SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 24-198
District Docket Nos. IV-2023-0009E and IV-2023-0012E

In the Matter of Jeffrey R. Gans
An Attorney at Law

Argued
November 21, 2024

Decided
February 28, 2025

Raymond G. Console appeared on behalf of the
District IV Ethics Committee.

Respondent appeared pro se.

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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 recommendation for an admonition filed by the District IV Ethics Committee (the DEC). We determined to treat the admonition as a recommendation for greater discipline, pursuant to R. 1:20-15(f)(4), and to bring the matter on for oral argument. The formal ethics complaint charged respondent with having violated RPC 1.1(a) (two instances – engaging in gross neglect); RPC 1.3 (lacking diligence); RPC 1.4(b) (failing to keep a client reasonably informed about the status of a matter and to comply with reasonable requests for information); RPC 1.4(c) (failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions about the representation); and RPC 1.5(b) (failing to set forth in writing the basis or rate of the legal fee).

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

Ethics History

Respondent earned admission to the New Jersey bar in 1983 and to the Pennsylvania bar in 1982. He has no prior discipline. During the relevant

timeframe, he maintained a practice of law in Gibbsboro, New Jersey.

Facts

The facts of this matter are undisputed and respondent ultimately stipulated that his conduct violated the charged Rules of Professional Conduct.

On May 11, 2011, Joan A. Curtis (Joan) passed away.[1] Joan's will appointed her son, James Curtis (Jim), as the executor of her estate (the Estate). Joan also had a sister, Carol Norick (Norick). The beneficiaries of the Estate were Jim (78%); Norick (10%); Nathalie Parks (Parks) (10%); and the Cherry Hill Public Library (2%). Additionally, due to the charitable beneficiary, the New Jersey Office of the Attorney General was an interested party in the Estate.

Jim explained that, prior to her passing, Joan had told him that if anything should happen to her, he should hire respondent as his attorney. Consequently, on May 18, 2011, Jim retained respondent to assist with the administration of the Estate. Respondent did not provide Jim, who he never previously represented, with a written retainer agreement. However, according to respondent, Jim had agreed to pay him $750 for representation in the sale of Joan's home and $1,375 for the administration of the Estate. Respondent

[1] Because Joan and Jim share a last name, this decision will refer to the parties by their first names to avoid any confusion. No disrespect is intended by the informality.

conceded that the Estate was not complex.

Respondent failed to probate Joan's will until December 2011, more than six months after he was retained and after Joan's home was sold. He also failed to inform Jim about the notice of probate requirement, pursuant to R. 4:80-6, which requires notice to all beneficiaries within sixty days of submitting the will to probate. Further, he failed to notify the New Jersey Attorney General's Office that the Cherry Hill Public Library was a beneficiary of the Estate, as the Court Rule requires.[2]

After Joan's home was sold, respondent told Jim that he would prepare the New Jersey Inheritance Tax Return (ITR). Although he asserted that he prepared an initial draft of the ITR, he conceded that he did not have a record demonstrating that he sent the draft to Jim. In fact, it was not until August 2020, more than nine years after Joan's passing, and after Jim and Norick independently engaged the services of two additional law firms, that respondent

[2] R. 4:80-6 provides: "Within 60 days after the date of the probate of a will, the personal representative shall cause to be mailed to all beneficiaries under the will and to all persons designated by R. 4:80-1(a)(3), at their last known addresses, a notice in writing that the will has been probated, the place and date of probate, the name and address of the personal representative and a statement that a copy of the will shall be furnished upon request. Proof of mailing shall be filed with the Surrogate within 10 days thereof. If the names or addresses of any of those persons are not known, or cannot by reasonable inquiry be determined, then a notice of probate of the will shall be published in a newspaper of general circulation in the county naming or identifying those persons as having a possible interest in the probate estate. If by the terms of the will property is devoted to a present or future charitable use or purpose, like notice and a copy of the will shall be mailed to the Attorney General."

filed the ITR for the Estate.[3] Jim testified that hiring an outside law firm to "coax" respondent into completing the Estate cost $6,000 in Estate funds.

