

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket Nos. DRB 24-180 and DRB 24-245
District Docket Nos. VB-2023-0007E and XIV-2023-0474E

In the Matters of Frances Ann Hartman
An Attorney at Law

Decided
January 30, 2025

Certifications of the Record

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Introduction

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

We consolidated these matters for review. On October 17, 2024, DRB 24-189 was before us on a certification of the record filed by the District VB Ethics Committee (the DEC), pursuant to R. 1:20-4(f). The formal ethics complaint charged respondent with having violated RPC 8.1(b) (two instances – failing to cooperate with disciplinary authorities) and RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice).¹

On January 16, 2025, DRB 24-245 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).²

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

¹ Due to respondent's failure to file an answer to the formal ethics complaint, and on notice to her, the DEC amended the complaint to include the second charged violation of RPC 8.1(b) and the violation of RPC 8.4(d).

² Due to respondent's failure to file an answer to the formal ethics complaint, and on notice to her, the OAE amended the complaint to include the second charged violation of RPC 8.1(b).

Ethics History

Respondent earned admission to the New Jersey and Pennsylvania bars in 1984 and to the Kansas bar in 1987. During the relevant timeframe, she maintained a practice of law in Moorestown, New Jersey. She has significant prior discipline in New Jersey.

Hartman I

In 2014, respondent received an admonition for violating RPC 1.3 (lacking diligence) and RPC 1.4(b) and (c) (failing to communicate with the client). In the Matter of Frances Ann Hartman, DRB 14-138 (July 22, 2014) (Hartman I).

In that matter, respondent failed to act with diligence after her client's lawsuit was dismissed and, for almost a year thereafter, failed to return the client's repeated telephone calls and e-mails. Further, she failed to explain to the client aspects of the matter that respondent perceived as problematic, so that the client could make an informed decision regarding whether to proceed. In imposing an admonition, we considered her then lack of prior discipline in her thirty-three years at the bar.

Hartman II

On July 6, 2020, respondent received a censure, in a default matter, for violating RPC 1.1(a) (engaging in gross neglect); RPC 1.3; RPC 1.5(b) (failing to set forth, in writing, the rate or basis of the legal fee); and RPC 8.1(b). In re Hartman, 243 N.J. 76 (2020) (Hartman II).

In that matter, respondent accepted the legal representation of a client in a pension recoupment case and then failed to perform any work on the matter. In the Matter of Frances Ann Hartman, DRB 19-239 (January 29, 2020) at 7-8. Moreover, despite never having represented the client, she failed to communicate to the client, in writing, the basis or rate of the legal fee. Id. at 7. Finally, she violated RPC 8.1(b) by failing to file an answer to the complaint. Id. at 8. However, she was not charged with failing to cooperate with the disciplinary investigation, having replied to the ethics grievance and participated in an interview with the investigator. Id. at 5-6.

Hartman III

On May 10, 2023, respondent received a second censure, again in a default matter, for violating RPC 8.1(b) (two instances). In re Hartman, 253 N.J. 557 (2023) (Hartman III).

In that matter, in 2018, the Clerk of the Court referred respondent to the OAE after she failed to comply with the Clerk's request that she provide a valid certificate of malpractice insurance. In the Matter of Frances Ann Hartman, DRB 19-477 (November 23, 2020) at 10. Throughout its investigation, the OAE made exhaustive attempts to contact her regarding the Clerk's referral. Ibid. Although she initially interacted with the OAE and, later, with the Chair of the DEC hearing panel, she subsequently failed to cooperate with the ethics investigation and disciplinary proceedings, notwithstanding multiple opportunities to participate adequately in the process. Id. at 10-11. Moreover, after filing a nonconforming answer to the complaint, she failed to file an amended, conforming answer, resulting in the certification of the matter to us as a default. Id. at 11.

Weighing the default status of the matter and respondent's demonstrated pattern of failing to cooperate in New Jersey's disciplinary process, we determined to recommend a three-month suspension for her misconduct. Id. at 12-13. The Court imposed a censure. Hartman, 253 N.J. at 557.

