SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 12-325
District Docket No. XIV-2010-2010E

IN THE MATTER OF	
NICHOLAS KHOUDARY	
AN ATTORNEY AT LAW	

Decision

Argued: February 21, 2013

Decided: March 27, 2013

Stephen M. Orlofsky appeared on behalf of the Office of Attorney Ethics.

Nicholas Khoudary appeared pro se.

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 (two-year suspension) filed by the special master, Robert L. Grundlock, Jr. A four-count complaint charged respondent with bringing a frivolous claim (RPC 3.1), failing to expedite litigation (RPC 3.2), engaging in conduct involving dishonesty, fraud, deceit or misrepresentation (RPC 8.4(c)), and

engaging in conduct prejudicial to the administration of justice (RPC 8.4(d)). We determined to impose a two-year suspension.

Respondent was admitted to the New Jersey bar in 1988. On May 24, 2001, the Supreme Court suspended respondent from the practice of law for two years, effective August 6, 1999, after his criminal conviction in federal court in the United States District Court for the District of New Jersey for structuring a monetary transaction to avoid currency transaction reporting (CTR) requirements, in violation of 31 U.S.C.A. §5322(b), 5224(3) and 5324 (a)(3), 31 C.F.R. §103.53 and 18 U.S.C.A. §2. Respondent was involved in a scheme to cash six checks, totaling $333,415, which had been stolen from IBM, the payor, while en route from its San Jose office to a vendor/payee. Although there was no evidence that respondent knew that the checks were stolen, he was aware that the persons claiming to be owners of the payee/corporation wanted to convert the proceeds of the checks to their own personal use, without accounting for the proceeds on the books of the corporation and without triggering CTRs. Respondent agreed to help, in return for one-half of the "commission" that the mastermind of the scheme was to receive. Respondent devised a plan to cash four of the checks (the thieves had cashed the first two in the Cayman Islands, without

respondent's aid), totaling $296,232.97, in a manner that would allow a bank to avoid issuing the required CTRs to the IRS. Respondent deposited the checks into his trust account and then issued numerous checks out of that account to different individuals, always in an amount less than $10,000. In re Khoudary, 167 N.J. 593 (2001). Respondent's suspension was made retroactive to his August 5, 1999 temporary suspension. Resondent was reinstated to the practice of law effective September 28, 2001 (In re Khoudary, 169 N.J. 480 (2001)).

In an August 17, 2010 letter to the OAE, respondent gave a thumbnail sketch of the events leading up to the ethics matter:

> This matter basically involves the acquisition of Schaefer Salt Recovery, Inc., [SSR] of a mortgage held by CoreStates who assigned the mortgage to an entity known as Huskie Portfolio. The attempt was made to prevent the tax lien foreclosure by Sherwood (Carol Segal) to acquire title and satisfy his tax liens. During the entire course of the litigation relationship between [SSR] and Segal, there were negotiations for settlement involving the concept of satisfying the mortgage in part or the tax liens held by Segal. Both parties to the litigation acquired their interests within months of each other. Obviously, if a mortgage holder exists, they could under normal circumstances satisfy the outstanding tax lien obligations to protect their interests. Unless the payment for the mortgage interest is nominal, i.e. $100, the tax lien holder must be able to be satisfied

> by the mortgage lien holder. In this particular circumstance, the mortgage was acquired for $20,000 down payment and $200,000 lien. This is not a nominal amount of funds and the value of the property was difficult to ascertain due to environmental problems and buildings that needed to be destroyed and construction of an apartment complex and a large sum of money necessary to improve the value of the land. Additionally, the location was burdensome because access was necessary to a major road for any large improvement. The largest aspect of the litigation involved trying to ascertain the value of the land with all the construction that was already at the site.
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> [Ex.R-1,1-2.]

On May 12, 2004, just four days after respondent incorporated SSR as a corporate entity with ownership vested in his then-wife, respondent filed, on behalf of SSR, a "bare bones" petition for reorganization under Chapter 11, in the United States Bankruptcy Court for the District of New Jersey (the bankruptcy court).[1]

At the hearing before the special master, respondent testified that he acted in his capacity as SSR's vice-president

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[1] A bare-bones petition is a term for one that does not comply with the bankruptcy rules, having been filed without the required schedules and financial statement.

and counsel. SSR's only assets were the assignment of the Huskie-owned mortgages and default judgment for three tracts that formed the former Schaefer Salt Factory property, owned by Schaefer Properties, Inc. (SPI). SSR had no ownership interest in the properties themselves.

