SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 14-008
District Docket No. IV-2011-0023E

IN THE MATTER OF	
GEOFFREY L. STEIERT	
AN ATTORNEY AT LAW	

Decision

Argued: April 17, 2014

Decided: July 10, 2014

Daniel Q. Harrington appeared on behalf of the District IV Ethics Committee.

Respondent appeared pro se, via telephone.

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

This matter was before us on a recommendation for discipline (censure) filed by the District IV Ethics Committee ("DEC"). The complaint charged respondent with violations of RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) and (d) (conduct prejudicial to the

administration of justice). We determine to impose a six-month suspension.

Respondent was admitted to the New Jersey bar in 1980. On February 9, 2010, he received a reprimand for practicing law while on the New Jersey Lawyers' Fund for Client Protection (CPF) list of retired attorneys and making misrepresentations in an estate matter. In re Steiert, 201 N.J. 119 (2010).

On September 24, 2012, respondent was declared ineligible to practice law for failure to pay the CPF annual assessment. He remains ineligible to date.

On April 9, 2014, respondent filed with Office of Board Counsel (OBC) "Motion to Supplement the Record and Extend Time for Argument," seeking 1) a sixty-day adjournment of the April 17, 2014 oral argument before us (we denied this request, but permitted respondent to appear by telephone); 2) an opportunity to produce new witnesses and testimony at a "reconvened" DEC hearing to "rebut" the presenter's case below; 3) an opportunity to provide his own additional testimony; 4) an opportunity to file an over-length brief; and 5) additional time at oral argument (we granted this request).

On April 11, 2014, OBC received the presenter's letter-objection to respondent's motion. Essentially, the presenter highlighted the fairness of the proceedings below, as well as the completeness of the record before us:

> The Hearing Panel Report, and the Record in this matter, reflect that [respondent] provided extensive, and repetitive, written submissions in support of his requests, all of which were duly considered and, ultimately, denied by the Hearing Panel Chair. Indeed, the first sentence of [respondent's] attached April 9, 2014 transmittal letter to me acknowledges that his current Motion before the Disciplinary Review Board is nothing more than a rehash of the arguments that were previously submitted to, and ultimately rejected by, the Panel Chair.

Of the fifty exhibits that respondent appended to his motion, forty-eight were already in the record. We allowed respondent to supplement the record with the remaining two documents, Exhibits R-30 and R-31. Exhibit R-30 is a veterinary bill for the 2012 euthanization of "Dusty," respondent's cat, a few days before the DEC hearing below. Although its evidentiary value is limited, we saw no harm in permitting its inclusion in the record to demonstrate that respondent was mourning the loss of his cat, at the time of the DEC hearing. Exhibit R-31 is an April 3, 2014 discharge form from the "Endo Center at Voorhees,"

stemming from respondent's April 3, 2014 colonoscopy, which revealed some problems that, according to respondent, would have made it difficult for him to travel to Trenton for oral argument before us.

We denied the remainder of the requested relief, on the basis that respondent never challenged the 2009 determination to reprimand him.

* * *

Count one of a three-count complaint charged respondent with dishonest conduct, in violation of RPC 8.4(c),[1] for attempting to induce Craig Hartzell, a former client and a witness in the above-referenced reprimand matter, to sign a letter and, shortly thereafter, an affidavit. Both documents, which respondent prepared, contained false statements, in particular, statements that contradicted Hartzell's sworn testimony in the reprimand case.

Count two charged respondent with an additional violation of RPC 8.4(c) for having used false pretenses in the inducement described above. Specifically, respondent advanced a purported

[1] Mistakenly cited in count one as RPC 8.3(c).

concern over Hartzell's compliance with the tax laws, when his motive was to obtain revised statements from Hartzell to exonerate respondent from the misconduct found in the reprimand matter.[2]

Finally, count three of the complaint alleged that respondent's actions regarding the inducement constituted conduct prejudicial to the administration of justice, in violation of RPC 8.4(d).

