

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 3022 Disciplinary Docket No. 3
:
Petitioner : No. 128 DB 2022
v. :
: Attorney Registration No. 55615
JOSEPH M. YABLONSKI, :
: (Washington County)
Respondent :

ORDER

PER CURIAM

AND NOW, this 14th day of February, 2024, upon consideration of the Report and Recommendations of the Disciplinary Board, Joseph M. Yablonski is suspended from the Bar of this Commonwealth for a period of one year and one day. Respondent shall comply with the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Nicole Traini
As Of 02/14/2024

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 128 DB 2022
Petitioner	:	
	:	
v.	:	Attorney Registration No. 55615
	:	
JOSEPH M. YABLONSKI,	:	
Respondent	:	(Washington County)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania (“Board”) herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Joseph M. Yablonski was born on May 5, 1963, and was admitted to practice law in the Commonwealth of Pennsylvania on October 31, 1989. Yablonski’s attorney registration mailing address is 970 Davis School Road, Washington, Pennsylvania 15301. Yablonski is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. By Order of the Supreme Court of Pennsylvania dated April 21, 2023, Yablonski was placed on administrative suspension for failure to comply with Continuing Legal Education requirements.

The Goldberg Matter

3. On September 9, 2016, Lynn Goldberg was involved in an automobile accident and sustained injuries when John Huff allegedly failed to bring his vehicle to a stop and collided into Mr. Goldberg's vehicle. ODC-29 at Bates Stamp 000095-96.
4. On or about September 9, 2016, Mr. Goldberg and his wife, Susan Goldberg, retained Yablonski to pursue all claims against Mr. Huff. At the time of the engagement, Yablonski was employed by the law firm of Yablonski, Costello and Leckie, P.C. *Id.* at Bates Stamp 000096.
5. On September 6, 2018, Yablonski initiated a civil action by filing a complaint in the matter of *Lynn Goldberg and Susan Goldberg, his wife, v. John Huff* at docket number 4982 of 2018 in the Court of Common Pleas of Washington County, PA ("Civil Action"). *Id.*
6. On October 22, 2018, Stephen Summers, Esquire of Summers, McDonnell, Hudock, Guthrie & Rauch entered his appearance on behalf of Mr. Huff. *Id.*
7. By letter dated November 6, 2018, Krista Corabi, Esquire, an associate with Summers, McDonnell, advised Yablonski that Interrogatories and a Request for Production of Documents were forthcoming. *Id.*
8. By email on November 6, 2018, Yablonski received the Interrogatories and a Request for Production of Documents from Ms. Corabi. *Id.* at Bates Stamp 000097.
9. On November 13, 2018, Ms. Corabi filed an Answer and New Matter to the complaint in the Civil Action. *Id.*

10. Yablonski failed to inform the Goldbergs of his receipt of the Answer and New Matter. *Id.*
11. Yablonski failed to reply to the New Matter, which set forth a Notice to Plead. *Id.*
12. By email dated November 18, 2018, Yablonski advised the Goldbergs of the discovery request made by Ms. Corabi. *Id.*
13. Yablonski met with the Goldbergs following his November 18, 2018 email. N.T. at 30.
14. Yablonski failed to produce the requested information/documentation for Ms. Corabi in response to the discovery requests. ODC-29 at Bates Stamp 000097.
15. In late 2018, the Goldbergs met with Yablonski in his office, at which time the Goldbergs signed a new retainer agreement with Yablonski as a sole practitioner to continue to represent them as counsel in the Civil Action as he was no longer with Law Firm. N.T. 29-30.
16. By email to Ms. Corabi dated January 7, 2019, Yablonski advised Ms. Corabi of his new contact information and indicated that he would file a Praecipe for the change of his address. ODC-29 at Bates Stamp 000097.
17. By email dated January 7, 2019, Ms. Corabi sent Yablonski a copy of a Motion to Compel that she intended to present on January 11, 2019, which requested the court to enter an Order directing the plaintiffs to provide full and complete responses to the discovery requests within twenty days. *Id.* at Bates Stamp 000098.
18. By email dated January 10, 2019, Yablonski informed Ms. Corabi that he did not plan to contest the Motion to Compel, and he requested thirty days to provide the responses to the discovery requests. *Id.*