The SPI properties were in litigation, at the time of the alleged misconduct. Specifically, Carol Segal, the owner of tax sale certificates pertaining to the SPI properties, had initiated tax lien foreclosure actions, which were pending in Union County Superior Court at the time.

When, on May 12, 2004, respondent filed the barebones bankruptcy petition, he also filed notices of the bankruptcy filing in Segal's foreclosure actions. As a result of the bankruptcy, the foreclosure proceedings were halted by the "automatic stay" provisions of the bankruptcy code.

Thereafter, on July 6, 2004, the bankruptcy court dismissed SSR's Chapter 11 petition, finding that respondent had filed it in bad faith. Upon dismissal, the automatic stay was lifted and the foreclosure proceedings resumed where they left off, just days short of redemption.

On August 13, 2004, in the foreclosure matters, the Superior Court granted Segal's motion to strike SSR's answer to the complaint

and ordered that the foreclosure matters proceed as "uncontested."

Respondent took immediate action that same day, filing a new bankruptcy petition for SSR, this time for liquidation under Chapter 7. That filing halted the foreclosure proceedings once again, through the automatic stay provisions of the bankruptcy code.

On August 24, 2004, the bankruptcy court dismissed the Chapter 7 petition. The Honorable Novalyn L. Winfield, U.S.B.J., stated as follows:

> In light of the timing of the most recent filing, I am going to do a court order which dismisses the case and imposes [a] 180 day bar on the filing of any petition under any chapter of the Bankruptcy Code. I found the last filing to be a bad faith filing. I warned the parties and indeed I indicated and I expected that knowing the Court's position . . . [respondent] well knew the law [and] would not be so foolish as to file a case that did not meet the requirements of a good faith filing despite-and [sic] so I struck the 180 day bar order language in the prior order while the old adage, fool me once, shame on you, fool me twice, shame on me, is [] to be put into effect here. I'll reflect that in my order that I'm imposing [a] 180 day bar order. I will not allow this bankruptcy court to be used as a litigation tool by a party who in truth has not so much a reorganizational intent, but intends to use the bankruptcy court as an offensive

> weapon. That kind of use, frankly, offends not only the Court but the Bankruptcy Code.
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> [Ex.A,94-95.] [2]

Thereafter, a series of appeals took place in the U.S. District Court and the Third Circuit Court of Appeals, ultimately resulting in a remand to the bankruptcy court for a determination on whether respondent's actions warranted sanctions under applicable federal law. At the hearing on remand, Judge Winfield admonished respondent, stating:

> I was so aggravated at the blatant, blatant misuse of the bankruptcy code, and I find frankly the conduct and I am looking directly at [respondent] to be unprofessional and particularly inappropriate for someone who is not unfamiliar with bankruptcy practice. At a minimum, I think probably a couple of RPCs were violated . . .
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> [Ex.B,4-15 to 5-20.]

In her post-hearing, written opinion, dated January 21, 2011, Judge Winfield made additional findings:

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[2] Exhibit A, attached to the complaint, is a copy of the opinion of the United States Third Circuit Court of Appeals in In re Schaefer Salt Recovery, 542 F.3d 90 (3rd Cir. 2008).

But the court also finds that respondent in particular acted with subjective bad faith, and for that reason the same monetary sanction can be imposed against him under either the court's inherent power to sanction or §1927. Respondent is no stranger to the bankruptcy court, having appeared before this court on several prior occasions. He can be presumed to be conversant with the Bankruptcy Code and Rules, as well as applicable case authority. The filing of the Chapter 7 case approximately one month after the dismissal of the Chapter 11 case demonstrates a studied disregard of the purpose of a Chapter 7 filing and a calculated intent to misuse the bankruptcy process to obtain the benefit of the automatic stay in order to delay the tax foreclosure proceeding in the State Court.

