SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 09-346
District Docket Nos. XIV-2006-0525E
and XIV-2007-0674E

IN THE MATTER OF

KENNETH M. DENTI

AN ATTORNEY AT LAW

Amended Decision[1]

Argued: March 18, 2010

Decided: May 12, 2010
Amended: February 16, 2011

Walton W. Kingsbery, III appeared on behalf of the Office of Attorney Ethics.

Respondent appeared pro se.

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

[1] After the issuance of our original decision in this case, DL, an individual who had consulted respondent for possible representation, submitted an application requesting that we amend the decision to identify her only by initials. Upon a showing of good cause, we determined to grant that application and issue this amended decision.

This matter came before us on a recommendation for discipline (an eighteen-month suspension) filed by Special Master Milton H. Gelzer, J.S.C. (Ret.). The complaint charged respondent with engaging in conduct involving dishonesty, fraud, deceit or misrepresentation, a violation of RPC 8.4(c), and engaging in a conflict of interest, a violation of RPC 1.7(a)(2). Because respondent engaged in a premeditated, continuous, and extensive fraudulent scheme, thereby displaying a deficiency of character, we recommend his disbarment.

Respondent was admitted to the New Jersey bar in 1984 and to the Pennsylvania bar in 1989. He has no disciplinary history in New Jersey.

Respondent, while a partner with Fox Rothschild, LLP ("Fox Rothschild"), and later with Margolis Edelstein, submitted falsified entries in the respective law firms' time-keeping systems. He indicated that he had performed legal services for numerous clients. These time entries were bogus. Moreover, the clients for whom respondent claimed he had performed services were not clients of his current firm, but had been represented by law firms by whom respondent had previously been employed. Respondent submitted these phony entries to mislead his employers and, therefore, to ensure the continuation of his agreed compensation.

In addition, respondent engaged in a conflict of interest by entering into a sexual relationship with a divorce client. Although respondent and the client denied this allegation, numerous e-mail exchanges between them documented their relationship.

Finally, while a partner at Margolis Edelstein, respondent submitted vouchers for meals with individuals who, he alleged were either potential clients or potential sources of client referrals. The Margolis Edelstein law firm reimbursed respondent for these meals. As it turned out, however, he was not entertaining potential clients, but women he was dating, including two he had met via an Internet dating service.

Respondent was elected as a member of the Mansfield Township Committee, serving terms beginning January 1, 2006 and January 1, 2009. The presenter contended that respondent's public service should be deemed an aggravating factor for purposes of imposing discipline. Respondent, in turn, noted that his service as an elected public official was unrelated to his status as an attorney, pointing out that township committee members are not required to be attorneys. He distinguished his status as an elected public official from that of a judge or a prosecutor, whose position is directly related to the practice of law.

I. FRAUDULENT TIME SHEETS

Pursuant to a January 28, 2005 letter agreement, respondent was employed, effective January 31, 2005, as a contract partner in Fox Rothschild's Princeton office. James Rudy, the managing partner of Fox Rothschild's Princeton office, explained that a contract partner receives a guaranteed income, but has no interest in capital or profits. The contract provided that respondent would "use [his] best efforts to work on client matters, develop business from new and existing clients" and perform administrative tasks. Respondent's annual compensation was $190,000, plus benefits. According to Rudy, the amount of respondent's salary and benefits was between $230,000 and $240,000, in exchange for which the firm expected him to bill about $630,000 per year (1800 hours at $350 per hour).

At the onset of his employment, respondent attended a three-day orientation program, where he received training on, among other things, the firm's computerized billing program. Under that system, attorneys use a password to enter their time in the computer program, which then generates monthly preview bills, known as detailed billing reports ("DBRs"). The DBRs are submitted to the billing attorney for correction and approval, with instructions to return the corrected DBRs so that the bills can be issued.

In November or December 2005, about eleven months after respondent began working at Fox Rothschild, Rudy noticed that, although respondent had entered into the billing program more than $100,000 in services, he had issued no invoices. Rudy and administrative partner Mark Silow then confronted respondent about his failure to generate invoices. Respondent replied that he believed that the bills were issued automatically. Because respondent had undergone extensive training about the billing system when he joined Fox Rothschild and had received the monthly instructions sent with the DBRs, Rudy and Silow considered this response unacceptable. Although they instructed respondent to issue bills, he never did. Instead, he arranged to leave the firm. On March 24, 2006, respondent submitted a letter of resignation, effective April 6, 2006.

Respondent agreed to meet with Rudy before his last day of employment with Fox Rothschild to review his files and bills. Respondent, however, departed without meeting with Rudy. After respondent left, Rudy found only five or six DBRs, all of which indicated that the files were to be billed on a contingent fee basis and that invoices should not be sent. The firm's records, however, indicated that those files were to be billed on an hourly basis. Moreover, the firm was unable to find any files, retainer agreements, paper documents, digital documents, or any other

indication that the services that respondent had entered into the time system were actually performed or that the cases even existed. Rudy and two employees in the records department spent hours looking for these documents.

After respondent's departure, the computer system automatically issued reminder invoices in his cases. Fox Rothschild then received ten to fifteen telephone calls from the recipients, questioning the bills and indicating that they had not retained either respondent or Fox Rothschild.

Thereafter, Thomas Paradise, Fox Rothschild's general counsel; Thomas Cunniff, another Fox Rothschild partner; and an accounts receivable employee investigated these billing complaints. The firm determined to notify each recipient that the bills had been sent in error and that they should be disregarded.

On April 13, 2006, Rudy sent a letter to respondent, listing the files that the firm had retained and those that appeared to have been taken by respondent. Rudy's letter requested signed authorizations from the clients, permitting respondent to remove their files, and asked respondent to explain why he had designated non-contingent fee cases as contingent. In an April 17, 2006 letter, respondent denied having removed any files from Fox Rothschild and claimed that Fox Rothschild staff erroneously had opened the files as hourly billing matters because they were

"investigatory" matters without active litigation. Rudy testified, however, that all of the time entries were recorded from respondent's computer, through the use of his assigned code number and his password.

On May 3, 2006, Rudy sent another letter to respondent, again asking him about the location of the files, whether he had retainer agreements with the clients, and specific information about the DL matter, in which more than $100,000 in legal services had been recorded, despite an April 2005 letter from Fox Rothschild attorney Dennis Brotman, informing DL that the firm would not be representing her. Respondent did not reply to that letter.

Paradise then sent a July 10, 2006 letter to respondent, advising him that the law firm's investigation showed that some of the clients for whom respondent had recorded substantial hours of legal services claimed that they never heard of him and that some were respondent's clients, at his prior law firm, who had not retained him when he had moved to Fox Rothschild. Paradise listed fourteen client matters in which respondent had claimed to have provided services, informed him of the results of its investigation, and asked him for more information about the status of each matter. Paradise explained why he had sent the letter to respondent:

> This was basically my last attempt to resolve this matter with Mr. Denti's assistance.
>
> I had become increasingly frustrated about the type of response that we had gotten and the lack of response that we had gotten to a lot of the issues we raised.
>
> I was growing more and more convinced that many of these files never existed, that we were the victims of a fraud and that we had to get to the bottom of this.
>
> And as much as I wanted to believe that my suspicions were incorrect, I wanted to provide Mr. Denti one last opportunity to make it right and help us to figure this out before I took what I considered to be the ultimate step [reporting respondent's misconduct to ethics authorities].
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> [2T20-12 to 2T21-2.][2]

On July 19, 2006, respondent sent an e-mail to Paradise, claiming that he had not received Rudy's May 3, 2006 letter and promising to reply to Paradise's inquiries within a few days. On Sunday, July 23, 2006, respondent left a series of voice-mail messages on Paradise's office telephone, purporting to reply to the numerous questions on each client matter raised in Paradise's July 10, 2006 letter. Paradise asserted that respondent's voicemail message did not provide these answers.

[2] 2T denotes the transcript of the March 24, 2009 ethics hearing.

On September 14, 2006, Paradise filed a grievance with the Office of Attorney Ethics ("OAE"), explaining the circumstances of respondent's billing practices and questioning his abilities, honesty, and fitness to practice law. Although, at the OAE's request, Paradise searched for respondent's handwritten billing records, he found none.

In addition, Cunniff testified that, pursuant to Fox Rothschild's computerized billing system, a client file cannot be opened without information entered about the type of engagement letter -- contingent, hourly, pro bono, and so on -- and the document number for the engagement letter. When Cunniff investigated the document numbers for many of respondent's files, he discovered that most, if not all, of the document numbers were fictitious.

On April 7, 2006, after leaving Fox Rothschild, respondent joined Margolis Edelstein as a partner and remained at that firm until August 31, 2007. In January 2007, Michael McKenna, Margolis Edelstein's managing partner, met with respondent as part of his usual year-end review. McKenna discussed with respondent his concern that, although it appeared that respondent had recorded a lot of hours spent on his cases, very few of those hours were billed and none were paid. Respondent explained to McKenna that, because those were contingent fee

cases, fees would not be received until the matters were resolved.

McKenna met with respondent again six months later, in July 2007, noting that the circumstances had remained the same, that is, respondent had recorded a significant number of hours worked, with no time billed or fees collected. In addition to the same explanation about contingent fee matters, respondent revealed to McKenna that he was in the process of getting divorced, although he denied that the divorce had affected his billing practices.

In particular, respondent assured McKenna that he was diligently working on the DL matter, which he had brought with him from Fox Rothschild. Respondent told McKenna that, although the DL case was pending in New York and he had retained local counsel, he was doing most of the work, including extensive discovery, in New Jersey.

Because McKenna practiced in the firm's Philadelphia office and respondent worked in the Westmont, New Jersey, office, McKenna asked his partners in Westmont about respondent's work habits. McKenna was informed that respondent was "AWOL," was never in the office, and that frequently, no one, including respondent's secretary, knew where he was. McKenna then reviewed

respondent's time entries and was unable to locate any documents supporting them.

On August 24, 2007, McKenna told respondent that, based on McKenna's inability to locate any DL documents and based on respondent's failure to improve his performance and attendance, the partners had voted to decrease his compensation and would likely vote to "expel" him by the end of the month.

On August 27, 2007, after being offered the opportunity to resign, respondent did so, effective August 31, 2007. On August 30, 2007, in reply to Margolis Edelstein's inquiries, respondent identified Michael Fier as the New York counsel in the DL case and promised to return the next day with the DL file, which he claimed he had at home. Respondent never returned the file and later denied having it. Fier denied any knowledge of the DL matter.

On October 2, 2007, McKenna reported respondent's conduct in this and in other matters (set out below) to both New Jersey and Pennsylvania disciplinary authorities.

The record provides a vast amount of detail about the following Fox Rothschild client matters, in which respondent had entered information on the firm's computerized billing system:

High Concrete Structures, Inc.

Respondent charged 6.8 hours to High Concrete Structures, Inc. ("High Concrete"), between August 30 and December 8, 2005, for a total fee of $2,380. The billing entries indicate that respondent reviewed new lien cases, construction lien documents, and new lien claims, as well as updated lien law proposed changes.

Terrence Warco, High Concrete's general counsel and treasurer, submitted a certification stating that, although respondent had provided legal services for High Concrete while employed by the Duane Morris law firm, he had neither been retained nor authorized to perform legal work for High Concrete thereafter.[3] Neither Warco nor anyone acting on High Concrete's behalf had authorized respondent to perform the legal services appearing on the time sheets.

