SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 18-182
District Docket No. XIV-2015-0306E

In The Matter Of

William M. Laufer

An Attorney At Law

Decision

Argued: July 19, 2018

Decided: November 27, 2018

Al Garcia appeared on behalf of the Office of Attorney Ethics.

Lawrence P. Cohen appeared on behalf of respondent.

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

This matter was before us on a recommendation for an admonition filed by the District XA Ethics Committee (DEC). We determined to treat the matter as a recommendation for greater discipline, in accordance with R. 1:20-15(f)(4). The formal ethics complaint charged respondent with violating RPC

8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation), RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice), and RPC 8.4(e) (stating or implying an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law).

The Office of Attorney Ethics (OAE) recommends a censure or a short-term suspension. Respondent contends that he committed no misconduct, and, therefore, discipline is not warranted. For the reasons set forth below, we determine to impose a censure.

Respondent earned admission to the New Jersey bar in 1974 and to the Florida bar in 1973. During the relevant time frame, he was a partner in the law firm of Laufer, Dalena, Cadicina, Jensen & Boyd, LLC, in Morristown, New Jersey. He has no prior discipline.

From 1990 through 2007, during various stretches of their respective legal careers, respondent and Frederic M. Knapp were partners in the same law firms. Despite their professional relationships, respondent and Knapp did not socialize with one another, and considered each other neither friends nor enemies. In 2007, the most recent iteration of their law partnership was dissolved, when Knapp left to start his own firm. Approximately five years later, in December 2012, Knapp was appointed as the acting Morris County

Prosecutor. After serving in that capacity for eighteen months, he was formally confirmed in that position, and serves to date.

In 2012, respondent began representing L.I. in divorce and domestic violence proceedings against her husband, T.I., while simultaneously defending her against a claim of domestic violence made by T.I.[1] On December 1, 2014, the parties appeared before the Honorable Louis S. Sceusi, J.S.C., in the Superior Court of New Jersey, Morris County, for a domestic violence hearing. Angelo Sarno represented T.I. at that hearing.

During the ethics hearing, respondent described the litigation between L.I. and T.I. as "the most highly contested divorce case I've ever had in 43 years." Similarly, Sarno described the litigation between L.I. and T.I. as "very contested, very litigated, very heated," and agreed with respondent's ethics counsel's description of it as the "divorce case from hell." Respondent recounted that T.I. had "gone through" five or six different lawyers and had sued most of them; had sued respondent, his wife, his law partners, and their spouses; had filed lawsuits against the judges presiding over the case; and had filed ethics charges against every expert involved in the case. According to respondent, T.I. also had filed lawsuits in federal court against members of

[1] Neither party alleged acts of physical violence against the other in respect of their marriage or separation. Rather, the domestic violence related to allegations of prohibited contact and proximity to each other, in violation of temporary restraining orders each had obtained against the other.

respondent's firm and Superior Court judges, seeking billions of dollars in damages. Respondent also claimed that a Superior Court judge had ordered T.I. to undergo a psychiatric evaluation, but that T.I. had refused to comply.

On December 1, 2014, during the course of the domestic violence proceedings, respondent argued that video evidence that T.I. sought to admit to undermine L.I.'s case had been illegally obtained, and, further, constituted evidence that T.I. had committed criminal invasion of privacy in respect of L.I. and their children. T.I. had obtained the video evidence by remotely logging onto the marital residence's security system. Consequently, respondent requested that Judge Sceusi refer the matter to the Morris County Prosecutor's Office for an investigation and the potential filing of criminal charges against T.I. Agreeing that a referral of the matter was appropriate, Judge Sceusi ordered a brief recess, and proceeded to contact the Morris County Prosecutor's Office.

During the court recess, while sitting in the courtroom, respondent and Sarno engaged in the following exchange, which the CourtSmart audio system recorded (the "recorded exchange"):

Respondent:	So what's it 2C . . . 2C what? Check that out.
Sarno:	Kay.
Respondent:	In your spare time . . . .

