SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 14-390
District Docket No. XIV-2013-0209E

IN THE MATTER OF	:	
LAWRENCE B. SACHS	:	
AN ATTORNEY AT LAW	:	Decision

Argued: February 19, 2015

Decided: July 28, 2015

Jason D. Saunders appeared on behalf of the Office of Attorney Ethics.

Respondent waived appearance for oral argument.

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

This matter was before us by way of a disciplinary stipulation between the Office of Attorney Ethics ("OAE") and respondent. Respondent admitted violating RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), and RPC 1.4(b) (failure to communicate).

The OAE recommended that respondent receive either an admonition or a reprimand, with which respondent agreed. For the

reasons expressed below, we determine that a reprimand is the appropriate discipline in this matter.

Respondent was admitted to the New Jersey bar in 1983. On September 25, 2009, he received a reprimand for commingling earned legal fees and trust funds in his attorney trust account, failing to promptly deliver funds to which clients were entitled, and failing to comply with the recordkeeping rules. In re Sachs, 200 N.J. 265 (2009). The Supreme Court order required respondent to submit to the OAE quarterly reports of his progress in identifying and returning client funds, left in his attorney trust account.

On January 14, 2015, the Court issued an order, compelling respondent to comply with its September 25, 2009 order. The Court ordered respondent, within thirty days, to (1) distribute to the appropriate recipients the trust account funds whose owners have been identified, (2) deposit the remaining unidentified funds in the Superior Court Trust Fund pursuant to R. 1:21-6(j), and (3) submit proof of these actions to the OAE. In re Sachs, ___ N.J. ___ (2015).

Subsequently, on February 24, 2015, after we heard argument in the instant matter, respondent was temporarily suspended by the Court for failing to comply with the Court's order. In re Sachs, 220 N.J. 492 (2015). Soon thereafter, on March 3, 2015,

the Court reinstated respondent. In re Sachs, 220 N.J. 583 (2015).

Respondent and the OAE entered into a disciplinary stipulation, on December 8, 2014. The facts are as follows:

Respondent was retained by grievant Donna Mitzelman and her sister, Barbara Nyitrai, to represent them in the sale of property in South River, New Jersey. Respondent had previously represented both Mitzelman and Nyitrai in real estate matters.

Chester Gut, Mitzelman and Nyitrai's deceased father, previously owned and used the subject property as his residence. On July 5, 2005, the administrator of Gut's estate transferred the property to Mitzelman and Nyitrai. Thereafter, Mitzelman and Nyitrai pursued a sale of the property.

Respondent prepared the contract for the sale of the property. Premier Abstract & Title Agency, Inc. was hired to conduct the title search on the property. Prior to the closing, the title search revealed the following two outstanding judgments against the property:

1. Judgment DJ0075947-1992, in the amount of $4,234.38; and

2. Judgment DJ22757-1994, in the amount of $166.38.

In order to close the property, Premier required $9,350 to be held in escrow, as follows:

1. Judgment DJ0075947-1992: $9,020, which included the judgment amount of $4,234.38 plus sixteen years of interest; and

2. Judgment DJ22757-1994: $330, which included the judgment amount of $166.38 plus sixteen years of interest.

Mitzelman and Nyitrai acknowledged the two judgments. Premier prepared an escrow agreement, titled "Indemnity Agreement," which referred to the two judgments as "the exception." Mitzelman and Nyitrai signed the agreement on February 1, 2008, the date of the closing. The agreement provided, in part, that the "[i]ndemnitor further agrees to do whatever is required by Insurer to remove the Exception on or before ninety (90) days from the date herein at no cost to" Premier. Respondent was aware of the terms of the agreement, having reviewed it with Mitzelman and Nyitrai. Respondent told them that he would "negotiate" or take care of all issues relating to the settlement of the two judgments.

In accordance with the terms of the agreement, Mitzelman and Nyitrai provided the $9,350, to be held in escrow by Premier. Based on respondent's representations, Mitzelman believed that respondent would negotiate the judgments for a lesser amount, within the ninety-day period.

In a May 23, 2008 letter, Premier reminded respondent that the three months allotted in the agreement had expired. There

is no evidence that respondent forwarded this letter to his clients. Six days later, on May 29, 2008, Premier paid $261.40 from the escrow funds toward DJ-22757-1994. There is no evidence that respondent communicated with his clients between May 23 and May 29, 2008.

On June 18, 2008, respondent asked Premier to refrain from satisfying the second judgment, DJ-0075947-1992, until June 20, 2008. Respondent neither contacted his clients nor negotiated the settlement of that judgment, during those three days. Hence, on June 20, 2008, Premier paid $7,047.62 toward DJ-0075947-1992. Premier then retained $2,040.98 as payment for resolving the above two judgments, leaving a zero balance in the escrow account.

Respondent alleged that, on June 25, 2008, after the judgments had been paid, he sent a letter to Nyitrai, enclosing the pay-off letters for those judgments. Believing that Nyitrai would inform Mitzelman about the contents of the letter, respondent did not send a separate letter to Mitzelman. The June 25, 2008 letter was the only written communication from respondent to either Mitzelman or Nyitrai about the two outstanding judgments. Also, on June 25, 2008, respondent closed his file.

After the judgments were paid, respondent did not follow up with Premier or his clients, about the outstanding balance, until the grievance in this matter was filed. He did not inform Mitzelman and Nyitrai that Premier had retained, as its fee, the difference between the escrowed amount and the monies paid to satisfy the judgments. For several years after the judgments were paid, Mitzelman attempted to contact respondent by telephone numerous times, to no avail.