In addition, Fox Rothschild partner Cunniff testified that Parker Jones, a High Concrete representative, had contacted Fox Rothschild after receiving the invoice and had denied retaining the law firm. Although the time entries indicated that respondent had reviewed construction lien documents, the firm's

[3] By agreement between respondent and the OAE, many of the witnesses submitted certifications and testified at the ethics hearing by telephone.

search did not locate these documents. The firm did not find a retainer agreement or any paperwork to document that respondent had been retained by, or had performed services for, High Concrete. Cunniff reiterated that the invoice for High Concrete could not have been approved without respondent's review and authorization.

Moreover, Frank A. Luchak, Duane Morris' managing partner, submitted a certification asserting that High Concrete had remained a client of Duane Morris and that no High Concrete files had been transferred to either respondent or to Fox Rothschild.

For his part, respondent alleged that his contact person at High Concrete was an individual named Don Hollinger, although he was not sure about his last name. While employed at Duane Morris, respondent had handled construction lien claims for High Concrete. He testified about the absence of documentation:

> It is my recollection based on OAE-2 [the High Concrete invoice] that at some point in 2005 Mr. Hollinger got in touch with me and asked me, again, consistent with what I have done for them previously . . . to take a look at something to determine whether or not they had -- they were either in time to file a lien claim or whether I thought that they had a valid lien claim, which it would appear from the entries on this document that that is what I did.
>
> There would be no physical file, so to speak, because according to that document,

and when I say "that document," OAE-2, the only paper that I would have had would have been -- it says construction lien documents and it may have been a one-page document or a two-page document. It wouldn't have been much more than [sic] so that's all I would have had.

This was not a carry-over case. It would not have involved any work or any matters that I had handled on [sic] any previous firm, so there would not have been any need or necessity to have any file transferred to me.

I knew the company. I knew what they were involved in and, as I said, historically I had done work for them, so there would have been no need for me to contact a prior firm and ask for a transfer of any previous file that I had worked on.

As I indicated, there would not have been a file in this regard either. If I retained the documents, and I may or may not have, depending on what my ultimate determination was, it does not indicate that I filed any lien claims for them, so I would assume that I opined or concluded that they did not have, for whatever reason, a valid claim or claims for any construction liens.

I may have returned the documents to them. I may have kept them and put them in a manila folder. I may have thrown them out. I don't have any specific recollection; however, as I indicated, if there were any documents that were retained by me, it would have been miniscule in terms of both volume and number and would have been, like I said, possibly put in a folder by me. That would be my practice. If I was retaining documents and I didn't have a physical file on [sic] I would have put them in a folder and kept them in my office and given them to my secretary to

> hold on to, again, because I didn't have any file cabinet space.
>
> With regard to the document management program that Mr. Cunniff spoke about, as he indicated, that is for documents that are created by an attorney. There are no documents indicated here that were created by me, therefore, there would have been nothing on the Fox Rothschild document management system that would pertain to this entity.
>
> Similarly, since there was nothing to be done there would not have been, in my opinion, an engagement letter that I would have obtained because I wasn't being asked to file anything on behalf of the client, so I would not have sought a particular engagement letter. This was just something preliminary that I did for the particular client and, you know, [I] would not have since there was no engagement to file anything I would not have sought an engagement letter.
>
> [3T15-21 to 3T18-18.][4]

The following exchange then took place between respondent and the special master:

> Q. What would you have said to Mr. Hollinger and in what manner would you have said it?
>
> A. Mr. Hollinger and I spoke on the phone. I would have – I would have, consistent with my prior practice, picked up the phone, called him and said I don't think you have a claim here.

[4] 3T denotes the transcript of the March 25, 2009 ethics hearing.

> Q. You would not have followed up by sending a letter, this is to confirm our telephone conversation wherein I told you that you didn't have any validity in a lien claim and I'm closing my file in this matter?
>
> A. That is not necessarily the way I would have done it with him. That was not the relationship that I had with him. I didn't feel the need to have to commit that in writing to him.
>
> [3T24-6 to 23.]

Respondent claimed that he was reluctant to generate letters, for fear that clients would believe that he was padding his bill. He also did not record time spent on telephone calls, stating that it is insulting to bill a client for such a small amount of work. Although respondent acknowledged that Fox Rothschild required the approval of the chief executive officer to write-off or reduce an invoice, he testified that, as the billing partner, he would determine whether a client should be billed.[5]

Respondent further recalled that he had chosen not to issue an invoice because some of the time entries were not accurate. He speculated that he may have opted not to issue an invoice, as a courtesy to High Concrete, in order to improve his position

[5] According to Cunniff, only the chief financial officer or another employee in the accounting department approved requests to write-off time.

for future work for that client. He noted that, if the inaccurate time entries were removed, the bill would be only $1,700 and that "we're talking about Fox Rothschild here, a firm that has profits well into the tens of millions of dollars each year."

Chilton Engineering Company

The $1,228.60 invoice for Chilton Engineering Company ("Chilton") contains one time entry for 3.5 hours, on November 4, 2005, for the review of a complaint and discovery requests in a matter involving Dewhurst and MacFarlane.

Robin Harrell was Chilton's office manager from October 2005 through April 2008, when Gene Chilton sold the company. Harrell submitted a certification asserting that she was in charge of retaining outside counsel. She denied that respondent or any other Fox Rothschild attorney had provided legal work for Chilton at any time. Harrell testified that she had not hired any outside counsel during her employment with Chilton. She conceded that she had no personal knowledge of whether Gene Chilton had discussed the Dewhurst and McFarlane matter with respondent.

Luchak of Duane Morris stated, in a certification, that Chilton had remained a client of his law firm and that no

Chilton files had been transferred to either respondent or to Fox Rothschild.

Cunniff was unable to locate a retainer agreement or any documents concerning Chilton. Respondent claimed that, because the matter was not in litigation, he was not required to prepare a retainer agreement. He opined that retainer agreements are required only in litigation and divorce matters. Cunniff, however, testified that the firm required written retainer agreements in all client matters.

As to the other documents, respondent stated that the file would have remained at Fox Rothschild, because he had not removed any documents when he had left that law firm.

Respondent claimed that, while employed by Duane Morris, he had handled several matters for Chilton and that his contact there was the owner, Gene Chilton. According to respondent, Gene Chilton had asked him to draft a complaint and discovery requests to be used against Dewhurst and McFarlane, a British company that owed Chilton money. Because Gene Chilton never contacted him again, respondent assumed that the matter had been resolved.

Respondent asserted that the time entry was inaccurate and should have indicated preparation, not review, of a complaint and discovery request. He conceded, however, that either he, or

a secretary at his instruction, had made that error. He testified that he may have decided not to bill the client because it was "a relatively inconsequential amount of money" for a client with whom he had a longstanding relationship.

Blacklight Power, Inc.[6]

On November 8, 2005, respondent entered 2.5 hours, for a fee of $875, against Blacklight Power, Inc. ("Blacklight") for review of initial pleadings and discovery requests. William Good, Vice-President of Blacklight, stated, in a certification, that respondent had performed legal services for Blacklight while employed by Duane Morris; that respondent last performed legal services for Blacklight in February 2003; that he would have been aware, if respondent had performed any legal work for Blacklight after February 2003; that Scott Penwell, Esq., of the Stevens & Lee law firm, or other attorneys at that firm had performed all legal work for Blacklight since February 2004; that no one from Blacklight had retained or authorized respondent to perform the services appearing on the November 8, 2005 invoice; and that the legal services appearing on the invoices had not been provided to Blacklight.

[6] The name of the company also appears in the record as "Black Light Power, Inc."

In addition, Scott Penwell submitted a certification asserting that, when he was employed by Duane Morris, he had handled matters for Blacklight; that Blacklight had retained the Stevens & Lee law firm, in February 2004, when Penwell had joined that firm; that respondent had performed some legal work for Blacklight, during respondent's employment at Duane Morris; that, after February 2004, respondent had performed no legal services for Blacklight; that neither Penwell nor anyone acting on Blacklight's behalf had retained or authorized respondent to perform the legal services appearing on the invoice to Blacklight; and that the services indicated on the time sheet had not been provided to Blacklight.

Luchak's certification confirmed that the Blacklight files had been transferred from Duane Morris to Scott Penwell, in 2004.

Cunniff asserted that, despite the bill's indication that respondent had reviewed pleadings and discovery requests, Fox Rothschild had not found any pleadings, documents, or a retainer agreement in connection with Blacklight.

Respondent testified that the time entry was erroneous, noting that it was identical to the billing information for the Chilton matter and was dated within a few days of that invoice.

Aisenstein & Gordon, Inc.

The $1,575 invoice for Aisenstein & Gordon, Inc. ("A&G") contains two entries, one on August 2, 2005, and the other on November 11, 2005, for a total of 4.5 hours. The services described consisted of review of documents and of environmental claims issues. Cunniff's investigation uncovered no documents, retainer agreement, or paper file in the A&G matter and revealed that A&G was no longer in business.

Luchak's certification indicated that A&G's files had remained at Duane Morris and had not been transferred to either respondent or to Fox Rothschild.

Respondent stated that, while employed with Duane Morris, he had handled an environmental litigation matter for A&G, involving 300 defendants. He surmised that the billing entry was erroneous and that the client for whom the services had been performed was not A&G.

Dental Decks, LLC

From February 28 through December 7, 2005, respondent entered 6.7 hours ($2,345) in one invoice and .3 hours ($106.25) in another invoice for Dental Decks, LLC ("Dental Decks").

James Lozier, a dentist and the owner of Dental Decks, submitted a certification stating that respondent had

represented his former wife, Judy Lozier (also a dentist), in their divorce, that he had never retained respondent for any legal work, that no one had retained or authorized respondent to perform the services appearing on the invoices, and that Dental Decks had not received those services.

Judy stated, in a certification, that respondent's representation in her divorce matter had ended in 2003, that, although she had had a brief telephone conversation with respondent, in 2005, about possible copyright infringement of James' business and about an IRS issue, she had not requested or authorized respondent to take any action, had not retained or authorized him to provide the legal services described on the invoices, and those services had not been provided to her, James, or Dental Decks.[7]

Judy testified that she had contacted respondent to obtain his opinion about a potential claim by Dental Decks against eBay. She asserted, however, that, as of 2003, she no longer owned an interest in Dental Decks and had no authority to authorize respondent to perform any legal services for Dental Decks. Judy denied having asked respondent to talk to an IRS

[7] Ordinarily, we refer to adults by their last names. Because James and Judy Lozier share the same last name, we will use their first names, in the interest of clarity.

investigator, stating that she had contacted respondent to obtain advice about the IRS matter.

Cunniff's research disclosed that respondent had never represented Dental Decks and that the firm had no documents relating to that client.

Respondent explained that the client was Judy, not Dental Decks, and that the file should have been opened in her name. He asserted that Judy had told him that one or more individuals were selling copyrighted Dental Decks' products on eBay without authority and had asked whether an injunction could be obtained against eBay. According to respondent, in a subsequent conversation, Judy had informed him that, when she had contacted eBay directly, eBay had agreed to bar the individuals from selling the product and that, consequently, she had no need for his services. Respondent had not billed for these services because James had not authorized the work.

Respondent alleged that Judy had contacted him about an IRS subpoena that she had received, that he had worked on that matter, and that the invoice should have been directed to Judy, not Dental Decks. He conceded that the invoice reflected the name of the client that he had entered.

Theodore Goyins

Respondent charged 6.7 hours to Theodore Goyins, between May 17 and November 1, 2005, for a fee of $2,345. While respondent was employed by Duane Morris, he had represented Goyins in a divorce matter. Goyins recalled that respondent had continued to represent him, after he had left Duane Morris and had joined the law firm of Klehr, Harrison, Harvey & Branzburg, LLP ("Klehr Harrison"). Respondent last did work for Goyins in 2003 or 2004.