Sarno:	Is the Knapp prosecutor we talked about your former partner?
Respondent:	Oh yeah, he is in my pocket.
Sarno:	Obviously.
Respondent:	He does what I ask he does, 20 years he is my partner.
Sarno:	I just want to make sure I understand?
Respondent:	and he is irrecusable.
Sarno:	So he went he went . . .
Respondent:	He is irrecusable!
Sarno:	So he went from working for a big time law firm.
Respondent:	I got him that job
Sarno:	to the prosecutor's office
Respondent:	I got him that job
Sarno:	It is usually the other way around.
Respondent:	I didn't want him around anymore. He wasn't very productive so I said
Sarno:	inaudible
Respondent:	Why don't you why don't you become the Morris County Prosecutor
Sarno:	Self promoted
Respondent:	Yes

Court: All rise

Court: Thank you, please be seated.

Court: [redacted] you are back on the stand.

Sarno: Judge, as far as that prosecutor issue, I am told Mr. Knapp is the person you mentioned

Court: Yes.

Sarno: That's [respondent's] former partner so I am assuming someone else would be overseeing that kind of stuff.

Respondent: Up to Mr.

Court: Whatever.

Respondent: That is up to Mr. Knapp, I guess.

Court: Mr. Knapp I'm I . . . Mr. Knapp is the County

Sarno: Nothing

Court: Prosecutor

Sarno: I hear ya. Nothing would surprise me in this case.

Court: I don't a, I don't know, um, what the relationship he had with [respondent]

Sarno: Ok.

Court: Um. I will.

Sarno: Laufer, Knapp . . . laughing

Respondent:	That is like five years ago.
Court:	Mr. Knapp will a
Respondent:	Whatever he does, I don't care.
Court:	As I indicated to you, the Court has already contacted . . . inaudible . . . we will see where we're going
Sarno:	No problem.

Based on the testimony of Sarno, as corroborated by the CourtSmart audio of the recorded exchange, both L.I. and T.I. were present at counsel table during the recorded exchange. It is undisputed that respondent's comments made during the recorded exchange were wholly false. Sarno obtained a copy of the CourtSmart recording of the above exchange and, on June 15, 2015, during a continuation of the domestic violence proceedings, T.I. read portions of a transcript of the recorded exchange into the record, asserting that it was evidence in support of his position that he was justifiably afraid of both respondent and L.I.[2] That same date, a local newspaper published an article containing quotes from the recorded exchange.

Sarno testified that he took respondent's comments to be "tongue in cheek" and "sarcastic banter," but stated that the issue caused "a very tense

[2] Sarno's request to authorize the release of the recorded exchange was made to and granted by the then sitting assignment judge in accordance with a judiciary directive.

feeling" for him and his client, given the contemporaneous threat of the criminal prosecution of T.I., combined with the potential conflict situation with Knapp as the County Prosecutor. Sarno testified that T.I. had heard the recorded exchange between Sarno and respondent, which had immediately prompted conversations between Sarno and T.I. regarding respondent's comments. Despite the recorded exchange, Sarno described respondent as "one of the more well-liked and more respected and more competent" family law attorneys in New Jersey.

On March 16, 2015, during an impromptu telephone conversation on an unrelated matter, respondent alerted Knapp of the existence of the recorded exchange. Knapp promptly directed his first assistant to obtain a copy of the recorded exchange, and, ultimately, ordered an internal investigation of his office. Knapp also filed an ethics grievance against respondent. Knapp testified that he had conducted extensive research and had consulted with private counsel prior to filing the ethics grievance. The Morris County Prosecutor's Office also issued a public statement calling respondent's statements made during the recorded exchange "totally and completely false."

Knapp testified that respondent had played no role in his appointment or confirmation as the Morris County Prosecutor, noting that he had left respondent's firm to form his own firm some five years prior to his

appointment to that public office. Knapp further testified that he was "devastated" when he heard the recorded exchange, asserting that respondent's statements "were accusing me of criminal acts, accusing me of official misconduct. And it was reprehensible." Knapp was concerned about the perception of the integrity of his office, and believed that respondent was "attempting to intimidate" someone with his comments on the recorded exchange.

