SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 05-170
District Docket No. XIV-96-376E

IN THE MATTER OF	
EDWIN R. JONAS, III	
AN ATTORNEY AT LAW	

Decision

Argued: July 21, 2005

Decided: September 2, 2005

John McGill, III appeared on behalf of the Office of Attorney Ethics.

Respondent, through counsel, waived appearance for oral argument.

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

This matter was before us on a recommendation for discipline filed by Special Master John F. Kearney, III. The complaint charged respondent with violating RPC 3.3 (lack of

candor toward a tribunal), RPC 3.5(c) (conduct intended to disrupt a tribunal), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and RPC 8.4(d) (conduct prejudicial to the administration of justice).

Respondent was admitted to the New Jersey bar in 1975. He has no disciplinary history. He formerly maintained a law office in Haddonfield, New Jersey.

The charges in this matter stem from respondent's conduct in his own post-judgment matrimonial proceedings. Respondent did not appear at the ethics hearing because a warrant for his arrest for failure to comply with orders issued by the Family Division remained active. The special master denied respondent's request to conduct the hearing in Philadelphia or another location outside of New Jersey, denied his request to "appear" at the hearing via telephone or video conference, and barred him from offering testimony or a statement in any form as a sanction for failing to appear at the hearing. Respondent moved to dismiss the complaint, contending that (1) the Supreme Court has no jurisdiction to discipline him for his conduct as a private litigant; and (2) the doctrine of laches bars the ethics complaint, based upon an allegedly unreasonable delay in the presentation of the matter. The special master denied that

motion. Respondent was represented by counsel at the ethics hearing.

Respondent and the Office of Attorney Ethics ("OAE") entered into a stipulation of facts. Respondent and Linda Jonas, the grievant, were married in 1974 and divorced in 1990. They had three sons, aged fourteen, nine, and eight at the time of the divorce. Although Linda had been awarded temporary custody of the two youngest boys, respondent was granted custody of all three children. The change in custody resulted in adjustments in both alimony and child support obligations.

Following appeals of various portions of these orders by both parties, the Appellate Division affirmed all orders in June 1992. Several months later, in September 1992, the Honorable Vincent D. Segal, J.S.C., heard motions filed by both Linda and respondent. In March 1993, Judge Segal recused himself from further proceedings involving the parties, based on respondent's unfavorable testimony during New Jersey Senate Judiciary Committee hearings on Judge Segal's reappointment. As a result, the Honorable Robert W. Page, the presiding judge of the Family Division in Camden County, heard the remaining motions. Respondent's subsequent motions requesting Judge Page to recuse himself were denied and those orders were affirmed on appeal.

On August 10, 1995, Judge Page entered an order to show cause with restraints, following a hearing in which respondent appeared pro se and Linda was represented by Nancy Gold. In support of her motion, Linda attached certifications, alleging that respondent was secretly selling his assets and hiding his funds in the Cayman Islands, where he planned to remove himself and the parties' two youngest sons, then ages thirteen and fourteen. In one certification, the parties' oldest son indicated that respondent had told him about his plan and had called it "Operation Mitch," a reference to a scheme to hide assets in the Cayman Islands, which was carried out by a lawyer in the book and movie "The Firm."

At the show cause hearing, respondent admitted that his home was for sale and did not disagree with Gold's representation that he had sold his office building ten days earlier.

In addition to other relief, Linda asked Judge Page for an immediate change of custody, the surrender of respondent's and the children's passports, and the posting of a bond by respondent. Judge Page asked respondent twice whether he objected to surrendering the passports and once whether he objected to a prohibition on removing the children from the state or country; each time respondent refused to answer,

asserting his right to counsel. At that hearing, the following colloquy took place:

> MR. JONAS: Judge, if I wanted to go to England, to take my sons to a vacation, 2 weeks, or to go to Italy or go any place I want. You mean I can't leave the state again, or the country.
>
> THE COURT: Okay, sir, do you have such plans?
>
> MR. JONAS: No, I don't.
>
> [Ex.C-12 at 103-4 to 9.]
>
> MR. JONAS: Last year I surprised the kids and took them on a cruise, and I charged it on my Master Card. That means I can't take them anywhere.
>
> THE COURT: Until the return date of the order to show cause which could be as early as 10 days from now, and you told me you didn't have any plans to –
>
> MR. JONAS: Your Honor, I don't have any plans, but sometimes I did – last year, a spur of the moment I got a real bargain on a cruise and I took the boys, and I charged it on my Master Card.
>
> THE COURT: Okay.
>
> MR. JONAS: And they had a great time. So, if I want to do something like that, I can't do it.
>
> [Ex.C-12 at 109-2 to 14.]

According to Judge Page, at the hearing on the order to show cause, respondent stated that the allegations were "absolutely outrageous, frivolous, hysterical, and ridiculous." Relying on respondent's representation that a 7-Eleven convenience store ("7-Eleven") that he owned was "not even on the market," Judge Page denied Linda's request for a change of custody, surrender of passports, and posting of a bond. However, he prohibited respondent from removing any of the parties' three children from the states of New Jersey, Pennsylvania, Delaware, Maryland, and Virginia and "from disposing of or transferring or removing any assets or funds over $15,000 from any United States source."