According to Goyins, when he received the invoice from Fox Rothschild, he contacted that law firm, protesting that he had had no dealings with it. Goyins denied having retained respondent or having asked him to provide any services for him in 2005. He asserted that he had retained another attorney, Guy Killen, of Klehr Harrison, who had "cleaned up all of the details" and had obtained his final divorce decree.

Respondent, in turn, testified that he had been contacted by an attorney, Linda Coffee, who represented Goyins' wife; that he had been unable to contact Goyins; that a QDRO needed to be prepared; and that he had asked Coffee to prepare the QDRO. Although the invoice refers to telephone calls with both a Linda Cook and a Linda Coffee, respondent claimed that the reference to Linda Cook was in error.

Although respondent acknowledged that Goyins had not authorized him to perform any services for him, he testified that

> there's a responsibility, at least in the domestic relations field, for an attorney to act responsibly not only with regard to his client but also the opposing counsel, and it's my understanding from case law that an attorney could be sued for malpractice even if they don't do anything wrong for their own client but if the opposing counsel feels that there's something amiss then the person can be sued for malpractice.
>
> Obviously I did not want to expose myself to that potential here and also wanted to see the issue resolved.
>
> [3T48-10 to 21.]

Respondent claimed that, even without Goyins' authorization, as the attorney of record, he was responsible for the matter.

Respondent asserted that the entry on the time sheet indicating that he had reviewed motions and cases was erroneous, that either he or his secretary had made that error, and that mistakes happen all the time.

On cross-examination, respondent conceded that he had made no attempt to obtain documents from any source, such as his adversary or the court, to substantiate his claim that he had performed services for Goyins. He stated that he does not have the burden of proof in the ethics proceeding.

Dayton Manor Residential Healthcare

Between May 10 and December 9, 2005, respondent charged 13.6 hours in a tax appeal matter to Dayton Manor Residential Healthcare ("Dayton"), for a fee of $4,760.

Patricia Williams, an attorney with Duane Morris, submitted a certification stating that she had represented Dayton, both at a prior law firm and at Duane Morris; that respondent had handled a tax foreclosure matter for Dayton, while at Duane Morris; that the matter had ended in February 2003; that respondent had not taken any Dayton files with him, when he had left Duane Morris; that neither she nor anyone from Dayton had authorized respondent to perform the legal services listed on the invoice; and that those legal services had not been provided to Dayton.

Luchak's certification confirmed that, upon respondent's departure from Duane Morris, the Dayton files had remained at Duane Morris.

Respondent testified that Dayton, a client in a prior tax appeal, had contacted him concerning another tax appeal. He conceded that the amount of time reflected in the invoice appeared "a little bit high" for the services performed.

Imperial Warehouse Finance

Respondent's time entries indicate that he charged Imperial Warehouse Finance ("Imperial") $2,100 for six hours of legal services performed between February 21 and November 3, 2005. These services included reviewing loan documents and notices, calling the court, reviewing judgments, and receiving calls from debtors' attorneys. Time sheets totaling $3,395 for another Imperial matter reflected 9.7 hours for services performed between August 8 and December 29, 2005, including reviewing settlement documents, title documents, bankruptcy dockets, docket and judgment searches, and Dun & Bradstreet data.

In his certification, Luchak stated that Imperial had remained a client of Duane Morris and that none of Imperial's files had been transferred to respondent or to Fox Rothschild, when respondent had joined Fox Rothschild.

Respondent alleged that he had performed substantial debt collection services for Imperial, a California banking institution, while he was employed by Duane Morris. According to respondent, in 2005, "I was contacted because of my prior extensive involvement with the company and asked to assist with regard to certain tasks or functions in connection with the subsequent entity's further efforts to collect." He claimed that both Imperial invoices contained erroneous entries.

According to respondent, because the FDIC had taken over Imperial in 2003 or 2004, Imperial had not followed him, when he had left Duane Morris.

Respondent conceded that he had made no effort to obtain from any court the documents referenced in the time sheets and that he had no documents to substantiate those charges.

Mascon Global

Time slips totaling $5,635 for Mascon Global ("Mascon") reflected that respondent entered a total of 16.1 hours over eight days, from March 15 to December 6, 2005, for reviewing various documents.

Respondent claimed that he had represented Mascon while employed by Klehr Harrison. According to respondent, he did not have hard copies of the documents that he had reviewed because Mascon maintained all of its information online.

Rooms To Go, Inc.

Between May 12 and November 30, 2005, respondent entered 21.1 hours for work for Rooms To Go, Inc. ("Rooms"), resulting in charges of $7,385 for services relating to a patent matter.

William Matthews, a Klehr Harrison attorney, submitted a certification stating that, in February 2004, he had assigned to

respondent, a Klehr Harrison employee at that time, a patent lawsuit involving Rooms. When respondent had left Klehr Harrison, in January 2005, the matter had been assigned to Mark Stofman, a Klehr Harrison attorney, who had settled the case one month later. According to Matthews, respondent did no work on the Rooms patent lawsuit, after he left Klehr Harrison.

Paul McCarthy, associate general counsel for Rooms, confirmed, in a certification, that he had retained Klehr Harrison to represent Rooms in the patent litigation; that respondent had worked on the matter; that the case had been transferred to Stofman, after respondent's departure from Klehr Harrison; that respondent had provided no legal services for Rooms, after he had left Klehr Harrison; that, upon his receipt of the invoice, he had contacted Fox Rothschild about the erroneous bill; that Fox Rothschild had withdrawn the invoice; that no one had authorized respondent to perform services for Rooms, after he had left the Klehr Harrison firm; and that the services listed on the invoice had not been provided to Rooms.

For his part, respondent testified that all of the entries on the Rooms invoice were erroneous, admitting that Rooms had never asked for any services to be performed while respondent was employed by Fox Rothschild. According to respondent, these

services should have been entered on an invoice for a client other than Rooms.

When respondent was confronted with the DBR, which contained the note "do not bill – contingent" in his handwriting, he denied that the reference indicated that the matter was a contingent fee case. According to respondent, his handwritten note signified that the invoice was "contingent on correcting the errors in the bill, on the DBR." Respondent claimed that, because the invoice had been generated close to when he had left Fox Rothschild, he had not had an opportunity to correct the DBR.

Griffin Pipe Products Company

A DBR for Griffin Pipe Products Company ("Griffin") indicated that, on four dates, between August 9 and November 28, 2005, respondent entered 5.5 hours, totaling $1,925, for a matter involving the death of an employee. Cunniff testified that his search produced no retainer agreement, no hard copies of documents, and no digital documents. The DBR had been completed with respondent's timekeeper number.

Respondent alleged that he had performed services for Griffin in a planning board matter, while employed at Klehr Harrison, and that his contact at Griffin, Morris Seavy, had

later contacted him about a Griffin employee, who had been killed while at work. According to respondent, Seavy had asked him if he was interested in representing Griffin, in the event of liability outside the terms of its insurance policy. Respondent had replied that there was no urgency to the matter, because a complaint had not been filed. He had heard nothing further about the matter.

Respondent noted that some of the entries on the DBR were erroneous. For example, although the November 28, 2005 entry indicated that he had reviewed Department of Environmental Protection documents, he had performed no environmental work for Griffin. He further observed that the matter listed on the DBR – Florence Township Planning Board – was also incorrect. Seavy did not submit a certification in this matter.

Alan Goldstein

On eight occasions, between March 15 and November 17, 2005, respondent charged 16.5 hours, totaling $5,775, to Alan Goldstein. Goldstein, a retired attorney, stated, in a certification, that he had been part-owner of an amusement park called Palace Playland ("Palace"), in Maine; in 2004, he had contacted his friend, William Harvey, at Klehr Harrison, about a lawsuit filed against him in connection with his ownership

interest in Palace; Harvey had assigned the matter to respondent, who was employed by Klehr Harrison at that time; the lawsuit had been settled in June 2004; respondent had not provided any other services for him, after June 2004; neither he nor anyone acting on behalf of Palace Playland had retained or authorized respondent to perform the legal services appearing on the time sheets; and the services described on those time sheets had not been provided to or for him or Palace Playland.

Harvey also submitted a certification, confirming the substance of Goldstein's certification.

Respondent testified that, although local counsel in Maine had been retained for this litigation, he had also represented Goldstein in the matter, while he was a Klehr Harrison employee. He claimed that, in August 2005 (more than one year after the litigation had been settled), he had received documents from the Maine court involving "some clean-up or follow-up that the court had wanted resolved."

According to respondent, with the exception of one hour spent reviewing the documents from the court, the remaining 15.5 hours appearing on the Goldstein DBR had been entered in error and should have been attributed to another client. As to the one hour spent in the Goldstein matter, respondent testified that he would not have bothered to send the invoice because "we're

talking one hour of time, $350, to a firm that earns tens and tens and tens of millions of dollars a year." He again pointed out that individual partners did not have the authority to write-off fees and that, therefore, he had not prepared an invoice.

Respondent conceded that he had not contacted the Maine court to obtain the documents that he allegedly had reviewed, to substantiate his claim that he had performed services for Goldstein.

Jill Kelly Productions, Inc.

A DBR for Jill Kelly Productions, Inc. ("Jill Kelly") reflects 27.8 hours and a $9,730 fee from services performed by respondent between April 19 and December 30, 2005. Cunniff testified that Fox Rothschild found no documents to support any of the time charges entered for Jill Kelly.

Respondent claimed that, while employed at Klehr Harrison, he had handled a matter involving litigation in Ohio, where local counsel had been retained. According to respondent, after he had joined Fox Rothschild, he had taken care of several follow-up items for Jill Kelly.

Respondent questioned the accuracy of some of the time entries. He explained that he had not obtained documents from

the client to substantiate the legal services that he claimed he had performed because Jill Kelly was no longer in business.

During the testimony about the Jill Kelly matter, the special master pointed out that attorneys are required to maintain files for certain time periods. The special master questioned respondent:

> Q. Wouldn't it be accurate to say that Fox Rothschild would be in violation of the rules . . . if they did not maintain these records?
>
> A. I believe that's the case. And I believe that's part of their motivation for filing these charges because they couldn't find the documents so they blamed me for it.
>
> [4T116-14 to 25.][8]

When the special master asked respondent why Fox Rothschild would be willing to write-off the substantial sums appearing in the invoices discussed above, respondent replied that the amount would be a "drop in the bucket" for Fox Rothschild and that it is not unusual for a firm earning profits in the millions of dollars to write-off such sums.

[8] 4T denotes the transcript of the March 26, 2009 ethics hearing.

DL

Respondent's DBR for DL contained eighty-one time entries, between February 8, 2005 and February 14, 2006, for a fee of $104,817.50. As previously noted, respondent began working at Fox Rothschild on January 31, 2005. Within one week, on February 8, 2005, he entered 7.5 hours in his time sheets in the DL matter. During the month of February 2005, respondent charged $31,980 in services to that file.

DL submitted a certification stating that her husband had been murdered at his place of employment in New York, on September 16, 2002, by his supervisor, who had then committed suicide; in March 2005, she had met with respondent at Fox Rothschild to discuss a possible wrongful death claim; Dennis Brotman, another Fox Rothschild attorney, had been present at the meeting; and her understanding had been that, after reviewing the matter, the Fox Rothschild firm would inform her of whether it would accept the case.