Had respondent genuinely intended to use the Chapter 7 case to liquidate the few debts which SSR owed, he could have filed a complete petition so that case administration by a trustee could commence promptly. After all, the Chapter 11 schedules had been filed but a few weeks earlier and could have been easily adapted to the Chapter 7 case. Further, respondent's argument that he could use the Chapter 7 case to either sell the real estate or the mortgage and default judgment is implausible and appears to be an after-the-fact effort to create a rationale for filing the Chapter 7 case. Respondent well knows that the Chapter 7 trustee, not respondent or SSR, is the party responsible for liquidating estate assets, and that the trustee makes those judgments based on benefit to the bankruptcy estate, not the debtor. Moreover, it is unlikely that a trustee would have viewed SSR's mortgage and default judgment as

> valuable given the reality that the tax foreclosure was proceeding as an uncontested matter. Additionally, if the case remained pending, the Chapter 7 estate would consist solely of the mortgage and judgment. Thus, SSR did not have an ownership interest in the SPI Property and a case trustee would not have acquired an ownership interest that could be sold. As an attorney, respondent must know that a trustee cannot sell property in which the bankruptcy has no interest. The prospect that a trustee could cause the sale of the Property to satisfy the mortgage acquired by SSR is equally implausible given the bar imposed by the State Court. This meritless proffered rationale further evidences that respondent really commenced the Chapter 7 filing merely to stay the tax foreclosure proceeding. It can be no coincidence that after the Chapter 7 was dismissed SSR once again filed a motion to intervene in the tax foreclosure proceeding. Obviously, the time SSR spent in Chapter 7 afforded respondent the opportunity to prepare motion papers.
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> [Ex.C,295-296.]

Judge Winfield ultimately concluded that her dismissal of the petition was sanction enough for the Chapter 11 matter, but she imposed a $11,628 sanction against respondent, personally, in the Chapter 7, proceeding. That amount represented Segal's attorney's fees and costs in that matter.

Respondent's defense to the ethics charges, contained in his answer and testimony, consisted primarily of a recitation of his disagreements with findings of the bankruptcy and Third

Circuit courts, both of which faulted respondent for his actions. In addition, respondent repeatedly asserted that he should not have been sanctioned for his conduct in the Chapter 7 matter, claiming that he had voluntarily dismissed it.

Judge Winfield, however, specifically addressed that issue, stating that she had dismissed the petition on Segal's motion, not because respondent sought to voluntarily dismiss it, at the last minute. The judge stated as follows:

> The problem-- well, in fact, I do conclude it was not a voluntary dismissal. The matter came on in front of me on a shorten time motion to dismiss brought by your client. The hearing that I held was based on the motion by your client. Perhaps -- I can't even imagine what led [respondent] to finally in his skirmishing, file this letter voluntarily withdrawing the Schaefer Salt bankruptcy. It doesn't matter what he was thinking.
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> [Ex.B,5-3 to 10.]

Respondent also blamed his own bankruptcy counsel, Karen Bezner, whom he retained to file the missing schedules and financial statement for SSR. For example, respondent claimed that Bezner was well aware that he intended to file the chapter

11 petition, before he did so. Respondent did not call Bezner as a witness.[3]

Respondent also urged the special master to consider, as separate defenses, that he was inexperienced in bankruptcy matters and that he had two surgeries, during the pendency of the bankruptcies.

Respondent provided a January 25, 2012 letter from his plastic surgeon, Carl G. Quillen, M.D., P.A., who operated on respondent on about May 13, 2004 and, again, on August 19, 2004. Respondent underwent "suction lipectomy" on those dates, related to Madelung's disease. According to respondent, his practice of law was disrupted for a time, after each surgery.

In addition, although respondent provided no medical evidence in support of it, respondent claimed that an April 24, 2010 fall resulted in a coma, followed by two months of hospitalization.

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[3] Bezner was not implicated in any wrongdoing for her participation in the SSR matter, which appears to have been limited to filing SSR's missing schedules and statement of financial affairs.

The special master determined that the findings contained in the opinions of the bankruptcy and Third Circuit courts formed a sufficient basis to impose discipline. The special master found that those opinions were clear that respondent's conduct was subject to sanction. In addition, when Judge Winfield sanctioned respondent, she declared that he had likely violated the RPCs as well.

The special master cited Borzillo v. Borzillo, 259 N.J. Super. 286, 294 (Ch. Div. 1992), as "persuasive guidance" that a New Jersey court is free to adopt findings from another court. There, the court accepted a bankruptcy court determination regarding the "inappropriate motives and bad faith of a particular litigant."