Respondent received a copy of the show cause order at the hearing, on August 10, 1995. In addition, throughout the hearing, Judge Page, in respondent's presence, announced his rulings on Linda's various requests for relief and, at the end of the hearing, he read the order aloud to the parties. The order provided that respondent could apply to dissolve the restraints upon two days' notice to Gold.

On August 18, 1995, respondent filed a certification in which he stated "I categorically deny that I am liquidating

everything and taking my children anywhere but Medford." Respondent also asserted in that certification:

> I have not sold the 7-11 nor have I ever listed it for sale. It is a source of cash flow for me and it would be absurd to sell an investment that was producing cash flow to help me pay the operating expenses of my Ft. Myers home and my Medford home.
>
> [Ex.J-2 at 7-8.]

Respondent admitted, in the certification, that he had sold his office building and had listed his Medford house for sale.

The order set a hearing date for September 21, 1995. On September 18, 1995, three days before the return date, Linda asked Judge Page for emergent relief, alleging that respondent had absconded with the parties' two youngest children. Respondent's attorney admitted that he did not know his client's whereabouts. Judge Page ordered respondent's attorney to appear at the scheduled September 21, 1995 hearing.

Between the entry of the order to show cause of August 10, 1995, and the September 21, 1995 hearing, the parties filed various motions and certifications. Linda filed a certification stating that (1) she had received information that, as early as 1989, respondent had begun depositing money in Grand Cayman; (2) she went to the Cayman Islands to retain an attorney; and (3)

when she interviewed an attorney, he indicated that respondent had already contacted the firm "to protect his assets in Grand Cayman in light of recent court ordered financial discovery". Several years earlier, in 1993, respondent had filed a motion to reduce alimony, but withdrew it when he was ordered to provide discovery of his assets, including accounts located in the Cayman Islands.

Linda filed a certification dated August 21, 1995, signed by Nicholas Loscalzo of Global Accounts Receivable Managements Services, Inc. ("Global"). According to Loscalzo, although respondent had contacted Global to obtain refinancing for the 7-Eleven, when Loscalzo asked if respondent was interested in selling the property, respondent answered affirmatively. Loscalzo indicated that, in early August, respondent proposed to sell the property to Global for $315,000 and that, on August 9, 1995 (the day before he represented to Judge Page that the property was not on the market), respondent "faxed" a proposal reducing the price to $300,000. As seen below, Loscalzo's credibility was questioned at the ethics hearing.

Judge Page received evidence from other witnesses at the September 21, 1995 hearing. A long-time friend of respondent, Edward Daniels, testified that respondent had stated at

different times that he would like to move to Canada and had said "something about the Caymans." Judge Page summarized Daniels' testimony:

> As to their present location, Mr. Daniels testified that on Friday, September 15, 1995 at approximately 7:00 p.m. he drove Edwin and the boys, Zachary and Peter, to the Baltimore-Washington Airport for a flight on US Air. Mr. Daniels indicated that "we used his (Edwin's) vehicle." There were four or five bags and they "needed to be at the airport before 8:00 p.m.". During the ride he claimed that Mr. Jonas started to explain to the boys why they were not going to Pittsburgh to visit his sister, their aunt, as they had expected. Edwin kept the details sketchy but "I knew half way" that they were not going to Pittsburgh . . . . Mr. Daniels testified that the next day, Saturday, September 14 [sic],[1] 1995 he went to the Medford farm and again on Sunday. There he met Carolyn Jonas, the present Mrs. Jonas, and a moving company representative, John Sutter. Thereafter, Edwin "called me" in the evening and indicated that "we are where we headed". He asked if Mr. Daniels had obtained the items he had instructed him to retrieve from his property and to just hold on to them until further contact. Edwin indicated that he was going to enroll the boys "in a Christian school." He claimed that he never asked Mr. Jonas where he was during these calls.
>
> [Ex.J-19 at 10-11.]

---

[1] The date was September 16, 1995.

John Sutter, a moving company employee, testified at the show cause hearing that respondent made arrangements to move the contents of his Medford home to a moving and storage facility in Portersville, Pennsylvania. According to Sutter, although respondent asked that the contents be loaded from the back of the house at night so that the movers would not be seen, he did not agree to this request. He stated that respondent had arranged for the move one week in advance, but noted that the order form was dated September 12, 1995, only four days before the September 16, 1995 move. Sutter testified that, while dismantling and moving a desk, he found documents indicating that a house in the islands had been purchased for $300,000.

Another witness, Bernard McGuigan, testified before Judge Page that he had met respondent approximately fifteen months earlier at a tax seminar; that respondent had represented him in a family matter; that respondent mentioned the subject of going to the Cayman Islands, stating that he had to get away from the local judges; that respondent asked how fast McGuigan could sell respondent's Medford house and Haddonfield office building;[2] that respondent told him that he had a court appearance scheduled for

---

[2] Presumably, McGuigan was a realtor.

August 10 and had to resolve all issues before that date; that the closing for the office building was moved from August 14 to July 31, 1995; and that he had heard respondent tell others of his plan to move to the Cayman Islands. In a certification filed with Judge Page, McGuigan stated that

> [respondent] asked me repeatedly to consider going to the Caymans with him. He said we could make a lot of money and no Court could reach us. He showed me his files on the Federal law and the cases which he said gave him authority for removing the children from the United States. As he said, he could move to the Caymans and establish residency there before his ex-wife would even know where they were. Mr. Jonas told me that he did not think very highly of the current judge on his case so he was liquidating everything, taking the boys, and skipping to the Caymans.
>
> [Ex.J-19 at 14.]