Hartman IV

Also on May 10, 2023, in respondent's third default matter, the Court found that respondent violated RPC 1.1(a); RPC 1.3; RPC 1.4(b); RPC 3.2 (failing to expedite litigation); and RPC 8.1(b) (two instances). In re Hartman, 253 N.J. 556 (2023) (Hartman IV). Consistent with our recommendation, the Court imposed no further discipline for these violations, in light of the timing of the misconduct relative to the misconduct addressed in Hartman II and Hartman III. Ibid.; In the Matter of Frances Ann Hartman, DRB 20-254 (March 2, 2021) at 25-27.

In that matter, in connection with respondent's representation of a client in a dispute relating to the estate of her client's parent, she failed to arrange for a required accounting; after assuring the court that she would complete the accounting, she failed to comply with a court order giving her thirty days to do so; and, subsequently, she failed to appear on behalf of her client upon a motion to enforce the order. Id. at 4-8, 20. Consequently, the court removed her client as executrix of the estate. Id. at 8-9, 20, 24. Respondent then failed to inform her client that the court had removed her as executrix and, eventually, stopped communicating with the client. Id. at 8-9, 20-21. Subsequently, she ignored repeated requests from the investigator to submit a written reply to the client's

ethics grievance and to otherwise engage in the disciplinary process. Id. at 21. Moreover, she failed to file an answer to the formal ethics complaint. Ibid.

In January 2021, after the matter was certified to us as a default, respondent filed a motion to vacate the default (MVD). Id. at 10. Under the two-prong test for prevailing on an MVD, she satisfied the requirement to offer a reasonable explanation for her failure to answer the ethics complaint but failed to assert meritorious defenses to the underlying ethics charges. Id. at 15-19. Accordingly, we denied the MVD. Id. at 19.

More specifically, and pertinent to the instant matter, respondent provided information regarding mental health issues, including undiagnosed depression and anxiety, that she had experienced starting within the last several years, followed by a diagnosis of “Major Depressive Disorder and Anxiety Disorder,” which she received after she defaulted in the matter in May 2020. Id. at 11, 13. Respondent’s assertions in this regard were supported by a letter from her doctor, also explaining her disorder and affirming that her prognosis was positive. Id. at 13. We concluded that her “mental health issues, as supported by the submission from her doctor, serve to satisfy the first prong of the test and appear to explain the abrupt turn that her career seems to have taken the last several years,” which, in the past, we had “questioned, considering her previous thirty-three years of otherwise good standing at the bar.” Id. at 15-16.

However, under the second prong for succeeding on an MVD, we declined to find that her recent mental health diagnosis (or her other contentions, relating to her representation of the client) constituted a meritorious defense to the underlying ethics charges. Id. at 16-19. We determined that “the record and respondent’s own motion negate the Jacob standard³ by acknowledging that respondent was able to appreciate her actions and the need to meet deadlines” and, further, that “her failure to cooperate in this matter is in stark contrast to her contemporaneous cooperation in another disciplinary matter.”⁴ Id. at 19.

In our March 2021 decision recommending no further discipline, we concluded that additional discipline would serve no purpose, where the timing of her mishandling of the estate matter coincided with that of her misconduct underlying Hartman II and Hartman III, the latter of which was pending before the Court on our recommendation for a three-month suspension. Id. at 27. Moreover, whereas “the prior enhancement of discipline was premised primarily on respondent’s repeated failure to participate in the disciplinary process,” we determined that, “due to the overlapping timeframe, it cannot be said that [she]

³ In In re Jacob, 95 N.J. 132, 137 (1984), the Court held that, to successfully defend ethics charges based on a mental health condition, a respondent must prove a “loss of competency, comprehension or will of a magnitude that could excuse egregious misconduct that was clearly knowing, volitional, and purposeful.”

⁴ Although we did not identify the other disciplinary matter in our decision, the reference is to respondent’s submission of a reply to the ethics grievance, and participation in an interview, in November 2018, during the investigation in Hartman II.

is repeatedly thumbing her nose at the disciplinary system.” Id. at 27. In addition, we noted that “[a] review of respondent’s three most recent disciplinary matters shows that, in late 2017 and early 2018, she began experiencing some sort of personal or professional difficulty. She began neglecting client matters and ignoring client communications, and subsequently failed to meaningfully participate in the disciplinary process.” Id. at 26-27.