19. By email to Yablonski dated January 10, 2019, Ms. Corabi agreed to the thirty additional days for Yablonski to respond to the discovery requests. *Id.*
20. By Order of Court dated January 11, 2019, signed by Judge Michael Lucas, the plaintiffs were ordered to file full, complete, and verified answers to Interrogatories and responses to Request for Production of Documents within thirty days from the date of the Order. ODC-11.
21. Yablonski received a copy the Order of Court dated January 11, 2019. ODC-29 at Bates Stamp 000099.
22. Yablonski failed to inform the Goldbergs of the Order of Court dated January 11, 2019. *Id.*
23. By Order of Court dated February 1, 2019, Judge Lucas scheduled an initial case management conference for February 28, 2019. *Id.*
24. Yablonski received a copy of the Order of Court dated February 1, 2019; however, he did not attend the Case Management Conference on February 28, 2019. *Id.*
25. By Order of Court dated February 28, 2019, the case management deadlines were established. *Id.*
26. Yablonski received a copy of the Case Management Order. *Id.*
27. Yablonski failed to advise the Goldbergs of the case management deadlines. *Id.*
28. By letter dated March 19, 2019, sent to Yablonski at both his prior and updated addresses, Ms. Corabi informed Yablonski that it had been 60 days since Judge Lucas signed the Order of Court addressing the outstanding discovery and that she wanted to schedule Mr. Goldberg's deposition. Ms. Corabi also offered to help if Yablonski was having difficulty with the discovery. *Id.* at Bates Stamp 000100.

29. Yablonski did not respond to Ms. Corabi's letter, and he failed to provide the verified answers to Interrogatories and response to the Request for Production of Documents as directed by the Order of Court dated January 11, 2019. *Id.*
30. By letter dated May 14, 2019, Ms. Corabi informed Yablonski that she would be presenting a Motion for Sanctions on May 24, 2019, but that if Yablonski provided the discovery responses prior to that date she would forego presentation of the Motion. *Id.*
31. Yablonski did not respond to Ms. Corabi's letter dated May 14, 2019, and he failed to provide the verified answers to Interrogatories and responses to Request for Production of Documents as directed by the Order of Court dated January 11, 2019. *Id.* at Bates Stamp 000101.
32. Yablonski failed to advise the Goldbergs of his receipt of the May 14, 2019 letter from Ms. Corabi. *Id.*
33. On May 24, 2019, Ms. Corabi presented the Motion for Sanctions. *Id.*
34. Yablonski did not attend the hearing on the Motion for Sanctions. *Id.*
35. By Order of Court dated May 24, 2019, Judge Lucas granted the Defendant's Motion for Sanctions and ordered that if the Order of Court dated January 11, 2019 was not complied with on or before June 4, 2019, Plaintiffs and their counsel would pay the sum of \$900 to Defendant's counsel. *Id.*
36. Yablonski received the Order of Court dated May 24, 2019 but failed to inform the Goldbergs that he had received it or of his failure to provide Ms. Corabi with the discovery documents. *Id.* at Bates Stamp 000102.
37. By letter to Yablonski dated May 28, 2019, Ms. Corabi provided Yablonski with a copy of the Order of Court dated May 24, 2019 imposing sanctions, and advised

Yablonski that if he did not comply, she would prepare a second Motion for Sanctions. *Id.*

38. Yablonski did not respond to the May 28, 2019 letter from Ms. Corabi. *Id.*

39. Yablonski failed to provide the discovery responses as required by the two Orders of Court issued by Judge Lucas. *Id.*

40. By letter to Respondent dated June 24, 2019, Ms. Corabi advised him of the Second Motion for Sanctions seeking payment of counsel fees and to preclude Yablonski's clients from submitting evidence of injuries or damages at the time of trial. *Id.*

41. Yablonski received Ms. Corabi's letter but failed to respond to it and/or provide the required documents. *Id.* at Bates Stamp 000103.

