IN THE SUPREME COURT
OF THE STATE OF OREGON

In re:	)	
	)	
Complaint as to the Conduct of	)	Case No. 19-96
	)	
RICHARD F. ALWAY,	)	
	)	
Respondent.	)	

Counsel for the Bar:	Rebecca Salwin and Martha Hicks
Counsel for the Respondent:	Jason E. Thompson
Disciplinary Board:	Mark A. Turner, Adjudicator Micah Moskowitz Sylvia Rasko, Public Member
Disposition:	Violation of RPC 1.4(a) and RPC 5.3(a). Trial Panel Opinion. Public reprimand.
Effective Date of Opinion:	January 22, 2021

TRIAL PANEL OPINION

The Oregon State Bar (Bar) charged respondent Richard F. Alway with violation of RPC 5.3(a) (failure to supervise non-lawyer personnel), RPC 1.4(a) (failure to keep a client reasonably informed), and RPC 1.4(b) (failure to explain sufficiently to allow client to make an informed decision). The Bar asked us to issue a public reprimand as the appropriate sanction.

The charges arose when a legal assistant in respondent's office neglected to docket entry of a judgment in a family law matter. That oversight meant respondent failed to file an attorney fee petition in the case. When the client subsequently inquired about the status of the fee petition, the employee falsely told her that it had been filed. The employee misled the client for an extended period of time. She never told respondent about the situation or the client inquiries. The client complained to the Bar. The Bar sent letters to respondent inquiring about the complaint, but the employee received the letters, never told respondent of the investigation, and instead tried to explain the situation away herself. Respondent finally learned of the situation when he received a certified letter from Disciplinary Counsel's Office (DCO) at his home. Respondent blamed the situation on his employee's conduct.

Trial took place by videoconference on September 29 and 30, 2020. The trial panel consisted of the Adjudicator, Mark A. Turner, attorney member Micah Moskowitz, and public member Sylvia Rasko. The Bar appeared through counsel, Rebecca Salwin and Martha Hicks. Respondent appeared and was represented by counsel, Jason E. Thompson.

As discussed below, after considering the evidence and argument offered at trial, we conclude that the Bar proved the alleged violations of RPC 5.3(a) and RPC 1.4(a) by clear and convincing evidence. We find that the Bar failed to prove a violation of RPC 1.4(b). We publicly reprimand respondent.

FACTS

Respondent hired Melissa Wagers in November 2016 to be a legal assistant in his solo practice. She had no law office work experience. She initially worked alongside respondent's paralegal, Jan McElroy, who had worked with respondent for decades. Wagers's conduct is directly at issue in this case. Neither side called her to testify.

The Bar claimed that the only formal training Wagers received from respondent was on the mechanics of e-filing. Respondent and McElroy testified at trial that the training was more extensive. Tr. 164-67. Wagers also received the office's employee handbook that had policies and procedures in place for handling cases and communicating with clients. Ex. 104.

Wagers and McElroy fielded all incoming phone calls and screened all emails at the office's main email address, info@alwaylaw.com, and received and opened the mail. They used their judgment in deciding which communications to handle themselves and which to forward to respondent. Respondent testified that he always gave new clients one of his business cards that had his personal office email address, so that clients could reach him directly if they wished. Tr. 123.

McElroy experienced health problems and began reducing her workload in 2017. She stopped coming into the office in early 2018, although she was available from home if Wagers needed to speak with her. She stopped working altogether in May of 2018. Wagers's duties increased. The Bar argued that respondent provided her with no additional training or supervision at this time. McElroy testified that Wagers was adequately trained to handle her duties. Tr. 164-67.

During this period respondent represented client Angela Alcantar in a parenting time modification matter initiated by her ex-husband. After trial in August 2017, respondent prepared a proposed judgment, which included a statement that fees were awarded pursuant to ORCP 68. At respondent's instruction, Wagers served the draft on the ex-husband and then filed the judgment with the court on the appropriate schedule. The fee petition was due 14 days after entry of judgment. *ORCP 68.* Respondent testified that he instructed Wagers to calendar the fee petition due date once she received notice of entry of judgment. He relied on the docketing system to notify him when to file the petition. Tr. 108-09.