Because respondent did not obtain an inheritance tax waiver, the title company required that a $27,000 escrow be withheld from the sale of Joan's home. Ultimately, the title company held that escrow until January 17, 2022, more than eleven years after Joan's death. Although the title company was supposed to have issued an estimated $12,000 inheritance tax payment in January 2012, for reasons that are not clear in the record before us, the New Jersey Division of Taxation never received the payment. It took respondent eight years to learn that the Division of Taxation never received the payment. The non-payment also resulted in the Division of Taxation recording a judgment against the Estate for unpaid taxes, which was not resolved until it filed a Warrant for Satisfaction in 2021, ten years after Joan's passing.[4]

From approximately April 2012 through September 2016, there was

[3] Pursuant to N.J.S.A. 54:35-3 and N.J.A.C. 18:26-9.1, ITRs are required to be filed eight months following a decedent's death. If the inheritance tax is not paid within eight months of the decedent's death, "the tax shall bear interest at the rate of 10% per annum from the expiration of 8 months after the date on which it became due and payable to the date when the tax is paid, unless, payment was tendered by the taxpayer within the eight months period and is evidence by the postmark on the letter conveying the payment, or by other acceptable proof." The Director of the Division of Taxation may grant an extension of time to file the ITR, but not an extension of time to pay the tax due. The ITR for the Estate was filed one-hundred-and-eleven months after Joan's death.

[4] It is not clear from the record before us whether the Estate paid any interest for the unpaid taxes.

essentially no communication between respondent and Jim. However, on September 14, 2016, Jim attempted to reach respondent because he could not recall what work respondent had done on the Estate. On November 15, 2016, Jim left another voicemail with respondent, stating he had not heard from him but needed to know what remained outstanding to close out the Estate.

Concurrently, the title company began sending e-mails to respondent so that it could release the escrow funds it held. On October 13, 2016, the title company sent an e-mail to respondent stating that, although sale of Joan's home had closed on December 5, 2011, respondent had not yet filed an inheritance tax waiver. One week later, the title company followed up with respondent because he had not replied to its earlier e-mail. On January 9 and February 27, 2017, the title company again followed up with respondent because he had not provided the requested information. On July 13, 2017, the title company followed up yet again and informed respondent that it was still holding $22,278.53 for payment of the inheritance taxes and recording of the inheritance tax waiver. The title company offered to contact the State of New Jersey for a payoff.

Separately, on August 31, 2017, six years after Joan's passing, Norick began to contact respondent to effectuate closure of the Estate. In her first e-mail to respondent, Norick explained that she could not imagine why it had taken respondent over six years to finalize her "sister's very modest estate." Norick

explained that one of the beneficiaries of the Estate had passed away waiting for him to finalize the Estate and Norick herself was nearly seventy-three and in need of the funds to which she was entitled. Respondent failed to reply until September 15, 2017, claiming that Norick's e-mail had been delivered to his junk e-mail folder. Nevertheless, respondent told Norick that he needed to get his file to determine the status of the Estate. He requested that Norick inform him which beneficiary had passed away, to which Jim replied, stating that Parks had passed away. Following her initial e-mail to respondent, Norick repeatedly sent him follow-up e-mails and called his office to urge the resolution of the Estate.

On October 17, 2017, nearly one year after the title company contacted respondent to resolve the outstanding escrow it held following the December 2011 sale of Joan's home, respondent replied that he had just sent Jim a revised ITR and hoped to file it the following week. The following day, respondent sent another e-mail asking the title company to explain why it was not holding $15,000 in escrow, given that $27,000 had been deposited into escrow in December 2011 and he had received a check in the amount of $12,000, dated January 10, 2012, payable to the "State of NJ Inheritance Tax." The title company explained that the $12,000 check never cleared and was deposited back into escrow, and that the title company had deducted $4,721.47 in administrative

fees for holding the escrow funds.