The conduct that gave rise to this disciplinary matter is as follows:

In April 2011, over a year after his reprimand, respondent wrote to Hartzell, complaining about findings of fact contained in our December 17, 2009 decision. A portion of that decision is recited below, in order to lay the groundwork for what would become these new charges against respondent:

> By way of a July 28, 2006 retainer agreement, Craig Hartzell retained respondent to represent him in a dispute with his brother, Bart Hartzell, and sister, Lynne Liuzzi, regarding their deceased mother's estate, which was being probated in Pennsylvania and included a house in

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[2] Respondent never petitioned the Supreme Court for review of the findings in that matter, as allowed by R. 1:20-16(b).

Springfield, Pennsylvania. Respondent resides in Voorhees, New Jersey, and worked out of his house.

. . . .

On July 31, 2006, respondent sent Liuzzi, the executrix of the estate, a letter on his attorney letterhead. The first sentence read, "Please be advised that I have been retained by your brother Craig, to act as his legal representative in all correspondence and other communications" regarding the estate. The letter requested a copy of Liuzzi's administration papers and of the mother's will. In a document titled "Post Script Personum," attached to the letter, respondent again referred to Hartzell as his client. This document, too, did not disclose respondent's ineligibility to practice law in New Jersey and Pennsylvania at the time.

Thereafter, respondent sent Liuzzi two more letters on his attorney letterhead, dated September 29, 2006 and October 19, 2006, respectively.

On June 13, 2007, respondent sent Liuzzi another letter, requesting her to send future correspondence to a different "office address," 4 Lassen Court, Voorhees, which was respondent's home address.

. . . .

At the DEC hearing, Hartzell testified about the representation. He recalled that respondent had agreed to represent him on a contingency basis and had drawn up a retainer agreement. Hartzell also recalled receiving a July 31, 2006 letter that respondent had sent to Liuzzi and conversations with respondent, in October 2006, during which respondent urged him to file a claim of several hundred thousand dollars for his share of the estate.

After respondent and Hartzell obtained the will documents, respondent analyzed them. Hartzell recalled that respondent had advised him to seek a share of the house, as well as other estate assets. Nevertheless, by late June or early July 2007, Hartzell determined to honor his mother's apparent wishes and to sign a deed relinquishing any interest that he may have had in the house.

In early July 2007, according to Hartzell, he and respondent had several conversations about the estate, during which respondent again urged him to press a claim for a share of the estate and during which Hartzell advised respondent again that he was going to sign over the deed and seek nothing from the estate.

Hartzell finally sent respondent an email to that effect. Respondent replied, acknowledging the decision, but attempting to change Hartzell's mind. In respondent's undated reply email, he stated that he had drafted a settlement letter for Liuzzi, in which he had sought $100,000. The email further stated, "If you strongly disagree with the $100,000 number, as too high or too low, and you have good rationale, I will consider modifying it."

Finally, the email contained several ultimatums. Hartzell was to let respondent know, within two days, if he objected to the letter. Otherwise, he would send it without discussion:

> I would still consider it unfathomable that you might actually consider signing and sending the deed, and giving up all of our leverage and potential recourse, without even dialoguing with me. And I know you just said you were thinking about it. But I have a duty to you, and to myself, to try to protect against adverse eventuality, no matter how remote. [Citation omitted].

> Hartzell was unaware that respondent had sent Liuzzi the $100,000 settlement letter, dated July 10, 2007. Hartzell also denied having given respondent authority to make the settlement offer. Hartzell specifically recalled that, just prior to July 10, 2007, "I had told him that I didn't want to pursue it any further, so I did not expect [any further correspondence] to go to my sister after that point."
>
> Hartzell learned about the settlement offer from Liuzzi, who called him when she received the letter, in order to express her displeasure with his decision to press a claim. Hartzell recalled that he had immediately signed the deed and sent it to Liuzzi. He had his wife call Liuzzi to let her know that it was on its way.
>
> [In the Matter of Geoffrey L. Steiert, DRB 09-135 (December 17, 2009) (slip op. at 2 to 6).]

Respondent also sought a fee for representing Hartzell in the estate matter. He sent the following email to Hartzell:

> I pretty much documented by all the research I've done that [Hartzell was] entitled to one-third [of the estate], and being a contingent fee, you know, I didn't want [Hartzell] to throw that away . . . .
>
> [Id. at 10.]