According to the certification, DL had then received an April 1, 2005 letter from Brotman, indicating that Fox Rothschild would not be accepting the case. Thereafter, she had communicated with respondent until September 13, 2005, via telephone and e-mail, about a possible wrongful death suit against the supervisor's estate. On September 13, 2005,

respondent had informed her, in an e-mail, that he would be taking no further action in the matter. According to DL, she had received no further communications from respondent or Fox Rothschild; had never entered into a written retainer with respondent or Fox Rothschild; had never asked respondent or Fox Rothschild to provide any legal services for her, after the receipt of Brotman's letter; had never authorized respondent or anyone else to provide the legal services described on the time sheets; and believed that no such legal services had been provided.

DL and respondent had been employed at the Wilentz, Goldman, and Spitzer law firm. She had first contacted respondent in November 2004, having been referred to him by a mutual acquaintance. She asserted that there had been no discussions about possible claims against the supervisor's estate, her husband's employer, and the company that managed the property where the murder had occurred.

Cunniff testified that the only documents found in the DL matter were the April 1, 2005 letter from Brotman, another letter dated May 2, 2005 from Brotman to DL,[9] and a memorandum from Joel Ferdinand, a Fox Rothschild attorney. In the May 2,

[9] DL's certification did not mention the May 2, 2005 letter from Brotman. DL did not recall receiving that letter.

2005 letter, Brotman had informed DL that the two-year statute of limitations in New York for wrongful death actions had expired before she had contacted the Fox Rothschild firm. The time sheets contained three entries by Ferdinand, totaling 6.3 hours for researching and preparing a memorandum on the New York statute of limitations for negligence and wrongful death claims.

Although the time sheets indicated that respondent had drafted a complaint, worked on pleadings, researched damages issues, researched case law on negligent hire/negligent supervision, reviewed e-discovery, researched causes of action, researched articles about the incident, and performed numerous other services, Cunniff found no documentation to support these entries.

Of the $104,817.50 time charges in the DL matter, the sum of $32,000 was generated after May 2, 2005, the date of Fox Rothchild's letter informing DL that the statute of limitations had expired.

Although respondent was the originating attorney for the case, he denied knowing whether Fox Rothschild had a written retainer agreement with DL.

As indicated previously, although respondent failed to reply, in writing, to Paradise's requests for information about the status of each matter discussed above, respondent left, on

Paradise's office telephone, a lengthy voicemail message about each case. In that voicemail, respondent asserted that both he and Brotman had conducted a search for New York counsel to represent DL. According to respondent, he had found an attorney to take over the case, but he had continued to work on it through an arrangement whereby the firm would share in any recovery for the significant work that the firm had contributed to the case. In the voicemail message, respondent also stated that some of the claims had been dismissed on motion for summary judgment and that he would find out whether any aspects of the case had remained "alive" or had "appeal value."

Respondent asserted that the transcript of the voicemail message was not accurate, denying having stated that (1) he had retained New York counsel or (2) he had continued to work on the DL matter through an arrangement.

After respondent joined the Margolis Edelstein firm, he named DL on a new client form, indicating that there was no docket number yet. Although he listed an address for DL, he provided no phone number, fax number, or e-mail address. Instead, he indicated on the form "waiting for info."

Respondent identified Michael Fier as the New York attorney retained in the DL matter. Fier, however, submitted a certification stating that he had been acquainted with

respondent at Fordham University, which both had attended; that he had last seen respondent about twenty-five years earlier, at respondent's wedding; that he last talked to respondent about ten years earlier; that he had no knowledge of the DL case; that he had never agreed to act as sponsor for respondent's pro hac vice admission in New York for either the DL or any other case; that he practices primarily real estate law; and that, if respondent had offered to refer to him a potential wrongful death lawsuit, such as the DL matter, he would have recommended that another attorney handle it.

For his part, respondent alleged that, during the meeting with Brotman, in March 2005, DL had mentioned that she had filed a workers' compensation claim against her husband's former employer. According to respondent, after the meeting, Brotman had told him that the workers' compensation claim eliminated the possibility of filing a wrongful death lawsuit. Respondent claimed that, although they had not discussed notifying the client of this conclusion, Brotman, without his consent, and without providing a copy to respondent, had sent the April 1, 2005 letter to DL.

According to respondent, the Brotman letter merely stated that a wrongful death claim in New York would be time-barred by

the statute of limitations, leaving open the possibility that other claims, based on negligence, could be filed.

Respondent claimed that DL had asked him whether she could file a claim against the supervisor's estate. He asserted that, in addition to that cause of action, he had researched whether claims could be filed against the owners of the office building where the murder had occurred, against the company that had provided security for the office building, and against the property management company responsible for the building. He had assigned some of this research to Ferdinand.

Respondent denied that the May 2, 2005 letter from Brotman to DL had been sent, noting that the file copy had not been signed and that DL had not recalled receiving it.

As previously noted, after joining the Margolis Edelstein firm, respondent continued to enter time in the DL matter. He claimed that, because the statute of limitations in contractual cases is six years, he had considered whether any contractual claims could be filed. According to respondent, in addition to having conducted research to develop these claims, he had attended proceedings in other cases in other jurisdictions to learn how those potential claims were handled and to determine whether he could use some of the arguments advanced by other attorneys.

From April 11, 2006 to August 16, 2007, respondent recorded 263 entries in the DL matter, indicating that he had spent 1,718.70 hours on the case, for a fee of $257,805. All of the entries were made on the computer that had been assigned to him.

Respondent's first entry on the DL time sheets, dated April 11, 2006, reflected 9.5 hours for "depositions." He claimed that he was "monitoring a case that had issues related to DL." He could not recall any details about the case, such as its name, the court in which it was filed, or the attorneys involved. When asked about the next time entry, which was simply "motions," respondent could not recall whether it referred to the same case as the first entry. The following exchange then took place between the presenter and respondent:

> Q. The next entry indicates that you had something to do with motions. Is that again motions in this other case?
>
> A. It may have been in the other cases. I said I was monitoring a few different matters that were going on. I may have been reviewing motions in the case in another venue that had been filed. It would not have been unusual for me to contact an attorney who made [sic] have had a matter and to ask them if I could see papers with regard to whatever motions.
>
> Q. What attorneys did you contact?
>
> A. I couldn't tell you from this. Or if I did.

Q. How many other matters were there that you were monitoring?

A. A couple that I was [sic] actually go to and attend. There were matters all over the country that I was doing research on that I was aware of that involved issues that were related to the types of issues I was looking at in the [DL] case.

Q. But you don't remember the names of any of these cases?

A. No, I wouldn't remember those things.

Q. You don't remember the names of any of the attorneys that were involved in any of those cases?

A. No.

Q. You don't remember what courts those matters were pending in?

A. No.

Q. Do you have documents to substantiate any of the entries that are made in OAE-32?

A. Again, I wouldn't because I wouldn't remove any documents from the firm.

Q. Are you saying you left the file for [DL] with the Margolis Edelstein firm?

A. I'm saying that I would not have removed any documentation from Margolis Edelstein's offices. Where the file is I would have no knowledge at this point. I did not remove it or any documents from it.

[4T139-17 to 4T141-10.]

Several entries on the DL time records indicated that respondent had attended case management conferences. Respondent

claimed that, with respect to the cases that he was monitoring, he had attended several case management conferences in court. As for entries that indicated preparation for depositions, he explained that they were erroneous. He claimed that all of the entries indicating depositions, hearings, document inspections, discovery requests, document reviews, etc. either referred to cases that he was monitoring for DL or were other Margolis Edelstein matters that had been erroneously entered on the DL time report.

Respondent testified that, during his exit interview at Margolis Edelstein, he had indicated that he planned to offer the DL case to Fier, a Long Island attorney with whom he had attended college. According to respondent, at that point, he had not approached Fier and was not concerned about retaining counsel because he was not yet prepared to file a complaint.

When respondent was asked, at the ethics hearing, whether a lawsuit had ever been filed in the DL matter, he replied that he believed that a complaint had been filed in New Jersey to test the statute of limitations issue; that he had been researching the statute of limitations in New Jersey; that the lawsuit had been dismissed on procedural grounds; and that the case "was never able to fully develop to my satisfaction." Yet, when he was asked whether he had tried to obtain a copy of the summary

judgment order dismissing the complaint, he replied: "I don't know if one exists. That's what I was told. I didn't file it. I'm not admitted to practice in New York."

II. IMPROPER RELATIONSHIP WITH A CLIENT

After respondent left Margolis Edelstein, in August 2007, McKenna reviewed the e-mails on respondent's office computer to organize them into electronic folders and determine whether any e-mails had to be shared with the next attorney who would be handling the client matters. When McKenna opened respondent's e-mail account, he observed approximately 12,000 e-mails (about 8,000 received and 4,000 sent) that had not been sorted. McKenna noticed hundreds of e-mails sent to and received from Michelle Angelastro, a divorce client of the firm and the sister-in-law of Matt Zamites, an attorney in Margolis Edelstein's Philadelphia office. Respondent represented Angelastro. After reading those e-mails, McKenna concluded that respondent and Angelastro were involved in a sexual relationship. At the time that many of the e-mails were sent, respondent was in the midst of his own divorce proceedings.

McKenna was concerned about respondent's unethical behavior, noting that the Pennsylvania Code of Professional Responsibility specifically prohibits attorneys from engaging in

sexual relationships with clients and that, although not explicitly prohibited in New Jersey, the conduct raised ethics issues.[10] According to McKenna, Pennsylvania bars sexual relationships between attorneys and clients because the attorney may use a position of confidence to take advantage of a vulnerable client.

After McKenna discovered the e-mails, he felt obligated to notify Zamites, Angelastro's brother-in-law, who indicated that he was already aware of the situation. Zamites told McKenna that, although he had tried to persuade Angelastro to retain another attorney, she had refused.

For his part, respondent denied that he had maintained a sexual relationship with Angelastro. As to the e-mails that produced McKenna's concern, he claimed that Angelastro had an interesting sense of humor. According to respondent, Angelastro's comments were sometimes "playful," but not indicative of a physical relationship. He further explained the e-mails as follows:

> Respondent: As I indicated previously Ms. Angelastro had asked whether or not I was okay with her kidding around with me like

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[10] Pennsylvania Rule of Professional Conduct 1.8(j) provides: "A lawyer shall not have sexual relations with a client unless a consensual relationship existed between them when the client-lawyer relationship commenced."

that because it was a good outlet for her, it was a source of relief from her stress from her situation. I didn't have a particular problem with it because there was -- I didn't ascertain from my perspective that there was any real underlying desire on her part to follow through with any of the particular -- with any of the suggestive comments that she may have made, so I was perfectly fine with bantering back and forth with her.

As I indicated, I'm not particularly proud that I did that. I did that because I sensed that it was putting her at ease in terms of her stressful situation.

In retrospect, I probably -- I should not have engaged her to the extent that I did but as I indicated previously they are nothing more than humorous or joke -- flirtatious comments that are going back and forth between two individuals.

As a matter of fact, on July the 6th, 2007 which is the first -- I think the first email that's referenced, she specifically indicates at the bottom: At least I still have my sense of humor. The expression LOL is replete throughout these emails, which is lots of laughs.

[3T167-20 to 3T168-25.]

The presenter then questioned respondent about some of these e-mails:

Q. From Michelle to yourself: How late do you work on Friday or are you going to make me wait two weeks. I'm not very subtle, am I?

What is she referring to there?