Respondent informed the title company that he was "extremely upset" because he:

> should have been told that the payment to the State of NJ was not deposited by the State of NJ. The Inheritance tax is going to be about $8,000; and the estate was looking forward to getting a refund from the $12,000 in amount [sic] of about $4,000. Now because the $12,000 payment did not clear, the Estate will have to pay about an additional $4,000 in interest.
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> [HP5p41.][5]

Respondent asserted that he also was upset that the title company had exercised its "right to charge for holding the escrow" and that he should have been notified that it was charging administrative fees to the Estate. He requested that the company not charge the Estate any administrative fees for holding the escrow funds "especially in light of all of the interest the [E]state is going to have to pay NJ."

Ultimately, the title company agreed to restore the administrative fees it had deducted from the escrow account. However, as of April 13, 2018, the title company still was sending respondent requests for an update on the ITR. Respondent replied the same date to inform the title company that he anticipated

[5] "HP" refers to the exhibits admitted during the March 26, 2024 ethics hearing. "PL" refers to the presenter's May 23, 2024 submission to us.

finishing the ITR the following week and that he would travel to the title company's office to pick up a check to pay the inheritance tax owed by the Estate.

On June 29, 2018, respondent forwarded to Jim an e-mail he had sent to Norick and requested that Jim call him so that they could discuss finalizing the ITR. The following day, Norick replied, via e-mail, rejecting respondent's offer of a partial disbursement of the Estate, explaining that she "owe[d] most of [her] share to [her] nephew, Jim (who helped [her] buy a new car 4 years ago when [she] believed that a settlement was just around the corner) and [she] want[ed] to be able to take care of that first."

Respondent's records did not reflect any outgoing communication concerning the case for more than another year, despite multiple incoming requests for information from Norick. However, in an October 31, 2019 e-mail reply to Norick, respondent merely stated that he needed one week to speak with Jim. One week later, on November 7, 2019, Norick sent another e-mail to respondent, stating that a week had passed and that she did not understand why he could not give her a status report on the Estate. Respondent failed to reply.

Respondent's records reflect that the next communication he received was on February 18, 2020, when an attorney called his office, on Norick's behalf, to speak with him about the Estate. The attorney's message indicated that he had

sent respondent correspondence, but that respondent had failed to reply. Then, on April 21, 2020, Jim sent respondent an e-mail asking him to "retrieve the case records" because he was "seeking to understand the current status and steps that need to be taken to resolve [his] mother's estate."

Eventually, in May 2020, Jim hired Michael Salad, Esq., to help resolve the Estate. Despite Salad's involvement and direction, respondent still was not responsive and Salad, frequently, was forced to follow up to urge respondent to complete necessary work on the Estate.

For example, in a June 4, 2020 e-mail, Salad explained to respondent that he had hoped they could finalize and submit the ITR the following day, but that they likely would not be successful in abating the interest imposed on the inheritance tax. However, as of July 10, 2020, Salad again was requesting that respondent reply to his e-mails from one month earlier. At one point, respondent replied to state that he accidentally had deleted Salad's e-mail but would work on an update the following week. Salad replied and stated, "[a]s you can imagine, Jim is getting very frustrated and wants to get the tax return finalized and submitted promptly. Let's make it our mutual goal to ensure that the tax return is submitted this week."

On July 24, 2020, Salad sent an e-mail to respondent asking him to confirm that he submitted the ITR. Respondent failed to reply. Six days later,

on July 30, 2020, Salad sent another e-mail to respondent, stating:

> Jim is absolutely furious and directly authorized me to institute legal proceedings against you if we do not receive proof from you that the tax return was submitted by the close of business tomorrow. . . . I strongly recommend that you place your insurance carrier on notice at this point, as this is formal notice of our intent to institute legal proceedings against you.
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> [HP5p74.]

The next day, respondent provided Salad with an ITR and asked him to have Jim sign and return the document. Respondent admitted that "it took the threat of legal action by Mr. Salad to motivate [him] to complete and file the [ITR] in August of 2020," nine years after Joan's death. On August 14, 2020, respondent sent an e-mail to Jim informing him that, on August 8, 2020, the Division of Taxation had received the ITR and tax payment.