In the current matter, respondent has produced new materials, one of which alleges that he was to receive a fifty

percent contingency fee for Hartzell's representation in the estate matter.[3]

Respondent's first unsolicited correspondence to Hartzell in the current matter was an April 8, 2011 letter, in which respondent stated:

> A couple years ago, in January 2009, you appeared at a hearing in New Jersey, and testified that you relied on my legal advice in connection with your brother and sister and your mother's estate. Also, as I understood your testimony at that hearing, after you stopped communicating with me in July 2007 you ultimately transferred your one-third interest in the family house in Springfield to your brother, for no consideration.
>
> The problem that arises in regard to this testimony is that, while you did consult me about the trust deed to the house in March 2007, you did NOT consult me or seek my opinion about the possibility of surrendering your interest in the real estate. In fact, if you had sought my advice about this possibility, I would have reminded you of what I advised you in March - that you hold an irrefutable, valuable one-third interest in the house. Also, if you signed a deed conveying your interest for little or no consideration, that constituted a gift. If consulted about such a gift transfer, one of the

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[3] Respondent sent a post-oral argument submission to the OBC, dated April 30, 2014. Because respondent had already filed a comprehensive brief with us and we heard his oral argument, we are satisfied that we understand his arguments. Accordingly, we need not consider his post-hearing submission.

> things I would have cautioned you about is the gift tax liability you would incur.
>
> The DRB decision concluded, in reliance on your testimony, that you relied on my advice in 2007. In light of that finding, which is unfair to me since it is inaccurate, I am put in the position of having to ensure that you complied with the tax laws relating to your property interest. . . . You had three kinds of potential tax liability . . . . I won't purport to advise you on what your tax liabilities were . . . . My concern is to ensure that you complied with your lawful duty to report these transactions . . . . You can satisfy me in this regard by just sending me copies of the forms you filed for your three tax obligations. (You can cross out your social security number, if you want; just so I can verify that these returns were indeed filed and paid, and the transactions were accurately reported.)
>
> An alternative to documenting your fulfillment of your tax obligations, which might be more attractive to you, is to just send me a letter confirming that you didn't consult me about your decision to transfer your property interest. I have enclosed a proposed letter for your review and signature. If you prefer this option, then please sign and forward this letter to me forthwith and that will close the matter.
>
> [Ex.C-27 at 1.]

Stating that he "must receive" either the tax documentation or the signed letter, respondent concluded the letter as follows:

> Frankly, I feel the letter is an easier and preferable option, especially from your perspective, but I don't want to tell you what to do. If you do choose this option, however,

> the letter must be signed as drafted; do not make any alterations to the wording of the letter, which must satisfy me as to its legal effect. Whatever option you select, I much appreciate your promptness in closing out this reporting issue [emphasis added].
>
> [Ex.C-27 at 2.]

Respondent attached a lengthy "addendum" to his letter, which contained additional reasons why Hartzell should follow respondent's instruction, in case Hartzell questioned the statement "that you did not rely on my legal advice in the estate matter." Respondent then listed "each issue that we may have discussed, with a brief description of what I said and what you did."

The third document in the mailing was the letter for Hartzell's signature, dated "April 2011" (hereinafter, the April 2011 letter). Respondent addressed the letter by listing Hartzell's name and address in the letterhead and his own name and address as the recipient. The letter stated, in part:

> At your request I am sending you this letter, to clarify the limitations of my communications with you in 2007, regarding my mother's estate and my interest in the residential property in Springfield, PA where I grew up.
>
> In July 2006, I confided in you as my friend about my mother having passed away and having written me out of her will, and problems I had been having with my brother and sister, who were pressuring me to sign over my interest in the

family home in Springfield ("the house"). You kindly offered as a friend to write to my sister, and were able to persuade her and Bart to stop calling or harassing me. However, I did not retain you as an attorney or ask any legal advice in 2006.