Respondent's former secretary, Patricia D'Alessio, testified at the order to show cause hearing that she had made travel arrangements to Grand Cayman for respondent and that on June 27, 1995, she sent documents, including a sales contract for his office building, to respondent in Grand Cayman.

Gregory Noonan testified before Judge Page that, on July 1, 1995, he leased office space from respondent and that, in August 1995, he and respondent formed a professional corporation.

Noonan testified that, a day or two after the August 10, 1995 order to show cause had been entered, he was present at a meeting in which the sale of the 7-Eleven was discussed. According to Noonan, respondent thought the price offered was too low; further, at the beginning of August, respondent had told him that he was going to the Cayman Islands.

During the hearing before Judge Page, respondent's attorney advised the court that respondent was willing to return the boys, that they did not like the school in which respondent had enrolled them, and that, although respondent would not be returning to New Jersey, he wanted to retain custody of the children and demanded that his arrest warrant, as well as several lis pendens that had been recorded on his properties, be vacated.

On September 21, 1995, Judge Page found that respondent had violated the August 10, 1995 order by removing two of the parties' children from the jurisdiction of the court. He transferred custody of all three children to Linda, issued a bench warrant for respondent's arrest, continued the temporary restraints entered on August 10, 1995, ordered respondent's passport and the children's passports surrendered to the court, and authorized Linda to enter respondent's home to investigate

and inventory the contents, as well as respondent's storage facility in Portersville, Pennsylvania.

On September 25, 1995, the parties' two children returned to New Jersey from the Cayman Island. Pursuant to Judge Page's September 21, 1995 order transferring custody, they went to reside with Linda, in Haddonfield. Respondent never appeared at the final hearing on the order to show cause. He returned to the United States in late October, appearing before Judge Page on October 25, 1995.

On October 25 1995, Judge Page ordered respondent to deliver $120,000 to Gold, Linda's attorney, to be held in escrow as security for alimony and child support; to pay Gold counsel fees of $9,250, as had been previously ordered; to pay $6,000 to bring his alimony payments current; to surrender his and the children's passports to Gold; to execute deeds transferring his interest in the Medford and Florida homes and the 7-Eleven to Linda, the deeds to be held in escrow and not recorded; to provide discovery concerning his assets, whether located in the United States or foreign countries; to sign releases to permit Linda to obtain information from banks, both foreign and domestic; and to refrain from contacting the parties' children, except by telephone, as provided by a prior order. The court further directed that, upon

respondent's failure to comply with certain provisions of the order, a warrant for his arrest would be issued.

Although respondent signed the banking releases, he added the words "under duress," thus rendering them ineffective. Upon respondent's failure to comply with the terms of the order, on October 27, 1995, Judge Page issued an order for respondent's arrest and a second order prohibiting him from contacting the two youngest children. Respondent was arrested on November 1, 1995, and was released on November 6, 1995, after posting a cash bond, signing deeds to his properties, and paying alimony arrearages and counsel fees.

On November 17, 1995, Judge Page entered an order requiring respondent to pay child support of $2,000 per month, effective September 21, 1995, when custody was transferred to Linda; to pay the support through the probation division; to continue to pay alimony of $2,000 per month; to provide Gold with $130,000, plus any additional amount required to pay off the mortgage on the Medford property; and to replenish the oldest son's Merrill Lynch account. The order provided that "child support and alimony are current obligations of [respondent] and are not to be paid from the funds held in escrow by counsel for [Linda]." Finally, the order cautioned respondent that failure to comply

with certain provisions would result in the issuance of a warrant for his arrest.

On November 29, 1995, upon respondent's failure to comply with the November 17, 1995 order, Judge Page issued a second warrant for his arrest. As of the date of the ethics hearing, that warrant had not been executed and remained valid. At some point, respondent moved to Florida, where he continued to reside as of the date of the ethics hearing.

After respondent signed the documents for the release of financial information, as ordered by the court, Judge Page learned that respondent maintained $438,000 on deposit in a Cayman Islands bank, and that, after the entry of the August 10, 1995 order restraining him from disposing of assets in excess of $15,000, respondent had obtained the $130,000 mortgage on the Medford property and had transferred those funds to the Cayman Islands.

In his January 2, 1996 opinion following the hearing on the order to show cause, Judge Page made the following findings:

> From the evidence presented it is clear that Edwin has had for several years and continues to have a plan to defeat the payment of alimony to Linda and interfere with the visitation of the children with their mother by removing himself, his assets, and the children from the

jurisdiction of this court to the Cayman Islands . . . . In direct violation of the court Order of August 10, 1995, he removed the children from the United States to the Cayman Islands. He enrolled the children in a "new school" in the Caymans . . . . At this time he continues his efforts to dispose, encumber or otherwise alienate all of his remaining properties or items of value.

It is also clear that Edwin has been and continues to be in direct violation of numerous court orders, including but not limited to, the Orders of the court of August 10, September 21, and November 17. He has acted in bad faith and committed, and continues to commit a fraud upon the court, judicial process and his ex-wife Linda. He has abused and misused the very legal system that has fostered his success as an attorney. In this respect, Edwin has intentionally misrepresented relevant facts in presentations before this court, as well as engaged in actions in direct defiance of these Orders. Specifically, he lied to the court about his negotiations to sell the Cherry Hill 7-11 business property and move the children out of the United States. His deception and scheme to ignore the court Orders is ongoing and continued while these very proceedings were in progress with his mortgage of the Medford property for an additional $130,000 and removal of those funds to the Cayman Islands.