On August 4, 2020, Jim sent a $20,000 check to respondent, payable to Norick, which represented a partial distribution of the Estate. On October 21, 2020, Jim informed respondent, via e-mail, that Norick had not yet received the $20,000 that she was owed. He also requested information about the ITR. The next day, respondent told Jim that, on August 20, 2020, he had mailed the check to Norick, but the mail was unclaimed and, as of October 13, 2020, the United State Postal Service was returning the mail to respondent. Jim later informed respondent that Norick, who lives in California, had been evacuated from her

home for eight days due to wildfires.

On October 22, 2020, respondent called the Division of Taxation to ascertain to whom the ITR was assigned and when they would complete their review. The auditor replied the same date, via e-mail, and attached a letter she had sent to respondent, on September 9, 2020, requesting additional information she needed to complete her review. Respondent told the auditor he did not recall seeing the September 9, 2020 letter but that "it could have been misplaced."

On October 26, 2020, respondent sent Jim an e-mail stating that he again mailed the $20,000 check to Norick. In a December 16, 2020 e-mail, respondent said he would check with the Division of Taxation concerning the status of the ITR.

More than three months later, on March 31, 2021, Jim sent respondent an e-mail stating "[i]n the 3 months since this email, have you any progress to report?" On April 1, 2021, respondent replied stating that he would "look into this today." Ten minutes later, he left a message with the Division of Taxation. One month later, on May 6, 2021, respondent left another message with the Division of Taxation. The same date, respondent called the assigned auditor and was instructed to send her an e-mail, which he did. In his e-mail, respondent requested the status of the file. In her same-day reply, the auditor informed respondent that she did not need any information from him because "[Jim] sent

me the information I requested." In reply, respondent questioned when the auditor had received the information from Jim and when she anticipated finalizing her review because he wanted to send a request to abate tax penalties and to reduce the interest charged to the Estate.

The auditor informed respondent that she already had completed her review and that it was awaiting supervisor review, which would not occur for at least two weeks because her supervisor was on vacation. The auditor also stated that, after her supervisor reviewed the file, "he [would] handle the closing procedure as this file came from the Branch's delinquency filing section and has a different billing/refund protocol than a 'normal' Inheritance/Estate filing." Respondent merely thanked the auditor for the information and, again, asked when she received the information from Jim. In reply, the auditor informed respondent that Jim had sent the information in April and that respondent should contact Jim with respect to the information he provided.

On May 20, 2021, respondent exchanged e-mails with the title company concerning the $12,000 inheritance tax payment. Respondent indicated that he had spoken with the auditor's supervisor, who was amenable to abating the tax penalties incurred by the Estate, but that the supervisor wanted more information about the previously issued $12,000 check. Therefore, respondent asked the title company for a copy of that check and information about when it was returned.

The title company initially informed respondent that its accounting department could not obtain a copy of the check because it was too old. However, on May 24, 2021, the title company informed respondent that the $12,000 check was issued on January 27, 2012, and that, on June 30, 2016, a stop payment was issued on the check, but that was the only information the accounting department was able to provide.

Also on May 24, 2021, the Division of Taxation informed respondent that its records indicated that a $12,000 payment had been received and processed, and that it would process a refund once it received a copy of the canceled check.[6] When respondent questioned whether the check had cleared in 2012 before the stop payment was issued in 2016, the title company said "no."

On January 7, 2022, more than seven months later, Jim sent an e-mail to respondent indicating that he had not received any communication from him since April 1, 2021. Jim informed respondent that he spoke with the Division of Taxation and independently learned that "the file was closed and the warrant of satisfaction was filed in October 2021." Jim stated that the ITR indicated:

> [a] check in the amount of $7,684.27 was 'remitted with (the) form". [sic] I believe you indicated that $27,000 was being held in escrow by the Title company to pay taxes. Please without further delay, restore the excess funds from escrow to the estate and communicate the next steps needed to resolve and settle the estate.

[6] It is not clear from the record before us whether the Division of Taxation issued the refund.

[HP5p88.]

Respondent replied to state that he never received a tax waiver but that he would check with the title company to see if it would release the balance of the escrow funds. He sent an e-mail to the title company the same date requesting that it issue a $19,315.73 check to the Estate. On January 25, 2022, respondent sent Jim an e-mail stating that he had sent the check to him via certified mail.