A. I can't really say. She wrote it, I didn't. How late do you work on Friday? Friday was when she wanted to meet. I think she was trying to gauge what time she should come over.[11] Or are you going to make me wait two weeks. I don't know whether she's talking about a meeting, not being able to meet for two weeks after that. I can't say for sure, I don't know.

Q. She's talking about a social meeting, isn't she?

A. No.

[4T160-3 to 17.]

Q. Here's page 12, the top, it's an email from you to Michelle Angelastro: You're no fun. Don't make me beg to see the tan lines, all of them, lol, lol. It's going to get pretty warm wearing a parka and overalls. Hope you can stand the heat.

A. Right.

Q. And why are you interested in a professional relationship with seeing her tan lines?

A. I'm not interested in seeing her tan lines. That's what the lol lol stands for. It's a joke. Obviously it's going to get pretty warm wearing a parka and overalls. Nobody wears that in the middle of July, so it's obviously a joke.

Q. That was in response to her email to you: Just for the boring comment, I'm wearing the

[11] Respondent claimed that Angelastro needed to meet with him in a location other than his office because she did not have a baby-sitter.

parka and overalls. You won't get to see my tan lines.

A. Correct.

Q. And that was in response to your email of July 13, 10:19 a.m.: Number one, only if you are two [sic] boring. Number two, you can stay as long as you like. If you are bringing the parka I will turn the air conditioning off so that you will have to take it off. Number three, not necessary but you can if you would like to.

A. Correct.

Q. So you are going to ask her to take off her parka; is that what I have –

A. No, I didn't say I would ask her to take off anything. I jokingly said, again, if she's wearing -- again, nobody would be wearing a parka in the middle of July but, again, the word lol is after that, and I'm teasing back to her and saying if you are bringing the parka I'll turn the air conditioning off so that you have to take it off. Again, it's a joke. Again, this is July 13th, 2007. My two young children are at home with me.

Q. Page 18. Let's start at the bottom from you to Michelle Angelastro: You are saying: Umm, just wondering if I am going to be laughing when the parka and overalls come off, lol.

A. Correct.

Q. And Michelle's reply to you: You better not be laughing. Drooling would be better.

A. That is her response; that's correct.

Q. And your response to that: That's what I wanted to hear.

A. Absolutely.

Q. Is that right?

A. Absolutely. That's what it says, yes.

Q. Well, maybe one more message before I take matters into my own hands.

A. Correct.

Q. And your response: Lol, I'm not going to accept I am tired as an excuse so you better take a nap.

A. Correct.

Q. That's a business discussion, are you saying?

A. No, I didn't say that was a business discussion. I said that was playful bantering back and forth. We're not discussing her divorce, but we're not discussing a personal or romantic relationship.

Q. What are you afraid she's going to be too tired for?

A. I don't know because it doesn't follow the previous –

Q. You don't know what you are referring to?

A. No, it doesn't follow the previous email. There's a three and a half hour gap so there may have been an intervening telephone call.

Q. Page 19. The middle of page 19 is an email from Michelle Angelastro to you. I can take it as hot as you can and begging always works for me. I take stand [sic] it as you can. I don't know what that means. Don't you have anything better to do than teasing me, maybe some work. Haven't you been away for a

week.[12] I'm going to try to get some sleep so I'll be able to keep up later. Thanks for the sweet dreams.

A. Yes.

Q. What's she going to have to keep up with?

A. As far as I can tell, again, I didn't write it, she did. As far as I can tell she may have been tired. In order to properly meet with me, I'm sure she wanted to make sure that she was refreshed and of the proper mindset, I'll be able to keep up with the conversation. That's what I'm assuming. I didn't write this.

Q. Page 22 at the top and here's an email from Michelle to you: Enough. I can't get to sleep with my heart pounding out of my chest. If we keep this up I'm going to have to start without you and I imagine you won't be able to get up from your desk for a while -- SWAK. Is that what that says?

A. That's what it reads, that's correct.

Q. And that is a professional, business email; is that what you are saying?

A. I didn't write it, she did.

Q. I know who wrote it. That has a business purpose; is that what you are saying?

A. No, I didn't say that has a business purpose.

Q. Does that pertain to a personal, romantic relationship between the two of you?

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[12] Respondent had just returned from a vacation in California.

A. No, it does not because we didn't have one.
Q. Your response is, umm, I like the idea of you starting without me.

A. Lol after that.

Q. Lots of love?

A. No, not lots of loves [sic]. That means lots of laughs or laugh out loud. It does not mean lots of love. . . .

Q. Page 26, and this is from you to Michelle Angelastro . . . So it's going to be a race, huh? I like the challenge. First one to undress first wins. Is that what it says?
A. Yes. And it says lol after it.

Q. And your email to her immediately preceding that is: Umm, does that mean you are going to start giggling when I try to take advantage of you?

A. Again, it's says lol after that.

Q. Is lol some sort of code for I don't pay any attention to what has come before this?

A. Lol stands for lots of laughs. In other words, I'm kidding, I'm joking with you. That's what lots of laughs refers to. You laugh when you joke.

[4T163-20 to 4T169-20.]

Q. She says to you: First one to undress the other wins. Guess I'll be wearing nothing more than the parka to save time; is that right?

A. That's what it says, correct.

Q. And then your response is on page 35: Since I will be inside guess I will have to go commando to gain the advantage.

A. That's correct, that's what it says.

[4T171-10 to 4T171-18.]

Q. Page 43, [the] bottom is an email to you: I need to bite your lips among other things. And above that your response: Sounds good to me. . . .

A. My email response is two days later. I do not believe the "sounds good to me" specifically is in response to her previous email.

[4T172-3 to 13.]

Q. Here's page 44, Michelle Angelastro to you. It's July 16, 2007, 3:57 p.m.

A. Okay.

Q. How about closing the deal tomorrow. He is going away.[13] Or is his [sic] just lip service?

A. She writes lol after that.

Q. What's that mean?

A. How about closing the deal tomorrow? I don't know if it's a reference -- if it's a veiled sexual reference. She's writing lol . . . My understanding of how about closing the deal tomorrow means that's when you're contemplating having intimate relations with each other. This is on July 16th, three days later and she obviously is joking.

[4T173-16 to 4T174-10.]

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[13] Angelastro's husband continued to reside in the marital home at this time.

Q. She says to you: Sure, as long as I don't have to be on my knees the whole time. My inner thighs hurt when I woke up Sunday morning. My neck doesn't bother me anymore.

A. Right. I see that.

Q. And that does not refer to any sexual encounter you are saying?

A. It does not.

Q. You are following page 47?

A. Okay.

Q. What do you want to do before the extracurricular activities? Dinner and/or a movie. The Ritz theater's a few miles from the house in Voorhees.

A. That's what she wrote, correct.

Q. And underneath that from you: Nope, not at all, so getting back to a whole case of raincoats, I am up to that challenge if you think you can handle it but do I have to use them all tonight?

A. I see that. Her email, again, is 12:49 p.m. Mine is 9:37 a.m.

Q. Let's talk about your email. What are you talking about with a whole case of raincoats and using them all in one night?

A. I think I'm joking -- I'm jokingly suggesting -- raincoats, I believe I was talking about prophylactic devices. Obviously an individual could not use an entire case of prophylactic devices in one evening. I am obviously joking to her about condoms because I think she had mentioned to me that she'd found one that her husband had left laying around the house from when they were -

Q. Here's page 50.

A. Sure.

Q. It is Michelle's email to you: Yes, it's very weird but the best work around I could come up with. Thanks for being so understanding and flexible. Speaking of flexible, you better rest up. Tomorrow night we wrestle in my king size bed.

A. That's what she wrote.

Q. That doesn't indicate that you have a personal, sexual relationship with her going on at that time?

A. No, it does not.

Q. Your response to her: Looks like you better do some stretching exercises then; is that right?

A. Well, her email is dated 7/16 and mine is dated the next day, so I don't know whether that's responsive to that or not.

Q. Then her response to you at the top of page 55: Yikes, I'm still sore from Friday.

A. That is what it says.

Q. And your response to her on page 49: You don't have too much time left to recover then, to which Michelle replies: Don't worry, I'll work through the pain, you're worth it. And you are [sic] response to her: Thanks, hon. I am flattered. My intention is to inflict pleasure upon you, not pain, right?

A. That is what it says, that is correct. That does not refer to any type of sexual –

Q. Her response to you doesn't refer to any sexual activity; is what you are saying?

A. No.

Q. Her response to you: The pain is because I'm out of practice. Can you help me with that? Let me start with -- you inflicted quite a lot of pleasure so much so that it stayed with me throughout the weekend. The pain is because I'm out of practice. Can you help me with that?

A. Right. It is not referring to any sexual activity. There are several reasons. First of all, again, as you recall, the email that she wrote on 7/16 talked about so -- something to the effect of closing the deal which was three days later, talking about the weekend. These emails are talking about her coming to my house on July the 13th, again, when my children were home. Ms. Angelastro is talking about engaging in some activity that she had done – I have a trampoline in my yard, and Ms. Angelastro used to be a very good athlete. She was a swimmer. And apparently she had used -- she had got on the trampoline. My kids thought it was actually pretty funny because I never really jump on it. Ms. Angelastro, after being on it for a short period of time, indicated afterwards that, you know, to me, wow, that had been quite a work out. She was sore from it. Again, no reference -- it's not talking about sexual activity because the July 16th email specifically belies that because three days after the supposed sexual activity she's saying how about closing the deal in a joking fashion.

Q. Mr. Denti, do you think we're idiots? Are you seriously telling me this does not indicate any sexual activity on your part with Michelle Angelastro?

A. That's exactly what I'm telling you, Mr. Kingsbery. And there's nothing in there -- there's nothing in that that specifically indicates that. They are joking references in passing and that is it.

Q. Did you brag to your wife about all your girlfriends?

A. No. I tried to goad my wife through false statements into admitting that she was having a relationship with someone else which I suspected but I wasn't able to prove.

Q. Did you mention Michelle's name in your alleged falsehoods?

A. I may have thrown her name out in passing along with a lot of other people's name.

Q. And a lot of other people's names?

A. Absolutely. In an attempt to goad her into giving me some information.

[4T174-20 to 4T179-21.]

Angelastro submitted a certification denying that she had had a sexual relationship with respondent and insisting that they had exchanged "a series of playful, joking emails" as a way for her to "blow off steam and relieve stress." In addition, her testimony was, for the most part, consistent with respondent's position that the e-mails were intended as jokes. However, although respondent had asserted that Angelastro had complained of soreness after working out on his children's trampoline,

Angelastro testified that she had used her nieces' trampoline and did not recall that respondent's children had a trampoline.

According to Angelastro, after she signed a retainer agreement with Margolis Edelstein and respondent became her attorney, she and her husband attempted a reconciliation. Respondent testified that, in July 2007, while he and Angelastro were exchanging the e-mails quoted above, he did not know whether Angelastro remained interested in reconciling with her husband. The reconciliation was not successful.

On cross-examination, Angelastro continued to deny the sexual nature of her relationship with respondent:

> Q. Ms. Angelastro, this obviously refers to a sexual encounter between yourself and Mr. Denti, does it not?
>
> A. No, I don't -- which part, which one? I don't know. No, it's not.
>
> Q. It doesn't. Well, here is your e-mail, July 17, 12.20 p.m. "I was just kidding. I could tell you enjoyed it close to three times. Actually if I hadn't hurt my neck, it would have been three." Are you saying that doesn't refer to a sexual encounter between yourself and Mr. Denti?
>
> A. No, that was again I was talking about over the weekend playing with my, you know, my nieces and my daughters on the trampoline. He thought it was funny when I was talking about how I got hurt, you know, just jumping around on the trampoline.
>
> Q. And you enjoyed the trampoline three times, is that what you are saying?