[Ex.J-19 at 23 to 24.]

He has resisted all efforts at full and accurate discovery of the location of his assets. On August 10, 1995 in court and in his certification of August 18, 1995 Edwin intentionally misrepresented the facts

> surrounding his financial dealing and his taking the children to the Cayman Islands to avoid the legal consequences of his behavior.
>
> [Ex.J-19 at 27.]

Judge Page imposed a constructive trust on respondent's homes in Medford and Florida and on the 7-Eleven store in Cherry Hill; named Linda as the trustee authorized to sell, liquidate, or dispose of the properties; and directed that funds generated from the properties be deposited in her attorney's trust account and used to pay past-due obligations and to ensure compliance with future support obligations.

On January 12, 1996, Judge Page entered an order maintaining custody of the children with Linda; permitting Linda to record the deeds transferring the Medford, Cherry Hill, and Florida properties to her; authorizing Linda to dispose of the properties to ensure payment of alimony and child support; allowing Linda to withdraw necessary sums for support, medical reimbursement, attorney's fees, and other obligations of respondent; requiring respondent to maintain life insurance policies for the benefit of the children, and awarding Linda counsel fees, as well as travel and investigative costs, including travel to the Cayman Islands and western Pennsylvania.

On August 29, 1996, following another motion to enforce litigant's rights filed by Linda, Judge Page entered an order finding respondent in violation of the August 10, 1995 order. Although that order had prohibited respondent from disposing of his assets, on August 28, 1995, only eighteen days after the entry of the order, respondent had signed a quitclaim deed for the 7-Eleven to his sister and to his friend, Edward Daniels, in trust for the parties' three children. Judge Page set aside that transfer, confirming that Linda held good title in accordance with a recorded deed conveying the property to her.

Judge Page signed a subsequent order, on October 22, 1996, in connection with Linda's motion to enforce litigant's rights. He entered judgments against respondent for $19,000 for alimony arrears, $22,666.66 for child support arrears, $8,754 for respondent's share of the education expenses of the parties' oldest son, and $2,151.72 for counsel fees. Judge Page confirmed that respondent's alimony and child support payments were current obligations and were not to be deferred by payment from the escrow account.

On December 19, 1997, the Appellate Division affirmed Judge Page's orders, denying in full respondent's challenge to various

provisions of those orders. In its decision, the Appellate Division found that

> Judge Page asked defendant if he had any intention of taking the children out of the country during that time and the defendant stated that he did not. Defendant, of course, misrepresented his plans to the court. As later evidence would show, plaintiff's fears were clearly justified as was Judge Page's ruling.
>
> [Ex.J-29 at 21.]

Although respondent filed a notice of petition for certification with the Supreme Court on April 2, 1998, the petition was untimely and was subsequently dismissed for lack of prosecution.

On August 29, 1996, while the appeal was pending, Judge Page denied respondent's requests for custody of the two youngest children, an accounting from Linda, discharge of the arrest warrant, and other relief. Although respondent failed to appear at this hearing, he asked for such relief through counsel.

On May 19, 1999, Judge Page entered an order denying without prejudice respondent's request that Linda provide an accounting of the funds held pursuant to the constructive trust, noting that, if respondent returned to New Jersey and appeared before the court, the court might order the accounting.

At the ethics hearing, Gold testified that an initial deposit of about $120,000 was made into her trust account, pursuant to the constructive trust imposed by Judge Page, and that, after about five months, those funds were depleted, having been distributed in accordance with the court orders. She stated that, although no additional deposits were made to her trust account, funds from the sale of respondent's properties were placed in trust in an American Express investment account of which Linda was the trustee.

Over the OAE's objection, prior to the hearing, the special master permitted a subpoena duces tecum of Gold's records, ordering that they be produced in camera at the ethics hearing. After Gold testified, respondent's counsel asked if he could review Gold's records or if the special master would review the records in camera. The special master denied those requests, finding that respondent was trying to obtain an accounting via the disciplinary system, when he had been denied an accounting by the Family Division. Moreover, the special master determined that the records were not relevant to the disciplinary proceeding:

> [O]bviously, your client is very focused on getting an accounting, and made that application to Judge Page one or more times

> and Judge Page said your hands are not clean, come back and purge yourself of your [contempt] and we'll give you an accounting. The appellate division confirmed that and said the same thing when you come back and comply with Judge Page's orders, you'll be entitled to an accounting. It seems to me what you are asking for or what he's focused on here is getting an accounting. But what we have to focus on here is what and how -- in what fashion and how does this help in defending the allegations that are here today.
>
> (2T71-11 to 2T71-23.)[3]

As mentioned above, Linda alleged at the show cause hearing that respondent had negotiated with Loscalzo for the sale of the 7-Eleven property, prompting respondent's denial that the property was on the market. Loscalzo testified at the ethics hearing that, during the first half of July 1995 (one month before the show cause hearing), he met with respondent to discuss refinancing options and that respondent immediately asked whether he was interested in buying the property. According to Loscalzo, respondent initiated the discussion about selling the 7-Eleven. Respondent began contacting Loscalzo's office on a daily basis, reducing the asking price from $350,000 to $315,000, and eventually to $300,000. Loscalzo determined to

---

[3] 2T refers to the January 14, 2005 hearing before the special master.

cease negotiations with respondent because (1) he learned that respondent did not own the property, but leased it from the Southland Group;[4] (2) respondent called Loscalzo's office on a daily basis, becoming abusive with Loscalzo's office manager; and (3) Loscalzo performed a title search and learned from Judge Page, on August 9, 1995, that there were various liens and encumbrances against the 7-Eleven property.