On March 1, 2022, Jim sent respondent an e-mail asking what, if any, actions were left to complete before the Estate was finalized and Joan's assets could be distributed to her heirs. In reply, respondent requested an informal accounting of the Estate so that he could then send a "Release and Refunding Bond" to the heirs before final distribution. Following that request, respondent and Jim exchanged e-mails concerning the Release and Refunding Bond. On June 30, 2022, Jim sent respondent an informal accounting and, on September 9, 2022, asked respondent for an answer to his August 4, 2022 question about when the heirs would receive the Release and Refunding bond documents.

The record does not reflect any further action by respondent on behalf of the Estate. Respondent testified that he believed Jim had terminated the representation in 2022, and that was his reason for not completing work on the matter; however, Jim testified that he did not terminate the representation until 2023, when he hired other counsel to finalize the Estate.

On January 17, 2023, Norick filed an ethics grievance against respondent alleging that he grossly neglected the work required to complete the Estate. Five years earlier, in 2018, Norick had attempted to file an ethics grievance against respondent, however, the DEC rejected that grievance as premature because the underlying matter was still active.

Similarly, on January 30, 2023, Jim filed an ethics grievance against respondent, alleging that he had neglected the work required to complete the Estate and that he had failed to communicate with Jim.

Respondent stipulated that he violated Rules of Professional Conduct but maintained that Jim's inactions "contributed to why this estate administration has not been completed."

Indeed, throughout the ethics hearing, although respondent was apologetic for his admitted negligence, he likewise asserted that his failure to communicate with Jim was the result of Jim's failure to communicate with him. Furthermore, when offering mitigating factors, respondent asserted that, because his duties as international director for the Lion's Club took him out of the office on Thursdays and Fridays, he tried to "squeeze" in his law practice on Mondays through Wednesdays. As a result, he prioritized working on things "that were so called putting out fires, and not necessarily matters that had been around for 13 years or 12 years or 11 years at the time, and not hearing from the client."

Respondent did not offer testimony regarding why he was unable to finalize the Estate. However, he did testify concerning his medical issues and the side effects of the medications he took to address his health, both of which caused him to be tired. Notwithstanding his health issues, he testified that, as the international director of the Lions Club from 2021 through 2023, he traveled approximately three weekends per month, from Thursday through Sunday. He maintained that his travel schedule was the reason he effectively was a "part time" practitioner.

Ultimately, respondent acknowledged his misconduct but asked for leniency based on his status as a sole practitioner with a family. Further, he claimed that there was no harm to the Estate because Joan's beneficiaries, or their heirs, would receive their inheritance when the Estate is finalized.

The Hearing Panel's Findings

The hearing panel found that respondent violated RPC 1.1(a) by admittedly failing to complete work on a "fairly simple estate that should have maximally taken 2-3 years to finalize." Although the hearing panel credited respondent's statement that, for less than one year, he had health issues and responsibilities outside his practice of the law, that short amount of time did not excuse his gross neglect for the remaining decade of inaction on the case.

The hearing panel also found that respondent's conduct violated RPC 1.3 because he allowed the Estate to languish, "which created some significant challenges and opened the [E]state and [Jim] to potential litigation." The hearing panel observed that Jim's relationship with the other beneficiaries was the reason costly litigation to force the Estate's conclusion did not ensue.

Additionally, the hearing panel found that respondent's admitted failure to reply to Jim's reasonable requests for information or to keep him reasonably informed about the matter, "without excuse, over the course of 10 years" violated both RPC 1.4(b) and RPC 1.4(c).

Finally, the hearing panel concluded that respondent's failure to provide Jim, a new client, with a written communication outlining the basis for his fee violated RPC 1.5(b).

In mitigation, the hearing panel weighed respondent's unblemished disciplinary record in forty years of practice. The panel also considered his cooperation with the DEC's investigation[7] and his admission of wrongdoing. Additionally, the panel accorded some weight to his health concerns for a portion of the time the Estate remained open but, again, noted that his health did

[7] R. 1:20-3(g)(3) requires attorneys to cooperate with a disciplinary investigation. Failure to cooperate with a disciplinary investigation may result in the OAE filing a motion seeking the attorney's temporary suspension from the practice law. See R. 1:20-3(g)(4).

not excuse his decade-long neglect of the matter.[8]

In aggravation, the hearing panel considered that the beneficiaries of the Estate experienced financial hardships, and that one of the beneficiaries had passed away without having received her share of the Estate.

