SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 13-040
District Docket No. VIII-2010-0055E

IN THE MATTER OF

KARIM K. ARZADI

AN ATTORNEY AT LAW

Decision

Argued: July 18, 2013

Decided: August 9, 2013

Howard Duff appeared on behalf of the District VIII Ethics Committee.

Robyn M. Hill and Joseph J. Benedict 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 VIII Ethics Committee (DEC). The thirty-count complaint charged respondent with having violated, on multiple occasions, RPC 3.3(a)(1) (knowingly making a false statement of material fact or law to a tribunal), RPC 3.3(a)(4) (knowingly offering false evidence), RPC 3.4(b) (falsifying evidence), RPC 8.4(c) (conduct involving dishonesty,

fraud, deceit, or misrepresentation), and RPC 8.4(d) (conduct prejudicial to the administration of justice). The charges stem from respondent's filing of certifications in opposition to a motion for summary judgment; an answer, counterclaim, and third-party complaint; an amended verified answer, counterclaim and third-party complaint; and interrogatories and supplemental interrogatories, all of which were alleged to contain false statements and certifications attesting that the statements made therein were true. For the reasons expressed below, we agree with the DEC that a six-month suspension is warranted.

Respondent was admitted to the New Jersey bar in 1987 and the New York bar in 1986. He maintains a law office in Perth Amboy, New Jersey. He has no history of discipline.

At the outset, it should be noted that this case centers on the credibility of the witnesses' testimony and requires that we determine whether to reject the DEC's findings of credibility.

Succinctly, respondent had entered into a contract for architectural services. Once those services were completed, he failed to pay the balance due on the contract, resulting in the architect's filing a lawsuit against him for breach of contract. In court papers, respondent claimed that he had been duped by the architect into signing two contracts, one for a reasonable price, the other for an unreasonable price. In addition, his

court papers asserted that the contract for the lower-price ($7,500) was the correct contract. During the course of the civil proceedings, the architect alleged that the lower-priced contract was an impermissible alteration of the original contract. Respondent, however, had filed several court documents attesting to the authenticity of that altered contract.

Thus, the questions for our determination are (1) whether respondent was aware, when he filed documents with the court and provided answers to interrogatories, that the contract had been altered and (2) whether respondent reasonably relied on the authenticity of the altered document. He claimed that he learned only later that his office manager had altered it. Although the office manager was called to testify, she invoked her Fifth Amendment Privilege against self-incrimination.

It should be pointed out that there was no proof to support the ethics complaint's allegation that respondent himself altered the contract or that he directed someone else to make the alterations. In fact, respondent and his witnesses portrayed him as being computer-illiterate, at the time the alteration was made.

The architect, Jeffrey Kusmick, was not the grievant in this matter. John Paff, a non-lawyer activist, filed the grievance against respondent.

The facts that gave rise to this disciplinary matter are as follows:

In addition to his busy personal injury practice, respondent was involved in purchasing and renovating buildings. He had approximately 100 tenants in the eleven or twelve properties that he owned in Perth Amboy, New Brunswick, Roselle, East Orange, and Jersey City. Part of the process of renovating or "retrofitting" the buildings included obtaining permits and variances. He retained architects to provide design sketches for that "process."

In or around 1997, respondent purchased the property in New Brunswick, New Jersey, that became the subject of the lawsuit between himself and New Jersey licensed architect Jeffrey Kusmick. According to respondent, it "was junk [sic] building. It was kind of dilapidated." He was in the process of trying to bring it up to code, but "it was a never ending process." Initially, architect Shan Wang had drawn plans for the project. Even though the necessary permits had been obtained using those plans, the project ran into some problems. The work was "not in compliance with [a] court order." Respondent, therefore, had to stop the project. He reached out to a local attorney, George Gussis, who referred him to Kusmick.

According to Kusmick, respondent called him, in mid-November 2007, and informed him that he had received a "stop work order" on his New Brunswick property. Respondent had obtained a construction permit based on another architect's services, but had over-excavated the property, resulting in the "stop order." Respondent, therefore, needed a local architect to take care of the problem. Respondent retained Kusmick to prepare the architectural drawings for the renovations to the property and turn the existing structure into a three-story, eight-unit apartment building. Kusmick noted, that when he first met with respondent, they had a "very loose verbal agreement" that he would prepare "a little set of design drawings." They agreed that, if respondent was able to obtain approval based on those preliminary drawings, Kusmick would then draft a retainer agreement/contract for the preparation of more detailed drawings. Respondent noted that Kusmick was "generous enough to do a preliminary drawing to see if it was a viable project" for which respondent could obtain zoning approval. According to respondent, they did not discuss the parameters or scope of Kusmick's involvement in the project or the cost of his services.

Kusmick prepared the preliminary plans, consisting of five drawings: plans for three floors, the basement elevations, and

two drawings documenting the existing conditions of the gutted building. In all, Kusmick had to provide approximately twenty sets of drawings.

Towards the end of November 2007, Kusmick provided the preliminary drawings to respondent. Kusmick explained that respondent wanted to start working on the building. Therefore, he sent respondent the "structural foundation work," so that respondent could obtain a "demo permit and then file for a partial foundation permit" to start working on the property. Kusmick obtained a check from respondent to file the zoning application and hand-delivered the application to the New Brunswick zoning board. The board approved the preliminary plans and issued a work permit.

After the zoning approval was obtained, respondent and Kusmick agreed that Kusmick would continue to prepare the full set of plans to renovate the gutted building. Kusmick then prepared a six-page contract, which he faxed to respondent on May 19, 2008. Kusmick called respondent immediately to confirm that he had received the contract and to invite him to call with any questions. Kusmick's telephone records confirmed both the telephone call to respondent and the fax transmission of the contract.

Kusmick instructed respondent to make two copies of the contract, sign, and return both copies, so that Kusmick could sign the copies and then provide respondent with a fully-signed original copy for his records. Respondent, however, mailed back only the signature page, with his ink-signature (page six), rather than the entire document. He also mailed a $7,500 check for the deposit called for on page six of the contract. The signature page contained the May 19, 2008 fax stamp, the date Kusmick had first faxed the contract to respondent.

Because respondent had not complied with Kusmick's exact directions, Kusmick printed out the other five pages, photocopied respondent's original signature, affixed the photocopied page to the other five pages, signed the contract, dated it May 27, 2008, and mailed a copy back to respondent. Respondent, therefore, had a copy of the six-page contract with Kusmick's original signature. Kusmick also made another photocopy of page six, with a copy of respondent's $7,500 check on it. The May 23, 2008 check was signed by respondent, but written on the account of FISBO of New Jersey, L.L.C. (Fisbo), a company wholly owned by respondent.[1]

---

[1] According to respondent, Fisbo is a limited liability corporation. Its sole shareholder is BBC Construction Corporation. Respondent eventually admitted that he is its sole

(Footnote cont'd on next page)

Kusmick's comprehensive contract between himself and respondent (not Fisbo) provided that he would deliver "complete architectural engineering services" for the complete renovation of the structure. It described, among other things, the type of drawings that he would prepare and what they would include, what services would be farmed out to other licensed architects/engineers, his fee for additional services ($175 per hour), the services excluded from the contract, his fee schedule, and the amount of interest that would accrue for any unpaid balance. Page six, the signature page, contained the fee schedule, which called for a lump sum amount of $34,500 and an initial $7,500 payment, "upon acceptance of this contract agreement," to be credited at final payment. Page six also required Kusmick to submit to respondent bi-monthly invoices, which he admittedly did not provide.