A. No . . .

[6T38-13 to 6T39-6.][14]

Upon questioning by the special master, Angelastro conceded that the e-mails could reasonably be interpreted as evidence of a sexual relationship. Although reminded that she was testifying under oath, Angelastro reiterated that there had been no sexual relationship between respondent and herself.

III. FRAUDULENT EXPENSE VOUCHERS

The final allegation of the complaint charged that respondent submitted expense vouchers for entertainment expenses, not for potential clients, but social dates. McKenna testified that, after reviewing respondent's e-mails, he examined respondent's expense folder to determine whether Margolis Edelstein owed respondent reimbursements for pending voucher expenses. McKenna recognized the names of four women appearing on respondent's expense requests as individuals for whom McKenna had established separate folders due to the volume of e-mails in respondent's account. After reviewing the documents submitted with the reimbursement requests and the e-mails, McKenna concluded that respondent had maintained social,

[14] 6T denotes the transcript of the April 3, 2009 ethics hearing.

not business, relationships with these women. Margolis Edelstein had reimbursed respondent for all of these expenses.

Respondent submitted expense vouchers totaling $283.75 for three meals with a woman named Mary Williams. The vouchers, dated September 1, September 7, and October 2, 2006, identified the business purpose of the expense as "referral business," "discuss matrimonial referrals," and "real estate & divorce referrals."

In a series of e-mails dated from September 21 to October 6, 2006, respondent and Williams discuss social, not business, matters. For example, on September 24, 2006, Williams sent an e-mail to respondent stating, in part: "I have some good news for me and some not good news for 'us' — but I ended up meeting someone really nice and we hit it off." On September 25, 2006, respondent replied: "You will always be in my heart, special lady!! Luv ya!!!"

Respondent asserted that, when he joined Margolis Edelstein, he was told that the firm encouraged attorneys to entertain individuals for client development. He claimed that Williams, a paralegal with a New Brunswick law firm that engaged primarily in real estate practice, was a potential source for divorce referrals. He further alleged that, during these dinners, they had also discussed the possibility of respondent's

representation of Williams' sister, who had been involved in an accident.

On cross-examination, respondent could not recall whether he had met Williams through a dating service, or a website, such as Facebook.

In another matter, respondent submitted two vouchers for meals with Aimee Miller on February 3 and April 3, 2007, respectively, and was reimbursed a total of $248. McKenna observed that, although respondent had indicated on the vouchers that Williams was a "VP," which McKenna understood to signify "vice president," Williams was a court reporter.

Miller submitted a certification stating that she was currently employed by Veritext/Knipes Cohen, a court reporting and audio/video services company, and had been so employed between January and May 2007. She asserted that, since January 2007, she and respondent have engaged in efforts to refer work to each other and to introduce to each other attorneys who could refer work to each other. According to Miller, respondent took her to dinner on two occasions to thank her for her referral efforts, at which time they discussed business referrals.

Between March 14 and June 6, 2007, respondent and Miller exchanged e-mails, which, according to McKenna, involved

personal repartee, not business. Those e-mails included the following:

> Respondent to Miller: hhmmnn. what can i do to dry those tears??
>
> Miller to respondent: Kisses, lots and lots of kisses and kisses and lots and lots of kisses. How's that sound?
>
> Respondent to Miller: oooohhhhhhhhh
>
> Miller to respondent: Do you think you are up to the task? (the minx wants to know)
>
> Respondent to Miller: yum!!!
>
> [Ex.OAE-29.]

Miller testified that she was just being "funny" in these and other similar e-mails. She denied that she had a romantic relationship with respondent.

Respondent testified that he and Miller "cross-refer" matters to each other. He claimed that, during the two dinners for which he had submitted vouchers, he and Miller had discussed business development. Although respondent alleged that Miller had referred business to him, he did not submit documentation to support that claim, until directed to do so by the special master. Even then, when respondent brought a client file to a subsequent hearing, no documentation indicated that the client had been referred by Miller. Respondent pointed out that the file contained a handwritten note from the client on Knipes-

Cohen stationery. He, thus, contended that, because the client and Miller worked for the same court reporting service, Miller had referred that client to him.

In a third case, respondent submitted an expense voucher for about $90 for a February 4, 2007 meal with Denielle Jerome. The voucher indicated that they had discussed "business referrals." According to McKenna, he concluded, from a review of respondent's e-mails, that respondent had met Jerome through an Internet dating service. The subject line in several of the e-mails was "Re: hi ken. ..its deni from singlesnet." McKenna noted that the subject of the e-mails between respondent and Jerome was personal, not business, and consisted of sexual innuendo. For example, in a February 2, 2007 e-mail in which respondent and Jerome were making dinner plans, Jerome stated that she is a "jeans on the weekend kinda gal," to which respondent replied that he was hoping that she was a "jeans off" kind of girl. Jerome then replied: "hey i took my jeans off for you last night didnt i???" In addition, Jerome had sent to respondent a photograph of her thigh.

Although respondent admitted that he had met Jerome on an Internet dating site, he claimed that she was considering retaining him for a real estate matter. In a January 30, 2007 e-mail, Jerome had stated: "i actually may have to use you very

soon … real estate issues. i have to sell my house … due to one of my 'bad choices' … long story. I will tell you about it over dinner or drinks or whatever … would love to meet you." He further alleged that, because Jerome worked at a bank, he viewed her employer as a potential source of business. Respondent, however, never represented Jerome and never received any referrals from her.

Respondent admitted that Jerome had e-mailed photographs to him, including one showing a tattoo on her thigh. He opined that Jerome was a "kook."

In the final expense voucher matter, McKenna noted that respondent had exchanged e-mails with Debbie Merola, a Margolis Edelstein client whose son worked at the firm. On February 15, 2007, after several e-mails about dinner plans, respondent told Merola that he had made reservations for the following night, February 16, 2007, at Ruth's Chris Steak House, in Philadelphia. Previously, on February 5, 2007, Merola had sent the following e-mail to respondent:

> Ken- I just talked to you alittle [sic] while ago and I also wanted to ask you if you would be interested in having a drink or coffee with me. I feel like a school girl. I hesitated because I don't know how appropriate it is, your [sic] my lawyer and I don't want to strain that relationship.
>
> I really enjoy talking with you and would like to talk to you about anything but my

> husband. I don't want to make you feel awkward and if your [sic] not interested that is fine. I hope I'm not making a mistake, but in seven months I have felt no interest in that area of my life. I had to ask! You have my number and I would love to hear from you but please don't feel obligated. – Debbie
>
> [Ex.OAE-31.]

Respondent replied:

> Sounds great. I would love to. I will give u a call!
>
> [Ex.OAE-31.]

In other e-mails, respondent and Merola discussed making other plans, such as attending movies and restaurants. In some of these exchanges, respondent referred to Merola as "sexy lady" and "hon" and she referred to him as "baby." Respondent, however, insisted that he did not have a dating relationship with Merola.

Respondent submitted an expense voucher to Margolis Edelstein for $200, enclosing a receipt, dated February 16, 2007, from Ruth's Chris Steak House, in Philadelphia. On the expense voucher, respondent listed the client as Electric Mobility and identified Michael Flowers, President, and Art Rea, CFO, as the persons whom he had entertained. McKenna, however, suspected that respondent had taken Merola to dinner, because the date on the receipt, February 16, 2007, was identical to the

date that respondent and Merola had planned to go to that restaurant. McKenna concluded that, because respondent anticipated that McKenna would recognize Merola's name as the mother of an employee, respondent had fabricated the name of the client to avoid identifying Merola on the expense voucher. McKenna denied that the firm had a client named Electric Mobility.

Merola submitted a certification denying that she had had dinner with respondent at Ruth's Chris Steak House, on February 16, 2007, or on any other date. She repeated this denial in testimony at the ethics hearing. According to Merola, she and respondent decided it would not be a good idea for them to go to dinner. Merola recalled respondent telling her that he had taken a client to Ruth's Chris Steak House because he already had the reservation.

Respondent, too, testified that, after making the reservation for himself and Merola, he had decided that it would be better, for business purposes, to entertain clients. According to respondent, Michael Flowers is the president and Arthur Rea is the chief financial officer of Electric Mobility, the manufacturer of electric scooters.

Despite the e-mail referring to respondent as her lawyer, Merola testified that she had not retained him at that time. She

explained that, without her knowledge, her son had asked respondent to give her guidance in a matter. Merola asserted that she had subsequently retained respondent to represent her, when she had filed for divorce.

Merola denied that she had dated respondent, claiming that they had become "kind of like friends."

As noted above, respondent denied that he had maintained romantic relationships with Angelastro or any of the individuals identified on the expense vouchers discussed above. He testified that he had falsely made those statements to "goad" his wife into admitting that she was guilty of adultery.

In a series of August 10, 2007 e-mails with his wife, Donna, from whom he was getting a divorce, respondent had named his sexual partners:

> Donna: IT'S STILL ON RECORD! Little Man.
>
> Respondent: Little man? Hhmmnn – let's see – I think the following women would disagree with that: Jill, **Aimee**, Kerry, **Debbie**, Doris, Kelly, **Michelle**, Cindy, Kris … lol Was only little around u, toots. It isn't attracted to dikes!!!!
>
> Donna: Can you say CIALIS?
>
> Respondent: Actually, that let's [sic] me nail one in the morning, having sex with another at night and then still have enuff left for another one of them the next day!! Isn't modern science wonderful??
>
> . . . .

> Respondent: Sorry — one last thing. Why don't u stop over tonite for a few lessons from Michelle on how to please a man. Not sure what time she is getting there — but if u see a White Honda Pilot in my driveway u will know she's there!! [Emphasis added.]
>
> [Ex.OAE-36,Att.2.]

The special master found that to justify his salary from Fox Rothschild respondent had manufactured a substantial number of cases and had submitted time records that were false, fraudulent, and deceitful. The special master rejected respondent's defense that many of the time entries had been created erroneously by staff, finding that respondent's "hands (and wits) created these billings." In particular, the special master noted that Goyins' testimony had made a very strong impression on him and that it was clear that respondent knew, when he billed Goyins, that it was improper to do so.

In addition, the special master characterized the DL case as the "most outrageous," with billings in excess of $104,000 for an alleged 304.80 hours of services, which the special master described as "deceptive, fraudulent, and a sham."

The special master noted that respondent had offered little to refute the charges against him and had expressed neither a clear denial of the charges nor remorse for his outright deceit. The special master observed that, although respondent had sought

to defend himself by impeaching witnesses during cross-examination, he had been "eminently unsuccessful in that regard."

In finding a violation of RPC 8.4(c), the special master found that respondent

> has engaged in activity which was not only disloyal to the firm which entrusted him with legal matters, but he has abused that trust in order to feather his own nest and make himself look productive, has lied to create for himself personal gain by deceptive practices thereby not only besmirching his own name, but in the process also causing his employer law firm(s) to suffer the same diminution in reputation by making the firm(s) face bewildered and abused clientele which suffered the consequences of such conduct.
>
> [SMR15-SMR16.][15]

The special master further concluded that, while employed by Margolis Edelstein, respondent had engaged in a sexual relationship with Angelastro, a client of the law firm whom respondent represented at the time. Noting the vast numbers of e-mails exchanged throughout one particular day (July 13, 2007), the special master observed that respondent was not willing to provide a full day of legal services, for which he was being paid. The special master found no merit in respondent's and

[15] SMR refers to the August 12, 2009 report issued by the special master.