In contrast to Loscalzo's testimony, Brian Keil, Loscalzo's former employee, testified that he attended two meetings between respondent and Loscalzo, and that the sale or refinancing of the 7-Eleven was never discussed. Keil denied that respondent contacted the office daily or that any employee complained about respondent's conduct. Keil expressed doubt that Loscalzo could have assisted respondent with either buying or refinancing the property, asserting that Loscalzo had neither the resources nor the contacts to arrange the financing for that transaction. According to Keil, Loscalzo's business was failing, his employees (including Keil) had not been receiving their paychecks, and Loscalzo was mentally unstable.

---

[4] Loscalzo erred in concluding that respondent was not the owner of the 7-Eleven.

As discussed above, respondent's friend, Edward Daniels, drove respondent and his children to the airport when they went to the Cayman Islands on September 15, 1995. Daniels, a school psychologist, met respondent in 1981, when respondent was legal counsel for a school that Daniels operated. The two developed a long-term friendship. Respondent had asked Daniels to drive respondent and his two sons to the Baltimore Washington Airport, stating that he was taking them to his sister, in Pittsburgh.

At the ethics hearing, Daniels testified that, on the way to the airport, respondent expressed frustration with the court proceedings, announced that he needed to leave, and asked the children if they wanted to accompany him or go to Pittsburgh with Daniels. Daniels asserted that the boys chose to go with respondent. It was Daniels' impression that respondent allowed the children to decide on the way to the airport whether they wished to accompany respondent.

Daniels claimed that, during the trip to the airport, he was not aware that respondent had been ordered not to remove the children from the country or that he had been restrained from transferring property, when he signed a quitclaim deed conveying to Daniels his interest in the 7-Eleven. Respondent appeared to withhold information about the trip to the airport to protect

Daniels from potential legal implications, leading Daniels to believe that they were going to Pittsburgh and revealing the destination only after they were en route to the airport.

On the two days after Daniels took respondent and his sons to the airport, Daniels met Carolyn Jonas, respondent's wife at that time, and John Sutter, a moving company representative, at respondent's Medford property. Daniels assisted Carolyn in moving various items to the Pittsburgh area where respondent's sister lived.

Lawrence Engrissei, an attorney, testified that he met respondent about twenty years earlier when they were adversaries in a medical malpractice action, that they developed a friendship over the years, that he leased office space from respondent in 1989 and 1990, and that, from November or December 1989 to March or April 1990, respondent and his sons lived with Engrissei and his two sons, during respondent's marital separation. According to Engrissei, respondent and Linda spent almost $750,000 on attorney fees in connection with their matrimonial litigation. Engrissei asserted that, both before and after respondent's divorce, respondent repeatedly complained about Linda's numerous applications to the court for additional alimony and child support. Engrissei was outraged when he

learned that Judge Page had imposed a constructive trust in Linda's favor:

> I never did a lot of matrimonial practice in my life, but I did a fair amount, and from the manner in which this attorney was persecuted by [judges] he had practiced in front of for years, I had never witnessed before, and it disgusted me as an attorney and member of the bar. I stopped going to bar functions. I stopped just talking to Judge Page because of his conduct. Judge Segal and I had an issue years ago, so he and I were not friends from the outset, but the conduct of Judge Page and some of the lawyers in this vindictive vendetta, like, you know, taking this man apart piece by piece, attacking him in every fashion possible, so he couldn't practice law. I mean, they did everything to beat him down that they could. And no one was going to his aid. And I, because I was working for a company that doesn't let you do outside practice, couldn't help him. And I felt vary [sic] helpless for someone who I respected as a person and as an attorney.
>
> (1T197-3 to 22.)[5]

Engrissei commented that Judge Page's order naming Linda's attorney as trustee was equivalent to putting "the fox in charge of the chicken coop." He complained that respondent never received an accounting for the funds in trust and that Linda vindictively refused to apply the funds to respondent's support

---

[5] 1T refers to the January 13, 2005 hearing before the special master.

obligations, but obtained arrearage orders and judgments in an effort to affect his ability to practice law.

Because respondent claimed that the OAE had not timely processed the grievance, OAE investigator Denise Gamble was called to testify about the procedural history of this matter. The grievance was filed on January 9, 1996. Gamble testified that the grievance was placed on "untriable status" from 1996 until the end of 1999 because of the matrimonial litigation. The formal ethics complaint was filed on September 5, 2003.

Although respondent was barred from testifying or submitting a statement in any form at the ethics hearing, he introduced into evidence a report and an addendum from his psychiatrist that had been submitted in the matrimonial litigation. According to Dr. N. Frank Riccioli:

> Mr. Jonas' flight to the Cayman Islands was an impulsive act in which he left all of his real property assets in an effort to find relief from the continuous stressful situation to which he had been subjected. It was this impulsive decision he made to keep himself from falling apart psychologically.
>
> [Ex.J-15,Att.A.]

