SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 12-120
District Docket No. IIIB-2010-0035E

IN THE MATTER OF	:
THOMAS KANE	:
AN ATTORNEY AT LAW	:

Decision

Argued: July 19, 2012

Decided: October 10, 2012

Cristal M. Holmes-Bowie appeared on behalf of the District IIIB Ethics Committee.

David H. Dugan, III appeared on behalf of respondent.

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 (reprimand) filed by the District IIIB Ethics Committee (DEC). Respondent was charged with having violated RPC 3.4(g) (threatening to present criminal charges to obtain an improper advantage in a civil matter) and RPC 4.2 (improper communications with a party represented by counsel). In his

answer and, again, during his testimony before the DEC, respondent admitted almost all of the factual allegations of the complaint. We determine to impose a reprimand.

Respondent was admitted to the New Jersey bar in 2001. He has no prior discipline.

From February through July 2010, respondent acted pro se in a divorce proceeding filed by his then wife, Shannon Kelly Kane (Kelly).

Thomas Paradise, a law partner and general counsel for the Fox Rothschild law firm, filed the grievance in this matter, after respondent sent a series of emails to Kelly and to an attorney at the firm, Jennifer Millner, Esq., who represented Kelly in the divorce.

On February 19, 2010, the Honorable Mary C. Jacobson, then P.J.S.C., granted the judgment of divorce, and granted Kelly's "oral application for Fox Rothchild, L.L.C., to be relieved as counsel." Millner testified that, despite that order, she continued to advise Kelly:

> There were some outstanding issues with regard to child support which is further indicated in this order, we felt that although we understood she could no longer afford our fees, that it just wasn't morally right to abandon her at that point in time. So I spoke with one of the senior partners

> at the office as well as our chief financial officer in Philadelphia and I was granted permission to see at least the child support issue through. So we never filed a substitution of attorney with the Court.
>
> [T22-22 to T23-7.][1]

Respondent claimed to have been unclear about the exact status of the representation in the months that followed, when he sent a series of communications, including emails and a proposed settlement document to Kelly. That settlement document is at the heart of this matter.

Respondent's ethics problems arose in earnest on July 6, 2010, when he sent an email to Kelly and Millner, attaching a document titled "Confidential Settlement Communication." It was purportedly offered as a proposed settlement of all outstanding issues between the parties. The email stated that, if Kelly would agree to settle the matter, respondent would execute a confidentiality and non-defamation agreement to prevent him from "reporting the misconduct outlined in the attached complaint to any law enforcement agencies or bar disciplinary authorities."

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[1] "T" refers to the October 19, 2011 DEC hearing transcript.

The attached "confidential" document was an eighty-page draft civil RICO complaint. It alleged that Kelly, Millner, and Kelly's New York bankruptcy attorney, Salvatore LaMonica, had engaged in improper behavior, such as bankruptcy fraud, bankruptcy fraud conspiracy, prospective economic advantage conspiracy, perjury, federal and state RICO conspiracy, New Jersey RICO enterprise and conspiracy, defamation, and malicious prosecution. It also alleged ethics violations against the attorneys, including RPC 3.3(a)(2)(knowingly failing to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting an illegal, criminal or fraudulent act by the client).

The RICO complaint stemmed from Kelly's November 8, 2007 sworn testimony at the initial meeting of creditors in her New York bankruptcy, which was attended by Kelly, LaMonica, respondent and, perhaps, Millner.[2] The complaint also asserted that Kelly had made false statements in the matrimonial matter, with her attorney's approval.

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[2] Respondent believed that Millner was not present at the New York hearing.

At the ethics hearing, respondent testified that he had grown increasingly frustrated by Kelly's enormous settlement demands. For example, an early settlement panel had recommended an $80,000 asset settlement, but Kelly continued to hold out for $700,000, plus support in an amount that equaled 100% of respondent's take-home pay. Respondent characterized those demands as outrageous and inflammatory.

Having received no reply to his earlier email, on July 8, 2010 respondent sent a second email to Kelly and Millner, proposing settlement and indicating that he would not object to Fox Rothschild's application to withdraw, if the matter settled. He also cautioned that he could produce several more "filings" against them, which were "ready to go on short notice."