Respondent prepared a draft of the fee petition in anticipation of filing, but work remained to be done. Wagers apparently received notice of entry of the judgment but did not calendar the due date for the fee petition. She never brought the file back to the attention of respondent. Respondent never finished or filed the fee petition and forgot about it. Respondent did not communicate directly with his client again. *Id*.

In September 2017, March 2018, April 2018, and May 2018, Alcantar made inquiries to respondent's office about the status of the attorney fee award. Each time, Alcantar either left a message that went unreturned or spoke with Wagers, never with respondent. Wagers did not tell Alcantar that the petition had not been filed. She told Alcantar the courts were backed-up with criminal trials and that her case was not a priority. Wagers did not tell respondent about any of these calls.

On May 21, 2018, Alcantar sent respondent a certified letter at his office address. She asked specific questions about her situation. Wagers signed the return receipt but did not tell respondent about the letter or reply to Alcantar.

On June 12, 2018, Alcantar filed a complaint with the Bar's Client Assistance Office (CAO). The CAO sent written inquiries to respondent, but Wagers received them and did not tell respondent. Instead, she responded to the inquiries in July and September 2018.

CAO referred the grievance to DCO. DCO continued the investigation. Wagers also responded to DCO's inquiries from February, March, and April 2019 without telling respondent. DCO stated that it needed a response from respondent himself, but each time Wagers ignored the instruction and responded herself.

DCO sent a certified letter to respondent's home address in May of 2019 that he did finally receive personally. Respondent answered DCO's inquiries himself for the first time. He told DCO that Wagers had never informed him of the communications from Alcantar or the Bar. He acknowledged that Alcantar's case was not handled properly, but he took no personal responsibility for failure to supervise Wagers or to monitor Alcantar's case.

Alcantar filed a lawsuit against respondent in Marion County Circuit Court in September 2019. Respondent testified that the matter was handled by counsel retained by the Professional Liability Fund. The case settled in December 2019.

After the incident respondent changed his email address on file with the Bar to be his direct work email address rather than the general office address. He implemented a new system involving a spreadsheet to track cases and tasks. Tr. 145-46. Respondent terminated Wagers in April 2020 when he learned that she used his credit card for her personal expenses.

ANALYSIS OF THE CHARGES

2. Respondent violated RPC 5.3(a).

RPC 5.3(a) states: "With respect to a nonlawyer employed or retained, supervised or directed by a lawyer … a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer."

The parties advised us that the Oregon Supreme Court has not interpreted RPC 5.3(a). Neither side provided us with other authority interpreting the rule. Other jurisdictions have addressed the question, however, in similar situations. Although not binding on us, the authorities we have reviewed are instructive.

The most compelling case was *People v Smith*, 74 P3d 566 (Colorado 2003). In *Smith*, a Colorado lawyer was suspended for nine months for failure to supervise his legal assistant, who engaged in the unauthorized practice of law. Smith was a sole practitioner with a large volume practice, about half of which was domestic relations. His legal assistant, Ross, had worked for him for years. Smith put measures in place to assure that all communications, oral and written, were brought to his attention, and dictated how mail would be received and sorted and phone messages would be handled. *Id* at 568. His office procedures were similar to respondent's here.

Ross mishandled a divorce proceeding, and then covered it up and tried to remedy the situation by filing pleadings without respondent's knowledge and by handling communications with the client. Her conduct was eventually discovered. Smith was charged with rule violations virtually identical to those at issue here, including Colorado RPC 5.3(b), which is identical to our RPC 5.3(a). *Id* at 571.

He was also charged with violation of Colorado RPC 5.3(a), the equivalent of which is not found in our rule. It provides that with respect to a non-lawyer employee, "a partner in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of a lawyer…" As to the 5.3(a) charge under the Colorado rules, the court held that Smith had adequate measures in place that the assistant did not follow. That charge was dismissed. We are not faced with the question of whether respondent had adequate measures in place here.

The analysis under our rule, as under Colorado RPC 5.3(b), is different. The *Smith* court noted that the focus is not on whether adequate procedures were in place but upon whether the lawyer having direct supervisory authority adequately supervises the non-lawyer employee. *Id* at 571-72. The court noted that Smith had delegated substantial responsibility to his assistant (as is the case for respondent here) and failed to review her work (as is also the case here). The failure to supervise adequately allowed the assistant to conceal the ongoing failures to properly handle the case. The court concluded: "A simple examination of the [client's] file would have disclosed Ross's activities and alerted Smith of the problems developing in the case." *Id* at 572.