According to the special master, respondent violated RPC 3.1, RPC 3.2, and RPC 8.4(d):

> These violations are established by the judicial findings relied upon by the OAE, and attached to its Complaint. [Respondent's] efforts to deflect the consequences of those findings either do not make sense (e. g., his attempt to justify filing bankruptcy petitions which he did not pursue), or are irrelevant (e. g., his effort to justify his conduct by asserting that he would have ultimately prevailed in the Schaefer Salt Recovery litigation, but for a change in the law). In particular, I find that he violated RPC 3.1 twice, and RPC

8.4(d) once due to the compound effect of the two frivolous bankruptcy petitions.

[SMR10.] [4]

In recommending a two-year suspension, the special master took into account respondent's prior two-year suspension as an extremely aggravating factor, referring to the "brazen nature of [respondent's] repeated conduct," and respondent's intent (presumably, in both the prior matter and this matter) to further his own economic interests. In addition, the special master found respondent's lack of remorse to be the most significant aggravating factor: "He maintains that he did nothing wrong, and is a victim of circumstances." The special master was equally concerned that, even after respondent was warned by Judge Winfield not to file a second petition, respondent did so. According to the special master, in the absence of "significant discipline," respondent "may well repeat this, or similar conduct."

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[4] "SMR" refers to the August 2012 report by the special master.

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

Respondent's problems arose from a desire to invest in, and develop, a property known as the Schaefer Salt Factory, which had fallen into disrepair and was burdened by extensive mortgage and tax liens. Knowing that Carol Segal was foreclosing on tax lien certificates, respondent purchased assignments of the mortgages and default judgment from Huskie for $20,000, with the conditional promise to pay an additional $200,000, if his development plan ever realized a profit. He hoped to foreclose on the mortgages or find a buyer, before Segal was able to take title through the tax foreclosure process.

In order to slow Segal's foreclosure progress, respondent formed SSR, with all of the stock in his then-wife's name. Just days later, in his capacity as SSR's vice-president and corporate counsel, respondent filed a barebones Chapter 11 petition — a filing without the proper financial statement and schedules. Respondent did so, ostensibly because the debtor was insolvent and needed to "reorganize" its debts.

However, SSR's only assets were the mortgage assignments and default judgment and its only debt was the $20,000 paid for

them, with some minor expenses.[5] When Segal immediately moved to dismiss the SSR petition, Judge Winfield granted the motion, recognizing that the only purpose of the filing was to halt the foreclosure proceedings, through the use of the automatic stay provisions of the bankruptcy code. On the record, the judge lamented that she could not sanction respondent for the frivolous filing, believing that the state of the law precluded her from doing so.

Ultimately, the Third Circuit ruled that the bankruptcy court was not precluded from imposing sanctions, that respondent's conduct appeared to have been for no other purpose than to activate the automatic stay, and that it may warrant sanction. It remanded the matter to the bankruptcy court for appropriate findings.

Judge Winfield found, on remand, that respondent had filed improper Chapter 11 and Chapter 7 petitions and that the purpose of the latter was solely to stay the sheriff's sale, so that Segal could not take title to the Schaefer Salt Factory property. Of particular concern to the court was respondent's total disregard of

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[5] Respondent claimed that SSR was liable for an additional $200,000, but that sum was a highly contingent liability that had not, and may never have, matured.

its warning, just weeks earlier, in the failed Chapter 11 case, not to misuse the bankruptcy court for his own economic gain. Undeterred, respondent did just that, filing a Chapter 7 petition with no legitimate liquidation purpose.

Indeed, Judge Winfield found respondent guilty of having acted in "subjective bad faith," with a "studied disregard of the purpose of a Chapter 7 filing and a calculated intent to misuse the bankruptcy process to obtain the benefit of the automatic stay." She further found that his "intentional and calculated misuse of the bankruptcy process is what caused this court to determine that [respondent's] filing of the SSR Chapter 7 petition unreasonably and vexatiously multiplied the proceeding before the court." The judge imposed an $11,628 sanction against respondent for his having filed the Chapter 7.

RPC 3.1 states, in relevant part:

> A lawyer shall not bring or defend a proceeding, nor assert or controvert an issue therein unless the lawyer knows or reasonably believes that there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.

It is abundantly clear from the bankruptcy and Third Circuit court opinions that respondent could have had no

reasonable belief that his actions in the bankruptcy court were for other than a frivolous purpose. We, thus, find that his actions were in violation of RPC 3.1.