42. Yablonski failed to notify the Goldbergs of the status of the Civil Action. *Id.*

43. Yablonski received a copy of Ms. Corabi's Second Motion for Sanctions. *Id.*

44. Yablonski failed to inform the Goldbergs that he had received a Second Motion for Sanctions on their Civil Action. *Id.*

45. On July 3, 2019, Ms. Corabi presented Defendant's Second Motion for Sanctions. *Id.*

46. By Order of Court dated July 3, 2019, Judge Lucas directed the plaintiffs to reimburse Defendant \$900 in counsel fees and ordered the plaintiffs and plaintiffs' counsel to appear for a pretrial conference on August 5, 2019, at 3:15 p.m. or suffer further sanctions, to include dismissal of the action or preclusion of all evidence at trial. *Id.*

47. Yablonski failed to inform the Goldbergs of the Order of Court dated July 3, 2019 or inform them of the August 5, 2019 pretrial conference. *Id.*

48. Yablonski failed to appear at the August 5, 2019 Pretrial Conference. *Id.*
49. Yablonski failed to pay the \$900 in attorney fees as ordered by Judge Lucas. *Id.* at Bates Stamp 000104.
50. By Order of Court dated August 5, 2019, the Civil Action was dismissed with prejudice for Plaintiffs' failure to comply with multiple court orders. *Id.*
51. Yablonski received the Order of Court dated August 5, 2019, dismissing the Civil Action. *Id.*
52. Yablonski failed to advise the Goldbergs of the Order of Court dated August 5, 2019 and that their Civil Action had been dismissed. *Id.*
53. On August 9, 2019, Ms. Corabi filed a Praecipe to Enter Judgment in favor of Defendant in the Civil Action. *Id.*
54. Yablonski failed to appeal the dismissal of the Goldbergs' Civil Action. *Id.*
55. On August 13, 2019, Mrs. Goldberg emailed Yablonski and requested a status update. *Id.*
56. By email dated August 14, 2019, Yablonski provided a response to Ms. Goldberg's email requesting a status update stating, *inter alia*, "not much to report, but I'll see if I can get something moving and will let you know as soon as I can." *Id.*
57. After reading Yablonski's email of August 14, 2019, the Goldbergs believed Yablonski was trying to move their case forward toward a resolution. N.T. at 37.
58. Yablonski knew that his August 14, 2019 statement to Ms. Goldberg regarding the status of the Civil Action was false. *Id.* at Bates Stamp 000105.
59. Between February 2019 and July 2021, Ms. Goldberg made numerous unsuccessful attempts to reach Yablonski through email, texts, and phone calls to obtain a status update on the Civil Action. *Id.*

60. On January 5, 2021, Ms. Goldberg texted Yablonski that “Lynn passed away on December 17th at VA in Pittsburgh. Do you want a Death Certificate?” ODC-26 at Bates Stamp 000075.

61. Yablonski failed to appropriately respond to any of Ms. Goldberg's attempts to obtain the status of the Civil Action or her text reporting the death of Mr. Goldberg. ODC-29 at Bates Stamp 000105; N.T. at 32-33.

The DB-7 Matter

62. Petitioner sent a DB-7 Request for Statement of Position dated April 1, 2022, to Yablonski via regular and certified mail, return receipt requested to the address listed on his most recent attorney registration form. ODC-29 at Bates Stamp 000105.