Respondent testified that he recalled being presented with, and signing, the $7,500 check, and probably simultaneously being presented with Kusmick's contract. He stated, "I seen [sic] the contract. If it had taken five seconds [to review it] that would be a lot. It's just one of the documents I signed that day." He

(Footnote cont'd)

shareholder. Any other part owners of the company were different corporations, solely owned by respondent.

signed both the check and the contract at the same time. He claimed that he did not take the time to read the contract. He claimed further that the first time he looked at the contract was when his attorney, Shay Deshpande, started formulating a "response" to a "lawsuit" that Kusmick eventually filed against him.

According to Kusmick, the drawings that he had prepared were very involved because the project required demolishing the existing structure and rebuilding it. Some of the existing foundation had to be reused. Kusmick had also retained two licensed professional engineers (a structural engineer and a mechanical engineer) to provide additional drawings. The engineers charged Kusmick $3,500 and $3,600 for their services.

The full set of drawings, architectural and structural, took Kusmick approximately three months to prepare. Although he did not keep time records, he estimated that he worked thirty-five to forty hours per week and prepared forty-five drawings.

When Kusmick completed the work, he forwarded the full set of plans to respondent. He then submitted a September 5, 2008 bill to respondent (invoice number one) for the remaining lump sum balance due, $29,611 ($34,000 minus the retainer amount, $7,500, plus reimbursable expenses). Respondent claimed that he never received the September invoice.

Kusmick recalled calling respondent, on October 20, 2008 (as confirmed by his telephone records), to follow up on the status of his invoice. According to Kusmick, respondent commented that the bill "was a lot of money . . . it was a little high, but that I understand we have a contract and I will pay it." Respondent did not give him a timeframe for the payment, did not object to the bill, and never claimed that the contract was for only $7,500. Moreover, respondent never expressed his dissatisfaction with Kusmick's work. Respondent's recollection of the conversation with Kusmick was that Kusmick laughed and stated "you have sticker shock." Respondent agreed with that comment, but claimed, at the DEC hearing, that he was shocked about paying $7,500 because he thought Kusmick had "just adapted Mr. Wang's drawings." He contended that he did not understand that he had signed a contract to pay Kusmick $34,500 and that, if he had been aware of the contract price, he would not have signed it and would not have had Kusmick continue with the project.

When respondent failed to pay the September 2008 invoice, Kusmick sent respondent another invoice, in November 2008. Respondent testified that he ignored that bill, except to address it with Michelle Sandrik, his office manager. Earlier, he had testified that, when he received that bill, he "hit the

roof. . . . with Sandrik." He claimed that he thought that the whole bill for Kusmick's services was $7,500. Yet, he maintained that he had not reviewed the contract at that point. He testified that, when he complained to Sandrik, she told him that the bill must have been a mistake and that she would take care of it. According to respondent, Sandrik, controlled all of the finances in his office and the paperwork in connection with his "outside interests."

Respondent failed to pay the November bill, prompting Kusmick to send a third invoice, on December 5, 2008. Respondent asserted that, when he received it, he ran to Sandrik, but she started crying because she was having family issues. Thus, on December 8, 2008, respondent sent Kusmick a letter, stating that there must be a misunderstanding. The letter stated simply that, when he retained Kusmick, he understood that the entire job would be completed for $7,500. The letter went on to say, "Apparently we have a misunderstanding. Please contact me."

When Kusmick received respondent's letter, he assumed that respondent did not intend to pay him, decided not to call him, and, instead, on December 10, 2008, filed a lawsuit against respondent for breach of contract.

Respondent testified that, when he received the complaint, he looked at it "briefly" and then gave it to Sandrik to turn it

over to one of the staff attorneys to prepare an answer. He did not have any input in what went into the answer. He maintained that he still had not looked at Kusmick's contract. He testified further that, as to the counterclaim, he instructed Sandrik on what should be included in it and thought that one of his staff attorneys had drafted it. According to respondent, no attorney from his firm ever mentioned to him that there was a lump-sum contract in the file for $34,500.

Respondent's February 17, 2009 answer, counterclaim, and third-party complaint alleged, among other things, that Fisbo was the lawful owner of the property, not respondent. Paragraph two of the first count of the counterclaim stated, "In its capacity as owner of said premises, Fisbo did not enter into an agreement with [Kusmick], to do [sic] perform certain architectural work; and if there is any obligation hereunder it is that of [Fisbo]." A second separate defense alleged that Kusmick's damages were "caused and/or contributed to by [his own] negligence, carelessness and unworkmanlike actions" and that his claim was "barred by the defense of fraud since Plaintiff induced Defendant to believe it could do work which it fails to perform. It also alleged that the agreement was with Fisbo, the owner of the property and that respondent has no individual liability. Respondent was listed as designated trial

counsel. He admitted later that he "filed" the answer on his own behalf.

During cross-examination at the ethics hearing, respondent conceded that the allegations challenging Kusmick's services were not true because Kusmick's services were proper. He justified the statements in the answer, saying that it "was one of the defenses I threw in there;" it was a generic defense. "You draft answer and pleadings just in general." He further claimed that he did not read the answer and counterclaim with much detail. He asserted that, when "the litigation came in," he assigned the matter out to someone in the office. He thought that he had paid Kusmick the full amount due and that, therefore, the litigation was frivolous. After the answer was filed, he retained Shay Deshpande to represent him in the matter.

In April 2009, Kusmick filed one of several motions for summary judgment, to which he attached the original contract for $34,500. The original contract had exhibit designations A-1 through A-6 handwritten on the bottom of each of six pages (all of the motions were ultimately denied). Thereafter, in a series of documents, including an amended verified answer, counterclaim, third-party complaint, certifications, interrogatories, and supplemental interrogatories, respondent

took the position that Kusmick had both misled and pressured him into signing two contracts, one for the reasonable amount of $7,500, the correct contract, and another for the unreasonable amount of $34,500. In those pleading pages, respondent certified that the statements made therein were true. Throughout the ethics hearing, respondent maintained that, notwithstanding his knowledge of the two contracts, he never took the time to look at them to compare them side-by-side.

According to respondent, he had instructed his attorney, Deshpande, to review the contracts and Kusmick's motion and to confer with Sandrik, because she knew "most of the nuances of the contract." Respondent recalled signing the certifications that Deshpande had drafted.

Respondent testified that Deshpande filed the motion in opposition to Kusmick's motion for summary judgment, which included an undated certification, in opposition to the motion. In that certification, respondent alleged, among other things, "3. It appears that Plaintiff misled me into signing two contracts for different amounts for same services." Appended to the certification was the altered contract for $7,500.