Angelastro's assertions that the e-mails between them were the product of "kidding." He, thus, found that respondent violated RPC 1.7(a)(2).

Although the special master found that respondent may have submitted fraudulent expense vouchers, he did not find clear and convincing evidence of this violation.

As mitigating factors, the special master considered respondent's lack of a disciplinary history, respondent's service as an elected official in Mansfield Township, and the absence of harm to clients.

Among the aggravating factors that the special master found were: respondent's failure to admit that his conduct was unethical; the substantial and lengthy nature of the fraudulent billing and client fabrication; respondent's lack of remorse; respondent's failure to indicate an intention to discontinue his fraudulent practices; respondent's status as a public official, which imposes a higher standard of responsibility to the bar and to the public; respondent's extensive experience as a member of the bar for more than twenty years; the effect that his misconduct had on his employer law firms, who were faced with clients complaining about wrongful bills; and the fact that respondent was motivated by self-interest.

The special master recommended an eighteen-month suspension.

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

The evidence of respondent's fraudulent time-entry practices, at both Fox Rothschild and Margolis Edelstein, was overwhelming. Respondent embarked on a premeditated course of conduct to deceive his employers that he was providing legal services to justify the compensation that they were conferring on him. Both the bills and the clients were fake.

Respondent's billing records demonstrate that his scheme began almost as soon as he walked in the door at the Fox Rothschild law firm. Respondent's affiliation with Fox Rothschild began on January 31, 2005. During the month of February 2005, respondent charged $31,980 in services to the DL file. Similarly, the time sheets in the Imperial and Dental Decks matters also contain February 2005 entries of legal services allegedly performed by respondent. He, thus, began his relationship with Fox Rothschild by almost immediately duping his new law firm about his work.

During the next fourteen months of respondent's employment with Fox Rothschild, he continued to submit false time entries

in fourteen files for non-existent clients. In these time sheets, respondent made 161 entries that falsely represented that he had performed legal services encompassing 432.9 hours, worth $151,515 in fees.[16] These time sheets evidence an extensive and extended pattern of dishonesty.

In all of these cases, respondent failed to produce a retainer agreement, a document, or a witness's testimony (other than his own) to support his claim that he had provided the legal services described in the time sheets.

In the High Concrete matter, the company's general counsel and treasurer certified that, after leaving Duane Morris, respondent was not retained by or authorized to do work for High Concrete. Fox Rothschild partner Thomas Cunniff's conversation with a High Concrete representative confirmed that respondent had not been retained. Luchak, Duane Morris' managing partner, certified that High Concrete had remained a client of Duane Morris.

Yet, respondent claimed that his contact at High Concrete, Donald Hollinger (or an individual with another surname), had asked for his assistance in a lien claim; that he had resolved the matter by telephone; and that his relationship with High

[16] These figures do not include 9.5 hours entered in the DL time sheets for an associate and other staff.

Concrete did not require written confirmation of the conversation. Moreover, he flippantly testified that he could not recall what he had done with the lien documents that he had allegedly reviewed. He stated that he may have either returned them to the client, placed them in a folder, or discarded them.

In addition, consistent with his pattern, respondent claimed that several of the time sheet entries were erroneous. Although respondent conceded that either he, or his secretary at his direction, had entered his time slips in the firm's computer billing system, he accepted no responsibility for these mistakes.

In Chilton, the office manager who certified that she was responsible for hiring outside counsel stated that respondent had not been retained to perform services for Chilton. Luchak confirmed that Chilton had remained a Duane Morris client. Although respondent asserted that Gene Chilton had asked him to prepare a draft complaint and discovery requests, respondent failed to produce a certification or testimony from Gene Chilton to support this claim.

As to the Blacklight matter, the company's vice-president certified that respondent had performed no services for his company after February 2003; Scott Penwell certified that he or his law firm had provided all of Blacklight's legal services

after February 2004; and Luchak confirmed that Duane Morris had transferred Blacklight's files to Penwell in 2004.

In the face of this irrefutable evidence that Blacklight had not retained him, respondent relied on his frivolous defense of choice – he claimed that the time entry was erroneous, remarking that it bore a striking similarity to the time entry in the Chilton matter.

Similarly, in the A&G matter, respondent, confronted with the absence of any proof that he had provided the services appearing on his time sheets, contended that the work had been performed for a different client and had been erroneously attributed to A&G.

In the Dental Decks matter, both James and Judy Lozier testified that they had not retained respondent for either the eBay or the IRS case. Respondent had represented Judy in her divorce from James. Had respondent performed any services for James thereafter, he would have been at risk of engaging in a conflict of interest. Judy was not authorized to retain respondent to represent Dental Decks, a company that respondent knew she no longer owned, as that issue had been the subject of the Loziers' divorce. Under no circumstances, thus, could respondent have reasonably believed that he had been retained to perform legal services for Dental Decks in the eBay matter.

At best, the record reveals that, although Judy had placed a telephone call to respondent to obtain his thoughts about the IRS matter, she had not asked him to perform any services beyond providing his opinion during their telephone conversation. In other words, she had not retained him or authorized him to take any action on her behalf.

Although respondent alleged that the file should have reflected that Judy, not Dental Decks, was the client, he conceded that he had entered Dental Decks' name in the computer. Still, he offered no explanation for failing to correct the invoice and to send a bill to Judy.

Goyins testified unequivocally that, although respondent had represented him while employed by Duane Morris, and later by Klehr Harrison, respondent had performed no services for him since 2003 or 2004. Klehr Harrison attorney Guy Killen had completed Goyins' divorce matter.

Here, respondent agreed that Goyins had not asked him to represent him. He claimed, however, that Goyins' former wife's attorney, Linda Coffee, had contacted him about a QDRO. Respondent advanced a baseless argument, contending that, in matrimonial matters, an attorney may be sued for malpractice, even if he does nothing wrong vis-à-vis his client, if his adversary believed that something was "amiss." Respondent did

not explain why he had not informed Coffee that he no longer represented Goyins and had not referred her to the Klehr Harrison law firm. He also failed to clarify who would be responsible for his fee in the case, given his admission that Goyins had not authorized him to do the work.

Once again, respondent asserted that the time entry referring to Coffee as "Linda Cook" was inaccurate and that the time sheets erroneously indicated that he had reviewed motions and cases.

In the Dayton matter, Duane Morris attorney Williams certified that Dayton had remained her client and that respondent had not performed services for Dayton after leaving Duane Morris. Luchak corroborated Williams' statement. Yet, without identifying the name of the representative, respondent alleged that Dayton had asked him to handle a tax appeal. Respondent conceded that the number of hours reflected on his time sheet seemed excessive for the matter. He submitted no certification or testimony from the Dayton representative who had allegedly contacted him.

In the Imperial matter, Luchak certified that Duane Morris had continued to represent that client. Although respondent alleged that he had performed collection services for Imperial,

here, too, he failed to produce any documentation or testimony from Imperial to support his claim.

When confronted in the Mascon matter with the dearth of support for his assertion that he had reviewed documents for this client, respondent advanced a novel position — he claimed that, because the documents were on the Internet, he had no hard copies of them.

As to the Rooms matter, respondent testified that his time entries should have been applied to another client. As in the Blacklight matter, respondent was confronted with overwhelming evidence that his time entries were false. Both William Mathews, a Klehr Harrison attorney, and Paul McCarthy, general counsel for Rooms, certified that the patent lawsuit that respondent had handled while employed by Klehr Harrison had been assigned to another Klehr Harrison attorney, who resolved it almost immediately. Both attorneys stated that respondent had performed no services for Rooms thereafter. Respondent conceded that he had done no work for Rooms, blaming inaccurate time entries for the billing report.

Respondent then compounded his dishonesty in the Rooms matter by advancing the illogical and spurious claim that his handwritten note on the billing report, which stated "do not bill — contingent," did not indicate that the file was to be

billed on a contingent fee basis. He alleged that the annotation was intended to communicate to the firm's accounting staff that the file should not be billed, contingent on the correction of errors in the billing report. Respondent produced no evidence, however, that he had corrected the time sheets.

In the Griffin matter, although respondent alleged that Griffin representative Morris Seavy had contacted him about possible representation, he failed to produce a certification or testimony from Seavy in support of his claim. Consistent with his other excuses, respondent alleged that both the name of the client matter and the time entries were inaccurate.

Respondent's explanations of his time entries in Goldstein were also specious. Here, he claimed that, while at Klehr Harrison, he had represented Goldstein, along with local counsel, in litigation in Maine. He alleged that, more than one year after the resolution of that litigation, the court in Maine had contacted him about some follow-up work. He did not explain why the court would have reached out to him, instead of local counsel in Maine, for this "clean-up" work.

As became his pattern, respondent alleged that the time entries were erroneous. Of the 15.5 hours entered in the Goldstein matter, respondent claimed that 14.5 had been wrongly attributed to Goldstein, instead of another client.

In the Jill Kelly matter, respondent asserted that, after representing this client while employed by Klehr Harrison, he had performed some follow-up work, at the client's request. He explained that, because the client was no longer in business, he could not obtain documents to support his claim.

When the special master pointed out to respondent that attorneys are required to maintain documents for clients for a certain time period, respondent accused Fox Rothschild of blaming him for its own failure to keep client documents. This argument is completely at odds with respondent's cavalier testimony in the High Concrete matter, in which he stated that he may have discarded documents after he allegedly had given the client his legal opinion about a lien.

Although the above transgressions represent serious misconduct, they pale in comparison to the extent of the fraud and deception that respondent perpetrated in the DL matter. While at the Fox Rothschild law firm, respondent reported on his time sheets that he had spent 295.3 hours, time valued at $103,355, on this matter, when the statute of limitations had expired before the client had even contacted Fox Rothschild.

Moreover, during his seventeen months at Margolis Edelstein, respondent made 263 entries in the DL matter. These time records indicated that he had spent 1,718.70 hours on the

case, for a fee of $257,805. Just as he did when he joined Fox Rothschild, respondent almost instantly started to enter substantial amounts of time in the DL matter. He began working at Margolis Edelstein on April 7, 2006. Several days later, on August 11, 2006, he claimed on his time sheets that he had spent 9.5 hours on depositions. Significantly, all of these time entries were made after September 13, 2005, when, according to DL, she received an e-mail from respondent informing her that he would take no further action on her case.

Although respondent asserted that he had been monitoring other cases with similar issues, he could not provide any details, such as the name of one case, the name of one attorney, or one court in which those cases were pending. He also failed to produce any documents in support of his allegation that he had monitored those cases.

Respondent's story is devoid of truth. The record reveals that, rather than providing the legal services for which he was compensated, respondent spent a substantial amount of his workday sending personal e-mails. The e-mails exchanged between respondent and his wife during their divorce were sent and received minutes apart. Similarly, his e-mails with Angelastro were exchanged in rapid succession. Notably, in one of those e-mails, Angelastro questioned whether respondent had anything

"better to do," such as work, pointing out that he had just been on vacation for a week.

Several times during the ethics hearing, respondent, when explaining why he had chosen not to send invoices to clients, mentioned the amount of fees that the Fox Rothschild firm earned. For example, in the High Concrete matter, he stated: "we're talking about Fox Rothschild here, a firm that has profits well into the tens of millions of dollars each year." In the Jill Kelly matter, he declared that writing-off the fees on all of the time sheets would constitute a "drop in the bucket" for Fox Rothschild. In Goldstein, he asserted that "we're talking one hour of time, $350, to a firm that earns tens and tens and tens of millions of dollars a year."

