SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 12-208
District Docket No. XIV-2009-0535E

IN THE MATTER OF	:
STEPHEN H. ROSEN	:
AN ATTORNEY AT LAW	:

Decision

Argued: October 18, 2012

Decided: December 11, 2012

Janice L. Richter appeared on behalf of the Office of Attorney Ethics.

Richard M. Keil 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 a six-month suspension filed by the District XI Ethics Committee (DEC). The complaint charged respondent with having violated RPC 8.4(d) (conduct prejudicial to the administration of justice).

For the reasons expressed below, we determine that a one-year suspension is warranted.

Respondent was admitted to the New Jersey bar in 1982. At the relevant time, he maintained a law office in Little Falls, New Jersey.

In 1995, respondent was reprimanded for misconduct in three matters for lack of diligence, failure to communicate with the client, and conflict of interest. In re Rosen, 139 N.J. 387 (1995).

In 1996, respondent was admonished for witnessing and notarizing a signature on closing documents that were signed outside of his presence, improperly affixing his jurat on the documents, and failing to timely reply to requests for information from disciplinary authorities. In assessing the level of discipline, we considered that respondent had been under a considerable amount of stress at the time. In the Matter of Stephen H. Rosen, DRB 96-070 (April 29, 1996).

In 2002, respondent was suspended for three months for misconduct in three matters. There, he engaged in gross neglect, lacked diligence, charged an unreasonable fee, breached an escrow agreement, and engaged in a pattern of neglect in three of four matters. In a fourth matter, over a six-year period, he exhibited gross neglect and lack of diligence in settling an estate, failed to communicate with his clients, and failed to protect their interests on termination of the representation. In

re Rosen, 170 N.J. 630 (2002). We found that respondent's disciplinary history demonstrated a pattern of disregarding the Rules of Professional Conduct, that he displayed no remorse, that he refused to acknowledge any wrongdoing, and that his clients suffered significant economic harm, as a result of his actions. Respondent was reinstated on September 23, 2002. In re Rosen, 174 N.J. 343 (2002).

This disciplinary matter arose as follows:

Office of Attorney Ethics (OAE) auditor Steven Harasym was assigned to investigate whether respondent had misappropriated funds from trusts created for the benefit of Shari Perl (also known as Shari Perl-Hermann). Following a very long investigation, the OAE could not establish that respondent had engaged in knowing misappropriation. The disciplinary matter proceeded on a charge of a violation of RPC 8.4(d). The complaint alleged that respondent violated court orders restraining him from disbursing assets of trusts created for Perl's benefit.

Respondent met Perl as a referral from his wife's second cousin, Michael Archer, who was a private investigator involved in a criminal matter involving Perl. Perl retained respondent on November 23, 2004. They entered into a fee agreement for an hourly fee of $250.

Respondent's reply to the grievance described Perl as an heiress of several family trusts with very substantial holdings. A few trusts were created for her benefit by respondent and by another attorney, Douglas Eisenberg. Eisenberg told Harasym that the trusts were created to "protect Perl's money from Perl."

According to Harasym, respondent established the East End Avenue First Trust (East End Trust).[1] It was funded by the deposit of $1 million into an account at UBS Financial Services, Inc., in Hackensack, New Jersey. Its purpose was to safeguard Perl's assets and to provide her with funds for living expenses. According to respondent, Perl was very wealthy and needed help managing her funds. The East End Trust was a revocable trust agreement that named respondent as the trustee. Initially, Archer had been named as the trustee, but Pearl later determined that she preferred having an attorney-trustee. Respondent's fees were paid from the trust.

In April 2005, Eisenberg prepared the HAT Trust agreement, which was executed on April 18, 2005 by Perl and respondent, who was again named as trustee. The HAT Trust was also created to

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[1] Respondent had Perl examined by a psychologist in early November 2004. He wanted something in writing "indicating that she was effectively of sound mind and knew what she was doing, was competent."

protect and manage Perl's assets and to give her a monthly stipend for living expenses.