Temporary Suspension

Effective July 2, 2024, in connection with the OAE’s investigation underlying DRB 24-245, the Court temporarily suspended respondent from the practice of law. In re Hartman, 258 N.J. 26 (2024). She remains temporarily suspended to date.

Service of Process

Service of process was proper in each matter.

DRB 24-180

On June 4, 2024, the DEC sent a copy of the formal ethics complaint, by certified and regular mail, to respondent’s office address of record. The certified mail receipt was signed by respondent’s legal assistant and returned to the DEC,

indicating delivery on June 7, 2024. The letter sent by regular mail was not returned to the DEC.

On July 10, 2024, the DEC sent a second copy of the complaint, by certified and regular mail, to respondent's office address, accompanied by a letter informing her that, unless she filed a verified answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the record would be certified to us for the imposition of discipline, and the complaint would be deemed amended to charge a willful violation of RPC 8.1(b) and RPC 8.4(d) by reason of her failure to answer. The certified mail receipt was returned to the DEC, bearing an illegible signature and indicating delivery on July 15, 2024. The letter sent by regular mail was not returned to the DEC.

As of July 31, 2024, respondent had not filed an answer to the complaint, and the time within which she was required to do so had expired. Moreover, respondent had not contacted the DEC to request an extension of time or to provide any other information. 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 her home address of record, with an additional copy sent by electronic mail, informing her that the matter was scheduled before

us on October 17, 2024, and that any MVD must be filed by September 16, 2024. According to the United States Postal Service (USPS) tracking system, the certified mail was delivered on August 31, 2024, although no signed certified mail receipt was returned to the Office of Board Counsel (the OBC). The letter sent by 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 she filed a successful MVD by September 16, 2024, her prior failure to answer the complaint would remain deemed an admission of the allegations of the complaint.

Respondent did not file an MVD.

DRB 24-245

On August 2, 2024, the OAE sent a copy of the formal ethics complaint, by certified and regular mail, to respondent's office address of record. The certified mail was returned to the OAE as undeliverable. The regular mail was not returned.

On September 5, 2024, the OAE sent a second letter, by regular mail, to respondent's office address of record, with an additional copy by electronic mail to her e-mail address of record, informing her that, unless she filed a verified

answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the record would be certified to the Board for the imposition of discipline, and the complaint would be deemed amended to charge a willful violation of RPC 8.1(b). The electronic mail was delivered, but no delivery notification was sent by the destination server. The record does not indicate whether the regular mail was returned to the OAE.

On September 11, 2024, the OAE forwarded a copy of the formal ethics complaint, via certified and regular mail, to respondent's home address of record. According to USPS tracking, the certified mail was delivered on September 16, 2024. The record does not indicate whether the regular mail was returned to the OAE.

On October 7, 2024, the OAE sent a second letter, by certified and regular mail, to respondent's home address of record, informing her that, unless she filed a verified answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the record would be certified to us for the imposition of discipline, and the complaint would be deemed amended to charge a willful violation of RPC 8.1(b). According to USPS tracking, the certified mail was being held at the post office, at respondent's request; however, as of the date of the OAE's certification of the

record, the certified mail had not been picked up. The regular mail was not returned to the OAE.

As of October 15, 2024, respondent had not filed an answer to the complaint, and the time within which she was required to do so had expired. Accordingly, the OAE certified this matter to us as a default.

On November 25, 2024, Chief Counsel to the Board sent respondent a letter, by certified and regular mail, to her home address of record, and by electronic mail, to her e-mail address of record, informing her that this matter was scheduled before the Board on January 16, 2025, and that any MVD must be filed by December 16, 2024. According to USPS tracking, the certified mail was delivered on November 29, 2024. The regular mail was not returned to the OBC.

Additionally, on December 3, 2024, the OBC published a notice in the New Jersey Law Journal, stating that we would consider this matter on January 16, 2025. The notice informed respondent that, unless she filed a successful MVD by December 16, 2024, her prior failure to answer would remain deemed an admission of the allegations of the complaint.