Smith argued that Ross's failure to inform him of the situation was the cause of the problem and he should not be held responsible. The court rejected that excuse. The court looked to The Restatement (Third) of Law Governing Lawyers, §11 (2003) concerning a lawyer's duty of supervision.[1] It provides:

> "Supervision is a general responsibility of a principal….A…lawyer with authority to direct the activities of another lawyer or nonlawyer employee of the firm is such a principal. Appropriate exercise of responsibility over those carrying out the tasks of law practice is particularly important given the duties of lawyers to protect the interests of clients and in view of the privileged powers conferred on lawyer by law. The supervisory duty, in effect, requires that such additional experience and skill be deployed in reasonably diligent fashion.
>
> "Lack of awareness of misconduct by another person, either lawyer or nonlawyer, under a lawyer's supervision does not excuse a violation of this Section. To ensure that supervised persons comply with professional standards, a supervisory lawyer is required to take reasonable measures, given the level and extent of responsibility that the lawyer possesses. Those measures, such as an informal program of instructing or monitoring another person, must often assume the likelihood that a particular lawyer or nonlawyer employee may not yet have received adequate preparation for carrying out that person's own responsibilities."

The court then cited a number of cases where the excuse was rejected in similar circumstances. *Id*.

The first was *State ex rel. Oklahoma Bar Ass'n v. Braswell*, 663 P.2d 1228, 1231-32 (Okla.1983). The attorney there raised the same argument, claiming that losing track of the client's case may have been caused by the inaction or neglect of his law clerk. The Oklahoma Supreme Court stated, "[w]hile delegation of a task entrusted to a lawyer is not improper, it is the lawyer who must maintain a direct relationship with his client, supervise the work that is delegated and exercise complete, though indirect, professional control over the work product .... [t]he work of lay personnel is done by them as agents of the lawyer employing them. The lawyer must supervise that work and stand responsible for its product." *Id* at 1231-32.

The Colorado court also cited an Oregon case, *In re Morin*, 319 Or. 547, 878 P.2d 393 (1994). There the lawyer was found responsible for the unauthorized practice of law by a paralegal. The lawyer had initially warned the paralegal about such conduct, but took no further steps to enforce the instruction or to test the employee's ability to identify inappropriate activities.[2]

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[1] The Oregon Supreme Court has looked to The Restatement (Third) of Law Governing Lawyers in disciplinary matters. *See, e.g., In re Newell*, 348 Or 396, 410, 234 P3d 967 (2010).

[2] The opinion also cites *In re Bonanno*, 208 A.D.2d 1117, 617 N.Y.S.2d 584 (N.Y.App.Div.1994) (attorney was reprimanded for his conduct in the supervision of a non-attorney employee and in the management

This case is no different from *Smith* and the cases it cites. Although respondent here may have had adequate procedures in place, that is not the question at issue when considering the alleged violation of Oregon RPC 5.3(a). The direct supervisor of nonlawyer personnel must take affirmative steps to avoid a situation such as this where a case was neglected and a client was ignored. It is telling that respondent here even testified to engaging in additional oversight after this episode to avoid a similar occurrence in the future. Respondent did not make reasonable efforts to ensure that Wagers's conduct was compatible with his professional obligations. We find that he violated RPC 5.3(a).[3]

2. Respondent violated RPC 1.4(a) but not RPC 1.4(b).

RPC 1.4(a) states: "A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information."

RPC 1.4(b) then states: "A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation."

The factors we consider regarding an alleged violation of RPC 1.4(a) include, among other things, the length of time a lawyer failed to communicate; whether the lawyer failed to respond promptly to reasonable requests for information from the client; and whether the lawyer knew or a reasonable lawyer would have foreseen that a delay in communication would prejudice the client. *In re Groom*, 350 Or 113, 124, 249 P3d 976, 983 (2011). In this case, respondent failed to inform Alcantar of the status of her legal matter: specifically, that the court's judgment had issued and that the attorney fees petition had not been timely filed. Respondent failed to inform Alcantar of those developments over a period of nine months, because respondent forgot about Alcantar's legal matter when the system he had in place failed to remind him. Respondent also failed to respond to Alcantar's reasonable requests for information about attorney's fees for nine months. At that point Alcantar gave up and resorted to litigation. The lack of substantive response to the client's inquiries violated RPC 1.4(a) cited above.