Contemporaneously, a separate limited liability corporation was formed, known as OOTH, LLC (an acronym for "out of the HAT").[2] Eisenberg prepared the operating agreement for OOTH, which provided that the HAT Trust owned ninety-nine percent of OOTH and respondent owned one percent of it. Respondent told Harasym that it had to be done that way for "that type of LLC."

Respondent's responsibilities under the operating agreement were to purchase and sell property and assets on behalf of the corporation. The agreement listed him as the president of the company. The operating agreement listed respondent's responsibilities, among others, as follows: he was permitted to enter into leases (iii); "refinance any existing financing into any loan to the company" (iv); cause the company to expand or become obligated for amounts not provided for, or in excess of amounts provided for (viii); sell, exchange, mortgage, pledge or otherwise transfer all or any substantial portion of the assets

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[2] Respondent's reply to the grievance explained that the purpose of OOTH was two-fold. Perl had a terrible credit rating for non-payment of bills, even though she had significant funds. She could not rent an apartment. Thus, OOTH had to sign a lease on her behalf. OOTH was also created, purportedly, for Pearl to continue the business she had learned from her father — acquiring property for resale or rent.

of the company (ix); amend this agreement or do any act in contravention of this agreement (x); "[d]o any act which would make it impossible to carry on the ordinary business of the Company" [sic] (xi); possess, assign or use funds or other property of the company for other than company purposes (xii); and lend funds belonging to the company to any third party, or extend to any person, firm, or corporation, credit on behalf of the company (xiii).

On August 29, 2005, OOTH purchased property on Perl's behalf, located at 1028 Clinton Avenue, Irvington, New Jersey. According to respondent, he bought that property because Perl had expressed an interest in getting into property management and he thought it would be a good experience for her. He added that Perl had taken property management classes in school. The building was zoned residential and, according to respondent, needed work. He stated that "we" boarded up the windows and sealed the outside so that no one could enter the property; "we" pumped out the basement, "we" did a number of things to preserve the property, brought contractors in for each stage of the rehabilitation (insulation, wiring, plumbing), and had an engineer draw plans for the plumbing and electric. OOTH received a loan from the HAT Trust to purchase the property. The HUD-1

statement listed a purchase price of $85,000. The entire amount was borrowed from HAT.

On an unspecified date, a lawsuit was filed in the New York courts between Perl, as plaintiff, and her sister Andrea, as defendant. Justice Judith L. Gische, J.S.C., Supreme Court of New York, issued an Order/Decision, dated December 5, 2006, which described the action, "at its core," as a claim by one sister, Perl, against another sister Andrea, asserting that certain assets owned by the Perl Family trusts for both of their benefit were being misappropriated.[3]

According to the decision, defendant Andrea accused Perl of being addicted to prescription drugs and of being manipulated by respondent, who had improperly taken control of her substantial assets. Perl had transferred millions of dollars into the East End Trust and then to the HAT Trust, over which respondent exercised exclusive control.

Attendant to the New York suit, Perl's family brought "an article 81 proceeding" (a proceeding for the appointment of a guardian for property management) against Perl. Perl conceded her drug dependency and the need for a guardian. Martin Evans was appointed Perl's "property" guardian and was substituted in

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[3] Respondent was a co-plaintiff in the matter, which involved other Perl family trusts.

as plaintiff, replacing respondent as a co-plaintiff in the New York proceeding.

According to the decision, Perl came to believe that respondent had taken advantage of her and had misused her property to his benefit and for the benefit of others, through the guise of the trusts.

Evans obtained information showing that, while Perl had transferred over $2.5 million to the trusts, by June 2008, little more than $1 million remained, with disbursements of hundreds of thousands of dollars going directly to respondent. Thus, in early June 2006, Evans interposed a cross-complaint in the New York suit, seeking an accounting, injunctive relief, and an order setting aside the two trusts. Evans sought temporary restraints to prevent respondent from making any distributions from any trust involving Perl. On June 15, 2006, Justice Gische issued an order that stated, in relevant part:

> ORDERED, that pending the hearing of this motion Stephen Rosen is restrained from (a) taking any further action in his capacity as trustee of the East End Avenue First Trust and the Hat Trust, and (b), spending, transferring or using any of the assets of those trusts . . .
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> [Ex.C-6;T21.][4]

[4] T refers to the transcript of the March 5, 2012 DEC hearing.