Respondent did not file an MVD.

Facts

We now turn to the allegations of the complaints.

DRB 24-180

On March 8, 2022, Paul and Nancy Melletz filed an ethics grievance against respondent. That grievance and respondent's reply to it are not included in the record before us, and the Melletzes' allegations do not form the basis for any charges now before us.

On May 25, 2023, the DEC sent respondent the grievance, by regular and certified mail, accompanied by a letter informing her that she had ten days to reply.⁵ According to USPS tracking, the certified mail was delivered to "the front desk/reception/mail room" on May 30, 2023. The regular mail was not returned to the DEC.

Respondent failed to reply within the specified time. Consequently, on June 13, 2023, the DEC sent her another copy of the grievance, by certified and regular mail, accompanied by a letter advising her of her obligation to respond by June 26, 2023. According to USPS tracking, the certified mail was delivered

⁵ The formal ethics complaint did not designate the address used by the DEC to correspond with respondent during its investigation; however, respondent's eventual reply to the grievance establishes that mail sent her by the DEC reached her via that address.

to “the front desk/reception/mail room” on June 15, 2023. The regular mail was not returned to the DEC.

Respondent again failed to reply within the specified time. Thus, on August 23, 2023, the DEC sent her, by certified and regular mail, a third and final request for her “required cooperation.” According to USPS tracking, the certified mail was delivered to “the front desk/reception/mail room” on August 30, 2023. Ibid. The regular mail was not returned to the DEC.

In the interim, on June 13, June 28, and July 12, 2023, the DEC investigator attempted to contact respondent via telephone, without success. Moreover, although the investigator left messages for respondent, she did not return any of these calls.

However, by letter dated October 26, 2023, respondent submitted to the DEC her reply to the Melletzes’ ethics grievance.

Thereafter, on November 6 and 23, 2023, the DEC sent respondent’s reply to the Melletzes. The Melletzes replied and, subsequently, respondent received their reply. She also was directed to contact the DEC regarding an interview. However, she neither contacted the investigator about the interview nor advised whether she would provide any further reply, in light of the Melletzes’ additional submission.

In the formal ethics complaint, the DEC alleged that respondent violated RPC 8.1(b) “in that she failed to respond to the [i]nvestigator on numerous occasions and fully comply with the investigative process.” Specifically, the DEC asserted, it took multiple letters and telephone calls to obtain respondent’s reply to the grievance, and she ultimately failed to submit her reply until 154 days after the DEC first requested it, notwithstanding the R. 1:20-3(g)(3) requirement to reply in writing within ten days to a request for information in a disciplinary investigation. The DEC further alleged that, thereafter, she failed to contact the investigator for an interview as requested or to advise whether she would submit an additional response.

As noted above, the DEC then amended the complaint to add the charges that respondent willfully violated RPC 8.1(b) and RPC 8.4(d) in connection with her failure to answer the formal ethics complaint.

DRB 24-245

On November 30, 2023, the OAE docketed an ethics grievance against respondent filed by one of her current clients. According to the grievant, respondent represented her in connection with a pending divorce proceeding; however, respondent failed to reply to the grievant’s requests for information or

to keep her informed as to the status of the sale of her former marital home, including information relating to who held the sales proceeds.

On December 6, 2023, the OAE forwarded a copy of the grievance to respondent's office address of record and directed her to submit a written reply by December 18, 2023. Respondent, however, failed to reply, despite having acknowledged, during a telephone call with the OAE, her receipt of the grievance.

On December 22, 2023, the OAE sent an e-mail to respondent, via her e-mail address of record, directing her to submit a reply to the grievance by January 4, 2024. Respondent failed to reply. Consequently, on January 11, 2024, the OAE sent another letter, via certified and regular mail, to respondent's office address of record, with an additional copy via electronic mail to her e-mail address of record, reminding her that a reply to the grievance remained outstanding and directing her to submit a written reply by January 18, 2024. Respondent failed to reply.