On July 8, 2010, at 6:26 p.m., Millner sent respondent a reply email, saying little more than to refer him to her new application to be relieved as counsel. Minutes later, at 6:35 p.m., respondent replied:

> Don't play games. I read your letter, and we both know that you are still counsel of record unless and until the Court says otherwise. I'm proposing a reasonable settlement of the child support issue. You still have an ethical duty to advise your client. Let's all do the right thing. You might be surprised by how far a little

> showing of good will (for the first time in four years) might go with me.
>
> [Ex.C-8.]

On July 9, 2010, at 9:43 a.m., Paradise sent a reply email to respondent, stating that he was general counsel at the Fox firm, that he now represented both Millner and Kelly, and that respondent should direct all future communications to him, not Millner or Kelly. That email read as follows:

> I am General Counsel to Fox Rothschild LLP. Ms. Millner has shared with me your emails in which you have threatened to file suit and a disciplinary complaint against her unless she and her client agree to your settlement demands. I will not comment at length about the impropriety or ethics issues attendant to such a tactic. I will however suggest that you review the ABA's Formal Ethics Opinion 94-383 and the guidance it offers regarding acts such as yours in this matter.
>
> Please recognize that no one is "playing games" in this matter. We are responding to your threats in a very serious manner and will continue to do so. You must appreciate that your threats, even if unfounded, have created a conflict of interest that precludes us from negotiating with you regarding the child support or any other issue. As you are aware, Ms. Millner has requested the Court's permission to withdraw from the case. Until the Court has ruled upon that motion, there will be no settlement discussions with you. During that time, and until further notice, ***please be advised that I am representing Ms. Millner***

> ***and all further communications should be directed to me and not Ms. Millner.***
>
> [Ex.C-9.]

Five minutes later, at 9:48 a.m., respondent sent an email to Kelly with a copy to Millner, in which he claimed that she and her attorneys had lied about him, "broken several laws and standards of professional conduct." He continued, in part:

> Starting today, you're going to find out what it's like to be on the other side. What you and Jennifer may not understand is that, until now, I've been holding back. The difference is that I don't have to lie in order to win this. I just have to shine a line [sic] on what you and your attorneys have done.
>
> That complaint is not the end of the work I've done to prepare for this fight, it's just the beginning. I have nearly a half-million dollars [sic] worth of work product sitting on my hard drive, ready to go at each step as this fight unfolds.
>
> That having been said, this fight will happen on my time schedule. If the complaint isn't filed today or tomorrow, don't think it's gone away. With God as my witness, I swear that this will not end until you are in jail for perjury and Jennifer and Sal are disbarred for suborning it.
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> [Ex.C-10.]

According to respondent, the family court bifurcated the proceeding and did not rule on equitable distribution, because

both he and Kelly had filed a bankruptcy. Eventually, the New Jersey bankruptcy court handling respondent's bankruptcy took jurisdiction over the equitable distribution of the marital estate. There, respondent objected to the amount of Kelly's proof of claim in his bankruptcy and ultimately had it quashed, on appeal to the Third Circuit Court of Appeals. According to respondent, Kelly had also been found to have "improperly withheld knowledge about her own assets" in her New York bankruptcy.

Respondent admitted that he violated RPC 3.4(g) as to Kelly, by his comment, "with God as my witness, I swear that this will not end until you are in jail for perjury." He denied, through counsel, that his statements about potential ethics violations by the attorney defendants, Millner and LaMonica, violated the rule, because there was no threat of criminal charges. Rather, he had raised the specter of ethics allegations, which are not criminal in nature.

At the DEC hearing, Paradise testified about his involvement in the matter. He was concerned that respondent both sought to settle the matrimonial issues by potentially filing a RICO complaint against Millner and the law firm and, worse, that

he threatened to file an ethics grievance as leverage, if Kelly did not settle on his terms. Paradise stated:

> One of the issues that was raised is whether or not this threat of a RICO complaint being filed against us and against our client created a conflict of interest for us as a firm. The other issue was, and probably primary on my mind at that point, was that the threat of filing the complaint was linked to and conditioned with the request for a settlement on certain terms. And to me that struck me as an improper method of negotiation, that it basically put us in a position where we couldn't legitimately counsel our client as to whether or not to settle at that point because hanging over the settlement was this threat of a complaint against Fox Rothschild attorneys and there was also a threat of a disciplinary proceeding. And in my experience, I can't say for every jurisdiction, but I never will allow anyone within our firm and I will never engage in a settlement discussion that would be as a condition of not filing a disciplinary complaint. My standard response to that is if you believe that there is an ethical violation, file it. We will respond.
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> [T60-4 to 25.]