Evans also filed a motion for a preliminary injunction to prevent respondent from taking any action in his capacity as trustee of either trust and from spending, transferring, or using any assets of those trusts, other than as directed by the court.

Respondent filed a cross-motion to dismiss, contesting the jurisdiction of the court. The court determined that it had jurisdiction over respondent and rejected as "too crabbed an interpretation of what has occurred in this state and the claims that are being made," respondent's assertion that his trustee activity in New York was not the trustee activity being challenged. The court also rejected respondent's argument that the claims against him should be severed to protect Perl. The court found, instead, that respondent's interests were adverse to Perl's.

The court outlined the requirements to succeed on a preliminary injunction. A movant must show (1) a likelihood of success on the merits; (2) irreparable harm; and (3) a balancing of the equities in the movant's favor. The court found that Evans had made such a showing. Specially, Perl claimed addiction to prescription drugs, when she signed the trust instruments giving respondent control over millions of dollars of her assets; over one million dollars of her assets were expended

from the trust, in the short time it was in existence; Perl claimed that most of the money was not used for her benefit; and a large portion was disbursed to respondent and some to his relatives for services Perl disputed were needed.

The court also found that Evans had showed irreparable harm and a balancing of the equities, that is, if respondent were permitted to control the remaining monies in the trust, without supervision, there was a high risk that it would be used for other than Perl's benefit. Furthermore, once disbursed, the monies might not be recoverable.

The court concluded that respondent would not be harmed by the issuance of an injunction, because he could seek court approval for any and all disbursements from the trust.

On December 5, 2006, the court issued the following order:

> Stephen Rosen is hereby restrained and barred from taking any further actions in his capacity as Trustee of either the East End Avenue First Trust or the HAT trust, other than as directed by the court and from spending, transferring or using any of the assets of such trusts except as directed by the court.
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> [Ex.C-7-10;T22.]

According to Harasym, the orders were not reversed.

Following the entry of Judge Gische's June 15, 2006 and December 5, 2006, orders, on September 20, 2007, respondent sold

the Clinton Avenue property owned by OOTH.[5] Respondent asserted that, as the president of OOTH, he had the right to act on its behalf. He claimed that there were delinquent taxes and sewer charges against the Irvington property and that a tax sale had been scheduled for May 24, 2007. Respondent gave the following reasons for selling the property:

> [t]he building was a depreciating losing asset, if you would consider it an asset. It was actually a liability because it was a debt. This was not an appreciating debt, it was a depreciating debt and it was costing not only my client or the former client, Miss Perl, money but it was costing the trust money for the period of time no activity would be paid [sic]. One of the evidences that were submitted was the delinquent taxes and sewer charges placing the property up for potential foreclosure sale which would forever bar the trust from getting any money whatsoever. It would be a total loss unless I did something and I could be blamed for not protecting the interest of my former client so what do I do? I'm damned if I do, damned if I don't. I had to at least protect the interest of my former client and the trust by liquidating it. Nowhere in the caption of any of the documents that were submitted was the name OOTH, LLC ever submitted, it was never a party to the action, OOTH was never identified in any of the orders . . . .
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> [T49-17 to 50-13.]

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[5] Between July 16 and October 30, 2007, OOTH's corporate status had been revoked for failure to file its annual reports for two or more years.