63. Yablonski received the DB-7 on April 4, 2022. ODC-27.

64. Yablonski failed to respond to the DB-7. ODC-29 at Bates Stamp 000105.

65. On May 11, 2022, Petitioner issued a reminder letter to Yablonski and provided a response deadline of 30 days. ODC-28.

66. Yablonski failed to answer the DB-7 or contact Petitioner to address the matter. *Id.* at Bates Stamp 000106.

Disciplinary Proceeding at No. 128 DB 2022

67. On September 14, 2022, Petitioner filed a Petition for Discipline alleging Yablonski's misconduct in his representation of the Goldbergs and alleging violation of Rules of Professional Conduct 1.1, 1.3, 1.4(a)(3), 1.4(a)(4), 1.4(b), 3.2, 8.4(c) and 8.4(d) and Pennsylvania Rule of Disciplinary Enforcement 203(b)(7). ODC-29.

68. Yablonski was personally served with a copy of the Petition for Discipline on September 21, 2022. ODC-30.
69. Yablonski failed to file an answer to the Petition for Discipline.
70. All factual averments contained in the Petition for Discipline are deemed admitted by Yablonski. N.T. at 8; Pa.R.D.E. 208(b)(3).
71. By Notice dated November 14, 2022, a Prehearing Conference was scheduled for January 30, 2023 and a disciplinary hearing was scheduled for March 9, 2023.
72. Yablonski failed to attend the Prehearing Conference.
73. By Prehearing Order dated January 30, 2023, deadlines were set for the exchange of exhibits and witness lists.
74. Yablonski failed to provide a list of witnesses or exhibits.
75. On March 8, 2023, Yablonski filed a Motion to Continue the disciplinary hearing and by Order dated March 8, 2023, the Committee Chair denied the Motion.
76. On March 9, 2023, the Committee conducted the disciplinary hearing.
77. During the adjudicatory phase, Petitioner offered and moved into evidence ODC Exhibits 1 through 30. During the dispositional phase of the hearing, Petitioner offered and moved into evidence ODC Exhibit 31. Petitioner called Krista Corabi, Esquire and Susan Goldberg to testify.
78. Ms. Corabi testified credibly.
79. Mrs. Goldberg testified credibly.
80. The Goldbergs retained Yablonski because he had previously represented Mrs. Goldberg in another matter and settled it quickly. N.T. 28.

81. After Yablonski left his law firm and went out on his own, Mrs. Goldberg recalled meeting with Yablonski on three occasions in his personal office and the last meeting was in January 2019. N.T. 31.
82. Mrs. Goldberg attempted to contact Yablonski on various occasions and Yablonski replied to an email on August 14, 2019, that led Mrs. Goldberg to believe that the case was ongoing. N.T. 35, 36.
83. After August 14, 2019, Mrs. Goldberg never again heard from Yablonski related to the Civil Action, despite her repeated attempts to contact him. N.T. 35.
84. Mrs. Goldberg learned that the case had been dismissed after she filed a complaint with Office of Disciplinary Counsel. N.T. 36
85. Mrs. Goldberg testified that it was very stressful dealing with Yablonski's failure to communicate. N.T. 37.
86. Mrs. Goldberg testified that "[i]f we had been notified that [Yablonski] did not want to continue with the suit, and we needed to seek a new attorney, we would have done that, but we had no communication. I asked him many times to reach out to my husband, just to give him support, and he didn't." N.T. 40.
87. Yablonski appeared pro se and credibly testified on his own behalf. He offered no exhibits or witnesses.
88. Yablonski testified that he experienced a significant health issue in early 2023 that resulted in a hospitalization, where he was informed that he had suffered a cardiac event. Yablonski was also informed that he had a significant underlying issue that was probably related. He did not specify the nature of the issue but believed it had existed for quite some time and had caused him problems in the past. N.T. 42. He further testified that the health issue was not under control. N.T. 48.