In or around March 2007, I spoke with you about the deed to the house, which I had recently obtained. The deed showed that my father and mother many years earlier had jointly placed title to the house in "trust" for the children. On this one occasion, I asked your opinion about the deed, because my sister Lynn had been telling me that my mother owned the house and wanted me to transfer my interest to my brother Bart, who wished to reside in the house. You verified that the deed gave me an undoubted one-third interest in the house, which vested automatically and didn't require me to do anything, and that my mother was bound by the trust created by her and my dad and didn't have the authority to change or revoke it.

After that, I did not seek your legal advice anymore, except to ask your help in possibly filing an objection to my mother's will. However, that never came to pass. You agreed to refer me to an attorney friend of yours specializing in tax and estate matters, and you agreed to help with research and support for my case. You did advise me that the law required that any will challenges will be filed within one year of death, but we never discussed an evaluation of the merits of my case, and you never expressed an opinion on whether I should file a claim or objection. You recommended that I obtain and review the probate records for my mother's estate as soon as possible, and offered to help me obtain them, but I told you I preferred to obtain them myself. I did not get copies of the probate records until late June 2007, and I copied only some of the records.

. . . .

In all of our talks about these things in 2006 and 2007, I never retained you as an attorney, and never paid you any money or compensated you in any way, for legal fees or costs. Further, I knew that you had not been practicing law for many years due to injury, and you reminded me that you were not then "eligible" to practice law in Pennsylvania because you had not been able to keep up with PA legal education courses.

Later that first weekend in July 2007, I decided to reassess my position on my mother's estate and also decided that I would not consult with you anymore about it or seek your advice or opinion. This decision was made for personal reasons, and did not reflect any dissatisfaction with you for any reason. I know that you remained available and willing to speak to me at that time, but I chose to not seek or consider any advice or counsel you might be willing to offer.

I eventually made a decision which involved the transfer of my interest in the house to my brother Bart. This was after I had ceased consulting with you, and after you had sent a letter to my sister informing her of what we had discovered about my one-third interest in the house. I have no reason to doubt the accuracy of what you told me about the trust deed, and my one-third interest in the house being irrevocable. I acknowledge that I did not seek your advice or counsel in reaching my decision, and I did not rely to any extent on any advice or opinion of yours when I decided what to do with my one-third interest in the house. I did not seek your advice or opinion on the legal effect or tax ramifications, or any other consequences, of my transfer of my interest in the house. I take full responsibility for my decision to transfer my interest in the house, and any and all consequences of that decision.

[Ex.C-28]

According to the ethics complaint, the April 2011 letter contained the following false statements about Hartzell's prior testimony: (a) Hartzell had neither retained respondent as an attorney nor asked respondent for legal advice, in 2006; (b) respondent and Hartzell had never discussed an evaluation of the merits of Hartzell's case and respondent never expressed an opinion about Hartzell filing a claim or objection regarding a share of his mother's estate; and (c) during none of respondent and Hartzell's 2006 and 2007 discussions, had Hartzell ever retained respondent as his attorney.

Hearing nothing in reply from Hartzell, on April 28, 2011, respondent sent him another, three-page letter covering the same ground and enclosing a ten-page "fact review," as well as a thirteen-page affidavit that respondent had prepared for Hartzell's signature. Like the April 2011 letter, respondent's affidavit sought to alter Hartzell's testimony in the reprimand matter.

Specifically, the complaint charged respondent with the following false statements in the affidavit: (a) Hartzell had not retained respondent, in July 2006, to represent him in a dispute with his siblings about their mother's estate; (b) Hartzell had neither agreed to retain respondent, nor asked him for legal advice, in 2006; (c) respondent's eligibility or

ineligibility to practice law had never occurred to Hartzell, because Hartzell had not been seeking respondent's legal advice or to retain him as his attorney; (d) respondent had not "urged" Hartzell to file a claim against his mother's estate; (e) respondent had recommended that Hartzell retain respondent's "attorney friend Harry Mondoil in Philadelphia," who specialized in tax and estate matters; and (f) respondent had never advised Hartzell about the merits of his claim against his mother's estate.