Respondent admitted that it was his responsibility to see that the taxes for the property were paid, but claimed that there were no assets to pay them, even though Perl had other assets, in addition to OOTH, "several trusts [and] furs." He had several discussions with Perl about what to do, but she had no interest in discussing it. Respondent maintained that he paid for some of the clean-up, did some cleaning himself, when there were no funds, shoveled the walk, cleaned up the vandalism, hired others to remove garbage from the yard, and personally paid some of the insurance bills. The taxes were more than what he had available. He maintained that there were several complaints about the condition of the property, which resulted in fines of $1400 and $400. The list of violations that he received, in September 2007, included lack of garbage removal, high grass, weeds, repairs, exterior paint, and items or trash dumped on the property. He, therefore, sold the property, in September 2007, to Tactical Investments, LLC. (Tactical). He told Harasym that he did so because Perl showed no interest in getting involved in building management, bills were "piling up" against it, and outstanding debts and tax liens had to be paid.

Respondent claimed that there had been at least two prior offers to purchase the property, before it had been sold to

Tactical, but that Perl had rejected at least one offer and "nothing happened" with either offer.

The sale to Tactical was a cash deal. The HUD-1 listed the contract sale price as $120,000. At first, respondent testified that there was no contract of sale; later, he claimed that he did not recall if there was a contract, but "visualized" a letter. He did not seek court approval for the sale.

Harasym's investigation failed to uncover who or what was involved in Tactical. Even though the OAE investigated various avenues and conducted multiple searches, it "came up empty." Respondent disavowed an interest in Tactical and disclaimed knowledge of its ownership.

The HUD-1 for this transaction listed a $70,120.27 payment to Octavio Global. The disbursement did not appear on the disbursement sheet prepared by respondent. Respondent also disclaimed an ownership interest in Octavio Global or knowledge of its ownership.

The sale resulted in a net distribution to OOTH of $41,390.78. After disbursements were made, $28,673.87 remained in respondent's trust account. No funds were paid to the HAT Trust. Harasym's investigation showed that the balance from the sale remained intact in respondent's trust account and was still there, as of the date of the DEC hearing.

At the DEC hearing, respondent stated that he considered filing an interpleader action to deposit the money with the court but, even though years had passed since the sale, he had not yet done so because, he claimed, the case is still ongoing in New York. He had stated earlier, however, that he was awaiting direction from the court.

At a criminal contempt proceeding against respondent, Justice Gische concluded that his sale of the property was in violation of the court orders and held him in criminal contempt for doing so. She stated that the standard for such a finding is higher than for civil contempt, requiring a showing of a higher degree of willfulness and contumaciousness. The court found that the heightened standard was met because respondent was fully aware of the orders and yet made transfers without court approval. Also, the guardian, who stood in the shoes of Perl, had his rights "impeded" and the prejudice was apparent from the sale of the property from which Perl received nothing.

As to willfulness, the court found that respondent knew that the transfer was in violation of her orders. He indicated that he knew about the order and had admitted, under oath, in another proceeding ("Chin v. Rosen"), that he understood that the court's orders extended to the OOTH assets and that OOTH's assets were "frozen." The court found "absolutely incredible

that [respondent] could seriously argue to the Court that he did not know that OOTH was an asset of the HAT Trust and/or that they were completely separate entities. I believe that establishes the willfulness beyond a reasonable doubt sufficient to hold [respondent] in criminal contempt."

According to Harasym, respondent was subject to arrest and confinement and a fine under the criminal contempt order. The contempt order was not reversed or vacated.

At the DEC hearing, respondent argued that he had not violated the orders by selling the property, because he was not acting in his capacity as trustee, but in his capacity as "president or chief officer of OOTH, LLC," which was a limited liability company and not a trust.

Respondent maintained that he did not appear at the New York contempt proceedings because the hearing should have been stayed, when he filed a bankruptcy petition. He filed it because his house was in foreclosure and his health would not permit him to practice on a full-time basis. He claimed that the court had violated the bankruptcy code by proceeding with the contempt charges and a hearing at which he did not appear. He filed the bankruptcy petition on the return date of the contempt hearing and faxed it to Justice Gishce's chambers only minutes before the hearing that day. He asserted further that he had filed a

Notice of Appeal and reconsideration on November 9, 2011, but that the judge had declined to act on it because it had been automatically stayed, pending the appointment of a new guardian (Evans had passed away).