89. Yablonski explained his work history in that he was a partner with a firm for a number of years and due to family circumstances, which included his mother's death and a disabled brother, he relinquished his partnership for an of-counsel relationship. N.T. 43. Yablonski stepped down from his partnership with the intention of eventually leaving or going out on his own. N.T. 43-44.

90. Yablonski later went out on his own and took some cases with him. N.T. 45.

91. Yablonski testified to "a lot of things going on" in his personal life and that going on his own as a solo, he "probably did, you know, not handle things as – as well as I should have." N.T. 46.

92. Yablonski admitted that as far as the Goldbergs, he did not pursue the case or follow up on it. He testified:

"I'm not doubting that it happened or questioning that – that things happened, but I – you know, I wouldn't knowingly do anything like that, especially to somebody I know, you know, and respect, but, you know, so that was a period of time when, you know, things were a bit overwhelming, and, you know, I wasn't managing things as well as I – I should have, and they just got more and more complicated and worse after that..."
N.T. 46-47.

93. Yablonski admitted that a "ball was dropped" and he did not have any bad intention, and has either a different recollection of the matter or no recollection at all. N.T. 50, 52.

94. Yablonski testified that he assumed staff at his former law firm would have contacted him, or that Judge Lucas would have contacted him. N.T. at 46.

95. Yablonski testified that he realized he needed to reduce and eliminate matters and concentrate on what he could handle easily and at his own speed. He explained that he focused on criminal practice and performed work for a family non-profit. N.T. 47.

96. Yablonski further testified that he has filed motions to withdraw from remaining cases and has not engaged in anything of a legal nature. N.T. 49. Yablonski did not specify a time frame or offer evidence of the withdrawal motions.
97. Yablonski testified that he considered taking disability inactive license status until his health issue is under control, but has not yet done so. N.T. 49-50.
98. Yablonski testified that although he is not sure what he will do as far as practicing law, he has no intention to do what he did before. He indicated he wants to continue performing work with a non-profit health center that was established by his grandfather, and perhaps do some criminal practice. N.T. 51.
99. Yablonski did not apologize for his misconduct or express remorse.
100. Yablonski has prior discipline consisting of an Informal Admonition imposed on January 21, 2021. The admonition was the result of Yablonski's lack of diligence, failure to communicate, and engaging in conduct prejudicial to the administration of justice, including the failure to comply with multiple court orders and complete discovery. ODC-31
101. At the conclusion of the hearing on March 9, 2023, the record in this matter was closed.
102. On April 14, 2023, Petitioner filed a post-hearing brief and requested that the Committee recommend to the Board that Yablonski be suspended for a period of one year and one day. Yablonski did not file a post-hearing brief.
103. By Report filed on August 1, 2023, the Committee concluded that Yablonski violated the rules as charged in the Petition for Discipline and recommended that he be suspended for one year and one day.

104. The parties did not take exception to the Committee's Report and recommendation.

105. The Board adjudicated this matter at the meeting on October 28, 2023.

II. CONCLUSIONS OF LAW

By his conduct as set forth above, Yablonski violated the following Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

1. Rule of Professional Conduct 1.1 - A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

2. Rule of Professional Conduct 1.3 - A lawyer shall act with reasonable diligence and promptness in representing a client.

3. Rule of Professional Conduct 1.4(a)(3) - A lawyer shall keep the client reasonably informed about the status of the matter.

4. Rule of Professional Conduct 1.4(a)(4) - A lawyer shall promptly comply with reasonable requests for information.

5. Rule of Professional Conduct 1.4(b) - A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

6. Rule of Professional Conduct 3.2(c) - A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

7. Rule of Professional Conduct 8.4(c) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

8. Rule of Professional Conduct 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

9. Rule of Disciplinary Enforcement 203(b)(7) – The following shall be grounds for discipline: Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request under Disciplinary Board Rules § 87.7(b) for a statement of the respondent-attorney's position.

