (May 1, 2023) at 20. In the second matter, while representing a client in an

immigration appeal, respondent similarly failed to file the appellate brief (resulting in the dismissal of his client's appeal); reply to the client's requests for information; provide the client's file upon request; or refund the legal fee. Ibid. In the third client matter, while representing a criminal defendant, respondent failed to appear for court proceedings, answer or return calls from chambers, or maintain communication with the client. Id. at 15, 20-21. In both immigration matters, he also failed to provide his clients with written fee agreements. Id. at 21. Finally, when Pennsylvania disciplinary authorities sought his response to allegations stemming from each of the three matters, he failed to reply. Ibid.

In mitigation, we weighed that respondent eventually entered into a disciplinary stipulation and consented to disbarment in Pennsylvania. Id. at 35. In aggravation, we weighed his failure to notify the OAE of his Pennsylvania disbarment or to reply to the OAE's motion for reciprocal discipline. Ibid. Determining that the aggravating factors outweighed the mitigating factors, we recommended the imposition of a six-month suspension. Id. at 35. The Court agreed. Hildebrand, 254 N.J. at 371.

To date, respondent remains suspended.

## **Service of Process**

Turning to the instant matter, service of process was proper. On April 11, 2024, the OAE sent a copy of the formal ethics complaint, by certified and regular mail, to a home address for respondent in Pennsylvania, which the OAE had identified by searching a national database. Previously, in the course of its attempts to contact respondent prior to issuing the complaint, the OAE had determined that he no longer maintained an office or occupied his home and billing addresses of record.<sup>2</sup>

The certified mail was returned to the OAE marked “unclaimed.” The regular mail was not returned to the OAE.

On May 31, 2024, the OAE sent a second letter to respondent, at the same home address, by certified and regular mail, informing him that, unless he filed a verified answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the record would be certified to us for the imposition of discipline, and the complaint would be deemed amended to charge a willful violation of RPC 8.1(b) by reason of his failure to answer. According to the United States Postal Service (the USPS)

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<sup>2</sup> 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 billing, home, and primary law office addresses, “either prior to such change or within thirty days thereafter.” R. 1:20-1(c).

tracking system, the USPS delivered the certified mail “to an agent for final delivery.” Neither the certified nor the regular mail was returned to the OAE.

As of June 27, 2024, respondent had not filed an answer to the complaint, and the time within which he was required to do so had expired. Accordingly, the OAE certified this matter to us as a default.

On July 29, 2024, Chief Counsel to the Board sent a letter to respondent, by certified and regular mail, to the home address identified by the OAE, with an additional copy sent by e-mail, informing him that the matter was scheduled before us on September 19, 2024, and that any motion to vacate the default must be filed by August 19, 2024. The letter sent by certified mail was returned to the Office of Board Counsel (the OBC) as undeliverable. The letter sent by regular mail was not returned to the OBC.

Moreover, on August 1, 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 would remain deemed an admission of the allegations of the complaint.

Respondent did not file a motion to vacate the default.

## **Facts**

We now turn to the allegations of the complaint.

As detailed above, effective July 27, 2023, the Court suspended respondent for six months in connection with his misconduct underlying Hildebrand I. The Court's June 30, 2023 Order in that matter directed him to comply with R. 1:20-20, which required, among other obligations, that he, "within 30 days after the date of the order of suspension . . . 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 the Supreme Court's order." Consistent with R. 1:20-20(c), the Court explicitly stated that failing to file the affidavit of compliance "may . . . be found to constitute a violation of RPC 8.1(b) and RPC 8.4(d)."

Respondent failed to file the required affidavit of compliance. Consequently, on August 21, 2023, the OAE sent him a letter, by certified and regular mail, to his home and office addresses of record, directing him to file the affidavit and requesting his reply by September 5, 2023. The certified mail sent to his home address and the regular and certified mail sent to his office address were returned to the OAE as undeliverable. The regular mail sent to his home address was not returned to the OAE. Respondent failed to reply.



On February 22, 2024, the OAE sent respondent a second letter, by certified and regular mail, to his home address of record, reiterating the affidavit requirement. However, both the certified and regular mail were returned to the OAE as undeliverable.

After additional investigation, the OAE discovered that respondent had moved and identified an updated home address for him. On March 22, 2024, the OAE sent a letter, by certified and regular mail, to his new home address and last known office address, directing him to file his affidavit of compliance within ten days. The letter sent by certified mail to his office address was returned to the OAE, prior to its April 8, 2024 filing of the formal ethics complaint, as undeliverable. According to USPS tracking, on April 25, 2024, after the OAE filed the complaint, the letter sent by certified mail to respondent's new home address was returned to the OAE as "Unclaimed." The letters sent by regular mail to both addresses were not returned to the OAE.

As of April 8, 2024, the date of the formal ethics complaint, respondent had failed to reply to the OAE's letters or to file the required affidavit, a step required of all suspended or disbarred attorneys. Consequently, the formal ethics complaint charged respondent with having violated RPC 8.1(b) and RPC 8.4(d) for his willful violation of the Court's suspension Order. Additionally, the formal ethics complaint was amended to charge him with having violated RPC 8.1(b) a

second time by failing to file a verified answer to the complaint and allowing this matter to proceed as a default.

## **Analysis and Discipline**

### *Violations of the Rules of Professional Conduct*

The facts set forth in the formal ethics complaint support all the charges of unethical conduct. Respondent's failure to file an answer to the complaint is deemed an admission that the allegations are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).

Specifically, Rule 1:20-20(b)(15) requires a suspended attorney, within thirty days of the Court's Order of suspension, to "file with the Director [of the OAE] 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 the Supreme Court's order."