On January 19, 2024, the OAE attempted to reach respondent, via a telephone call to her office, and left her a voicemail message. Respondent did not return the telephone call or otherwise reply to the OAE.

On January 24, 2024, the OAE sent another letter, via certified and regular mail, to respondent's office address of record, again requesting her immediate

written reply to the grievance. The OAE informed respondent that her failure to reply to the grievance could subject her to a complaint charging her with a violation of RPC 8.1(b). Respondent failed to reply.

On January 29, 2024, the OAE called respondent at her law office. During that telephone call, respondent informed the OAE that her reply to the grievance was forthcoming that same date. Respondent, however, failed to submit her written reply the OAE.

On February 1, 2024, the OAE sent another e-mail to respondent, reminding her that her written reply to the grievance remained outstanding and directing her to submit a reply by February 2, 2024. That same date, respondent submitted her reply to the grievance, along with relevant documents.

Thereafter, on February 12, 2024, the OAE directed respondent to produce the client correspondence file pertaining to her representation of the grievant, no later than February 26, 2024. Respondent failed to submit a reply and, subsequently, ignored the OAE's February 29, 2024 follow-up e-mail.

On March 4, 2024, the OAE spoke with respondent's legal assistant and requested the grievant's client file. In reply, respondent's legal assistant stated she would notify respondent of the OAE's request for the client file. On March 6, 2024, following respondent's failure to return the OAE's telephone call, the OAE sent a letter, via e-mail, informing her that her continued failure to produce

the client file could result in the OAE filing a petition for her immediate temporary suspension. The OAE directed her to produce the requested records no later than March 13, 2024. Respondent failed to reply.

On March 14, 2024, the OAE notified respondent, via regular mail and e-mail, that it was scheduling her interview for April 10, 2024. Additionally, on March 19 and 27, 2024, the OAE again directed respondent to produce the client file. Again, respondent failed to reply.

On April 10, 2024, the OAE conducted respondent's demand interview. During the interview, she acknowledged the OAE's previous requests for the grievant's client file and apologized for her failure to reply. She informed the OAE that she immediately would print and send to the OAE all relevant documents and correspondence comprising the client's correspondence file. She explained that, due to her computer's limited memory capacity, older documentation had been removed and that she would need to upload certain documents back to her computer. Respondent promised to promptly produce the outstanding documents.

As of April 15, 2024, five days following her interview with the OAE, respondent had not produced the documents as she had promised. Consequently, the OAE sent her an e-mail directing her to produce the requested correspondence file that same date. Respondent failed to reply.

On April 23, 2024, the OAE sent a letter, via certified mail, to respondent's office address of record, and an additional copy via e-mail, directing her to produce the grievant's correspondence file by April 29, 2024 and warning that her failure to do so would result in the OAE filing a petition for her immediate temporary suspension. On May 15, 2024, the OAE left a voicemail message on respondent's direct office line, informing her that it intended to file the petition for her temporary suspension. Respondent failed to return the OAE's telephone call.

Consequently, on May 15, 2024, the OAE filed with the Court a petition for respondent's immediate temporary suspension based on her failure to cooperate with its investigation. As noted above, on July 2, 2024, the Court granted the OAE's petition and entered an Order temporarily suspending respondent from the practice of law.

The OAE alleged that, upon information and belief and based on its investigation, respondent remained counsel for grievant in her divorce action and the contested issues were resolved by the parties pursuant to an April 22, 2024 consent order.

Based on the foregoing facts, the OAE charged respondent with having violated RPC 8.1(b) based her failure to fully cooperate with its investigation. Further, based on her failure to answer the formal ethics complaint, the OAE

amended the complaint to charge her with having committed a second violation of RPC 8.1(b).

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 but one of 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 sufficient basis for the imposition of discipline. R. 1:20-4(f)(1). Notwithstanding that Rule, each charge in the complaint must be supported by sufficient facts for us to determine that unethical conduct has occurred. See In re Pena, 164 N.J. 222, 224 (2000) (noting that the Court's "obligation in an attorney disciplinary proceeding is to conduct an independent review of the record, R. 1:20-16(c), and determine whether the ethical violations found by the [Board] have been established by clear and convincing evidence").