III. DISCUSSION

This matter comes to the Board following the Committee's conclusion that Yablonski violated the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement charged in the Petition for Discipline and its recommendation that Yablonski be suspended for a period of one year and one day. Petitioner bears the burden of proving ethical misconduct by a preponderance of clear and satisfactory evidence. *Office of Disciplinary Counsel v. Lawrence J. DiAngelus*, 907 A.2d 452, 456 (Pa. 2006). Yablonski failed to answer the charges against him and all factual allegations in the Petition are deemed admitted.

The record demonstrates that in 2016 Yablonski represented the Goldbergs in a personal injury matter and abandoned that representation after he left his law firm in approximately 2018 and began a solo practice of law. Yablonski failed to answer discovery requests as required by two orders of court, failed to appear at a case management conference, failed to appear at a hearing on a sanctions motion, failed to pay \$900 in court-ordered attorney fees, and failed to appear at a pretrial conference. Yablonski's abandonment of the matter resulted in dismissal of the Goldbergs' case on August 5, 2019. Yablonski did not appeal the dismissal.

During Yablonski's representation, and in particular from February 2019 through July 2021, Yablonski failed to communicate with his clients and did not keep them informed about the status of their matter. Yablonski never advised the Goldbergs of critical information such as court orders, case management deadlines, correspondence from Ms. Corabi, sanctions imposed against them, dates of hearings, and most egregiously, the dismissal of their civil suit. Likewise, Yablonski did not promptly comply with reasonable requests for information from his clients, and failed to explain matters to the extent reasonably necessary to permit the Goldbergs to make informed decisions. Mrs. Goldberg made repeated requests for status updates to no avail. On the only occasion that Yablonski replied to Mrs. Goldberg's email requesting a status update, he misrepresented the status of the case, stating that there was "not much to report, but I'll see if I can get something moving." In fact, there was significant information to share with the Goldbergs, as Yablonski's reply to Mrs. Goldberg was sent on August 14, 2019, nine days after the court dismissed the Goldbergs' case. Yablonski's misrepresentation caused the Goldbergs to believe their matter was ongoing and Yablonski was pursuing it to a resolution. After receiving the August 14, 2019 email, Mrs. Goldberg never again heard from Yablonski, not even when she texted him on January 5, 2021 to advise that her husband had died. Mrs. Goldberg did not learn that the lawsuit had been dismissed until she contacted Office of Disciplinary Counsel to file a complaint and an investigator informed her of the dismissal.

The record before us amply demonstrates Yablonski's violation of the charged rules by his failure to pursue the Goldbergs' personal injury matter and failure to communicate with his clients. In addition, the factual allegations in the Petition for

Discipline establish Yablonski's failure to respond to Petitioner's DB-7 request for statement of position.

Having concluded that Yablonski violated the ethical rules charged in the Petition for Discipline, we turn to the appropriate sanction to address his misconduct. In reviewing the general considerations governing the imposition of final discipline, it is well-established that disciplinary sanctions serve the dual role of protecting the public from unfit attorneys and maintaining the integrity of the legal system. *Office of Disciplinary Counsel v. John Keller*, 506 A.2d 872, 875 (Pa. 1986). Another compelling goal of the disciplinary system is deterrence. *In re Dennis Lulo*, 766 A.2d 335, 338, 339 (Pa. 2001). The Board also recognizes that the recommended discipline must reflect facts and circumstances unique to the case, including circumstances that are aggravating or mitigating. *Office of Disciplinary Counsel v. Anthony C. Cappuccio*, 48 A.3d 1231, 1238 (Pa. 2012). And importantly, while there is no per se discipline in Pennsylvania, the Board is mindful of precedent and the need for consistency in discipline. *Office of Disciplinary Counsel v. Robert Lucarini*, 472 A.2d 186, 189-91 (Pa. 1983).