Respondent denied that his purpose in sending correspondence to Hartzell was, as the complaint charged, to secure new statements from Hartzell that would "serve to vindicate or exonerate" respondent, by contradicting our factual findings in the reprimand matter. Nevertheless, at page two of the April 28, 2011 "fact review" sent to Hartzell, respondent characterized our written decision as a "lesson in the foibles of fact-finding" that was grounded on "outright baseless assumptions" and that had "misinterpreted testimony" elicited from Hartzell.

That April 28, 2011 document also urged Hartzell to consider this Board's "confusion" about the underlying estate matter, due to the matter's "atypical fact scenario that was difficult for [the] lawyers to comprehend."

In a post-script to the fact review, respondent blamed Hartzell for causing respondent's problems with the disciplinary authorities and abandoned his purported concerns about Hartzell's supposed tax liabilities, in favor of rebutting the Board findings:

> The only consequence of that year of delay, beside [sic] wasting my time and effort, is that it angered your sister enough to prompt her to file a complaint against me. . . .
>
> The end result came about when you ended communications with me, yet decided to testify against me. The adverse consequences of my effort to help you with your issues have fallen on me, not you. All I ask is that you sign this affidavit, so I can try to rebut some of the errant fact findings stemming from your testimony.
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> [Ex.R-29 at 10.]

At the DEC hearing in the present matter, respondent testified that his correspondence to Hartzell was generated from his concern that Hartzell might hold him "liable" or "accountable" for unpaid tax obligations that may have accrued to Hartzell, out of Hartzell's July 2007 decision to abandon any claim of a share in his mother's estate. There is nothing in the record that Hartzell suffered any tax consequences, after abandoning a claim to the estate.

As in the reprimand matter, here, too, respondent repeatedly denied any wrongdoing for his role in Hartzell's representation. Late in the ethics proceeding, under intense questioning, respondent conceded some culpability:

> I grant you that under the strict guidelines of the disciplinary rules, regardless of whether I had an office, I made any money, or whether there's a legal issues [sic], the fact that I sent a letter and I said, I'm Geoff Steiert and I'm representing Craig, even though I was a friend of the family, that you could regard that as the practice of law. And I was caught. Okay?
>
> But I don't agree that I really acted on a legal issue as his – a lawyer in a legal dispute. And for my purposes for the tax liability potential and everything that I'm concerned about, that's what I wanted him to acknowledge, that even though I wrote these letters for you, I didn't – you know, there was never really a commitment from me to go into any place and act as your attorney. That's a really huge distinction for me.
>
> [T199-22 to T200-13.][4]

When respondent was asked if there were other ways that he could have approached the tax issues that allegedly worried him, he replied that he required something comprehensive, "factually complete, because if I were to just put one sentence or

[4] "T" refers to the transcript of the December 11, 2012 DEC hearing.

something out of context, nobody would even know what it was and it would be suspicious, unless it was totally -- you know, it described the incident."

The presenter then asked respondent why he had waited so long to raise the issue of Hartzell's potential tax problems, if he was so concerned about them:

> Q. You and Mr. Hartzell parted ways in July of 2007 in connection with this issue. In fact, the last time you talked to Mr. Hartzell was in early July 2007?
>
> A. That's correct, yes.
>
> Q. All right. Why is it that it was April of 2011 that it first dawned on you to communicate with him about this claimed concern with tax liability?
>
> A. I had had -- there were two reasons that I can think of, that I started to -- I had these -- the momentous events of late 2010 with regard to an appeal I had pending on a big case that we got a decision that was not -- you know, just incredible.
>
> And I consulted with an expert witness, who suggested to me that he'd never seen anything specifically like it before, but it appeared that the Appellate Court had thrown out my case because they adopted the facts alleged by the responding party in violation of the summary judgment standard and he believed it was possibly caused by the findings of the DRB.
>
> This was a case I had worked on for – in various forms for almost ten years; I had two experts, it was a solid case, I had been told there was no chance of losing the appeal. And frankly my financial life depended on it and I had a -- it was a very traumatizing event.