At the ethics hearing, respondent acknowledged that the altered contract was not created until after Kusmick filed his summary judgment motion, but claimed he did not know that back

then. The altered contract stated, "The Owner [Fisbo] shall compensate the Architect the lump sum amount of $7,500 dollars . . . . Payment of $7,500.00 shall be made upon acceptance of this contract agreement and credited to the Owner's account at final payment."[2] The altered contract, attached to the motion and to each of the certifications, had the same A-1 through A-6 handwritten notations on the bottom of each page. The notations were identical to those on the pages that Kusmick had submitted in his summary judgment motion. The first certification, which was not dated, contained the language "I hereby certify that the foregoing statements made by me are true to the best of my knowledge and belief. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

Notwithstanding this theory of the two contracts, respondent admitted, during cross-examination, that he did not recall signing more than one contract. He claimed that, when he "tried to decipher what happened," that was the conclusion he drew -- that there were two contracts.

When Kusmick saw the document appended to respondent's opposition, he knew that it was fraudulent. He filed an

[2] Kusmick denied having ever told respondent that the full amount of the contract was $7,500.

objection with the court about the form of respondent's certification that stated "to the best of my knowledge," rather than "based on my personal knowledge." Kusmick noted that it was improper form and not in compliance with R. 1:4-4(b), which requires a certification to read: "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

Respondent thereafter submitted a series of certifications, dated May 12, 2009 (Ex.G-21), May 13, 2009 (Ex.G-22), and May 14, 2009 (Ex.G-23). The certifications alleged that Kusmick had misled respondent to sign two contracts, that the $7,500 contract was the true contract, and that a "true copy" of the contract was attached to the certification. The contract listed Fisbo as the owner of the property and $7,500 as the amount for Kusmick's services.

Respondent's filed amended verified answer, counterclaim, and third-party complaint similarly asserted that Kusmick had misled him to sign two contracts for different amounts for the same service and that $7,500 was a reasonable amount for the size of the property (paragraphs 6 & 7). At the DEC hearing, Kusmick pointed out that he paid his subcontractors (the

licensed engineers) $7,100, which would have left him with only $400 for his months of work on the drawings.

The second count of the counterclaim alleged that Kusmick's actions constituted "unconscionable commercial practice, fraud, etc. as set forth in N.J.S.A. 56:8-2 of the 'New Jersey Consumer Fraud Act' giving rise to a right of Fisbo to seek not only damages, but treble damages, reasonable attorneys' fees . . . ."

In each of the above-mentioned papers, respondent certified that his statements were true and that he was aware that, if any of the statements were willfully false, he was subject to punishment.

Kusmick also served interrogatories on respondent and filed two motions to compel more specific answers. Among other information, Kusmick sought respondent's explanation about how he had misled respondent. Respondent's interrogatory answers again asserted the existence of two contracts, one for the correct amount and one for the incorrect amount. Respondent certified that his interrogatory answers were true.

At the DEC hearing, respondent claimed that, at the time that he signed the certification, he believed that his statements were true.

During the course of the litigation, Kusmick sought the production of both original contracts, containing original

signatures. He was forced to obtain a court order giving him access to view them. Kusmick scheduled a time, near the end of August 2009, to inspect the original documents at Deshpande's office, in Hackensack, New Jersey. After traveling an hour, Kusmick learned that Deshpande had in his files only photocopies of the documents. Deshpande testified that he believed that Kusmick wanted to see the contracts that respondent had given him. Deshpande admitted that when Kusmick expressed his dissatisfaction, he shrugged his shoulders and told Kusmick "this is the way I got [it]." According to respondent, he had given Deshpande the original documents that had been faxed back and forth.

Kusmick learned through discovery that respondent had given copies of his drawings to two other architects, who were copying his plans. Respondent admitted that he had turned over the drawings to other architects, over Despande's objections, to try to get the project going. Kusmick then filed a federal lawsuit against respondent and the architects for copyright infringement.

Eventually, a settlement conference was scheduled in the case, which respondent refused to attend. He had previously refused to attend an arbitration as well. The court clerk ordered Deshpande's attendance at the settlement conference. Up

to that time, respondent was maintaining that there were two contracts. Ultimately, the court scheduled the matter for trial, on September 13, 2010. Although respondent failed to appear, one of Deshpande's law partners appeared. According to Deshpande, the judge "strongly recommended" that respondent settle the case. The state and federal claims were settled on that date for $45,000.[3] Kusmick received the check on September 14, 2010.

At the time of the settlement, Kusmick assured Deshpande that he would not file an ethics grievance, but he was not aware that John Paff planned to file one.

According to Kusmick, during the year and nine months of court appearances, respondent never asserted the position that he took during the ethics proceeding, that is, that he learned that the $7,500 was an altered contract.

Architect Eric Goldstein, respondent's witness, was asked to prepare a proposal to indicate the price that he would have charged, had he completed the drawings for the New Brunswick property. He claimed that his fee for the same project, at 2011 rates, would have been $10,500 for fifty hours of work. Goldstein explained, however, that he would not have, and could not have, gone into the type of detail, or provided some of the

[3] Respondent had previously rejected an offer to settle the case for $23,000.

drawings that Kusmick had prepared, as it required work typically provided by engineers. That work would have been farmed out. Goldstein stated that, based on the detail that Kusmick provided, respondent "got what he paid for." In his professional judgment, the $34,000 retainer agreement/contract was entirely consistent with the work Kusmick performed. Goldstein agreed with the presenter that Kusmick did "a fine job." Goldstein added that the amounts that Kusmick paid his subcontractors, considering the scope of their services, was "a very, very fair price." In Goldstein's professional judgment, Kusmick lived up to the contract.

Respondent later conceded that Kusmick's services were a "Cadillac versus Chevrolet" and that he had been satisfied with Kusmick's work. All of the plans he had prepared had been satisfactory.

Although respondent claimed that he had never previously spent as much for plans, he acknowledged that his only other project that required building from the ground up was for his own single-family, 1800-square-foot home. The New Brunswick project was the first time that he had to hire an architect to build "from the bottom up" on such a scale.

Ana Estivenson worked for respondent for more than sixteen years. She testified that, in 2008-2009, respondent employed

approximately fifteen people in his Perth Amboy office; approximately five or six of them were lawyers. The firm primarily handles personal injury matters and has about 1500 or more active cases. Respondent is always extremely busy. Once in the office, he meets with clients or talks to them on the phone throughout the day.

According to Estivenson, Sandrick "runs the show in terms of operational aspects of the law firm." Sandrik goes through the mail, diaries it, and distributes the mail to secretaries and attorneys. Estivenson claimed that Sandrik also handled respondent's personal financial interests and investments. She kept the records for respondent's personal investments and dealt with respondent's contractors and tenants.[4] Estivenson maintained that, back in 2008-2009, respondent had no computer skills and did not know how to use the relevant software. She added that respondent relied heavily on his staff and "sometimes" would not read documents, before signing them; he "might ask a few questions" and would go ahead and sign the documents, because "[h]e's just so busy . . . he has so many clients, so many phone calls . . . . He wants the stuff to go out, so he'll just sign." He also signed affidavits and certifications without looking at

[4] There was no evidence that Sandrik spoke to Kusmick, other than to obtain a "1099," so that he could be paid.

them. Estivenson stated that, after respondent signed an affidavit out of the presence of a notary, she would bring the document to the notary, who would then notarize it.[5]

Estivenson acknowledged that, while respondent had many satisfied clients, there were other clients that were dissatisfied with his services and came to the office to voice that dissatisfaction. Sometimes, respondent and those clients would have "arguments out loud right in the office." She further admitted that some clients "pulled their files," because they did not think respondent was doing a good job.