Consequently, the hearing panel concluded that respondent's misconduct warranted an admonition, citing In the Matter of Hayes R. Young, DRB 23-215 (November 22, 2023).

The Parties' Positions Before the Board

In his May 23, 2024 letter to us, the DEC presenter argued that respondent's misconduct warranted discipline sterner than an admonition. The presenter asserted that, in Young, the attorney had neglected a case for months, not more than a decade. The presenter conceded that respondent's mitigating factors may be similar to the mitigation considered in Young, but that the severity of the violations differed. The presenter argued that if the:

> facts of this case do not justify more than an Admonition, it's hard to imagine any situation where an attorney's pattern of neglect, lack diligence [sic] and failure to reasonable [sic] inform and comply with reasonable requests for information from the client

[8] It is not clear from the record when respondent suffered his health issues. However, in an October 18, 2017 e-mail to the title company, respondent referenced a bout of gout and that he had been diagnosed with congestive heart failure and required a combination of a pacemaker and defibrillator.

would result in more than an Admonition.

[PL1.]

Indeed, the presenter emphasized that many of the complications that ultimately occurred with the Estate were "avoidable problems" that were attributable to respondent's lack of diligence in finalizing the Estate. The presenter argued that respondent's misconduct caused the heirs to the Estate emotional distress and financial hardship, and that they never would be able to recover the time lost due to respondent's delays.

Although respondent did not provide a written submission for our consideration, he appeared at oral argument before us. During his argument, he asserted that the Estate was modest and that the principal asset was Joan's home, which was sold shortly after her passing. He also stated that his practice focused on real estate, wills, and estate work, and that he had assisted over 10,000 clients during his nearly forty-two years at the bar.

Respondent explained that he charges clients "ala carte," which involves informing clients, as a case progresses, what he would charge them for each legal task involved in a case. He asserted that once a client pays the initial, ala carte fee, that serves as confirmation of his representation.

When we questioned him why, if this was not his first Estate matter, he still had not been finalized it in more than ten years, respondent contended that

he reached out to Jim, who did not reply. Respondent denied, however, seeking guidance from the probate court regarding how to garner cooperation from an executor that would not reply to his communications.

Analysis and Discipline

Violations of the Rules of Professional Conduct

Following our de novo review of the record, we determine that the hearing panel's findings that respondent violated RPC 1.1(a); RPC 1.3; RPC 1.4(b); RPC 1.4(c); and RPC 1.5(b) are supported by clear and convincing evidence. However, we dismiss the second charged instance of RPC 1.1(a) because respondent's underlying gross neglect of the Estate would have existed whether two ethics grievances were filed against him or not.

There is no question that respondent's failure to finalize a non-complex estate matter for more than thirteen years constituted gross neglect, in violation of RPC 1.1(a). Notwithstanding the constant prompting from Jim and Norick, respondent utterly failed to complete the work required to finalize the Estate. Moreover, Jim and Norick were forced to engage outside law firms to try to urge respondent to finalize the Estate – to no avail. Even the title company urged him to take action so that it could release the escrow funds it had been holding since December 2011. Yet, respondent remained unable or unwilling to complete

work on the Estate, instead offering multiple empty promises that he would look at the file and get back to Jim and Norick. Worse still, even Norick's filing of the 2018 ethics grievance against him failed to prompt him to remediate his misconduct. Instead, he continued to neglect the Estate for another five years, admitting in his verified answer to the formal ethics complaint that the matter was still languishing and incomplete as of October 2023.