According to the ethics complaint, because of the conflict of interest, Millner made a second request, in late July 2010, to withdraw as Kelly's counsel, to which respondent countered that Fox Rothschild had already obtained a February 19, 2010 order, terminating the representation.

Respondent admitted that he had intended the RICO complaint to intimidate the recipients, because he saw Kelly and Millner as having used similar tactics against him, through outrageous demands. Respondent testified that the couple's marriage barely lasted twenty-four months, and, yet, the divorce proceedings dragged on for five years. He saw his July 2010 actions as finally starting to push back against them. He also explained why he called the complaint a "Confidential Settlement Communication;" it was supposed to convey that he had meritorious civil claims against them and that they should promptly settle the remaining divorce issues on his terms.

Count one of the ethics complaint alleged that respondent's use of the RICO complaint constituted a threat of criminal charges to gain an improper advantage in the matrimonial matter. The presenter argued that RICO complaints require citations to "predicate" criminal acts by the defendant and that the use of predicate acts constituted a threat of criminal charges to obtain an advantage in the matrimonial matter.

Respondent countered that the use of the predicate language was required by the civil RICO statute and that it did not constitute an effort to threaten criminal action or forward a claim of crimes by the defendants. In his brief to us,

respondent's counsel, too, argued that respondent's RICO complaint did not threaten criminal action:

> At the DEC hearing, the presenter argued that by threatening to file the civil RICO complaint which cited predicate criminal acts respondent was, in effect, threatening to file criminal charges in violation of RPC 3.4(g).
>
> The primary reported opinion on the point raised by the DEC presenter is Revson v. Cinque & Cinque, P.C., 221 F. 3d 71 (2d. Cir., 2000). There, a lawyer had threatened to file a civil RICO claim against his adversary, raising the question whether such a tactic violated New York's Disciplinary Rules. Those rules contained a provision identical to New Jersey's former DR 7-105, which the New Jersey Supreme Court carried over without change into RPC 3.4(g).
>
> The Second Circuit in Revson found no sanctionable conduct, holding that threatening to file a civil RICO claim is not a criminal threat even though the claim necessarily includes allegations of criminal misconduct. 221 F. 3d at 81.
>
> There is no New Jersey caselaw [sic] on this point. Given the high stature enjoyed by the U.S. Second Circuit and the fact that the Revson court was dealing with a disciplinary rule identical to New Jersey's RPC 3.4(g), this Board should adopt the Revson interpretation and hold that Exhibit C-3 did

> not constitute a violation of RPC 3.4(g) either as to [Kelly] or Ms. Millner.
>
> [Rb7-Rb8.][3]

After the July 2010 email exchange, respondent had no further direct communication with either Kelly or Millner. Nor did he file a RICO complaint against anyone involved in this matter. In fact, Paradise testified that he never heard from respondent again.

In mitigation, respondent urged that he had readily admitted his mistake and professed remorse for his actions.

Count two of the complaint charged respondent with having violated RPC 4.2 by sending the "Confidential Settlement Communication" to Kelly (a lawyer shall not communicate about the subject of the representation knowing the person is represented, unless the lawyer has the consent of the other lawyer). The complaint charged respondent with a second violation of RPC 4.2 for sending an email communication to Millner, after Paradise notified him not to deal directly with either Millner or Kelly.

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[3] "Rb" refers to respondent's counsel's June 8, 2012 brief to us.

Respondent conceded that he sent the confidential settlement communication to Kelly, knowing that she was represented in the divorce proceeding. Respondent countered, however, that the communication was proper. He admitted that he regularly "copied" Kelly on emails about the divorce matter.

Respondent denied the charge that neither Kelly nor Fox Rothschild had authorized him to communicate directly with Kelly. He asserted that, after the February 19, 2010 order, granting the Fox firm's motion to withdraw as counsel, "it became unclear whether she was still represented" by Millner and Fox Rothschild; moreover, Millner and her supervising attorney had encouraged direct communications between respondent and Kelly and thought that it made sense to involve the firm only when absolutely necessary.

Millner conceded that she never objected to respondent's communications with Kelly:

> I've always encouraged them to try to have noncontentious [sic] communications between them with regard to the child. And I've always said that the last thing a litigant wants to do is pay a lawyer to divide up stuff because there's never going to be a return on value for that. So with regard to the distribution of personal property, while I don't have any specific recollection, I am sure that I would have suggested to Shannon

> that she try to deal with Mr. Kane directly on that subject.
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> [T51-7 to T52-19.]