Respondent, thus, appeared to rationalize his misconduct by pointing to the financial success of the Fox Rothschild firm, as if plundering a prosperous victim would not be unethical.

We conclude that respondent engaged in an extensive and extended scheme to defraud the Fox Rothschild and Margolis Edelstein law firms. He submitted fictitious time sheets for more than two and one-half years, encompassing more than $350,000 in fees. His motive was financial self-interest – he wanted to continue his employment and his receipt of

compensation. We, thus, find that respondent's conduct violated RPC 8.4(c).

We also find that respondent engaged in a conflict of interest, a violation of RPC 1.7(a)(2), by entering into a sexual relationship with a divorce client. The e-mails between respondent and Angelastro clearly and convincingly demonstrate this misconduct. Respondent's attempts to explain these e-mails as jokes were preposterous. Indeed, during respondent's cross-examination in this matter, the presenter, irritated by respondent's obvious incredible testimony, asked respondent, "[D]o you think we're idiots?" Respondent was guilty, and rather than admit it, not only was he untruthful in his testimony, but he also allowed Angelastro to submit a false certification and fabricated testimony.

An attorney's intimate relationship with a client is not necessarily unethical. In this case, however, we find that it ran afoul of the rules. During respondent's sexual relationship with Angelastro, she and her husband were attempting to reconcile. At that point, respondent's interest in maintaining his relationship with Angelastro conflicted with her interest in reconciling with her husband. Respondent's failure to withdraw as Angelastro's counsel, thus, violated RPC 1.7(a)(2).

Although the special master did not find clear and convincing evidence that respondent violated RPC 8.4(c) by submitting phony expense vouchers, we find that the record supports that charge clearly and convincingly.

Respondent was reimbursed for expenses in connection with meals that he had had with Mary Williams, a woman whom he admitted meeting via the Internet. The record contains e-mails in which, among other things, Williams informed respondent that she had met another man. Respondent replied: "You will always be in my heart, special lady!! Luv ya!!!" Respondent had a social, not a business, relationship with Williams. Although Williams was employed as a paralegal, respondent offered no evidence that she had ever referred any cases to him. Moreover, because Williams worked in New Brunswick, it was not likely that she would have had the opportunity to refer divorce cases to respondent, who was practicing in Westmont at that time.

Similarly, the e-mails exchanged between respondent and Aimee Miller evidenced a romantic relationship. In these communications, Miller referred to herself as "the minx." She and respondent made suggestive comments to each other. Although respondent claimed that Miller had referred a divorce case to him, the only document that he produced was a note from the client, written on stationery of the court reporting company

where Miller and the client worked. This document did not substantiate that Miller had been the source of the referral.

Despite the clear and convincing evidence that respondent fraudulently submitted expense vouchers in the Williams and Miller cases described above, because their employment was connected with the legal profession, in theory, an argument (not a very strong one) could be advanced that these women offered at least the possibility of client referrals. This contention, however, could not be made in connection with the expense vouchers that involved Denielle Jerome. Respondent admitted that he had met Jerome on an Internet dating website.

The e-mails between respondent and Jerome, including one in which Jerome stated that she had removed her jeans for respondent on the previous night, demonstrate that respondent had a social, not a business, relationship with Jerome. She was not a client and had referred no clients to him. Respondent's contention that Jerome was a potential real estate client was not credible.

Finally, the evidence established that respondent had a social relationship with Debbie Merola, that they had dinner at Ruth's Chris Steak House, and that respondent misrepresented, on his voucher, that he had entertained potential clients from a company called Electric Mobility. Although respondent claimed

that he had canceled his plans to have dinner at Ruth's Chris Steak House with Merola and had taken clients to the restaurant instead, he failed to produce a certification or testimony from the clients to corroborate this assertion. Moreover, McKenna testified that Margolis Edelstein did not represent Electric Mobility.

Based on the foregoing, we find that respondent submitted vouchers to, and received payment from, Margolis Edelstein for expenses incurred on dates, not business dinners. He, thus, violated RPC 8.4(c).

In sum, respondent engaged in a lengthy and substantial scheme of fabricating time sheets and clients, while he was a partner at both the Fox Rothschild and Margolis Edelstein law firms; engaged in a conflict of interest by having a sexual relationship with a client; and submitted fraudulent expense vouchers, for which he was reimbursed, to the Margolis Edelstein firm.

Attorneys who defraud their law partners or employers have been disbarred.

In In re Siegel, 133 N.J. 162 (1993), the attorney, during a three-year period, converted more than $25,000 in law firm's funds by submitting false disbursement requests to the firm's bookkeeper. The disbursements were drawn against "unapplied

retainers" (monies collected and owned by the firm as legal fees, but not yet transferred from the clients' files to the firm's account). Although the disbursement requests listed ostensibly legitimate purposes for the funds to be disbursed, they represented actual expenses incurred by either Siegel personally (landscaping services, tennis club fees, theatre tickets, dental expenses, sports memorabilia, etc.) or by others (his mother-in-law's mortgage service fee). The payees were not fictitious. Nevertheless, the stated purpose of the expenses was illegitimate.

Although a majority of this Board voted for a three-year suspension, three dissenting members recommended that Siegel be disbarred, finding that he had "embarked on a prolonged deceitful scheme to plunder his partners' money."

The Court agreed with the dissent and disbarred Siegel, finding "no ethical distinction between a lawyer who for personal gain willfully defrauds a client and one who for the same untoward purpose defrauds his or her partners." In re Siegel, supra, 133 N.J. at 159.

Similarly, in In re Spina, 121 N.J. 378 (1990), the attorney, an administrator, teacher, and fund-raiser employed by the International Law Institute ("ILI") of Georgetown University Law School, deposited ILI donations and other funds to his own

personal account. He pleaded guilty in the District of Columbia Court of Appeals to the misdemeanor charge of taking property ($15,000) without right. As part of the plea agreement, Spina also admitted to converting an additional $32,000.

Upon initial discovery by ILI, Spina tried to alter a copy of a check and submitted forged invoices in an attempt to thwart the investigation. Moreover, during the investigation, he offered five different versions of the events so as to avoid responsibility for his theft. The Court concluded that

> [t]here is no escaping the fact that Spina knowingly misused substantial amounts of his employer's funds over a two and one-half year period, taking quantities of money when his personal checking account ran low, and then lied when confronted by his employer. No discipline short of disbarment can be justified.
>
> [Id. at 390.]

Another attorney who stole from her employer was also disbarred. In re Dade, 134 N.J. 597 (1994). In that case, Dade pleaded guilty to theft by deception, admitting that, during a four-and-one-half year period, she had issued to herself, and cashed, fifty-eight checks from her employer, State Farm Mutual Automobile Insurance Company. Most of these checks, which totaled more than $450,000, had been issued before Dade had been admitted to the bar. Finding her conduct to be similar to that of Spina and Siegel, we concluded that "[t]heft by an attorney,

regardless of the source of stolen funds, should never be tolerated." In the Matter of Leah D. Dade, DRB 93-062 (October 18, 1993) (slip op. at 5). As previously noted, Dade was disbarred.

In a different, but no less serious context, an attorney was disbarred for fraudulently obtaining funds from a court registry. In re Obringer, 152 N.J. 76 (1997). Obringer served as the trustee in a bankruptcy case in which Gaskill Construction, Inc. was the debtor. He filed a notice with the bankruptcy court, asserting that he had distributed all of the funds in the trustee's account, except for $20,733.93. Those funds represented claims filed by two creditors whom he asserted he was not able to locate. Obringer submitted a check for that amount to the court's registry. He then filed a certification seeking discharge because he had completed his duties as a trustee.

Two months later, Obringer opened a post office box, created letterhead for a fictitious law firm, and submitted a letter under the name of a fictitious attorney to the financial deputy of the bankruptcy court. In the letter, Obringer claimed that he represented the two creditors in the Gaskill bankruptcy case and requested payment of their claims. He attached to his letter two phony documents in support of his claim. Based on

this letter, the bankruptcy court directed that two checks totaling $20,733.93 be sent to the fictitious attorney. Obringer received and deposited the checks in a checking account that he had opened in Gaskill's name and used the funds to pay his personal expenses, including his income taxes and credit card debts.

While Obringer was in the hospital, members of his law firm who monitored his mail reviewed a bank statement for the Gaskill account, investigated the matter, and reported Obringer's conduct to disciplinary authorities.

Obringer pleaded guilty to mail fraud for his theft of funds from the registry of the bankruptcy court. He made restitution and was sentenced to a term of probation.

The Court found that, by submitting fictitious documents to the bankruptcy court, Obringer had made a false statement to a tribunal and had engaged in conduct involving dishonesty, fraud, deceit and misrepresentation. His theft of funds from the court registry constituted criminal conduct that reflected adversely on his honesty, trustworthiness, and fitness. Moreover, the Court remarked that, although Obringer had not knowingly misappropriated client funds from an attorney's trust account or steal funds from his law partners, his theft was "at least as egregious as those involved in Wilson and Siegel." Obringer's

scheme was elaborate and the theft was the result of premeditation, not impulse.

Under certain circumstances, attorneys who engage in sexual relationships with clients are subject to discipline. See, e.g., In re Fornaro, 175 N.J. 450 (2003) (attorney engaged in a conflict of interest situation by maintaining a sexual relationship with her divorce client. In that case, the client had questioned his wife's fitness as a parent because of her relationships with other men; yet Fornaro jeopardized her client's position as custodial parent by maintaining a sexual relationship with him. She also failed to withdraw from representation, despite the likelihood that she would be a witness; made serious misrepresentations to courts, adversaries, and ethics authorities; and failed to comply with the court rule governing suspended attorneys. Her ethics history included a three-month suspension, a reprimand, and a two-year suspension. Fornaro received a three-year suspension for her infractions).

Here, although the absence of a disciplinary history is a mitigating factor, we find many aggravating factors, including the length and breadth of respondent's dishonesty, the premeditated nature of the misconduct, the fiduciary relationship that respondent abused, his refusal to admit that his conduct was unethical, his incredible testimony at the

ethics hearing, his lack of remorse, his experience as a member of the bar for more than twenty years, and the self-interest by which he was motivated.

As to his self-interest, we note that respondent was not content merely to receive substantial compensation, in exchange for which he failed to conform to expected productivity standards. By submitting phony vouchers, he received reimbursement for non-business expenses, displaying yet another level of avarice and dishonesty.

Moreover, at a minimum, respondent permitted, if not persuaded, others (Angelastro, Miller, and Merola) to submit false certifications or testimony on his behalf, conduct that we find to be nothing short of egregious.

Although respondent's conduct did not constitute criminal theft and although he was not charged with knowing misappropriation of law firm funds, he carried out a longstanding and pervasive scheme of defrauding two law firms of which he had been a partner, thereby violating his fiduciary obligation to the members of those law firms. By preparing fictitious time sheets, fabricating clients, and submitting phony expense vouchers, respondent engaged in an insidious plot that, coupled with his obvious untruthful testimony, shows a deficiency of character that compels disbarment.

We, thus, vote to recommend that respondent be disbarred. Members Wissinger and Zmirich did not participate.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Louis Pashman, Chair

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

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Kenneth M. Denti
Docket No. DRB 09-346

Argued: March 18, 2010

Decided: May 12, 2010

Disposition: Disbar

Members	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Pashman	X					
Frost	X					
Baugh	X					
Clark	X					
Doremus	X					
Stanton	X					
Wissinger						X
Yamner	X					
Zmirich						X
Total:	7					2

Julianne K. DeCore
Julianne K. DeCore
Chief Counsel