Relatedly, as respondent conceded, he lacked diligence in his representation of the Estate, in violation of RPC 1.3. For nearly thirteen years, each time respondent was called upon to complete work on the Estate, he failed to timely complete the task, which created a cascading inability to finalize a simple estate matter. It was not until Jim retained Salad, who threatened legal action against respondent, in July 2020, nine years after Joan's passing, that respondent completed the ITR. Meanwhile, despite completing the ITR, the Estate remained open as of the March 2024 ethics hearing because, despite his March 2022 promise to send the Release and Refunding Bond to the heirs, he had failed to do so.

Next, there is no question respondent failed to communicate with Jim, in violation of RPC 1.4(b) and RPC 1.4(c). His own communication log reflected that months, and even years, passed without providing Jim with any information about the matter – including the fact that he was not working to finalize the

Estate. Additionally, when new counsel became involved, respondent also ignored their requests for information.

Finally, respondent violated RPC 1.5(b) by admittedly failing to set forth, in writing, the basis of his fee with Jim, despite not previously representing him.

In sum, we find that respondent violated RPC 1.1(a); RPC 1.3; RPC 1.4(b); RPC 1.4(c); and RPC 1.5(b). We determine to dismiss, however, the second charged instance of RPC 1.1(a) as duplicative of the first. The sole issue left for our determination is the appropriate quantum of discipline for respondent's misconduct.

Quantum of Discipline

For more than a decade, respondent egregiously failed to finalize a non-complex estate matter. Attorneys who grossly neglect and lack diligence in estate matters have received discipline ranging from an admonition to a censure, even when the misconduct is accompanied by additional, less serious misconduct. See, e.g., In the Matter of Andrew V. Zielyk, DRB 13-023 (June 26, 2013) (admonition for an attorney who lacked diligence by failing to reply to a tax auditor's request for information, thereby delaying the completion of the estate's tax returns; the attorney also failed to keep the estate beneficiaries adequately informed, for a period of fifteen months, about the status of the

estate; further, he failed to set forth, in writing, the basis or rate of his fee; in mitigation, the attorney had no prior discipline in his twenty-seven-year career); In re Burro, 235 N.J. 413 (2018) (reprimand for an attorney who grossly neglected and lacked diligence in an estate matter for ten years and failed to file inheritance tax returns, resulting in the accrual of $40,000 in interest and the imposition of a lien on property belonging to the executrix; the attorney also failed to keep the client (the estate's executrix) reasonably informed about events in the case, return the client filed upon termination of the representation (RPC 1.16(d)), and to cooperate with the ethics investigation; in aggravation, we considered the significant harm to the client and the attorney's prior private reprimand (now an admonition); in mitigation, the attorney expressed remorse and had suffered a stroke that forced him to cease practicing law); In re Ludwig, 233 N.J. 99 (2018) (reprimand for an attorney who lacked diligence by failing to finalize an estate matter for eight years following the decedent's death; the attorney failed to distribute more than $75,000 owed to the estate's eighteen beneficiaries, obtain a discharge of a judgment that had been improperly filed against the estate, liquidate estate assets, file any of the required 2008 estate tax returns, promptly provide an interim accounting, or file the final accounting; the attorney also ignored the beneficiaries' requests for information; further, the attorney failed to fully cooperate with the OAE's investigation; in mitigation,

the attorney had no prior discipline in thirty-eight-years at the bar); In re Trella, __ N.J. __ (2023) (censure for an attorney who failed to timely administer two estate matters by not promptly paying inheritance taxes; the attorney also negligently misappropriated estate funds that should have been held in escrow (RPC 1.15(a)) and, in both estate matters, charged excessive fees (RPC 1.5(a)); in a third client matter, the attorney engaged in a conflict of interest by loaning funds to his client, and also made misrepresentations to the OAE with respect to the loan (RPC 1.8(a), RPC 8.1(a), and RPC 8.4(c)); we determined that the attorney's unblemished fifty-year career was insufficient mitigation to warrant a downward departure from the baseline discipline of a censure given the totality of the misconduct, spanning three client matters; we also weighed, in aggravation, the harm to the clients caused by the attorney's delay, as well as the attorney's admission that he rarely entered into written fee agreements with his client); In re Cook, 233 N.J. 328 (2018) (censure for an attorney who failed to diligently administer and complete an estate with a single beneficiary; in addition, the attorney failed to communicate with the beneficiary and to cooperate with the disciplinary investigation; prior admonition).