Respondent provided another reason why it was appropriate for him to communicate directly with Kelly - she represented herself in her bankruptcy matter about the very same issues at hand in the settlement communication.

With regard to the charge related to Paradise' July 9, 2010, 9:43 a.m. email, directing respondent not to communicate with Kelly or Millner directly, respondent testified that he did not intend to defy Paradise' directive. Rather, he had not yet received it, when he sent his last email to Millner and Kelly. When questioned by his lawyer, respondent testified as follows:

> [RESPONDENT'S COUNSEL]:
>
> Q. I'm giving you copies now of C-10, 11 and 12. Are there any others that you need to see to complete this picture? How about nine. Let me give you nine as well.
>
> A. There is the e-mail from Shannon that I was responding to. I guess that's the -- I don't know if the e-mail that I was responding to in what is Exhibit C-10 is anywhere in the record, but I had received earlier that morning an e-mail from Shannon with Jennifer Millner's cc that was responding to the settlement offer and rejected it on diplomatic terms and that's what I was responding to in C-10 of 9:48. So just to be clear, I typed this.

Q. And "this" [is] what?

A. Everything on C-10.

Q. C-10?

A. Everything on C-10 was typed on my iPhone.

MR. BARKER: Prior to receiving the 9:43?

[A]: Correct, correct. And I don't know if as a general matter e-mail and iPhones -- I don't know what everybody's experience with those sorts of things are [sic]. You know, the iPhone has a small, little keyboard, a touch keyboard that I have to type like this (indicating). I can't do thumbs. I actually do hunt and peck with my pointer finger. And, well, sometimes in theory the way the phone works is that it pushes your e-mail to you in real time, particularly back then. It's actually been better with the newer models but, you know, that was an earlier model that I was using, and the AT&T connection isn't great, particularly if you're in a building, that type of thing. So a lot of times it doesn't push it to you in real time when you hit send on an e-mail, though as it's sending your e-mail up to the server it also cues the server at the same time to see if there's anything that you've received. And so Mr. Paradise's 9:43 e-mail wasn't pushed to me in real time. I was typing out C-10, the 9:48 e-mail, finished it, hit send, and then got the e-mail from Mr. Paradise at that point in time.

MR. BARKER: Was Mr. Paradise's 9:43 email sent to your @me.com address?

[A.]: Yes.

> MR. BARKER: Not your office address. So it only came through your iPhone, not your office computer?
>
> [A.]: Correct. Only came through on my iPhone, that's exactly right.
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> [T105-6 to T107-6.]

According to respondent, once he received Paradise' email, he immediately replied that he had sent his email to Kelly and Millner before he had received Paradise' directive, and added that, "in the future, I will direct all of my correspondence to you."

The DEC found that respondent violated RPC 3.4(g), when he threatened Kelly with "with God as my witness, I swear that this will not end until you are in jail for perjury. . . .". The DEC dismissed the latter "threat" of disbarment actions against Milner and LaMonica, on the basis that a disciplinary action is not a criminal action.

The DEC was "troubled" by respondent's RICO complaint, but found that the RICO complaint did not constitute a violation of RPC 3.4(g), because it was "clearly civil in nature and as such, does not qualify."

The DEC dismissed the charged violation of RPC 4.2 with regard to Kelly, inasmuch as respondent had been regularly

emailing Kelly, with Millner's knowledge. Accordingly, the DEC found, respondent reasonably believed that his communications with Kelly were acceptable to Millner.

The DEC believed respondent's testimony about the timing of the "God as my witness" email, that is, that he did not see Paradise' 9:43 a.m. email until after he had sent his 9:48 a.m. email to Millner and Kelly. Thus, the DEC dismissed this RPC 4.2 charge.

The DEC recommended a reprimand, without citing case law in support of that recommendation.

The DEC concluded:

> Respondent is an experienced litigator of 10 years. He was clearly conscious of his ethical obligations and ignored them. He made the admitted threat not only to his estranged wife, but to two separate attorneys as well. He acknowledged to the panel that he prepared and attached the RICO complaint, which he testified took him a week to prepare, with the specific intent to intimidate his wife and counsel. He intentionally and willfully skirted the ethical line with his behavior. While the complaint may not be a technical violation of the Rule, it is clearly indicative of the Respondent's desire to flaunt both the spirit of the Rules of Professional Conduct, and his obligations as a practicing attorney. Such conduct should not be ignored

> or condoned and a sanction of reprimand is warranted.
>
> [HPR7.][4]

Upon 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.