Respondent, thus, argued that his trip to the Cayman Islands with his sons was an impulsive act in response to his

perception that he was not receiving fair treatment from the courts in New Jersey.

Moreover, in his brief filed with the special master, respondent contended:

> Further, Jonas' removal of the children for a period of four days was done perhaps mistakenly, but with the best intentions for the children in mind. Jonas was going to the Grand Cayman Islands and the children were threatening to run away again. The choice at the time seemed to Jonas to be children wandering the streets or be with him in the Grand Caymans. When the September 21st, 1995 Order was entered, Jonas, though beyond the jurisdiction of its enforcement had the children back with Linda within four days.
>
> [Rb6.][6]

Respondent further argued that his representation to Judge Page, on August 10, 1995, that the 7-Eleven was not on the market was true. He also contended that, although the OAE alleged that he violated court orders by failing to pay alimony and child support, he satisfied those obligations when Judge Page imposed a constructive trust on his assets, permitting Linda to use those funds for support.

---

[6] Rb refers to respondent's March 14, 2005 brief to the special master.

In his answer to the formal ethics complaint, respondent alleged that Judge Page had accepted bribes from attorneys and that Judge Page, Nancy Gold, and Linda Jonas were engaged in a "criminal enterprise." At the ethics hearing, however, respondent failed to produce any evidence in support of these very serious allegations.

The OAE urged the special master to recommend that respondent be suspended for one year and that the suspension begin only after respondent submits himself to the jurisdiction of the Family Division in New Jersey and complies with the orders of that court. Respondent, in turn, argued that the complaint should be dismissed, based on the merits, as well as the grounds of laches/failure to prosecute, lack of specificity in the complaint, and failure to allow him to testify.

The special master found that respondent violated RPC 3.5(c), stating that it "is difficult to imagine more disruptive conduct on the part of a lawyer than repeatedly, directly, intentionally, deliberately, and defiantly violating and/or subverting the orders of a court." The special master concluded that respondent removed his sons to the Cayman Islands with knowledge that the August 10, 1995 order prohibited him from doing so. Similarly, the special master found that respondent

intended to disrupt a tribunal when, on August 28, 1995, only eighteen days after the August 10, 1995 show cause order, he executed a deed for the 7-Eleven property to his sister and Daniels as trustees for his sons.

Moreover, the special master determined that respondent disrupted a tribunal in the following respects, noting that the list was not exhaustive, but was illustrative of respondent's conduct:

1. Respondent obtained a mortgage of $130,000 on his Medford property and transferred the funds to the Cayman Islands, in violation of the order prohibiting the removal from the United States of funds or assets in excess of $15,000;

2. When respondent signed documents in court, he inscribed the words "under duress," resulting in his incarceration until he properly executed the documents;

3. Respondent failed to make any current payment of alimony or child support, notwithstanding that the court order provided that the trust was to assure future compliance and did not relieve him of the obligation to keep his support payments current;

4. Respondent failed to replenish the $130,000 mortgage that he wrongfully obtained against the Medford property, in violation of the November 17, 1995 order; and

5. A warrant for respondent's arrest remains outstanding because he continues to be in violation of the court's orders.

The special master summarized respondent's contemptuous conduct:

> He has exhibited a clear and ongoing contempt for the court's orders, choosing, rather than compliance, to engage in a course of expensive and disruptive "guerilla warfare" against the court, resulting in disruption of the court, unnecessary litigation, and, not least, disruption of his own life as well as those of his former wife and that of his children.
>
> [Special Master's Report at 27.]

The special master further determined that the above misconduct was also prejudicial to the administration of justice, a violation of RPC 8.4(d). According to the special master, respondent was aware that Judge Page's August 10, 1995 show cause order was designed to preserve the status quo, pending a plenary hearing on Linda's allegation that respondent planned to remove the parties' children and his assets from the country, and, therefore, respondent's multiple violations of the show cause order were prejudicial to the administration of

justice. The special master found that respondent's misconduct was unethical, whether it resulted from a preconceived plan, as Linda contended, or an impulse, as respondent claimed.

According to the special master, as to whether respondent violated RPC 3.3 and RPC 8.4(c), the critical issue was whether, when respondent made statements in court on August 10, 1995 and in his August 18, 1995 certification, he knew at the time that those statements were false. The special master found that the evidence did not clearly and convincingly establish that respondent "formulate[d] his intention to expatriate the children with him to the Cayman Islands or to engage in subversion of the court's orders [before] the critical date of August 18."

Although the special master acknowledged Judge Page's finding that respondent had made misrepresentations to the court, the special master pointed out that he was not bound by Judge Page's ruling because the quantum of proof in a disciplinary action is higher than in a civil proceeding; that it was not clear whether that issue was actually litigated before Judge Page or was even necessary to any action taken by Judge Page; and that the evidence in the disciplinary hearing differed substantially from the evidence before Judge Page. The

special master noted, in particular, that, Judge Page relied, in part, on a certification filed by Loscalzo, while the special master had the benefit of testimony not only from Loscalzo, whom he found incredible, but also Keil, who impeached Loscalzo's testimony. The special master, thus, did not find clear and convincing evidence that respondent lacked candor or made misrepresentations to the court.