Before the Board is the Committee's recommendation for a one year and one day period of suspension. Upon the Board's independent review of this record, and after reviewing the decisional law, weighing the aggravating and mitigating factors, and recognizing that there is a range of sanctions for misconduct, we conclude that a one year and one day suspension is commensurate with the totality of the facts and circumstances in this matter and is consistent with sanctions imposed under similar circumstances.

Yablonski offered credible testimony at the disciplinary hearing. He described a current significant but unspecified health issue that caused his hospitalization in early 2023 after he suffered a cardiac event, and alluded to other unspecified health

issues that have caused him problems over the years. Yablonski encountered difficulties running a solo practice after relinquishing his law firm partnership in 2018 due to family circumstances, which included his mother's death and a disabled brother. Yablonski described himself as overwhelmed and not managing his work as well as he should have. He realized that he needed to reduce his caseload and focus on matters that he could handle easily and at his own speed. To that end, Yablonski testified that he filed motions to withdraw from cases and did not engage in other legal matters, although he did not offer evidence to support this testimony. Yablonski considered taking disability inactive status but had not pursued that option as of the date of the disciplinary hearing. While Yablonski's personal problems do not excuse or justify his misconduct, they provide context for his actions.

With this background in mind, we consider the aggravating factors present in this record, which weigh in favor of imposing discipline that suspends Yablonski's license to practice law until he is able to establish his ability to perform at a professional level. The most serious aggravating factor is Yablonski's prior discipline for similar misconduct. On January 25, 2021, Yablonski received an informal admonition for his misconduct in one matter where in February 2019, he agreed to represent several clients in a civil matter pending before the Orphan's Court Division of Washington County. Thereafter, Yablonski failed to comply with two court orders, and after July 2019 ceased communicating with clients by failing to respond to telephone and email inquiries. Yablonski's misconduct in the Goldberg matter occurred during the same time period as his misconduct that resulted in the informal admonition. The administration of discipline upon Yablonski in January 2021 did not serve to improve his client communications, as the record shows that Mrs. Goldberg's futile attempts to contact Yablonski continued into

July 2021, at least six months after Yablonski received his discipline and should have had a heightened awareness of his responsibilities to clients. Precedent establishes that a prior record of discipline is an aggravating factor, and recidivist offenders receive more severe disciplinary sanctions. See, *Office of Disciplinary Counsel v. Joshua M. Briskin*, No. 72 DB 2021 (D. Bd. Rpt. 6/13/2023) (S. Ct. Order 8/4/2023); *Office of Disciplinary Counsel v. Clarence E. Allen*, No. 190 DB 2020 (D. Bd. Rpt. 1/31/2022) (S. Ct. Order 4/14/2022).

The Committee suggested as another aggravating factor that Yablonski exhibited poor advocacy and a lack of respect for the disciplinary system by his failure to file an answer to the Petition for Discipline, failure to appear at the prehearing conference, last minute filing of a continuance request, which was denied by the Committee, and failure to call any witnesses at the disciplinary hearing. However, we find that Yablonski did not disrespect the disciplinary system; he appeared at the hearing and conducted himself before the Committee in a forthright and respectful manner. In our view, Yablonski's deficiencies in defending his own disciplinary matter in 2022 and 2023 are not so much an aggravating factor as they are a continuation and extension of the practice problems previously exhibited that led to his prior discipline in 2021 and the instant disciplinary matter, and further indicia of his inability to perform as a proper lawyer.