Respondent represented himself in his emotionally-charged and drawn-out divorce proceeding. In July 2010, he engaged in an email exchange with his ex-wife, Kelly, and her attorney, Millner. He conceded the initial charge that his July 9, 2010 "God as my witness" email was improper. In it, respondent stated that he would not rest until Kelly was jailed for perjury. This was an obvious threat to present criminal charges in order to obtain an improper advantage in a civil matter, a violation of RPC 3.4(g) that respondent admitted.

He was charged with a second RPC 3.4(g) violation, rising from his RICO complaint, which the DEC dismissed. We agree with that dismissal. The RICO complaint did not constitute a threat to present criminal charges in order to obtain an improper

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[4] "HPR" refers to the hearing panel report.

advantage in a civil matter. Rather, it was a civil action to be filed in the federal district court. Although, as the presenter argued, it referred to "predicate" criminal acts, such as wire and bankruptcy fraud by the defendants (Kelly, Millner, and LaMonica), the complaint was clearly civil in nature and did not seek criminal sanctions. Respondent never threatened to forward the matter to prosecutors, as a criminal referral.

The only case law, cited by the parties is found in respondent's counsel's brief and, although it came from a sister jurisdiction, it is exculpatory and was unchallenged by the presenter. We, therefore, determine to dismiss this charge for lack of clear and convincing evidence of a violation of RPC 3.4(g).

Two aspects of respondent's actions resulted in separate charges that he violated RPC 4.2. This rule prohibits a lawyer from communicating about the subject of a representation knowing that the person is represented, unless the lawyer has the consent of his adversary. First, respondent was charged with having violated the rule for habitually sending emails to Kelly and Millner about the case, knowing that Kelly was represented by Millner. They included that series of July 2010 emails referred to above.

At the DEC hearing, however, it became clear, through Millner's and respondent's testimony, that Millner welcomed respondent's contacts with Kelly, so long as they were not contentious, on the premise that the parties could save legal fees by involving the lawyers only when absolutely necessary. Millner also admitted that she never told respondent to cease communicating with Kelly, in the fashion that had become a standard practice in the proceedings. In other words, respondent had Millner's not only tacit, but direct authority to communicate with Kelly. Therefore, the communications fell within the exemption in RPC 4.2, where Millner consented to the communications. We, therefore, dismiss this charge also.

Second, respondent was charged with a violation of RPC 4.2 for his July 9, 2010 9:48 a.m. "God as my witness" email to Millner and Kelly. Five minutes earlier, at 9:43 a.m., Paradise, acting as general counsel for Fox Rothschild, and as attorney for Millner and Kelly, had sent a clear directive that respondent was not to communicate with Millner or Kelly and was to send all future communications to him, not to Millner or Kelly.

Respondent testified convincingly on the issue that Paradise' email did not "hit" his iPhone, which he was using at

the time to compose and send his 9:48 a.m. email to Kelly and Millner, until right after he sent the 9:48 a.m. email to them. Like the DEC, we accept his explanation that he was unaware of Paradise' role as Millner's attorney and that he was prohibited from communicating further with them. We, thus, dismiss this charged violation of RPC 4.2 as well.

The sole remaining violation is that of RPC 3.4(g), stemming from respondent's threat not to rest until his ex-wife was jailed for alleged criminal wrongdoing in the bankruptcy and divorce proceedings.

Violations of RPC 3.4(g) have been met with discipline ranging from an admonition to a suspension, depending on the severity of the conduct. See, e.g., In the Matter of Jeffrey R. Grow, DRB 11-199 (March 26, 2012) (admonition for attorney who sent his client a letter in which he threatened to file criminal charges against her if she did not pay his legal fee; the attorney also failed to set forth the rate or basis of his fee in writing within a reasonable time (RPC 1.5)); In re Levow, 176 N.J. 505 (2003) (admonition for attorney who represented a client alleging medical malpractice and sent a letter to the client's doctor mentioning "criminal assault" and stating that the attorney had directed his client to contact "all relevant