> And in the same time or in subsequent weeks I also had two attorneys in another action I had make comments to the court I was in that I couldn't be trusted because of this decision.
>
> And I didn't have much going positively in my life and my medical situation was severe and I — it was devastating to me emotionally, I kind of had a breakdown.
>
> Q. Okay.
>
> A. I'm not an expert, I'm just saying I couldn't handle it.
>
> [T84-15 to T86-1.]

Respondent did not testify about each individual statement contained in his April 2011 letter and affidavit or otherwise attempt to refute them individually. Rather, he claimed to have had a "breakdown" in 2010, after receiving the reprimand. The more concise version of respondent's underlying troubles may be taken from his amended answer to the formal ethics complaint under "Additional Defense." There, respondent states, in relevant part, that his state of mind and decisions were influenced by the convergence of numerous, serious physical injuries; the loss of his Medicare coverage; the "sudden end to an almost life-long relationship" with Hartzell; the "shocking summary judgment dismissal, on the eve of trial, of his lawsuit for a half-million dollars in out-of-pocket losses, plus punitive and consequential damages;" the "physical and emotional

burdens relating to the foregoing proceedings [which] were disproportionately burdensome for respondent;" the Appellate Court's affirmance of the lower Court's dismissal of his suit; the fact that the Appellate Court's action "left him with no recourse in that lawsuit" and that, consequently, he had "no realistic hope of being able to keep his home – with income limited to modest monthly disability payments" or "being able to afford medical and dental care to restore some degree of health;" his realization that access to the reprimand "was not confined to inquiring potential New Jersey clients, but was evidently available to anyone with internet access" and "hence erroneous inflammatory fact-findings therein posed a serious obstacle to any potential for future employment credit or in any interactions with people; and the "deep depression and steady exacerbation of his physical impairments," caused by this "series of severe emotional shocks."[5]

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[5] In his answer, respondent also raised both state and federal constitutional objections, on due process and other grounds. Pursuant to R. 1:20-15(h), constitutional challenges raised before the trier of fact are preserved, without Board action, for the Supreme Court.

At the hearing below, the presenter asked respondent what effect the medical issues had on his state of mind, at the time of the events in this matter:

> Q. All right. These medical issues that you have testified at length didn't affect your ability to know the nature and quality of your acts, did they, sir?
>
> A. Well, no.
>
> Q. Okay.
>
> A. I mean, not to any extent.
>
> Q. All right.
>
> A. I don't think I did anything wrong in that respect. It was found that I practiced when I wasn't active and they found that I didn't have the authority to send that letter.
>
> [T210-15 to T211-1.]

In his thorough, written summation, the presenter analyzed each of respondent's purportedly false statements in his April 2011 letter and affidavit.

Respondent dismissed his attorney three days after the DEC hearing. Thereafter, he presented over a dozen post-hearing submissions, spanning a wide variety of issues. Those submissions were treated, collectively, as his post-hearing summation.

* * *

The DEC found that respondent's conduct in this matter "was borne out of a self-serving interest, because Respondent rejected the prior finding that he had engaged in professional misconduct." Specifically, instead of filing a petition for review of our decision, as provided in R. 1:20-16(b), respondent sought to have Hartzell, his former client and friend, sign the April 2011 letter and affidavit that respondent prepared and that contradicted Hartzell's testimony and documentary evidence that we and the Court found reliable, in reprimanding respondent.

In addition, the DEC found that respondent's purported concern about taxes was a false pretense, which respondent abandoned, at the DEC hearing, in favor of a concern for a damage to his own personal and professional reputation, as a result of his reprimand.

The DEC concluded that respondent's conduct violated RPC 8.4(c) and (d).

In aggravation, the DEC considered respondent's lack of remorse for his "blatant[ly] dishonest" actions, which the DEC found "simply unjustifiable."

As mentioned previously, the DEC recommended the imposition of a censure.

* * *

Following a de novo review of the record, we are satisfied that the DEC's conclusion that respondent's conduct was unethical was fully supported by clear and convincing evidence.