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of his law office in violation of the rules of professional conduct of New Jersey prohibiting gross neglect, aiding the unauthorized practice of law, and failure to supervise adequately a non-attorney employee); *Florida Bar v. Rogowski*, 399 So.2d 1390, 1391 (Fla.1981)(noting that an attorney's nonlawyer personnel are agents of the attorney and attorney is responsible for seeing that the agents' actions do not violate the Code of Professional Responsibility*)*, and *State v. Barrett,* 207 Kan. 178, 483 P.2d 1106, 1110 (1971)(noting that the work done by secretaries and other lay persons is done as agents of the lawyer employing them and the lawyer must supervise their work and be responsible for their work product or the lack thereof). 74 P3d at 571-72.

[3] At trial respondent argued that the Bar must establish a violation of both RPC 5.3(a) and (b) because the two subsections are joined by the conjunction "and." Subsection (b) makes a lawyer responsible for a violation of the Rules of Professional Conduct committed by another if the lawyer orders or ratifies the conduct or in a supervisory role knows of the conduct but fails to take remedial action when the consequences can be avoided or mitigated. It is a separate stand-alone violation, and need not be proved to establish a violation of subsection (a).

Respondent argues, again, that he did not personally know about his client's communications or the status of his client's case, and is therefore not responsible for failing to promptly respond to requests for information or providing status updates. We agree with the conclusion of the Colorado court in *Smith* when it analyzed identical charges: "[Respondent's] failure to inform himself of the status of the case does not abrogate his responsibility to keep the client reasonably informed." 743 P3d at 573.

We conclude, however, that the Bar has not established respondent violated RPC 1.4(b). The Oregon Supreme Court has emphasized that "not every failure to respond to a client's requests [for information] also constitutes a failure to explain a matter sufficiently to permit a client to make an informed legal decision." *In re Koch*, 345 Or 444, 455 (2008). In *Koch*, the lawyer agreed to represent a client, Mahler, in dissolving her marriage.[4] By October 2004, the divorce was final except that a qualified domestic relations order (QDRO) was needed to divide a retirement account in accordance with the dissolution judgement. The lawyer arranged to have another attorney complete the QDRO, but did not inform Mahler about the need to speak with the other attorney until August 2005. When Mahler met with the other attorney they discovered a problem in the dissolution judgement. From August 2005 until May 2006, Mahler attempted to contact the lawyer to correct the judgement, without success. From those facts, the Supreme Court found that the lawyer had violated RPC 1.4(a) but not RPC 1.4(b):

> It is true, as the Bar alleged and the evidence shows, that the accused failed to respond to [the client's] requests for information and that she failed to inform [the client] about the status of her case in violation of RPC 1.4(a). However, not every failure to respond to a client's requests also constitutes a failure to explain a matter sufficiently to permit a client to make an informed legal decision. In this case, the complaint does not allege what matter the accused failed to explain, nor is the factual basis for the charge apparent from the documents that the Bar submitted. Finally, in its brief, the Bar never explains the factual basis for this charge; instead, it simply posits, without any explanation, that the accused violated RPC 1.4(b). In this posture, the record does not persuade us by clear and convincing evidence that the accused violated RPC 1.4(b).

In re Koch at 455.

By contrast, in *In re Snyder*, 348 Or 307, 232 P.3d 952 (2010), the lawyer agreed to represent a client, Cohn, in a personal injury claim against a hotel. Cohn provided the lawyer with medical documentation, told the lawyer his medical condition could not be improved with further treatment (*i.e.* he was "medically stationary"), and asked the lawyer to expedite the legal claims against the hotel. The lawyer determined that Cohn was not yet medically stationary and that the case was weak, and consequently did not move forward with negotiations or litigation. The lawyer did not tell Cohn about those determinations, inform Cohn that the case was not being

[4] The lawyer in Koch was accused of professional responsibility violations with respect to several clients, but only those with respect to Mahler are relevant here.