According to Deshpande, when respondent retained him, in 2008, he gave him Kusmick's motion and both contracts and directed him to review them with Sandrik. Deshpande prepared the response to the motion for summary judgment and the certifications, based on what respondent told him had happened. Respondent himself made modifications to the drafts, signed the certifications and filed the documents through his own office. Deshpande had no reservations about the contents of respondent's certifications, because they contained what respondent had told him to include. Respondent, however, denied that he had assisted Deshpande in the preparation of the certifications.

---

[5] The complaint did not charge respondent with a violation of RPC 8.4(c) in this regard.

When Deshpande prepared the certifications, he was aware that Kusmick was claiming that the $7,500 contract was a forgery. He discussed that fact with respondent. According to Deshpande, respondent "specifically" told him that there were two contracts and that "it was his word against Kusmick['s]." He said that Deshpande should believe him. Deshpande evaluated respondent's credibility based on the fact that he had a very large firm. He did not believe that respondent would sign multiple certifications, if the contents were not true. He did not believe that respondent would commit perjury over something so small, that is, it did not make sense for respondent to risk his license over $20,000 or $30,000. When the presenter asked Deshpande if there are times "people do things you didn't expect," Deshpande replied, "That's correct." When the presenter inquired, "Sometimes that's done out of arrogance, isn't it?" Deshpande replied, "I guess."

According to Deshpande, respondent never showed him the ink-signed original of the altered contract. Respondent certified that the attached altered document was "an exact copy" of the original. Deshpande assumed that respondent could make that certification only if he had seen the original contract. Deshpande discussed every certification and the amended answer and counterclaim with respondent, before he filed any of the

pleadings. Deshpande believed that both contracts had been prepared on the same word processor. Because of respondent's limited understanding of computers, Deshpande did not believe that respondent could have altered the contract himself.

Deshpande testified that respondent never appeared in court with him. Respondent was very mad at him because he had recommended, numerous times, that respondent settle the case. Initially, respondent agreed to settle, but then changed his mind. According to Deshpande, respondent "changed his mind on a daily basis." Deshpande had feared that Kusmick would file a copyright infringement lawsuit over the use of the architectural plans, which Kusmick did. In Deshpande's opinion, that part of the lawsuit strongly increased the value of Kusmick's case. When the case was finally settled, Deshpande had a gentleman's agreement with Kusmick that the settlement would end the case, presumably that Kusmick would not file an ethics grievance.

When the presenter asked Deshpande if he had any reason to question respondent's honesty in his personal or business dealings, Deshpande replied, "Do you want me really [to] answer that question?" Deshpande mentioned that respondent had a child with Sandrik, even though they were not married, and that he had "a lot of girlfriends." He added that

> [respondent] tends to party a lot. . . .in fact, Judge LeBlon during . . . the

> settlement conference asked me do you get and I quote "get on Karim's party limousine" or something. And I found that a little surprising. And I said to the court that no I don't do it. But I know Mr. Arzadi . . . likes to party.
>
> [2T98-2 to 9.][6]

Deshpande testified that he did not know respondent to commit any ethics violations, however.

Following the filing of the grievance in this matter, respondent met with the investigator/presenter and asserted that he still believed that the $7,500 contract was the actual contract. He "absolutely" denied having directed anyone to create the altered contract or having computer skills to do it himself. He admitted that he did not adequately supervise his staff in connection with the litigation, because he had "too many oars in the water."

Vincent Glorisi, Esq., met respondent in the late 1990s, at a time when his practice consisted of only insurance defense work. They had become close friends and grew closer, after Glorisi's son passed away, in 2002. Respondent was very supportive, during the following months and years. In 2009, after some "personal things" in Glorisi's life changed "that

---

[6] 2T refers to the transcript of the DEC hearing, on November 21, 2011.

required him to try to increase" his income, Glorisi began trying cases for respondent's office, as a plaintiff's attorney. He continues to handle cases for respondent's firm and most recently succeeded in obtaining a one million dollar jury verdict. Respondent pays him thirty seven and one-half percent of the legal fees he earns.

Glorisi testified that he has been at respondent's firm "quite a lot over the last three years" and that he finds him to be very professional, fair with his clients, and "very fair" with him.

According to Glorisi, at respondent's request, he attended a meeting, on September 26, 2011, at attorney George Otlowski's office, with Sandrik, Joseph Benedict (one of respondent's attorneys in this matter), and an investigator, Nicholas Dotoli. Glorisi reviewed respondent's ethics file, prior to the meeting. When Glorisi asked Sandrik what had happened with regard to the ethics matter, she replied that she was going through a difficult period because of illnesses involving her close relatives. She would not discuss respondent's ethics matter with him because, Glorisi claimed, Sandrik had told him that her lawyer (Otlowski) had advised her not to discuss it. Sandrik had previously worked for Otlowski.

According to Glorisi, Otlowski stated that he would advise Sandrik to "take the fifth amendment" and "Karim was not responsible for this and was innocent."

Respondent maintained that when Sandrik invoked the Fifth Amendment privilege, he wanted to fire her immediately, but his attorney told him not to get her "more revved up or upset," because she might change her mind and testify at the DEC hearing.

Sandrik appeared at the ethics hearing, under subpoena, along with Otlowski, who was acting as her attorney. Respondent's counsel asked Sandrik if she had altered the contract, and inquired about her conversations with respondent regarding the contract. Sandrik invoked the Fifth Amendment as to those questions.[7]

Sandrik's limited testimony included that, during the later part of 2008 through April 2009, her father and uncle were hospitalized and both passed away. She admitted being at Otlowski's office, on September 26, 2011, when Benedict,

---

[7] Pursuant to R. 1:20-7(g), the Director of the Office of Attorney Ethics (OAE), with the consent of the Attorney General, may apply to the Supreme Court for a grant of immunity to a witness from criminal prosecution. Respondent's counsel requested that the OAE do so for Sandrik, a request that the OAE denied.

Glorisi, and Dotoli were also there. She confirmed that, on the advice of her counsel, she was unwilling to be interviewed about the contract, because she was intending to invoke her Fifth Amendment privilege. She testified that she had independently determined to retain Otlowski.

Although Sandrik initially refused to answer with whom she lived, she eventually divulged that she lived with her daughter, an "au pair," and, at times, respondent, when he visited their daughter. She claimed, however, that he slept in a separate room. Respondent owns the house in which Sandrik resides. Sandrik added that respondent stopped living with her on a full-time basis approximately eight years ago.

Nicholas Dotoli, a former police officer and currently a licensed private investigator, testified that respondent's attorney, Benedict, instructed him to attend the meeting at Otlowski's office, at which time he would have an opportunity to interview Sandrik. According to Dotoli, Otlowski told Benedict, "Joe, I just wanted to let you know I just met with my client and Karim is totally innocent with regard to these allegations."[8]

---

[8] Otlowski was present at the DEC hearing, as Sandrik's attorney, but was not called to give testimony about making that statement. Instead, respondent's counsel relied on Dotoli's and Glorisi's statements.