Varying terms of suspension have been imposed in estate matters involving more egregious neglect or more significant disciplinary histories, depending on the seriousness of other factors. See In re Wynn, 256 N.J. 465

(2024) (three-month suspension for an attorney who, for nine years, failed to properly administer an estate; he failed to liquidate securities, deposit dividend checks in the estate account, or locate outstanding beneficiaries; he also failed, without any reasonable explanation, to make bequests to various beneficiaries; despite his serious mishandling of the estate and his failure to pay $73,000 to seven beneficiaries, he provided himself $66,000 in grossly excessive legal fees and $21,000 in executor's commissions, without the knowledge or approval of anyone but himself; the attorney also committed recordkeeping infractions, engaged in commingling and negligent misappropriation in a second a client matter, and failed to cooperate with the OAE in a third client matter; in aggravation, we weighed the substantial harm to the beneficiaries underlying the estate matter that the attorney had failed to fully administer for nine years; no prior discipline in his forty-year career at the bar), and In re Onorevole, 185 N.J. 169 (2005) (in a default matter, six-month suspension for an attorney who was retained to probate an estate but then failed, for more than three years, to file the tax forms for the estate, which he then filed without the necessary signature; as a result of the attorney's errors, interest was charged against the estate; the attorney also failed to communicate with the client; although we determined that the underlying conduct, without more, would generally lead to a reprimand, we determined to impose a six-month suspension based on the default status of the

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

In our view, respondent's misconduct is most analogous to that of the attorney in Burro, who was reprimanded for his prolonged mishandling of a simple estate matter. Similar to the attorney in Burro, respondent failed to file the necessary tax returns or to pay the required taxes, resulting in the Division of Taxation recording a judgment against the Estate for unpaid taxes. Subsequently, he failed to take any remedial action to resolve the judgment. Indeed, his client ultimately took it upon himself to obtain a warrant for satisfaction, ten years after his mother's passing. Also like Burro, respondent repeatedly failed to respond to Jim's and Norick's numerous requests for information about the status of the Estate, instead, on occasion, providing empty promises. Indeed, Jim and Norick were forced to retain the services of outside counsel to try to coax respondent into finalizing the Estate, to no avail. Unlike the attorney in Burro, however, who shuttered his law practice following a stroke and, thus, presented no risk of repeating the misconduct, respondent continues to practice law.

Based on the foregoing disciplinary precedent, and Burro in particular, we determine that the baseline discipline for respondent's misconduct is a reprimand. To craft the appropriate discipline in this case, we also consider

mitigating and aggravating factors.

In mitigation, respondent has an unblemished forty-one-year career, a factor we typically accord compelling weight (although we note that, for more than one quarter of respondent's career, he allowed the Estate to languish). In re Convery, 166 N.J. 298, 308 (2001).

In aggravation, respondent's prolonged mishandling of the Estate caused financial hardships for the Estate's beneficiaries, one of whom never received her inheritance due to her own passing (Parks); two of whom had not, at the time of the ethics proceeding, received their full share of their inheritance (Jim and Norick); and one of whom had not yet been notified of its interest (Cherry Hill Public Library via the New Jersey Office of the Attorney General).

Conclusion

On balance, despite respondent's unblemished disciplinary history, the harm his misconduct caused the Estate and its beneficiaries was so significant as to justify an upward departure from the baseline discipline. Further, as an attorney with more than four decades at the bar, respondent is expected to have a superior understanding of his responsibilities pursuant to the Rules of Professional Conduct. Consequently, we determine that a censure is the appropriate quantum of discipline to protect the public and preserve the public's

confidence in the bar.

Member Petrou voted to impose a reprimand.

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 Jeffrey R. Gans
Docket No. DRB 24-198

Argued: November 21, 2024

Decided: February 28, 2025

Disposition: Censure

Members	Censure	Reprimand
Cuff	X	
Boyer	X	
Campelo	X	
Hoberman	X	
Menaker	X	
Petrou		X
Rivera	X	
Spencer	X	
Total:	7	1

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