Having been found guilty, in 2010, of practicing law while retired and making misrepresentations to Liuzzi, respondent chose not to avail himself of the action contemplated in R. 1:20-16(b) and file a petition for the Court's review of our decision, which, in his view, contained factual errors. Instead, he contacted his former friend and client, Hartzell, four years after he had last spoken to him. Through false pretenses and intimidation – indeed, coercion – respondent attempted to obtain false statements from Hartzell. To that end, respondent concocted a preposterous justification for his actions, out of whole cloth, years after Hartzell's 2007 abandonment of any claim to his mother's estate. Specifically, respondent asserted that Hartzell could have held him "liable" or "accountable" for what respondent described as Hartzell's supposed tax obligations, stemming from the decision to give up a share of his mother's estate.

As indicated earlier, there was no evidence that Hartzell's actions subjected him to tax liabilities or that he failed to comply with them, if there were any. Respondent then sent an

April 2011 letter to Hartzell, in essence demanding that Hartzell recant his testimony in the reprimand matter. Hartzell refused to do so.

Undeterred by Hartzell's silence, on April 28, 2011, respondent sent him a second letter, with a lengthy "fact review" and proposed affidavit for Hartzell's signature. Like the April 2011 letter, the affidavit contained false statements, such as, that Hartzell had not retained respondent for legal services in 2006. Once again Hartzell did not cave in. Hartzell then notified ethics authorities about respondent's conduct.

Respondent used a false pretense as leverage to obtain Hartzell's signature on the documents. In his cover letter, respondent revealed a purported concern that Hartzell may not have complied with tax "reporting" and "payment" obligations. The letter also suggested that, if Hartzell simply signed it, an option "which might be more attractive to you" than furnishing proof of tax compliance, respondent would forthwith "close the matter." If the cover letter contained the "carrot" to look the other way, respondent's April 28, 2011 letter contained the "stick." No longer feeling benevolent toward Hartzell, respondent threatened Hartzell that, if he did not "sign the enclosed affidavit," "it's likely you may be subpoenaed if this

subject is raised." The threat that adverse consequences might befall Hartzell was obvious: either retract your sworn testimony before disciplinary authorities or you may be exposed to liability or culpability for unpaid taxes.

Respondent's conduct was akin, although considerably more serious, than that of attorneys who have attempted to persuade a grievant to withdraw a disciplinary grievance. Those cases have resulted in either an admonition or a reprimand, if no other serious charges were involved and the attorney had no prior discipline. See, e.g., In the Matter of R. Tyler Tomlinson, DRB 01-284 (November 2, 2001) (admonition for attorney who improperly conditioned the resolution of a collection case upon the dismissal of an ethics grievance filed by the client's parents); In re Mella, 153 N.J. 35 (1998) (reprimand for attorney who attempted to have the grievant dismiss the grievance in exchange for a fee refund and some additional remedial conduct; the attorney also failed to act with diligence and to communicate with clients in two matters); and In re Pocaro, 214 N.J. 46 (2013) (censure for attorney who requested that his adversary in a lawsuit withdraw the ethics grievance against him, in exchange for refraining from instituting a defamation action against the adversary's client; an aggravating

factor was the attorney's ethics history and propensity to violate the RPCs).

A common element in the above grievance-withdrawal cases was the promise of a favorable result for the grievant. Here, there was never such a proposed incentive for Hartzell to act — only that respondent would consider "the matter closed," if Hartzell "cooperated" with him by retracting his testimony. It was unvarnished intimidation and coercion on respondent's part.

Even worse, respondent's conduct amounted to witness tampering. N.J.S.A. 2C:28-5(a) provides that a person is guilty of witness tampering if, "believing that an official proceeding is pending or about to be instituted or has been instituted, he knowingly engages in conduct that a reasonable person would believe would cause a witness to testify falsely."

Respondent's purpose was to undo the reprimand matter, once he obtained Hartzell's signed statement on an affidavit. He admittedly planned to use it to "correct" the reprimand matter, which he considered to be an egregious error by disciplinary authorities and an affront to his character. Respondent sought the affidavit in order to initiate a new ethics proceeding. Had respondent succeeded with Hartzell, he undoubtedly would have presented Hartzell's sworn statement to ethics authorities. It

was his true purpose for the document. The only reason that he was unsuccessful in his bid is that Hartzell refused to be a participant in his proposed improprieties, involving ethics authorities instead.