Following a de novo review of the record, we find that the stipulation contains sufficient evidence to support the conclusion that respondent's conduct was unethical. He grossly neglected his clients' matter and failed to act with reasonable diligence, violations of RPC 1.1(a) and RPC 1.3, in several respects. First, although he represented to his clients that he would negotiate the pay-off amounts of the judgments against the property, there is no evidence that he attempted to do so. Second, he never obtained a bill for Premier's services to justify the escrow funds that Premier retained as its fee, following the pay-off of those judgments. He also failed to communicate with his clients by not timely forwarding to them correspondence from Premier and by not informing them that Premier had retained the balance of the escrow funds as a fee. Moreover, he failed to return Mitzelman's phone calls, made for

several years after the escrow funds were disbursed. Respondent's failure to adequately keep his clients informed violated RPC 1.4(b).

Conduct involving gross neglect, lack of diligence, and failure to communicate with clients ordinarily results in either an admonition or a reprimand, depending on the number of client matters involved, the gravity of the offenses, the harm to the clients, and the seriousness of the attorney's disciplinary history. See, e.g., In the Matter of Robert A. Ungvary, DRB 13-099 (September 30, 2013) (admonition for attorney who, in a civil rights action, permitted the complaint to be dismissed for failure to comply with discovery, then failed to timely prosecute an appeal, resulting in the appeal's dismissal; the attorney also failed to inform the client of his decision not to pursue the appeal or of the appeal's dismissal); In the Matter of James E. Young, DRB 12-362 (March 28, 2013) (admonition imposed on attorney who failed to file any pleadings in a workers' compensation claim and failed to appear at court-ordered hearings, resulting in the petition's dismissal with prejudice for lack of prosecution; for the next five or six years, the attorney failed to advise the client of the dismissal and failed to reply to the client's repeated requests for information; the attorney later paid the client the amount he

estimated the claim was worth ($8,500)); In the Matter of James M. Docherty, DRB 11-029 (April 29, 2011) (admonition for attorney who filed an appearance in his client's federal civil rights action and chancery foreclosure matter; had a pending motion in the federal matter adjourned; was unable to demonstrate what work he had done on his client's behalf, who had paid him $10,000; failed to communicate with his client; and failed to reply to the disciplinary investigator's requests for information about the grievance); In re Russell, 201 N.J. 409 (2009) (admonition for attorney whose failure to file answers to divorce complaints against her client caused a default judgment to be entered against him; the attorney also failed to explain to the client the consequences flowing from her failure to file answers on his behalf); In the Matter of Keith T. Smith, DRB 08-187 (October 1, 2008) (admonition imposed when attorney's inaction in a personal injury action caused the dismissal of the client's complaint; the attorney took no steps to have it reinstated; also, the attorney did not communicate with the client about the status of the case); In the Matter of Anthony R. Atwell, DRB 05-023 (February 22, 2005) (admonition for attorney who did not disclose to the client that the file had been lost, canceled several appointments with the client for allegedly being unavailable or in court when, in fact, the

reason for the cancellations was his inability to find the file, and then took more than two years to attempt to reconstruct the lost file; violations of RPC 1.4(a) and RPC 1.3 found); In re Uffelman, 200 N.J. 260 (2009) (reprimand imposed; the attorney was found guilty of gross neglect, lack of diligence, and failure to communicate with a client; although the attorney had no disciplinary record, the reprimand was premised on the extensive harm caused to the client, who was forced to shut down his business for three months because of the attorney's failure to represent the client's interests diligently and responsibly); In re Aranguren, 172 N.J. 236 (2002) (reprimand for attorney who failed to act with diligence in a bankruptcy matter, failed to communicate with the client, and failed to memorialize the basis of the fee; prior admonition and six-month suspension); In re Zeitler, 165 N.J. 503 (2000) (reprimand for attorney guilty of lack of diligence and failure to communicate with clients; extensive ethics history); In re Gordon, 139 N.J. 606 (1995) (reprimand for lack of diligence and failure to communicate with the clients in two matters; in one of the matters, the attorney also failed to return the file to the client; prior reprimand); and In re Wildstein, 138 N.J. 48 (1994) (reprimand for misconduct in three matters, including gross neglect, lack of diligence, and failure to communicate with clients).

In aggravation, we considered that Mitzelman and Nyitrai suffered an economic loss. Not only did they lose the potential reduction of the judgments, had respondent attempted to negotiate on their behalf, but also the $2,040.98 kept by Premier, as a fee, for doing little more than issuing two checks to pay off the two judgments. Avoiding any fee by Premier would have taken very little effort on respondent's part. Further, after Premier claimed the funds, respondent should have been concerned enough to attempt to inquire as to how Premier's fee could be so high. Instead, he simply closed his file and did nothing.

Additionally, respondent has a prior reprimand from 2009, albeit, for conduct unrelated to that of the instant matter.[1]

In mitigation, we considered that respondent cooperated with disciplinary authorities by readily admitting the violations cited in the stipulation. Nonetheless, because of the harm to his clients, we find that the appropriate quantum of discipline for respondent's conduct is a reprimand.

Member Hoberman did not participate.

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[1] We did not consider, as an aggravating factor, the Court's most recent order compelling respondent to comply with its 2009 order to distribute the funds that remain in his trust account from that matter. Our reasoning was that this particular issue could eventually be before us as an additional disciplinary matter.

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
Bonnie C. Frost, Chair

By: Ellen A. Brodsky
Ellen A. Brodsky
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Lawrence B. Sachs
Docket No. DRB 14-390

Argued: February 19, 2015

Decided: July 28, 2015

Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Disqualified	Did not participate
Frost			X		
Baugh			X		
Clark			X		
Gallipoli			X		
Hoberman					X
Rivera			X		
Singer			X		
Zmirich			X		
Total:			7		1

Ellen A. Brodsky
Chief Counsel