Still according to Dotoli, Otlowski would not permit him to interview Sandrik.

Respondent testified that, as a result of "this litigation," he has completely changed the format of his practice. Currently, he has more seasoned attorneys "in-house" and farms out the majority of trial cases. During cross-examination, however, he admitted that the number of attorneys in his office has not changed.

At the ethics hearing, respondent made a number of admissions. He claimed, that when he replied to the ethics grievance, he did not recall looking "at more than the first page (of the contract) before the 7,500 dollars jumped out at me." However, when the presenter pointed out that the dollar amount did not appear on the first page of the contract, respondent admitted that he was wrong; that he "didn't focus on it as well as [he] should have," and that he should have been more diligent; and that he owed Kusmick an apology.

Respondent also admitted that Kusmick was not the first contractor to sue him for non-payment on an oral contract. He recalled two such earlier lawsuits. In those litigations, he had alleged that the contractors had performed "improper work." He admitted that his third-party complaint made similar types of allegations against Kusmick.

Respondent maintained that he probably did not look at both contracts side-by-side until the ethics complaint was filed. He claimed that his mindset throughout was that the $7,500 contract was correct, but that he had come to realize that he was wrong and apologized. He stated that he signed the certifications "in good conscience, I absolutely believed each and every one of them." Respondent stated that his belief throughout the litigation was that Kusmick had altered the contract.

As to mitigation, respondent testified that he was a member of the Middlesex County Bar Association for three years, is currently a trustee of the "bar foundation," is a member of the Cerebral Palsy Association, and is a member of the "Special Improvement District."

Respondent also submitted twenty-nine character letters from businessmen, public servants (police or firemen who were former clients), lawyers, a private investigator, and his accountant. Many of the letters came from individuals who have known respondent for more than twenty-five years, some from people who have known him for more than forty years. The letters stated that respondent was a person of integrity and honesty; he was knowledgeable, trustworthy, professional, ethical, a trustworthy and caring advocate, of excellent and impeccable character; he conducted his business competently, efficiently,

and diligently; he represents the "underserved community," thereby filling a needed gap within the legal community; he is hardworking, devoted to his family, generous, reliable, loyal, fair, and a good friend; and he is of good moral character.

Among other things, respondent's counsel argued, in its brief to the DEC, that respondent did not suspect that the contract had been altered until Sandrik asserted the Fifth Amendment privilege at the September 2010 meeting at Otlowski's office. Moreover, it was only at the November 21, 2011 DEC hearing, when Sandrik again asserted the privilege, that respondent "realized and acknowledged" that "he was mistaken to have asserted that Kusmick sent multiple contracts and attempted to commit fraud." He was then "appropriately contrite and apologized."

Counsel accused Sandrik of falsifying the contract and providing the false document to Deshpande, after Kusmick moved for summary judgment. Counsel believed that Sandrik had engaged in the deception to cover up her failure to inform respondent, in May 2008, of the true contract amount, when she presented him with a $7,500 check for his signature.

Counsel argued further that, in the event the DEC failed to dismiss the complaint, as it should, and found respondent guilty of using "fraudulent and false evidence," then either an

admonition, or "at most," a reprimand is appropriate. In recommending discipline, counsel urged the DEC to consider mitigating factors: (1) the numerous witnesses that established respondent's reputation for honesty and integrity; (2) his lack of a disciplinary record; (3) his cooperation with ethics authorities; (4) the corrective measure he took to avoid the re-occurrence of a similar situation; and (5) his and Deshpande's reliance on the "honesty of the information" provided by Sandrik.

The presenter's brief to the DEC, among other things, challenged the veracity of respondent's witnesses, in particular Sandrik. He stated:

> Among the bizarre cast of characters called as witnesses on behalf of Arzadi, perhaps Michele Sandrick's [sic] testimony was the oddest. Her demeanor jumped from laughing to hostile to flat within seconds. It is submitted she was called as a witness as part of a theatrical attempt to make it appear that she was somehow responsible for the Altered Contract, and that she somehow engineered a deception of Arzadi. And yet, Ms. Sandrick did not provide any testimony to that effect.
>
> [PB21.][9]

[9] PB refers to the presenter's brief to the DEC, dated May 24, 2012.

The presenter also pointed out that the alleged meeting in Sandrik's attorney's office was orchestrated for theatrical effect. This conclusion, he argued, was supported by "the repeated double hearsay statements" about what Sandrik's lawyer told Glorisi and Dotoli.

The presenter highlighted the curious fact that, although respondent was aware that he was accused of altering the contract that he submitted to the court, he never took the time to compare the two contracts to determine the validity of the claim. Respondent later testified, however, that he had read the entire contract before he filed his amended answer.

The presenter urged the imposition of a "multi-year" suspension.

The DEC found respondent "not credible." It noted that he had repeatedly certified to the authenticity of the altered contract: in his amended answer, in four certifications submitted to the court, and in his answers to interrogatories.

By contrast, the DEC found Deshpande's testimony to be very credible, as compared to respondent, who "lacked complete credibility." The DEC highlighted Deshpande's testimony that respondent was fully involved in the litigation and made modifications to the certifications that Deshpande had prepared on his behalf. It pointed to Deshpande's testimony that, when he

raised the issue of the altered contract with respondent, respondent told him "that it was his word against the Grievant [Kusmick] and [Deshpande] should believe him."

The DEC further found that, although respondent had assured Deshpande that he had seen the original of the altered contract, that was impossible because there was no such contract.

Because the authenticity of the contract was a central issue in the litigation, the DEC found "incredulous" respondent's testimony that he never looked at the contracts, never compared them, and would have blindly relied on his office staff and counsel to prepare the amended verified answer, four separate certifications, answers to interrogatories, and answers to more specific interrogatories, and would attest to the truthfulness of the information contained therein, without ever having read the papers. The DEC, therefore, found clear and convincing evidence that respondent's conduct violated RPC 3.3(a)(1), RPC 8.4(c), and RPC 8.4(d).

For the same reasons, the DEC found clear and convincing evidence that respondent knowingly offered evidence that he knew to be false (RPC 3.3(a)(4)). Specifically, respondent executed the documents "with full knowledge that the Altered Contract was indeed falsified." Deshpande had testified about the discussions

he and respondent had had during the civil litigation, in that regard.

On the other hand, the DEC did not find clear and convincing evidence that respondent had altered the contract or that it had been prepared at his direction. Thus, it did not find a violation of RPC 3.4(b).

The DEC observed that the public member of the hearing panel

> found the Respondent's conduct to be highly offensive and prejudicial to the general public. She, along with her co-panelists, believe that the actions of the Respondent were an affront to the integrity of both lawyers and the legal profession in the eyes of the public. As such, it is believed that the Respondent should face significant discipline.
>
> [HPR27.][10]

As mentioned previously, the DEC recommended a six-month suspension. In her brief to us, respondent's counsel argued, among other things, that the DEC committed a critical error by (1) failing to consider Sandrik's invocation of the Fifth Amendment Privilege against self-incrimination; (2) ignoring character letters and testimony, which demonstrated that respondent's character was fundamentally inconsistent with "that

---

[10] HPR refers to the hearing panel report, dated November 9, 2012.

of a person who would knowingly and intentionally commit a fraud upon a court and knowingly use false evidence," while, at the same time, finding respondent not credible; and (3) failing to consider respondent's unblemished twenty-five year career. Counsel argued that these factors negate the DEC's finding that respondent's testimony lacked credibility.