The special master recommended that respondent be suspended for five months and that, before he may seek reinstatement, he demonstrate proof of fitness to practice law.

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

It is clear beyond question that respondent continuously and flagrantly violated multiple orders entered by Judge Page. The August 10, 1995 order prohibited him from removing the parties' children from a five-state area and from disposing of, transferring, or removing from the country assets or funds in excess of $15,000. Yet, merely eighteen days later, respondent executed a quitclaim deed transferring his interest in the 7-Eleven property to his sister and Daniels in trust for his children. On September 15, 1995, three days before the return

date of the show cause order, respondent absconded with two of the parties' children to the Cayman Islands. At some point, respondent obtained a mortgage for $130,000 on his Medford house and deposited those funds in a bank account in the Cayman Islands. Thus, in a matter of weeks, respondent violated every provision of the show cause order.

Respondent's defenses to the charge that he violated court orders were devoid of merit. Although he asserted that he had removed the children for only four days, they were in the Cayman Islands for ten days, from September 15 through September 25, 1995. Respondent returned the children four days after he was ordered to do so, but they were out of the country for ten days. Respondent's claim that his only choices were to permit his children to "wander the streets," because they threatened to run away, or to take them with him, was disingenuous. First, there was no evidence that the children had threatened to "run away." Second, respondent's position was that his removal of the children to the Cayman Islands was impulsive. Presumably, then, he had not purchased airline tickets for them or made any other arrangements for their accompanying him. If, as he claims, the children declared on the way to the airport that they would not reside with Linda, respondent should have simply canceled his

plan to go to the Cayman Islands and returned with the children to his home in Medford. At that time, he was still the custodial parent.

Similarly, we reject respondent's argument that he was current in his support obligations by virtue of the constructive trust. Judge Page entered orders on November 17, 1995 and October 22, 1996, specifying that the trust was designed to secure respondent's future compliance with his support obligations and did not relieve him of the duty to make current support payments.

Respondent never addressed the allegation that he violated the August 10, 1995 order by executing a quitclaim deed for the 7-Eleven property.

We, thus, find that respondent engaged in conduct intended to disrupt a tribunal and prejudicial to the administration of justice, violations of RPC 3.5(c) and RPC 8.4(d), by repeatedly failing to comply with court orders.

The more substantial issue presented in this matter is whether respondent made misrepresentations to Judge Page. As the special master observed, the resolution of that issue hinges on whether respondent knew that his statements were false at the time that he made them. Respondent's removal of the children

from the country, on September 15, 1995, does not clearly and convincingly establish that he had those plans in August, when he denied to the court any such intentions. Moreover, although there was some evidence presented that respondent may have been engaged in negotiations to sell the 7-Eleven property, the record does not demonstrate that the property was "on the market." We agree with the special master that there was not clear and convincing evidence to sustain the charges that respondent made misrepresentations to the court about his plans to remove the children or to sell his property. We, thus, determine to dismiss the charged violations of RPC 3.3 and RPC 8.4(c). We also note that the OAE did not contest the special master's findings in this regard.

In sum, respondent was guilty of conduct intended to disrupt a tribunal, a violation of RPC 3.5(c), and conduct prejudicial to the administration of justice, a violation of RPC 8.4(d).

Disrupting a tribunal and engaging in conduct prejudicial to the administration of justice lead to a broad spectrum of discipline. Admonitions were imposed in In the Matter of Alfred Sanderson, DRB 01-412 (2002) (admonition for attorney who, in the course of representing a client charged with driving while

intoxicated, made discourteous and disrespectful communications to the municipal court judge and to the municipal court administrator) and In the Matter of John J. Novak, DRB 96-094 (1996) (admonition imposed on attorney who engaged in a verbal exchange with a judge's secretary; the attorney stipulated that the exchange involved "loud, verbally aggressive, improper and obnoxious language" on his part).

Attorneys received reprimands in In re Hartman, 142 N.J. 587 (1995) (reprimand imposed where the attorney intentionally and repeatedly ignored court orders to pay opposing counsel a fee and who, in a separate case, engaged in discourteous and abusive conduct toward a judge in an attempt to intimidate the judge into hearing his client's matter that day); In re Stanley, 102 N.J. 244 (1986) (reprimand for attorney who engaged in shouting and other discourteous behavior toward the court in three separate cases; the attorney's "language, constant interruptions, arrogance, retorts to rulings displayed a contumacious lack of respect. It is no excuse that the trial judge may have been in error in his rulings."); and In re Mezzacca, 67 N.J. 387 (1975) (reprimand imposed on attorney who referred to a departmental review committee as a "kangaroo court" and made other discourteous comments).