The record before us clearly and convincingly establishes respondent's repeated violation of RPC 8.1(b), which requires an attorney to "respond to a lawful demand for information from . . . [a] disciplinary authority." First, in connection with DRB 24-180, she failed to comply timely and fully with the

DEC's investigation of the ethics grievance. Specifically, she sent no response to the DEC's initial letter, delivered on May 30, 2023, providing her with the grievance and advising her that she had ten days to reply. Moreover, she neither answered nor returned the investigator's follow up telephone call of June 13, 2023.

Subsequently, she failed to respond to the DEC's letter of June 13, delivered on June 15, 2023, which afforded her additional time – until June 26 – to reply. When the DEC again called to follow up, on June 28, 2023, she again failed to either answer the telephone or return the call. Two weeks later, the DEC attempted to reach her by telephone a third time, yet she still failed to respond in any manner.

Finally, on August 23, 2023, the DEC sent her a third letter, directing her to respond to the grievance. Another two months passed before she sent her reply, dated October 26, 2023. All told, roughly five months passed between the DEC's initial request for her reply to the grievance and her submission of her reply, notwithstanding the DEC's repeated and diligent efforts to elicit her participation in the disciplinary process. Subsequently, she also failed to comply with the investigator's request to arrange an interview.

Next, in connection with DRB 24-245, respondent violated RPC 8.1(b) by failing to comply timely and fully with the OAE's investigation of an ethics

grievance against her. Specifically, she sent no response to the OAE's initial letter, dated December 6, 2023, providing her with the grievance and advising her she had ten days to reply. In fact, despite her December 13, 2023 acknowledgement, via a telephone conversation with the OAE, that she had received the grievance, she failed to submit a written reply. Subsequently, she failed to reply to the OAE's December 22, 2023 follow-up e-mail, or to the OAE's January 11 and January 24, 2024 letters, directing her to submit a written reply to the grievance.

Respondent eventually submitted a written reply to the grievance, on February 1, 2024; however, she then ignored the OAE's requests for additional documentation pertaining to her written communications with the grievant. Specifically, she ignored the OAE's February 29, 2024 follow-up e-mail; the OAE's March 4, 2024 telephone message left with her legal assistant; the OAE's March 6, 2024 letter; and the OAE's March 18 and March 27, 2024 follow-up e-mails.

Respondent attended the OAE's April 10, 2024 demand interview and promised to produce the outstanding documents to the OAE. However, she failed to do so. Moreover, she ignored the OAE's April 15 and April 23, 2024 written attempts to obtain her compliance, as well as the OAE's attempt to reach her by telephone.

On May 15, 2024, as a result of respondent's refusal to cooperate, the OAE filed a petition for her immediate temporary suspension, which the Court granted.

Respondent again violated RPC 8.1(b) by failing to file verified answers to the formal ethics complaints, despite proper notice, allowing both matters to proceed as defaults.

By contrast, however, we determine to dismiss the RPC 8.4(d) charge, which was added contemporaneously with one of the RPC 8.1(b) charges, with both charges stemming from respondent's failure to answer the formal ethics complaint underlying DRB 24-180. Although failing to file an answer to a complaint constitutes a well-settled violation of RPC 8.1(b), it is not a per se violation of RPC 8.4(d). See In re Ashley, 122 N.J. 52, 55 n. 2 (1991) (following the attorney's failure to answer the formal ethics complaint and cooperate with the investigator, the DEC charged her with violating RPC 8.4(d); the Court expressly adopted our finding that, "[a]lthough the committee cited to RPC 8.4(d) for failure to file an answer to the complaint, RPC 8.4(d) deals with prejudice to the administration of justice. RPC 8.1(b) is the correct rule for failure to cooperate with disciplinary authorities."). Moreover, we consistently have dismissed RPC 8.4(d) charges that are based solely upon an attorney's failure to file an answer to the complaint. See In the Matter of Richard Donnell

Robinson, DRB 23-032 (July 5, 2023) at 12-13, and In the Matter of John Anthony Feloney, IV, DRB 22-179 (March 23, 2023) at 9-10. Consequently, consistent with disciplinary precedent, we determine to dismiss the RPC 8.4(d) charge in this case.