Counsel maintained that the DEC's conclusions were not based on the required standard of proof of clear and convincing evidence. According to counsel, it was respondent's practice to rely heavily on his staff to prepare files and to sign off on pleadings and most correspondence. Because he would handle all trial work, when he returned from court, he would be faced with "a mountain of paperwork to review and sign, telephone calls to return, and client meetings to attend. "The Kusmick contract and check were likely part of the mountain of paperwork" faced by respondent, on May 23, 2008. Counsel accused Sandrik of having prepared the altered contract and presenting it to respondent as the valid contract, upon which respondent relied in the Kusmick litigation.

Counsel argued that a necessary element of each of the charged violations in this matter is respondent's actual knowledge that the $7,500 contract was false, rather than the concept of "he knew or should have known" that it was altered.

Respondent's belief, based on Sandrik's statements and surrounding circumstances, was that it was Kusmick that had altered the documents. It did not change until Sandrik asserted her Fifth Amendment privilege. Absent the required proof of either actual knowledge or of "adequate circumstances supporting the strong inference of knowledge, there can be no finding of unethical conduct."

Counsel faulted the DEC for not giving weight to Goldstein's testimony, who, "in essence," is an expert in architecture and who stated that $7,500 would have been a reasonable cost in 2008 and that the work that Kusmick had performed was excessive, and that some of it was not required. Respondent expected a basic drawing from Kusmick but, instead, received a "drawing equivalent to a 'Rolls Royce,'" at nearly "six times the price of work performed for him by architects in earlier projects."

Counsel further faulted the DEC for disregarding Deshpande's testimony that (1) the two different contracts were "seemingly" created on the same word processor; (2) Kusmick drafted the original contract and respondent had limited computer skills and would not have been able to reproduce the contract himself; (3) respondent was mad at Deshpande because he recommended that respondent settle the case numerous times; and

that (4) it made no sense that respondent would have risked losing his license over something so small. Counsel pointed out that, while the DEC found Deshpande to be "very credible," it overlooked his testimony that was favorable to respondent.

Counsel asserted that the fact that Deshpande and respondent created and executed certifications and pleadings based on bad information is wholly different from knowing that the information was wrong.

Counsel stated that it was Sandrik who, unbeknownst to respondent or Deshpande, prepared the altered contract. Moreover, up until Sandrik asserted the Fifth Amendment Privilege respondent believed that Kusmick had created an altered contract. Counsel highlighted that respondent terminated Sandrik's employment, after the DEC issued its report.

As to the issue of credibility, counsel contended that the consistency of testimony, both internally and among witnesses, is an important indicator of truthful testimony. Respondent acknowledged that he did not adequately supervise his staff, during the relevant time period, that he did not closely review the two contracts, and that he relied on Sandrik's representations, in large part, in pursuing the civil litigation. He apologized to Kusmick at the hearing.

Counsel concluded that, based on the internal consistency of the witnesses, the character testimony, respondent's acknowledgment that he pursued the litigation based on the mistaken belief that Kusmick had created both contracts, and the fact that he was suing him for something for which he believed had been paid in full, we should find credible respondent's testimony, that he is not guilty of any of the violations and should dismiss the ethics complaint.

Noting that the DEC correctly concluded that respondent did not create or direct the creation of the altered contract, counsel argued that to find that respondent violated the other charged rules we must find clear and convincing evidence that respondent knew that the altered contract was false, when he submitted each pleading and certification to the court. Counsel claimed that there is no such proof in the record and that, therefore, the complaint should be dismissed.

At oral argument before us, counsel conceded that respondent did not pay enough attention to the "details" in this case, but added that he believed that his original agreement with Kusmick was for $7,500. Counsel acknowledged that respondent's reliance on his staff may have been unreasonable, but pointed to the lack of clear and convincing evidence that

respondent knowingly filed the improper documents and certifications.

Counsel asked that, if we accept the DEC's findings, discipline no greater than an admonition or a reprimand be imposed. However, at oral argument before us, counsel stated that the range of discipline should be between an admonition and a censure.

Relying on the DEC's hearing report, the presenter did not file a brief. At oral argument before us, he urged us to find it unbelievable that, over the course of the two-year litigation, respondent never compared the two contracts because he was simply too busy. The presenter highlighted that respondent's defense in this matter was that someone else altered the contract. In fact, according to the presenter, respondent assembled a group of people to witness a third party (Sandrik) to invoke the Fifth Amendment; the meeting, at which respondent was not present, was orchestrated to make it appear as if Sandrik was the responsible party.

The presenter urged us to impose a three-year suspension for respondent's misconduct.

Following a de novo review of the record, we are satisfied that the DEC's conclusion that respondent was guilty of

unethical conduct was fully supported by clear and convincing evidence.

Typically, we defer to the DEC's findings with respect to a respondent's credibility. In Dolson v. Anastasia, 55 N.J. 2, 7 (1969), the Supreme Court observed that a court will defer to a tribunal's findings with respect to those intangible aspects of the case not transmitted by the written record, such as witness credibility, "'demeanor evidence,' and the intangible 'feel of the case' which [is] gained by presiding over the trial." Here, the DEC had the opportunity to observe the witnesses and hear them testify. Accordingly, it had a "better perspective" than we did, "in evaluating the veracity of witnesses." Pascale v. Pascale, 113 N.J. 20, 33 (1988); In the Matter of Thomas DeSeno, DRB 08-367 (May 12, 2009) (slip op. at 25).

Notwithstanding that deference to the trier-of-fact is favored, we have independently evaluated the record to determine if we should reject the DEC's credibility findings. We conclude from our own review that we should not. We find that the record clearly and convincingly demonstrates respondent's lack of truthfulness. We find proper the DEC's determination as to credibility and as to findings of misconduct. In reaching this conclusion, we have considered the following:

First, respondent argued that, he believed that when he executed the contract, the $7,500 amount was the full amount of Kusmick's services, rather than merely a deposit. That assertion is simply not believable. Respondent admitted that he had a conversation with Kusmick, after Kusmick sent the first invoice, in September 2008. Kusmick's records confirmed that the conversation occurred in October 2008. Respondent acknowledged telling Kusmick that he had "sticker shock." Had respondent paid Kusmick's bill in full, in May 2008, when he executed the contract, which was prior to the bulk of Kusmick's services being completed, that October 2008 telephone call would have been wholly unnecessary. Clearly, Kusmick wanted to know when he would receive the balance of the contract amount. That respondent misunderstood the import of that conversation is simply not believable. In the end, rather than pay the bill, as he assured Kusmick he would do, respondent chose to ignore it, as well as the two subsequent bills.

Kusmick was left with two options: (1) forgo the balance of what he was owed, keeping in mind that the deposit barely covered the amounts he had paid his subcontractors, or (2) sue respondent for breach of contract. Kusmick chose the latter option. In response to Kusmick's lawsuit, respondent came up with the two-contract theory. He alleged that Kusmick had

altered the second contract and that Kusmick had pressured him into signing two contracts and/or he had been tricked into signing them.