It is true that respondent was not charged with witness tampering. But that offense may be considered an aggravating factor. In In re Pena, In re Rocca, In re Ahl, 164 N.J. 222 (2000), this Board and the Court found that a factor aggravating the attorneys' otherwise unethical conduct was that two of the attorneys had suborned perjury. Although the ethics complaint did not charge the attorneys with having suborned perjury, the Court held as follows:

> The DRB also concluded that, although respondents lied under oath repeatedly during the trial before Judge D'Italia, the complaint did not contain a sufficient allegation to place respondents on notice that perjury could be part of the ethics proceeding. The DRB found that respondent Pena suborned perjury when he conducted the direct examination of Rocca and Ahl, and that Rocca suborned perjury when he conducted the direct examination of Pena during the civil trial. However, the DRB concluded that such evidence of perjury and subornation of perjury could be considered as an aggravating factor.
>
> . . . .

> The misconduct of respondents Pena and Rocca is aggravated by perjury and the subornation of perjury in their representation of a fellow respondent during the civil trial.
>
> [Id. at 231-33.]

Here, too, we find that respondent's conduct was aggravated by his tampering with a witness.

Another aggravating circumstance is respondent's reprimand, which also included a violation of RPC 8.4(c) – respondent's false statements, in a letter to Liuzzi, that Hartzell was seeking a share of the estate and had authorized respondent to present an offer of settlement. Yet another aggravating circumstance is respondent's steadfast refusal to accept responsibility for his wrongdoing in the reprimand matter – and here as well. To this day, he shows no recognition of his wrongdoing or remorse for his actions.

What discipline is, thus, appropriate for this respondent? In disciplinary cases where there has been witness tampering, that offense is usually found alongside other very serious charges and has resulted in either a long-term suspension or disbarment. See, e.g., In re Tamboni, 176 N.J. 566 (2003) (three-year suspension for attorney who was disbarred in the State of New York, following her federal conviction on one count

of witness tampering (18 U.S.C. §11512(b)); the attorney had an extra-marital affair with a major crime figure, whose son was serving a life sentence in federal prison for "heinous crimes" related to organized crime; the attorney was complicit in the hiding of a witness from federal agents, in order to avoid a subpoena to testify before a grand jury; the inquiry was about the father's attempt to tamper with a juror in the son's trial) and In re Scola, 175 N.J. 58 (2002) (attorney disbarred after pleading guilty to third-degree theft by deception (N.J.S.A. 2C:20-4 and N.J.S.A. 2C:2-6) arising out of an illegal check-writing and cashing scheme and third-degree witness tampering (N.J.S.A. 2C:28-5(a)(1)) for discussing with his law partner, who had been arrested in the scheme days earlier, how they would shift the blame for the scheme to a third party; the attorney also told his partner that he should tell investigators that he knew nothing about the scheme).

Respondent's misconduct was considerably less serious than Tamboni's and Scola's. Tamboni received a three-year suspension because of the seriousness of her crime, her willing affiliation with criminals, and her participation in a scheme to subvert "a legitimate governmental process." Scola, who was disbarred, was also found guilty of an illegal check-kiting and cashing scheme.

Both Tamboni and Scola were convicted for their serious criminal offenses.

In this case, fortuitously, respondent's nefarious plan never came to fruition, thanks only to Hartzell's refusal to engage in it. Nevertheless, we conclude that his serious misconduct is deserving of a six-month suspension, to be served upon his return to the practice of law, should he do so in the future. We also require him, before reinstatement, to provide proof of fitness to practice law, as attested by a certified mental health professional approved by the Office of Attorney Ethics.

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 Geoffrey L. Steiert
Docket No. DRB 14-008

Argued: April 17, 2014

Decided: July 10, 2014

Disposition: Six-month suspension

Members	Disbar	Six-month Suspension	Three-month Suspension	Dismiss	Disqualified	Did not participate
Frost		X				
Baugh		X				
Clark		X				
Gallipoli		X				
Hoberman		X				
Singer		X				
Yamner		X				
Zmirich		X				
Total:		8				

Ellen A. Brodsky
Chief Counsel