We also accord some weight in aggravation to Yablonski's lack of remorse and failure to accept responsibility for his actions. Here, Yablonski admitted he had either a different recollection or no recollection of his interaction with the Goldbergs, but nonetheless testified that he did not doubt or question what happened in the Goldberg lawsuit. Yablonski admitted that during the time frame when he operated as a sole practitioner, he "dropped the ball" and did not manage things as well as he should have,

and needed to reduce his caseload. Upon this record, we find that Yablonski accepted partial responsibility for his actions, although he did not appear to fully comprehend the nature of what he did. As to remorse, Yablonski did not directly apologize for his actions in the Goldberg matter. The decisional law establishes that respondents who lack remorse or are unwilling to acknowledge or comprehend their misconduct heighten the risk of harm to the public and deserve more serious discipline. *Office of Disciplinary Counsel v. Alan Kane*, No. 77 DB 2001 (D. Bd. Rpt. 12/13/2022) (S. Ct. Order 3/8/2023); *Office of Disciplinary Counsel v. Brittany Maire Yurchyk*, No. 107 DB 2020 (D. Bd. Rpt. 10/22/2021) (S. Ct. Order 12/27/2021).

Surveying the decisional law, we find there are several matters that provide guidance and support the Board's recommendation for a one year and one day suspension. In the recent matter of *Office of Disciplinary Counsel v. Richard Hulings Luciana*, No. 91 DB 2021 (D. Bd. Rpt. 12/12/2022) (S. Ct. Order 3/8/2023), the Court suspended Luciana for one year and one day for his misconduct involving a severe lack of diligence in his representation in estate matters and his disregard for disciplinary procedures. The record established that Luciana, a lawyer with no record of discipline, delayed for seven years in taking action on behalf of two estates. Luciana failed to distribute funds of a life insurance policy to the rightful beneficiaries in one matter and failed to have a successor administrator appointed in another matter. Luciana was nonresponsive to requests from the beneficiaries and from another attorney. Similar to Yablonski, Luciana failed to answer Office of Disciplinary Counsel's DB-7 letter and failed to answer the Petition for Discipline. Luciana also failed to appear for his disciplinary hearing, unlike Yablonski, who appeared and testified on his own behalf.

In the matter of *Office of Disciplinary Counsel v. Peter Jude Caroff*, No. 42 DB 2019 (D. Bd. Rpt. 2/25/2020) (S. Ct. Order 6/5/2020), Caroff received a one year and one day suspension for his neglect of one client matter. Caroff failed to act with reasonable diligence and promptness in representing his client, failed to keep his client reasonably informed about the status of a case, failed to promptly comply with reasonable requests for information, failed to communicate his fee, failed to hold client funds separate, failed to maintain records of client funds, failed to deposit funds into a trust account, failed to return an unearned fee (which Caroff later refunded on the eve of the disciplinary hearing), engaged in misrepresentations, and failed to respond to Petitioner's requests for information. Caroff admitted he was derelict in his duties to his client, but failed to show remorse and apologize. Similar to Yablonski, Caroff testified to personal issues he was experiencing at the time of the misconduct. Caroff acknowledged that he should have ceased practicing law as he was not able to properly represent his clients. And like Yablonski, Caroff had a prior record of discipline consisting of an informal admonition for similar misconduct in two clients matters, which the Board weighed in aggravation.

Another attorney received a suspension of one year and one day under similar circumstances to the instant matter. In *Office of Disciplinary Counsel v. Robert G. Young*, No. 115 DB 2019 (D. Bd. Rpt. 11/30/2020) (S. Ct. Order 3/16/2021), Young committed misconduct in three client matters, which included lack of diligence, lack of communication, and actions prejudicial to the administration of justice. The Board weighed Young's prior public censure in aggravation, while considering Young's acceptance of responsibility and remorse in mitigation. Like Yablonski, Young was a sole practitioner who described himself as being overwhelmed with his workload.

Upon reviewing the totality of the facts and circumstances of this record, and after considering the goals of the disciplinary system and the established precedent to ensure the application of consistent discipline, we respectfully recommend that Yablonski be suspended for a period of one year and one day, which suspension prohibits Yablonski from practicing law until he proves his fitness.

IV. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Joseph M. Yablonski, be Suspended for one year and one day from the practice of law in this Commonwealth.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: */s/ Laura E. Ellsworth*
Laura E. Ellsworth, Member

Date: 11/30/2023