As the Appellate Division has observed, "the provisions of R. 1:20-20(b)(1) to (14) are designed to protect clients of the [suspended or] disbarred attorney, as well as any other individuals who might unknowingly seek to retain that attorney during the period of . . . suspension." Eichen, Levinson & Crutchlow, LLP v. Weiner, 397 N.J. Super. 588, 596 (App. Div. 2008). Non-compliance with R. 1:20-20 therefore obstructs one of the primary purposes of

the disciplinary system, “to protect the public from an untrustworthy lawyer.” See In re Rigolosi, 107 N.J. 192, 206 (1987) (“The purpose of a disciplinary proceeding, as distinguished from a criminal prosecution, is not so much to punish a wrongdoer as it is to protect the public from an untrustworthy lawyer.”) (citing In re Pennica, 36 N.J. 401, 418-19 (1962)). It may also cause “confusion among . . . clients and an administrative burden for the courts.” In re Kramer, 172 N.J. 609, 626 (2002).

For those reasons, and by operation of Rule, in the absence of an extension from the Director of the OAE, failure to file an affidavit of compliance within the time prescribed “constitute[s] a violation of RPC 8.1(b) . . . and RPC 8.4(d).” R. 1:20-20(c).

Here, respondent willfully violated the Court’s suspension Order, issued on June 30, 2023, by failing to file the required affidavit. Respondent, thus, violated R. 1:20-20 and, consequently, RPC 8.1(b) and RPC 8.4(d). Moreover, he violated RPC 8.1(b) a second time by failing to file an answer to the formal ethics complaint and allowing this matter to proceed as a default.

In sum, we find that respondent violated RPC 8.1(b) (two instances) and RPC 8.4(d). The sole issue left for our determination is the appropriate quantum of discipline for respondent’s misconduct.

### Quantum of Discipline

Since September 2022, attorneys with less serious disciplinary histories who failed to file the required R. 1:20-20 affidavit have received reprimands. See, e.g., In re Ashton, 257 N.J. 225 (2024) (the attorney failed to file the required affidavit following his disciplinary suspension, in connection with a motion for reciprocal discipline; his disciplinary history consisted only of the prior two-year suspension); In re Cottee, 255 N.J. 439 (2023) (the attorney failed to file the required R. 1:20-20 affidavit of compliance, despite the OAE's specific requests that he do so; his disciplinary history consisted only of a prior three-month suspension, in a 2021 reciprocal discipline matter); In re Witherspoon, 253 N.J. 459 (2023) (the attorney failed to file the required affidavit following his temporary suspension for failing to comply with a fee arbitration committee (FAC) determination; the attorney also ignored the OAE's specific requests to file the affidavit; prior 2022 censure, in a default matter); In re Brunson, 253 N.J. 327 (2023) (the attorney ignored the specific requests by the OAE to file the R. 1:20-20 affidavit; prior 1998 reprimand and a 2022 three-month suspension for his misconduct underlying two default matters); In re Austin, 255 N.J. 472 (2022) (the attorney failed to file the affidavit following her 2021 temporary suspensions for failing to comply with an FAC determination and for failing to cooperate with an OAE investigation; no prior

final discipline); In re Saunders, 255 N.J. 471 (2022) (despite his express commitment to the OAE, the attorney failed to file the affidavit following his 2020 temporary suspension for failing to comply with an FAC determination; prior 2021 three month suspension, in a default matter); In re Ziegler, 255 N.J. 470 (2022) (despite acknowledging the OAE's voicemail messages regarding his obligation to file the affidavit, the attorney failed to do so; prior 2009 reprimand and a 2020 three-month suspension in two consolidated non-default matters); In re Spielberg, 255 N.J. 469 (2022), and In re Stack, 255 N.J. 468 (2022) (the attorneys failed to file their respective affidavits of compliance following their 2020 temporary suspensions for failing to cooperate with separate OAE investigations; Spielberg had no prior final discipline and Stack had a prior 2019 admonition, in a non-default matter).

However, the quantum of discipline is enhanced if the attorney has a more serious disciplinary history or in the presence of other aggravating factors. See In re Smith, 258 N.J. 27 (2024) (in a default matter, censure for an attorney who failed to file R. 1:20-20 affidavits of compliance following two suspensions – a one-year suspension based on misconduct in two client matters, and a consecutive six-month suspension, in a default matter, based on his gross mishandling of one client matter; in each disciplinary matter, the attorney ignored the Court's Order of suspension, directing that he file the affidavit, and

also failed to reply to the OAE's communications attempting to ensure his compliance), and In re Ludwig, 252 N.J. 67 (2022) (in a default matter, censure for an attorney who, following his 2021 three-month suspension, failed to file the R. 1:20-20 affidavit of compliance, despite the OAE's specific requests that he do so; in aggravation, the attorney's failure to file the affidavit constituted his third disciplinary matter in five years; prior reprimand, in addition to the 2021 disciplinary suspension, in a default matter, that gave rise to his obligation to file the affidavit).

Here, respondent's misconduct and disciplinary history is most analogous to that of the attorneys in Ashton and Cottee, who were reprimanded for failing to file their R. 1:20-20 affidavits following disciplinary suspensions. Like Ashton and Cotte, respondent failed to file his respective affidavit following a six-month suspension, which had marked his first New Jersey disciplinary matter. There are no other aggravating factors to warrant an enhancement of discipline. Moreover, this matter presents no mitigating factors for our consideration.

## **Conclusion**

On balance, we determine that a reprimand is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

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 Stephen Paul Hildebrand  
Docket No. DRB 24-142

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Decided: November 20, 2024

Disposition: Reprimand

<i>Members</i>	Reprimand	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