and proper authorities"); In the Matter of Mitchell J. Kassoff, DRB 96-182 (1996) (admonition for attorney who, after being involved in a car accident, sent a letter to the other driver indicating his intent to file a criminal complaint against him for assault; the letter was sent the same day that the attorney received a letter from the other driver's insurance company denying his damage claim); In the Matter of Christopher Howard, DRB 95-215 (1995) (admonition for attorney who, during the representation of one shareholder of a corporation, sent a letter to another shareholder threatening to file a criminal complaint for unlawful conversion if he did not return the client's personal property); In re Hutchins, 177 N.J. 520 (2003) (reprimand for attorney who, in attempting to collect a debt on behalf of a client, told the debtor that he had no alternative but to recommend to his client that civil and criminal remedies be pursued); In re McDermott, 142 N.J. 634 (1995) (reprimand for attorney who filed criminal charges for theft of services against aclient and her parents after the client stopped payment on a check for legal fees); In re Dworkin, 16 N.J. 455 (1954) (one-year suspension for attorney who wrote a letter threatening criminal prosecution against an individual who forged an endorsement on a government check, unless the

individual paid the amount of the claim against him and the legal fee that the attorney ordinarily charged in a criminal matter "of this type;" the Court found that the attorney had resorted to "coercive tactics of threatening a criminal action to effect a civil settlement"); and In re Barrett, 88 N.J. 450 (1982) (three-year suspension for serious acts of misconduct that included the filing of a criminal complaint with the purpose of coercing a party into reaching a civil settlement).

The reprimand cases, Hutchins and McDermott, involved similar conduct to that of respondent. Hutchins told the debtor that criminal action was imminent, as he had no alternative but to file civil and criminal charges to collect the debt. McDermott went further, threatening to file criminal charges against his client (and her parents) for theft of services and then acting on that threat, by filing charges. Here, respondent sent an email with a threat to see that his ex-wife would be jailed for her alleged criminal conduct in her bankruptcy and divorce matters. Unlike McDermott, respondent never acted on the threat.

There are aggravating factors, however. Respondent suggested to Millner and LaMonica that, if they acceded to his settlement demands, he would agree not to file criminal charges

or ethics charges against them. Although respondent was not charged with an ethics infraction in this regard, such conduct is an unseemly corollary to those cases involving attorneys who interfere with ethics grievances against them, in an effort to have them dismissed. See, e.g., In re Levin, 193 N.J. 348 (2008) (admonition for attorney who contacted the grievant's son and convinced him to obtain his mother's withdrawal of her ethics grievance, going so far as recommending specific language for inclusion in the withdrawal letter); and 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 on the dismissal of an ethics grievance filed against the attorney by the client's parents).

The DEC recognized other aggravating factors, when recommending a reprimand. Specifically, the DEC found that respondent "was clearly conscious of his ethical obligations and ignored them." We agree that respondent must have known that his heavy-handled tactics violated the RPCs. Likewise, we agree with the DEC that, even though the RICO complaint did not violate the RPCs, it was "clearly indicative of [respondent's] desire to flaunt both the spirit of the Rules of Professional Conduct, and his obligations as a practicing attorney." Worded differently,

respondent was determined to apply as much pressure as possible on Kelly and Millner to achieve his ends, even suggesting that he had additional "filings" that were "ready to go on short notice," if they did not meet his demands - overly inflammatory language, in our view.

In mitigation, we considered that respondent acted in the heat of the moment, while representing himself in his highly contested divorce proceeding. In addition, respondent readily admitted his violation of RPC 3.4(g), seemed remorseful for his actions, and has not been disciplined, since his 2001 admission to the New Jersey bar.

Nevertheless, we determine that respondent's actions, viewed as a whole, are more serious than those of the attorneys who received admonitions. We conclude, therefore, that a reprimand is necessary to address his misbehavior.

Chair Pashman and Member Baugh voted for an admonition. Member Yamner recused himself. Member Clark did not participate.

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
Louis Pashman, Chair

By: Julianne K. DeCore
Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Thomas Kane
Docket No. DRB 12-120

Argued: July 19, 2012

Decided: October 10, 2012

Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Admonition	Disqualified	Did not participate
Pashman				X		
Frost			X			
Baugh				X		
Clark						X
Doremus			X			
Gallipoli			X			
Wissinger			X			
Yamner					X	
Zmirich			X			
Total:			5	2	1	1

Julianne K. DeCore
Julianne K. DeCore
Chief Counsel