expedited, or seek additional medical information. For various reasons, the lawyer did not communicate with Cohn about the status of the case for approximately eight months, at which point the lawyer told Cohn that the hotel would not negotiate and that a lawsuit would be unsuccessful. Cohn attempted to seek other counsel to pursue his claims, but no other attorney was willing to take the case due to the short remaining time frame before the expiration of the statute of limitations. From those facts, the Supreme Court found a violation of RPC 1.4(b):

> Finally, the accused failed to discharge his professional responsibility to explain the case to [the client] to the extent reasonably necessary to permit Cohn to make informed decisions about it. Although "not every failure to respond to a client's requests [for information] also constitutes a failure to explain a matter sufficiently," *In re Koch*, 345 Or 444, 455, 198 P.3d 910 (2008), a lawyer is required to consult with a client and to discuss concerns that a claim may lack merit or should not be pursued. [Citation omitted]. Here, the accused did not inform Cohn that he did not believe that Cohn was medically stationary and that, therefore, settlement negotiations were premature, or that Cohn's case was much weaker than he previously had believed because of Cohn's other injuries. Those conclusions are precisely the kind of information that a client needs to know in order to make informed decisions about the case. We find that the Bar has proved by clear and convincing evidence that the accused violated RPC 1.4(a) and (b).

Snyder, 232 P.3d at 958.

In this case, similar to *Koch*, the Bar did not allege in the complaint what matter respondent failed to sufficiently explain. The complaint alleges that from September 2017 to June 2018 respondent failed to communicate with Alcantar about the status of the attorney fees petition or respond to her requests for information; there is no allegation of a failure to explain some matter so Alcantar could make informed decisions about the case. Unlike in *Snyder*, the factual basis for the RPC 1.4(b) charge is not apparent from the facts in the record. The record establishes that respondent discussed recovery of attorney fees with Alcantar near the very beginning of the representation, at which time Alcantar made clear that she wished to pursue attorney fees if she possibly could. Then, immediately after respondent assisted Alcantar to prevail on the underlying child custody matter,[5] respondent again discussed the possibility of pursuing attorney fees with Alcantar outside the courthouse. At that time, Alcantar again directed respondent to pursue attorney fees on her behalf. From those facts, it is apparent that respondent explained the matter of attorney fee recovery sufficiently for Alcantar to make an informed decision about whether to pursue those fees in her case. The record reflects no further decisions that Alcantar needed to make with regards to the representation. As discussed above, respondent's subsequent failures to adequately supervise his staff or communicate with Alcantar about the status of her attorney fee recovery over a period of many months violated other rules

[5] Although domestic relations practitioners prefer not to describe litigants in a child custody matter as "prevailing" over one another, it is undisputed that – with the exception of the attorney fees matter – Respondent's representation resulted in Alcantar receiving the relief she sought from the court.

of professional conduct. But that conduct does not provide a clear and convincing basis on which to conclude that respondent failed to explain matters sufficiently so Alcantar could make informed decisions about the direction of her case.

Accordingly, we find that respondent failed to communicate and keep his client reasonably informed in violation of RPC 1.4(a) but did not violate RPC 1.4.(b).

SANCTION

In assessing an appropriate sanction, we refer to the ABA *Standards for Imposing Lawyer Sanctions* (ABA Standards), and Oregon case law, for guidance.

ABA Standards.

The ABA Standards establish an analytical framework for determining the appropriate sanction in discipline cases using three factors: the duty violated; the lawyer's mental state; and the actual or potential injury caused by the conduct. Once these factors are analyzed, we make a preliminary determination of the presumptive sanction. We may then adjust the sanction based on the existence of aggravating or mitigating circumstances.

Duty Violated.

Respondent violated the duty he owed to his client to communicate, and his duty as a professional to supervise staff. ABA Standards 4.0 and 7.0.

Mental State.

The ABA Standards recognize three mental states: "Intent" is the conscious objective or purpose to accomplish a particular result. "Knowledge" is the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result. "Negligence" is the failure of a lawyer to heed a substantial risk that circumstances exist or that a result will follow, which failure is a deviation from the standard of care that a reasonable lawyer would exercise in the situation. ABA Standards at 7. Respondent's misconduct here was the result of negligence.