In his defense, respondent told the hearing panel that he had to act quickly to sell the property to prevent it from being fully depleted. He was concerned that, if he had to wait for court approval, the buyer would have backed out of the deal.

Respondent's counsel argued that a violation of RPC 8.4(d) requires an element of willfulness, which was not present here, because respondent saw himself as the managing partner of OOTH and he needed to preserve its assets. Counsel noted that, because of respondent's health, he had waited until recently to file a motion to vacate the criminal contempt order against him.

The OAE stressed that there was nothing normal about the purchase and sale of 1028 Clinton Avenue. The OAE added that the unusual nature of the transactions was "relevant to the issue of why it was sold and why it was purchased and [respondent's] willingness and deliberate obfuscation of what the judge meant by her order so he could obtain whatever purposes he had with that piece of property. We'll never know." The OAE questioned how respondent, an "expert in real estate knows nothing about the $70,000 worth of funds that were being placed out of there,

doesn't know who Tactical Investment is, no Contract of Sale and on and on that makes this a very, very unusual real estate transaction."

The OAE stressed further that respondent could have easily obtained court approval to sell the property and that he had deposited the balance of the funds into his trust account, rather than into OOTH, which was ninety-nine percent owned by the Hat Trust.

In an April 24, 2012 letter to the DEC, respondent stated that his prior ethics problems occurred more than twenty years ago, during a period when he and his wife were dealing with the terminal illnesses and subsequent deaths of both sets of parents. He maintained that he had "learned the need for seriousness, urgency and necessity for attention to detail the practice of law requires." He noted that the New York court had recently appointed a replacement guardian in the Evans et al. v. Rosen, et al. matter, that his motion to vacate the contempt order was still pending, and that he intended to pursue it vigorously.

The DEC rejected respondent's argument that there was no need to seek court approval for the sale of property because he was acting as OOTH's president, not as a trustee. Like Justice Gische, the DEC concluded that respondent's claims are "too

crabbed in [sic] interpretation" of the court's order and are "hyper technical." The DEC found that respondent's sale of the Irvington property, without court approval, was a direct violation of the language, spirit, and intent of Justice Gische's orders. Respondent's excuses for violating the orders were not meaningful, but frivolous and without merit.

Based on the evidence presented and respondent's ethics history, the DEC concluded that a six-month suspension was warranted.

In a letter-brief to us, the OAE noted that lengthy suspensions have been imposed on attorneys found guilty of obstructing justice, citing In re Power, 114 N.J. 540 (1989) (three-year suspension for attorney who pled guilty to one count of obstruction of justice for advising a client not to divulge information to law enforcement authorities); In re Verdiramo, 96 N.J. 183 (1984) (seven-year "time-served" suspension for attorney who pled guilty to one count of obstruction of justice for attempting to persuade a witness to testify falsely before a federal grand jury); and In re Silverman, 80 N.J. 489 (1970) (eighteen-month suspension for attorney who pled guilty to a one-count indictment for filing false information in a bankruptcy matter).

The OAE argued that respondent's act was deliberate and in direct opposition to the court's restraints, that his series of actions were designed to circumvent the court order, and that he could have applied to the court for permission to sell the property, but failed to do so. The OAE, thus, concluded that a one- to two-year suspension was appropriate, in light of respondent's misconduct and ethics history.

In a letter dated September 8, 2012, respondent's counsel took the position that respondent had not violated the court's orders, because the orders "did not involve him as the Trustee." He was acting in his capacity as president of OOTH. OOTH's Irvington property was ninety-nine percent owned by the HAT Trust and owed a debt to that trust. He, therefore, had an independent right to act to protect Perl.

Counsel argued further that, if respondent had knowingly violated the court's orders, he had done so only to preserve Perl's funds. If he had not acted, the property would have "been lost" and Perl would have incurred further losses. Respondent's conduct was not a scheme to defraud anyone, but to protect Perl. He did "what any attorney should have done."