Respondent repeatedly certified to the truth of the statements he made in certifications filed with the court, an answer, an amended answer, interrogatories, and supplemental interrogatories, and to the authenticity of the altered $7,500 contract. He claimed that he relied on his staff, when making those certifications.

During the course of the litigation, respondent accused Kusmick of having altered the contract. That argument resulted in a $45,000 settlement in Kusmick's favor. Respondent's civil litigation strategy was as unsuccessful as his strategy at the DEC hearing, where he tried to create a "reasonable doubt" in our minds (not the standard in ethics cases) that (1) Sandrik had been the "go to" person with respect to the building plans; however, Kusmick's unrefuted testimony was that he had only one conversation with Sandrik about the filing of a "1099" and (2) Sandrik had altered the contract and that he improperly relied on her statement that the $7,500 contract was the real contract. However, there was absolutely no testimony to substantiate that scenario. His was just an argument centered on innuendo and

indirect hearsay testimony. There was no direct testimony that Sandrik altered the contract.

Respondent's counsel also elicited hearsay testimony that respondent was innocent. The person who purportedly uttered that statement, Otlowski, who was present at the DEC hearing, was not called as a witness to confirm or explain that statement. Perhaps the statement meant simply that respondent was innocent of personally altering the contract. The determinative issue here, however, is whether respondent knew that the contract had been altered. The believable evidence establishes that he did know.

Like the DEC, we find that respondent's repeated assertions in various pleadings and interrogatories that Kusmick had duped him into signing two contracts, that Kusmick had altered the document, that the altered document was the correct document, that he never read the contract, that he never compared the two contracts, or that he never assisted in the preparation of the pleadings were all false statements. Deshpande's credible testimony established clearly and convincingly that respondent was fully aware of the improper content of the pleadings. Deshpande testified unequivocally that it was respondent who had provided him with both contracts, that he had discussed the contents of all of the documents with respondent, that

respondent had made revisions to the documents that Deshpande had prepared, and that respondent had arranged to file the documents. Most damning was Deshpande's revelation of respondent's position regarding the phony contract: respondent stated that it was his word against Kusmick's. If anyone was duped, it was Deshpande. He believed respondent's certifications. After all, Deshpande pondered, why would respondent risk his license over $34,500? In the end, respondent decided that he would not pay the balance of the contract and took whatever measures were necessary to try to avoid paying Kusmick. Respondent was caught red-handed, however, and had to admit that the altered contract was just that. Rather than take responsibility for his wrongdoing, he tried to divert the blame to Sandrik. His efforts in that regard failed, however.

Respondent's repeated claims that, for over an almost two-year period, he never compared the two contracts simply strains credulity, particularly in light of Deshpande's testimony to the contrary. Respondent's statements in the pleadings -- that Kusmick misled him and/or pressured him to sign both contracts - also ring untrue. Yet, he certified that they were true statements. At the DEC hearing, he admitted that he never signed two contracts and that this statement was just something he "threw into" the counterclaim and certifications.

Respondent's lack of candor is further emphasized by the language he used in his first certification to the court, stating that the information contained therein was true to "the best of his knowledge." These carefully chosen words must have been an attempt to diminish the impact of his false statements. Respondent was not a novice attorney. He had been practicing law for more than twenty years, at the time of these events, and maintained a lucrative personal injury practice. He asserted that he signed all of his firm's pleadings. That being the case, he most certainly had to be aware of the required language for a certification.

Finally, respondent improperly accused Kusmick of being the perpetrator of the fraud and sought to recoup treble damages and attorney's fees from him.

In sum, the totality of the evidence in this record establishes that the DEC's findings of credibility were proper and should not be disturbed. The DEC correctly determined that respondent's testimony was not worthy of belief. He made false statements to the Court, to the DEC, and presented an untenable position before us. Therefore, like the DEC, we find clear and convincing evidence that respondent's conduct violated RPC 3.3(a)(1), RPC 3.3(a)(4), and RPC 8.4(c), on multiple occasions, and, as a result, RPC 8.4(d). We dismiss the RPC 3.4(b) charge

for lack of clear and convincing evidence that respondent personally altered the contract or instructed another to do so.

Offering false evidence or lack of candor to a tribunal has resulted in discipline ranging from an admonition to a long-term suspension. See, e.g., In the Matter of Richard S. Diamond, DRB 07-230 (November 15, 2007) (admonition for attorney who, in a matrimonial matter, filed with the court certifications making numerous references to "attached" psychological and medical records, whereas the attachments were merely billing records from the client's insurance provider); In the Matter of Lawrence J. McGivney, DRB 01-060 (March 18, 2002) (admonition for attorney who improperly signed the name of his superior, an Assistant Prosecutor, on an affidavit in support of an emergent wiretap application moments before its review by the court, knowing that the court might be misled by his action; in mitigation, we considered that the superior had authorized the application, that the attorney was motivated by the pressure of the moment, and that he brought his impropriety to the court's attention one day after it occurred); In re Lewis, 138 N.J. 33 (1994) (admonition for attorney who attempted to deceive a court by introducing into evidence a document falsely showing that a heating problem in an apartment of which the attorney was the owner/landlord had been corrected prior to the issuance of a

summons; in mitigation, we considered that the court was not actually deceived because it discovered the impropriety before rendering a decision and that no one was harmed as a result of the attorney's actions); In re Manns, 171 N.J. 145 (2002) (reprimand for misleading the court in a certification in support of a motion to reinstate a complaint as to the date the attorney learned that the complaint had been dismissed, as well as lack of diligence, failure to expedite litigation, and failure to communicate with the client, prior reprimand); In re Shafir, 92 N.J. 138 (1983) (reprimand for an assistant prosecutor who forged his supervisor's name on internal plea disposition forms and misrepresented information to another assistant prosecutor to consummate a plea agreement); In re Monahan, 201 N.J. 2 (2010) (censure for attorney who made misrepresentations in two certifications submitted to a federal district court in support of his motion to extend the time within which to file an appeal; he misrepresented that, when the appeal was due to be filed, he was seriously ill and confined to his home on bed rest and unable to work or to prepare and file the appeal; contrary to his certification, he performed substantial work during the relevant time; he also practiced law while ineligible for failure to pay his annual attorney assessment); In re Clayman, 186 N.J. 73 (2006) (censure for attorney who knowingly misrepresented the financial

condition of a bankruptcy client in filings with the United States Bankruptcy Court in order to conceal information detrimental to his client's Chapter 13 bankruptcy petition); In re Hummel, 204, N.J. 32 (2010) (censure in a default matter for gross neglgect, lack of diligence, failure to communicate with the client, and misrepresentation in a motion filed with the court; the attorney had no disciplinary record); In re Stuart, 192 N.J. 441 (2007) (three-month suspension for assistant district attorney in New York who, during the prosecution of a homicide case, misrepresented to the court that he did not know the whereabouts of a witness; in fact, the attorney had made contact with the witness four days earlier; compelling mitigation justified only a three-month suspension); In re Hasbrouck, 186 N.J. 72 (2006) (attorney suspended for three months for, among other serious improprieties, failing to disclose to a judge his difficulties in following the judge's exact instructions about the deposit of a $600,000 check in an escrow account for the benefit of the parties to a matrimonial action; instead of opening an escrow account, the attorney placed the check under his desk blotter, where it remained for eight months); In re Paul, 167 N.J. 6 (2001) (three-month suspension for attorney who made misrepresentations to his adversary in a deposition and in several certifications to a court); In re Chasar, 182 N.J. 459 (2005) (three-month suspension for attorney who