As to the charged violation of RPC 8.4(c), the complaint alleged that respondent's bad faith filing of the two bare bones bankruptcy petitions constituted conduct involving dishonesty, fraud, deceit or misrepresentation. We agree. Respondent acted dishonestly, having acted with "subjective bad faith" ("subjective" meaning personal and individual). After all, the bankruptcy court inherently relies on the honesty of purpose that attorneys bring to the court in their filing of the petition, the core document of a bankruptcy. Yet, respondent had no such honest purpose in either the Chapter 11 or Chapter 7 filings. His was a dishonest purpose — — to file hopelessly inadequate petitions, containing no legitimate bankruptcy purpose. Rather, they were filings made for the sole purpose of advancing his opportunities and to reap financial reward in unrelated state court litigation. In so doing, he violated RPC 8.4(c).

Similarly, respondent violated RPC 8.4(d), in that his actions were prejudicial to the administration of justice in both the bankruptcy and state court matters. Again, respondent's sole purpose in bankruptcy court was to stall the state court

litigation – – to buy time to foreclose his mortgage liens or find a buyer for the property. The result of his actions was, in the words of Judge Winfield, to "unreasonably multiply litigation that has resulted not only in the consumption of Bankruptcy Court resources but a back and forth in the State Court." In so doing, respondent violated RPC 8.4(d).

On the other hand, respondent did not fail to expedite litigation, as charged in the complaint (RPC 3.2). Instead, he actively sought to obstruct the state court litigation by initiating improper bankruptcy litigation. We, therefore, dismiss this charge as inapplicable to the facts of this case.

For the filing of frivolous lawsuits, the discipline typically imposed is either an admonition or a reprimand. See, e.g., In the Matter of Samuel A. Malat, DRB 05-315 (March 17, 2006) (admonition imposed on attorney who was sanctioned in three cases for violating Rule 11 of the Federal Rules of Civil Procedure; in one of the cases, the attorney was sanctioned for filing the same type of claim for which he had previously received sanctions); In the Matter of Alan Wasserman, DRB 92-228 (October 5, 1994) (admonition for attorney who instituted a frivolous second lawsuit against an insurance carrier for legal fees, without notice to his client, after a prior lawsuit

against the client to collect that legal fee had been dismissed); and In re Silverman, 179 N.J. 364 (2004) (reprimand for attorney who filed a frivolous lawsuit for legal fees, after the client rejected a settlement offer that would have included payment of his legal fees by the opposing party; the attorney sued the client for three times the amount of the fee he would have received pursuant to the settlement offer and filed the lawsuit in a jurisdiction that, although convenient for him, had no connection to the matter).

When the filing of frivolous litigation is combined with other misconduct, such as engaging in conduct prejudicial to the administration of justice or discourteous behavior toward courts and others, suspensions have resulted.

A one-year suspension was imposed in In re Maffongelli, 176 N.J. 514 (2003), where the attorney sent the same improper documents to courts, even after receiving clear instructions not to do so. The attorney showed a woeful lack of familiarity with court rules and practices, for example, requesting the entry of default, after the dismissal of a complaint. The attorney failed or refused to appear at hearings where his presence was required and refused to observe the dignity of court proceedings, both confronting a judge's secretary and yelling at his adversary,

during a motion hearing. The attorney blamed court staff for his own problems and wasted valuable court time.

In a reciprocal discipline matter, In re Shearin, 166 N.J. 558 (2001) (Shearin I) the attorney received a one-year suspension for filing two frivolous lawsuits in a property dispute between rival churches. A court had ruled in favor of one church and had enjoined the attorney's client-church from interfering with the other's use and enjoyment of the property. The attorney then violated the injunction by filing the lawsuits and seeking rulings on matters that had already been adjudicated. The attorney misrepresented the identity of her client to the court, made inappropriate and offensive statements about the trial judge, failed to expedite litigation, submitted false evidence, and counseled or assisted her client in conduct that she knew was illegal, criminal, or fraudulent.

A fifteen-month suspension was imposed in another reciprocal discipline matter, In re Garcia, 195 N.J. 164 (2008), where the attorney filed several frivolous lawsuits and, after her husband, with whom she practiced law, was suspended from the practice of law, aided him in the improper practice of law. She also practiced law using letterhead that falsely named her husband as an attorney of the firm during his suspension. The attorney also lacked candor to a

tribunal and made false and reckless allegations about judges' qualifications in court matters.