In sum, we find that respondent violated RPC 8.1(b) (four instances). We determine to dismiss the RPC 8.4(d) charge as a matter of law. The sole issue left for our determination is the appropriate quantum of discipline for respondent's misconduct.

Quantum of Discipline

Absent other violations of the Rules of Professional Conduct, attorneys with limited or no disciplinary history who fail to cooperate with a disciplinary investigation and, subsequently, default in the resulting disciplinary proceeding, typically receive a reprimand. See In re Diehl, 257 N.J. 490 (2024) (in a default matter, reprimand for an attorney who failed to cooperate with the OAE's exhaustive efforts to seek his explanation of an overdraft of his attorney trust account, obtain relevant financial records, and conduct a demand audit; despite the Court's subsequent Order directing the attorney to comply with the OAE's investigation, he persisted in failing to do so; in mitigation, the attorney had no prior discipline in more than thirty years at the bar), and In re Robinson, 256

N.J. 328 (2024) (in a default matter, reprimand for an attorney who failed to cooperate with a disciplinary investigation; the attorney previously had received a reprimand, in a matter in which he similarly failed to cooperate with a disciplinary investigation and allowed the matter to proceed as a default).

The quantum of discipline is enhanced, however, when additional aggravating factors are present, including when the attorney has demonstrated a pattern of noncooperation with disciplinary authorities attempting to address their misconduct. See In re Furino, 210 N.J. 124 (2012) (in a default matter, three-month suspension for an attorney who failed to cooperate with a disciplinary investigation; in determining to impose a term of suspension for misconduct that typically is met with an admonition or reprimand, we accorded aggravating weight to the default status of the matter, as well as the attorney's disciplinary history, which included a prior reprimand for his mishandling of a client matter that resulted the dismissal of his client's personal injury matter; we also accorded considerable weight to our pending decision to impose a three-month suspension for the attorney's misconduct in two separate matters that were consolidated for review; in the first consolidated matter, which previously had been before us as a default (which we vacated), the attorney mishandled a client matter and allowed the case to be dismissed; in the second consolidated matter, which proceeded as a default, the attorney mishandled an estate matter

and, subsequently, failed to cooperate with the disciplinary authorities; we concluded that the aggravating factors, “especially . . . [the attorney’s] pattern of non-cooperation” with disciplinary authorities, justified an enhancement to a three-month suspension, and the Court agreed). See also In re Brunson, 253 N.J. 253 (2023), and In re Manganello, 250 N.J. 363 (2022), where, citing Furino, we enhanced the quantum of discipline given the attorneys’ prior defaults and corresponding heightened awareness of the requirement to answer an ethics complaint.

Based upon the foregoing disciplinary precedent, respondent’s misconduct could be met with a three-month suspension. To craft the appropriate discipline in this case, however, we also consider mitigating and aggravating factors.

There is no mitigation to consider.

In aggravation, as we considered in Furino and, more recently, in Brunson, and Manganello, we accord significant weight to respondent’s disciplinary history and her demonstrated pattern of failing to cooperate with disciplinary authorities. Indeed, these matters represent respondent’s fifth and sixth disciplinary matters before us and her fifth consecutive default. Specifically, in 2014, in Hartman I, she received an admonition; although her misconduct in that matter differed from the misconduct at issue here, that matter put her on notice

that her conduct was under scrutiny. Further, in 2020, and again in 2023, the Court censured her: first, in Hartman II, a matter in which she committed misconduct in connection with the representation of a client and later failed to file an answer to the formal ethics complaint; and, second, in Hartman III in connection with her failure to cooperate with a disciplinary investigation and to file a conforming answer to the formal ethics complaint. Finally, also in 2023, in Hartman IV, the Court entered an order imposing no further discipline but accepting the Board’s determination that, among other misconduct, she again violated RPC 8.1(b) in two respects: first, by failing to comply with a disciplinary investigation and, second, by failing to answer a formal ethics complaint.