misrepresented in a certification in her own divorce matter that she had paid her staff "on the books" when, in fact, she had paid them in cash); In re Coffee, 174 N.J. 292 (2002) (three-month suspension, on a motion for reciprocal discipline, for attorney who submitted a false affidavit of financial information in his own divorce case, followed by his misrepresentation at a hearing under oath that he had no assets other than those identified in the affidavit); In re Poreda, 139 N.J. 435 (1995) (attorney suspended for three months for presenting a forged insurance identification card to a police officer and to a court); In re Kernan, 118 N.J. 361 (1990) (three-month suspension for attorney who, in his own divorce matter, submitted to the court a certification in connection with a motion for support arrearages, equitable distribution and legal fees; the certification listed his assets, which included two unimproved lots; one day before the hearing, the attorney transferred to his mother one of those assets, an unimproved 11.5 acre lot, for no consideration; the attorney's intent was to exclude the asset from marital property subject to equitable distribution; the attorney did not disclose the conveyance at the settlement conference held immediately prior to the court hearing and did so only when directly questioned by the court; the attorney also failed to amend the certification of his assets to disclose the transfer of the lot ownership; prior private

reprimand); In re Dogan, 198 N.J. 479 (2009) (six-month suspension for attorney who fabricated paycheck stubs in connection with his own paternity and child support matter); In re Lawrence, 185 N.J. 272 (2005) (six-month suspension for attorney who concealed his assets in his own divorce and bankruptcy proceedings, thereby making misrepresentations to the courts, a mortgage company and his wife); In re Forrest, 158 N.J. 428 (1999) (attorney who failed to disclose the death of a client to the court, to his adversary, and to an arbitrator was suspended for six months; the attorney counseled the other client, the deceased client's wife, not to reveal the death of her husband; the attorney's motive was to obtain personal injury settlement; prior private reprimand); In re Telson, 138 N.J. 47 (1994) (after an attorney concealed a judge's docket entry dismissing his client's divorce complaint, he obtained a divorce judgment from another judge without disclosing that the first judge had denied the request; the attorney then denied his conduct to a third judge, only to admit to this judge one week later that he had lied because he was scared; the attorney was suspended for six months); In re Cillo, 155 N.J. 599 (1998) (one-year suspension for attorney who, after misrepresenting to a judge that a case had been settled and that no other attorney would be appearing for a conference, obtained a judge's signature on an order dismissing the action and disbursing all escrow funds to his

client; the attorney knew that at least one other lawyer would be appearing at the conference and that a trust agreement required that at least $500,000 of the escrow funds remain in reserve); In re Kornreich, 149 N.J. 346 (1997) (three-year suspension for attorney who had been involved in an automobile accident and then misrepresented to the police, to her lawyer, and to a municipal court judge that her babysitter had been operating her vehicle; the attorney also presented false evidence in an attempt to falsely accuse the babysitter of her own wrongdoing); In re Lunn, 118 N.J. 163 (1990) (three-year suspension for attorney who submitted a false written statement by a witness, his deceased wife, in support of his own claim for personal injuries and lied about the authenticity of the statement in interrogatories and depositions in a civil action pursued for his own benefit); and In re Kushner, 101 N.J. 397 (1986) (three-year suspension, retroactive to the date of the attorney's temporary suspension for his guilty plea to false swearing, a fourth degree crime; in connection with a civil action, the attorney made a false statement by denying that he had personally signing promissory notes totaling approximately $40,000 for a personal business venture).

Comparing this case to the cases where false certifications were filed with the courts in the attorneys' own matters, respondent's case is far more serious. Here, not only did

respondent make multiple misrepresentations in multiple documents, as opposed to in one or two documents, he attested to the accuracy of those statements time and time again. He also made false accusations against Kusmick. He accused Kusmick of creating two contracts and either tricking or pressuring him to sign both of them. He also certified that Kusmick failed to properly provide the services for which he had been retained, only to admit later that Kusmick's services were proper.

In further aggravation, respondent did not admit what he had done. Instead, he continued to perpetrate a well-orchestrated charade at the DEC hearing and, therefore, before us. We find respondent's conduct more akin to that of Dogan and Lawrence (six-month suspensions).

Dogan was working as a food director at a long-term care facility, at the time of his misconduct. The State of Georgia, Department of Human Resources (DHR), had filed a long-arm petition against him for paternity and child support and served him with a request for production of documents, including paycheck stubs and other evidence of income.

DHR discovered that Dogan had fabricated the paycheck stubs he had submitted in connection with the petition, by altering the figures on the stubs. During a bench trial, the Georgia court concluded that Dogan had committed the fabrications to

convince it that his earnings were half of what they actually were. The court found him in "direct criminal contempt of court" and sentenced him to twenty days in jail. It referred the case to the Georgia bar where he was also admitted to practice law. The court of appeals affirmed the conviction. Dogan defaulted in the Georgia ethics proceedings, where he was ultimately disbarred.

In Dogan, we relied on the Lawrence case because both attorneys had engaged in deception to advance their own personal, financial interests. Lawrence's deception, however, had been committed over an extended period of time, at least eight years, and "encompassed numerous transactions, all designated to cover up substantial assets of the marital and bankruptcy estates." Although we found that Dogan's conduct was not as widespread as Lawrence's, Lawrence proferred compelling mitigating factors that were not present in Dogan. We, therefore, determined that the same discipline was warranted in both cases.

We determine that respondent's conduct should be met with a six-month suspension, like Dogan and Lawrence. We are aware that those two attorneys personally made the fabrications, unlike respondent. Nevertheless, we find respondent no less culpable. He might not have penned the contract himself, but he certainly

knew that it had been altered and for his own financial benefit. Moreover, he had no compunctions about swearing to its accuracy on no fewer than seven occasions, thereby demonstrating a pattern of misrepresentations. We refrain from imposing a lengthier suspension only because of respondent's clean record of more than twenty-five years. We also noted the high moral regard in which he was held by his peers and others.

Members Gallipoli 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
Bonnie Frost, Chair

By:
Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

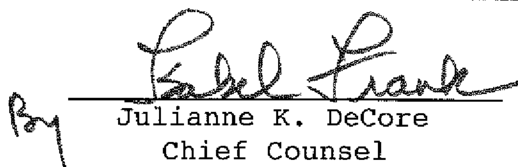
In the Matter of Karim K. Arzadi
Docket No. DRB 13-040

Argued: July 18, 2013

Decided: August 9, 2013

Disposition: Six-month suspension

Members	Disbar	One-year Suspension	Six-month Suspension	Dismiss	Disqualified	Did not participate
Frost			X			
Baugh			X			
Clark			X			
Doremus			X			
Gallipoli		X				
Yamner			X			
Zmirich		X				
Total:		2	5			



Julianne K. DeCore
Chief Counsel