Extent of Actual or Potential Injury.

For the purposes of determining an appropriate disciplinary sanction, we may take into account both actual and potential injury.[6] ABA Standards at 6; *In re Williams*, 314 Or 530, 840 P2d 1280 (1992). Collateral to the professional responsibility violations here, respondent actually injured his client by failing to seek an award of attorney's fees. Respondent also actually injured her by causing her anxiety and aggravation due to his lack of oversight and communication. *See In re Jones*, 312 Ore. 611, 618, 825 P2d 1365 (1992) (client anxiety and aggravation are actual injuries under the disciplinary rules).

Preliminary Sanction.

Under the ABA Standards, a reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client and causes injury or potential injury to a client. A reprimand is also appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury. ABA Standards 4.43 and 7.3.

Aggravating and Mitigating Circumstances.

The following aggravating factors under the ABA Standards are present here:

1. A prior record of discipline. ABA Standard 9.22(a). Respondent received a reprimand in 1997 for conflict of interest. *In re Alway*, 11 DB Rptr 153.

2. Refusal to acknowledge wrongful nature of conduct. ABA Standard 9.22(g). Respondent continues to assert that his employee is solely to blame for this incident.

3. Substantial experience in the practice of law. ABA Standard 9.22(i). Respondent has been practicing since 1977.

The following mitigating factors are present as well:

1. Absence of a dishonest or selfish motive. ABA Standard 9.32(b).

2. Full and free disclosure to disciplinary board or cooperative attitude toward proceedings. ABA Standard 9.32(e).

We do not give respondent's prior record of discipline significant weight since it pertained to a different rule violation and occurred over 20 years ago. *See In re Dugger,* 334 Or 602, 625,

[6] "Potential injury" is the harm to a client, the public, the legal system or the profession that is reasonably foreseeable at the time of the lawyer's misconduct, and which, but for some intervening factor or event, would probably have resulted from the lawyer's misconduct. ABA Standards at 9.

54 P3d 595, 610 (2002) (remoteness of a prior offense diminishes its weight as an aggravating factor). We find no basis for adjusting the sanction upward. A public reprimand is also the minimum disciplinary sanction we can impose, so the sanction cannot be adjusted downward.

Oregon Case Law.

Oregon case law supports the issuance of a public reprimand. The Bar provided us with a number of citations to cases where a failure to supervise staff resulted in a public reprimand. *See, e.g., In re Nishioka,* 23 DB Rptr 44 (2009) (public reprimand for violating RPC 1.5(a), RPC 5.3(a), and RPC 5.5(a) for failing to know about or approve all of his assistant's work, which included drafting and signing court documents); *In re Idiart,* 19 DB Rptr 316 (2005) (public reprimand for delegating to non-lawyer staff the task of sending direct mail solicitations to injury victims, without instructing or supervising staff about when such solicitations would violate the ethical rules); *In re Taylor*, 23 DB Rptr 151 (2009) (public reprimand for delegating to investigator the use of subpoenas, without adequate instruction or supervision, resulting in attorney obtaining and using improper school records of a juvenile); *see also In re Cottle,* 29 DB Rptr 79 (2015) (stayed suspension for failing to adequately supervise staff, which resulted in failing to successfully deposit client funds).

Sanctions in disciplinary matters are not intended to penalize the accused lawyer, but instead are intended to protect the public and the integrity of the profession. *In re Stauffer*, 327 Or 44, 66, 956 P2d 967 (1998). Appropriate discipline deters unprofessional conduct. *In re Kirkman*, 313 Or 181, 188, 830 P2d 206 (1992). We find that a public reprimand is consistent with these goals.

CONCLUSION

We find that the Bar proved the alleged violations of RPC 5.3(a) (failure to supervise non-lawyer personnel) and RPC 1.4(a) (failure to keep a client reasonably informed) by clear and convincing evidence as outlined above, and order that respondent be publicly reprimanded. The charge of violation of RPC 1.4(b) is dismissed.

Respectfully submitted this 22nd day of December 2020.

/s/Mark A. Turner
Mark A. Turner, Adjudicator

/s/Micah Moskowitz
Micah Moskowitz, Trial Panel Member

/s/Sylvia Rasko
Sylvia Rasko, Trial Panel Public Member