In our March 2021 decision in Hartman IV, we acknowledged that “in late 2017 and early 2018, [respondent] began experiencing some sort of personal or professional difficulty” and subsequently “failed to meaningfully participate in the disciplinary process.” We further noted that the overlapping timeframe of her three (then recent) matters precluded a conclusion that she was “repeatedly thumbing her nose at the disciplinary system.” In the instant matters, however, her misconduct did not begin until years after her earlier difficulty.⁶ Moreover,

⁶ The events underpinning this matter unfolded between late May or early June 2023 (when respondent first received the grievance underlying DRB 24-180) and October 2024 (when

given the passage of time since her failure to take part meaningfully in earlier disciplinary proceedings, the current matters clearly establish that she has failed to learn from her multiple prior encounters with the disciplinary system and, rather, has demonstrated a longstanding disregard for her obligation pursuant to the Rules of Professional Conduct.

Consistently, the Court has signaled an inclination toward progressive discipline and the stern treatment of repeat offenders. In such situations, 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).

Further, respondent allowed both matters before us to proceed as defaults, an aggravating factor that results in enhanced discipline. See In re Kivler, 193 N.J. 332, 342 (2008) (“a respondent’s default or failure to cooperate with the investigative authorities acts as an aggravating factor, which is sufficient to permit a penalty that would otherwise be appropriate to be further enhanced”). However, because we already have factored respondent’s default status into the

respondent defaulted in connection with DRB 24-245). In Hartman II, she engaged in her underlying misconduct between late 2017 and April 2018, and defaulted in May 2019. In Hartman III, she engaged in her underlying misconduct between March or April 2018 and February 2019, and defaulted in December 2019. In Hartman IV, she engaged in her underlying misconduct between January and September 2018, and defaulted in May 2020.

baseline discipline of a three-month suspension, we do not accord this aggravating factor additional weight.

We do not take lightly our decision to recommend a three-month suspension for respondent's misconduct. Consistently, however, we have recommended harsh discipline, including terms of suspension or disbarment, for misconduct typically met with less severe consequences, based upon the attorney's demonstrated inability to conform their conduct to that required by the Rules of Professional Conduct. See In re Artusa, __ N.J. __ (2025), 2025 N.J. LEXIS 17 (in a default matter, three-month suspension for an attorney who, after accepting the representation in a divorce proceeding, failed to take any reasonable steps in furtherance of the representation; as a result of the attorney's lack of diligence, the client's action was subject to dismissal for lack of prosecution; the attorney also failed to keep his client informed about the status of the matter and, despite assuring his client that he would file a motion, he failed to do so; thereafter, he failed to inform his client that the motion had not been filed; the attorney also failed to cooperate with the DEC's investigation; in determining to impose a three-month suspension for misconduct that typically is met with an admonition or a reprimand, we accorded considerable weight to the attorney's disciplinary history which included two prior censures and a reprimand; in further aggravation, we considered the attorney's heightened

awareness of his obligation to fully cooperate with disciplinary authorities, based upon having twice been disciplined for failing to do so, including one of which he allowed to proceed as a default), and In re Calpin, 252 N.J. 43 (2022) (attorney disbarred for exhibiting “repeated indifference toward the ethics system,” including three consecutive defaults and failure to submit required R. 1:20-2(b)(15) affidavits, demonstrating his “disdain for the Rules governing attorney conduct”).

Conclusion

On balance, in view of compelling aggravating factors, including respondent’s failure to learn from her multiple prior encounters with the disciplinary system, we determine that a three-month suspension is the quantum of discipline necessary to protect the public and preserve confidence in the bar.

Moreover, based on respondent’s prior mental health struggles, we recommend that, as a condition to her reinstatement to the practice of law, she be required to provide the OAE with proof of fitness to practice law, as attested to by a medical doctor approved by the OAE.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Hon. Mary Catherine Cuff, P.J.A.D. (Ret.),
Chair

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

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matters of Frances Ann Hartman
Docket Nos. DRB 24-180 and DRB 24-245

Decided: January 30, 2025

Disposition: Three-month suspension

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

/s/ Timothy M. Ellis

Timothy M. Ellis
Chief Counsel