A two-year suspension was issued in In re Grenell, 127 N.J. 116 (1992), where the attorney filed frivolous criminal charges against his wife's former husband, shouted obscenities at the former husband and threatened to kill his adversary; in a second matter, the attorney was charged with contempt and was removed from a municipal courtroom after he became loud and uncontrolled. In three additional matters, the attorney disrupted court proceedings by screaming obscenities at his adversaries and engaging in loud and unruly behavior.

A three-year suspension was imposed upon attorney Shearin, who had previously received a one-year suspension for misconduct surrounding a church representation. In In re Shearin, 172 N.J. 560 (2002) (Shearin II), the attorney sought the same relief she had previously sought in prior unsuccessful lawsuits against her client's rival church, regarding a property dispute. She taxed the resources of two federal courts, many defendants, and many other members of the legal system, who were forced to deal with frivolous matters. She also knowingly disobeyed a court order expressly enjoining her and her client from interfering with the rival church's use of the property. Finally, the attorney

demonstrated a reckless disregard for the truth, when she made disparaging statements about the mental health of a judge.[6]

Here, the suspension cases, Maffongelli, Garcia, Shearin I, Shearin II, and Grenell, also included discourteous and obnoxious conduct toward courts and others that is not present here. Nevertheless, we find that respondent's misconduct was equally serious.

Specifically, the record is clear that respondent acted in a methodical, meticulous manner, as he tried to advance his investment agenda for the Schaefer Salt Factory. Moreover, he had no sense of his own wrongdoing. The special master, who had ample opportunity to gauge his demeanor at the hearing, summed it up:

> The most significant factor abundantly present is [respondent's] lack of remorse. He maintains that he did nothing wrong, and is a victim of circumstances. [Respondent's] attitude may have helped him with regard to the intent element of the RPC 8.4(c) charge. It nevertheless constitutes a substantial aggravating factor, particularly as he may well repeat this, or similar conduct, in the

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[6] Disbarment was deemed appropriate in In re Vincenti, 152 N.J. 253 (1998) for an attorney described by the Court as an "arrogant bully," "ethically bankrupt," and a "renegade attorney." It was the attorney's fifth encounter with the disciplinary system.

> absence of significant discipline. In brief, I find that respondent's lack of remorse results from a "risk versus reward" approach to ethical compliance at odds with the minimal professional standards for attorneys.
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> [SMR11.]

We cannot help but note that, in 2001, respondent was suspended for two years for assisting a thief or thieves to "legitimize" four stolen checks totaling $296,232.97. He used his status as an attorney and the sacrosanctity of his trust account, in which he deposited those checks, to then issue numerous trust account checks to different individuals, always in amounts less than $10,000, for which he was convicted of a felony.

While there was no clear and convincing evidence, in the suspension matter, that respondent knew that the checks had been stolen, he had the mens rea – he knew that the people involved sought to convert the checks (all of which were payable to a corporation) to their own personal use, "off the company books," and for which respondent was paid a "commission."

One would hope that, with respondent's criminal record as a backdrop, he would have exercised extraordinary care in his future business dealings. Yet, with SSR, he exhibited the same hubris, the same faulty moral compass, and the same willingness

to leverage his license to practice law, all for personal gain — — a trait for which he was heavily sanctioned by our disciplinary system.

It is obvious to us that respondent has learned nothing from his criminal conviction and two-year suspension. Respondent is a proven danger to the public, showing, once again, that he cannot be trusted to act in accordance with the high standards required of attorneys of this state. For that reason, another lengthy term of suspension is appropriate. We determine that the special master's recommendation for a two-year suspension is appropriate in this case.

Members Clark, Wissinger, Yamner and Zmirich voted to impose a one-year suspension.

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 Nicholas Khoudary
Docket No. DRB 12-325

Argued: February 21, 2013

Decided: March 27, 2013

Disposition: Two-year suspension

Members	Disbar	Two-year Suspension	One-year Suspension	Dismiss	Disqualified	Did not participate
Pashman		X				
Frost		X				
Baugh		X				
Clark			X			
Doremus		X				
Gallipoli		X				
Wissinger			X			
Yamner			X			
Zmirich			X			
Total:		5	4			

Julianne K. DeCore
Julianne K. DeCore
Chief Counsel