Finally, counsel argued that the cases cited by the OAE involve much more serious conduct than respondent's.

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

This is a troubling case. Notwithstanding respondent's reason for buying the Irvington property -- Perl's purported interest in "getting into property management" -- given respondent's description of the property, it was a surprising choice. The property had to be boarded up to keep intruders out, was subject to vandalism, served as a dumping ground, was in disrepair, and had liens and fines against it. From respondent's description, it was a bad investment, not a property ripe for rehabilitation and resale. The circumstances surrounding the purchase and sale of the property, the depletion of Perl's trust assets, and the need for the appointment of a guardian to protect Perl, because respondent had almost unlimited control over her assets, raise serious suspicions about respondent's conduct as a whole.

The complaint, however, charged respondent only with conduct prejudicial to the administration of justice for violating Justice Gishe's orders (RPC 8.4(d)). Respondent maintained that he did not violate this rule. He argued (1) that he was not bound by Justice Gishe's orders, because he was acting as the president of OOTH, not the trustee, when he sold

the Irvington property and (2) he had to act quickly to preserve the trust assets by selling the property as quickly as possible. He claimed that he had lost two other prospective purchasers.

Neither argument is persuasive. The transcript from the criminal contempt hearing made it clear that respondent was well aware that OOTH's assets were frozen and that he understood that the court's orders extended to OOTH. Respondent's argument that he believed he had the right to sell the property without court approval, because he was acting as the president, rather than the trustee, is simply disingenuous.

Similarly, respondent's argument that he had to sell the property quickly holds no weight. The second court order was entered in December 2006. The property was sold on September 20, 2007, approximately nine months later. Therefore, respondent had ample opportunity to seek court approval for the sale, possibly even on an emergent basis. Indeed, as soon as he got the first offer on the property (he claimed that he had two prior offers), he could have petitioned the court. The clear and convincing evidence, thus, established that respondent knowingly and purposefully failed to obtain the required court approval. His conduct was prejudicial to the administration of justice, in that he violated the court orders.

The only issue left for determination is the proper quantum of discipline. Although the OAE argued for a one- to two-year suspension, it supported its position with cases that involved guilty pleas to criminal charges, a factor not present here.

Conduct prejudicial to the administration of justice comes in a variety of forms and typically results in either a reprimand or a censure, depending on other factors present, including the existence of other violations, the attorney's ethics history, whether the matter proceeded as a default, the harm to others, and mitigating or aggravating factors. See, e.g., In re Gellene, 203 N.J. 443 (2010) (reprimand for attorney found guilty of conduct prejudicial to the administration of justice and knowingly disobeying an obligation under the rules of a tribunal for failing to appear on the return date of an appellate court's order to show cause and failing to notify the court that he would not appear; the attorney was also guilty of gross neglect, pattern of neglect, lack of diligence, and failure to communicate with clients; mitigating factors considered were the attorney's financial problems, his battle with depression and significant family problems; his ethics history included two private reprimands and an admonition); In re Geller, 177 N.J. 505 (2003) (reprimand for attorney who failed to comply with court orders (at times defiantly) and with

the disciplinary special master's direction not to contact a judge; the attorney also filed baseless motions accusing judges of bias against him, failed to expedite litigation and to treat with courtesy judges, his adversary, the opposing party, an unrelated litigant, and a court-appointed custody evaluator, used means intended to delay, embarrass or burden third parties, made serious charges against two judges without any reasonable basis, made unprofessional and demeaning remarks toward the other party and opposing counsel, and made a discriminatory remark about a judge; in mitigation, we considered that the attorney's conduct occurred in the course of his own child custody case); In re Holland, 164 N.J. 246 (2000) (reprimand for attorney who was required to hold in trust a fee in which she and another attorney had an interest, took the fee in violation of a court order); In re Milstead, 162 N.J. 96 (1999) (attorney was reprimanded for disbursing escrow funds to his client, in violation of a court order); and In re Hartmann, 142 N.J. 587 (1995) (attorney reprimanded for intentionally and repeatedly ignored four court orders to pay opposing counsel a fee, resulting in a warrant for the attorney's arrest; the attorney also displayed discourteous and abusive conduct toward a judge with intent to intimidate her).