Three-month suspensions were imposed in In re Supino, 182 N.J. 530 (2005) (three-month suspension imposed on attorney who, in his own child custody dispute, filed nine criminal complaints against his former wife, filed thirty criminal complaints against seven police officers who had responded to the attorney's former wife's calls involving either the custody dispute or the attorney's alleged violation of a restraining order, threatened to file additional criminal complaints against the police, judges, and the municipal court administrator, all in violation of RPC 3.2, RPC 3.4(g), RPC 3.5(c), and RPC 8.4(d); the attorney testified that he had developed alcohol problems and had been diagnosed with bipolar disorder); In re Hall, 169 N.J. 347 (2001) (attorney suspended for three months after she was found in contempt by a Superior Court judge for accusing her adversaries of lying, maligning the court, refusing to abide by the court's instructions, suggesting the existence of a conspiracy between the court and her adversaries, and making baseless charges of racism against the court; the attorney also failed to reply to the ethics grievances and, after her temporary suspension, failed to file an affidavit with the Office of Attorney Ethics and continued to maintain a law office); and In re Vincenti, 114 N.J. 275 (1989) (three-month suspension for

attorney who challenged opposing counsel and a witness to fight, used profane, loud, and abusive language toward his adversary and an opposing witness, called a judge's law clerk "incompetent," used a racial innuendo at least once, and called a deputy attorney general a vulgar name).

A one-year suspension was levied against the attorney in In re Maffongelli, 176 N.J. 514 (2003) (attorney displayed a pattern of inability and refusal to follow the court rules, sending the same improper documents to the courts, even after receiving clear instructions not to do so; failed or refused to appear at hearings where his presence was required; showed a woeful lack of familiarity with court rules and practices (for example, he requested entry of default after dismissal of a complaint); refused to observe the dignity of court proceedings (for example, he engaged in a confrontation with a judge's secretary and yelled at his adversary during a motion hearing), refused to accept responsibility for his mistakes, blaming court staff for his problems; and caused the needless waste of many hours of judges' and staff time).

Here, we consider numerous aggravating factors. Respondent demonstrated a pattern of flagrant disregard of numerous court orders entered by Judge Page. When the court entered an order

that was not to respondent's liking, he simply failed to obey it. Even after the Appellate Division affirmed those orders, respondent continued to ignore them. All litigants are required to comply with judicial orders. A lawyer who wilfully and repeatedly disregards court orders brings dishonor to the bar and diminishes the confidence of the public in attorneys.

Respondent also made demands of the court, while, at the same time, he failed to abide by court orders. For example, after he improperly removed the parties' children to the Cayman Islands, he asked (through counsel, as respondent remained out of the country) to be permitted to retain custody of the children and demanded that the arrest warrant be vacated. Respondent's hubris was boundless.

Similarly, in the disciplinary proceeding, respondent made several requests for the special master to accommodate his desire to participate in the hearing, while, at the same time, he sought to avoid a return to New Jersey because of the outstanding bench warrant. Respondent asked the special master to conduct the hearing outside of New Jersey, or to permit respondent to "appear" by telephone or video conference. The special master appropriately denied these requests, finding that

to accede to them would countenance and facilitate a civil contempt.

Respondent's flagrant disregard for court orders increasingly taxed judicial resources. With respondent's failure to comply with successive orders, Judge Page awarded Linda progressive relief. For example, on August 10, 1995, Judge Page restrained respondent from disposing of, transferring, or removing assets or funds of more than $15,000 from the United States. Upon respondent's violation of that order, Judge Page, on October 25, 1995, ordered respondent to deliver executed deeds to Linda's attorney to be held in escrow and not to be recorded. In subsequent orders, Judge Page imposed a constructive trust on respondent's properties, permitted Linda to record the deeds, and set aside the quitclaim deed for the 7-Eleven that respondent had improperly executed. The above represents only a small sample of the mayhem that respondent caused in the Camden County Family Division, all of which could have been avoided by respondent's compliance with Judge Page's orders.

The special master noted that Linda suffered no financial harm, observing that she was able to obtain funds from the trust to satisfy both respondent's support obligations and her legal

fees. Linda surely suffered emotional harm, however, upon respondent's removal of the parties' children to the Cayman Islands. Although the disciplinary system is not the proper forum to address the effects of respondent's conduct in this regard, we consider harm to the grievant as an aggravating factor in assessing the appropriate quantum of discipline.

Respondent exhibited no remorse or contrition for his misconduct and failed to acknowledge that he engaged in any wrongdoing.

Mitigating factors include respondent's previously unblemished legal career, the confinement of his misconduct to his own matrimonial litigation, and the passage of time (ten years) since respondent's misconduct occurred.

Based on the foregoing, four members determined that a six-month suspension is warranted. Chair Mary Maudsley and Member Ruth Lolla voted for a one-year suspension, finding as aggravating factors respondent's failure to appear at the hearing before the special master and the spurious allegations about Judge Page, respondent's former wife, and her attorney contained in respondent's answer to the formal ethics complaint. The OAE suggested that respondent should not be reinstated until he submits to the jurisdiction of the Family Division and complies

with the orders of that court. We decline to impose those conditions, finding that they are outside of the realm of the disciplinary system. Members Robert Holmes, Esq., Louis Pashman, Esq., and Reginald Stanton, Esq. did not participate.

We further require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

Disciplinary Review Board
Mary J. Maudsley, Chair

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

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Edwin R. Jonas
Docket No. DRB 05-170

Argued: July 21, 2005

Decided: September 2, 2005

Disposition: Six-month suspension

Members	Six-month Suspension	One-year Suspension	Dismiss	Disqualified	Did not participate
Maudsley		X			
O'Shaughnessy	X				
Boylan	X				
Holmes					X
Lolla		X			
Neuwirth	X				
Pashman					X
Stanton					X
Wissinger	X				
Total:	4	2			3

Julianne K. DeCore
Julianne K. DeCore
Chief Counsel