Censures were imposed in In re D'Arienzo, 207 N.J. 31 (2011) (attorney failed to appear in municipal court for a scheduled criminal trial and thereafter failed to appear at two orders to show cause stemming from his failure to appear at the trial; by scheduling more than one matter for the trial date, the attorney inconvenienced the court, the prosecutor, the complaining witness, and two defendants; in addition, his failure to provide the court with advance notice of his conflicting calendar prevented the judge from scheduling other cases for that date; prior three-month suspension and two admonitions plus failure to learn from similar mistakes justified a censure); and In re LeBlanc, 188 N.J. 480 (2006) (attorney's misconduct in three client matters included conduct prejudicial to the administration of justice for failure to appear at a fee arbitration hearing, failure to abide by a court order for failure to produce information and other ethics violations; mitigation included, among other things, the attorney's recognition and stipulation of his wrong doing, his belief that his paralegal had handled post-closing steps, and a lack of intent to disregard his obligation to cooperate with ethics' authorities).

Suspensions were imposed where attorneys either had significant ethics histories or were guilty of violating a

number of ethics rules, or both. See, e.g. In re Declemente, 201 N.J. 4 (2010) (three-month suspension for attorney who arranged three loans to a judge in connection with his own business, failed to disclose to opposing counsel his financial relationship with the judge or failed to ask the judge to recuse himself, made multiple misrepresentations to the client, engaged in an improper business transaction with the client, and engaged in a conflict of interest); In re Block, 201 N.J. 159 (2010) (six-month suspension where attorney violated a court order that he had drafted by failing to transport his client from prison to a drug treatment facility, instead leaving the client at a church while he made a court appearance in an unrelated case; the client fled and encountered more problems while on the run; the attorney also failed to file an affidavit in compliance with R. 1:20-20; failed to cooperate with disciplinary authorities; failed to provide clients with writings setting forth the basis or rate of the fees; and lacked diligence, engaged in gross neglect, and failed to turn over a client's file; prior reprimand and one-year suspension); and In re Bentivegna, 185 N.J. 244 (2004) (motion for reciprocal discipline; two-year suspension for attorney who was guilty of making misrepresentations to an adversary, negotiating a settlement without authority, filing bankruptcy petitions without authority

to do so and without notifying her clients, signing clients' names to documents, making misrepresentations in pleadings filed with the court, violating a bankruptcy rule prohibiting the payment of fees before paying filing fees; the attorney was guilty of conduct prejudicial to the administration of justice, gross neglect, failure to abide by the client's decision concerning the objectives of the representation, failure to communicate with clients, excessive fee, false statement of material fact to a tribunal, and misrepresentations).

This matter is significantly more serious than the above-cited non-suspension cases. Respondent knowingly and purposefully defied two court orders. His client conceded that, because of her addiction problems, she needed a guardian for her property. It turned out that she also needed protection from her own attorney. These factors, together with respondent's significant ethics history (1995 reprimand, 1996 admonition, and 2002 three-month suspension) warrant a one-year suspension.

Member Doremus did not participate.

We also determine that, prior to his reinstatement, respondent must submit proof to the OAE of successful completion of ten hours of professional responsibility courses.

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 Stephen H. Rosen
Docket No. DRB 12-208

Argued: October 18, 2012

Decided: December 11, 2012

Disposition: One-year suspension

Members	Disbar	One-year Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Pashman		X				
Frost		X				
Baugh		X				
Clark		X				
Doremus						X
Gallipoli		X				
Wissinger		X				
Yamner		X				
Zmirich		X				
Total:		8				1

Julianne K. DeCore
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Chief Counsel