Knapp's wife, Eleanor, testified that, on January 7, 2017, during a social event, respondent approached both her and Knapp. Knapp and respondent shared a "terse hello," and Knapp promptly walked away. Respondent then asked to speak to Eleanor privately, "profusely" apologized multiple times, stated that he had "f----- up," and asked her to "fix things" between respondent and Knapp. Eleanor replied that "the damage that was done may be irreparable and there was really nothing [she] could do." She further testified that respondent attempted to explain the content of the recorded exchange, stating that it was a "very difficult client that . . . they were dealing with . . . and he really wanted to shut him up." On the ride home from the party, Eleanor memorialized part of her conversation with respondent, but stopped writing her notes upon feeling carsick. In the notes, Eleanor referenced respondent's statement regarding the difficult client, but ended the notes without including

the statement regarding wanting to "shut him up." Respondent denies having told Eleanor that he wanted to "shut [T.I.] up."

Respondent testified that "in my forty-three years of practice, [if I could take back] something that I probably said that I shouldn't have said, it would have been [what I said during the recording exchange]." He was adamant, however, that "it was a joke. It was said in jest. It was . . . facetious." Respondent blamed the local newspaper for the ethics grievance filed by Knapp, asserting that if "this had not been in the paper seven months later . . . we would not be here today." Respondent admitted, however, that the comments of the recorded exchange were made while sitting at counsel table, in a courtroom, in the presence of the clients, court staff, and sheriff's officers. Respondent expressed remorse and regret for having made the statements on the recorded exchange.

The DEC determined that the evidence did not support the charge that respondent's comments during the recorded exchange violated RPC 8.4(c). Specifically, the DEC determined that the OAE had failed to prove the required element of intent, noting that, without exception, the parties who testified believed respondent to be joking during the recorded exchange, and that there was no dispute that respondent's statements were false.

The DEC found, however, that respondent violated RPC 8.4(d), determining that no intent is required in respect of this RPC, and that respondent's comments, especially that Knapp was "in his pocket," which were made in the presence of the litigants, undermined the integrity and public confidence in New Jersey's system of justice. Moreover, the DEC emphasized that, although not a prerequisite to a finding of an RPC 8.4(d) violation, respondent's comments during the recorded exchange ultimately had a direct impact on the litigation between L.I. and T.I., and were entered into evidence during the June 15, 2015 domestic violence proceedings.

Finally, the DEC found that respondent violated RPC 8.4(e). The DEC determined that intent was not a necessary element in respect of this RPC, and that respondent's comments, on their face, stated an ability to improperly influence a government official – in this case, Knapp, the Morris County Prosecutor. The DEC emphasized that the recorded exchange occurred in a courtroom, while respondent was sitting at counsel table, during a court recess, immediately after he had accused T.I. of the commission of a crime and had convinced the court to refer T.I.'s conduct to the Morris County Prosecutor's Office, which was headed by Knapp.

In mitigation, the DEC considered that respondent had no disciplinary history in forty-three years at the bar; did not act with intent in respect of the

recorded exchange and never took any action to attempt to influence Knapp; made his comments "in the context of an extraordinarily contentious" matter; expressed remorse for his statements; and enjoyed a reputation for "good character and extensive contributions to the community," including his service as president of D.A.R.E., president of the Morris County Bar Association, founding member of the Morris County Bar Foundation, and board member of both the New Jersey Special Olympics Committee and the Goryeb Children's Hospital.

After reviewing precedent that the OAE cited in urging the imposition of either a censure or a short-term suspension, and considering the above mitigation and the absence of aggravating factors, the DEC unanimously recommended that respondent receive an admonition.

Following a de novo review, we are satisfied that the record clearly and convincingly establishes that respondent was guilty of unethical conduct. Specifically, we determine that he violated RPC 8.4(d) and RPC 8.4(e). We further determine to dismiss the allegation that respondent violated RPC 8.4(c), given the lack of evidence in the record to support a finding of dishonest intent by respondent. It is well-settled that a violation of RPC 8.4(c) requires such intent. See, e.g., In the Matter of Ty Hyderally, DRB 11-016 (July 12, 2011) (case dismissed for lack of clear and convincing evidence that

the attorney had knowingly violated R. 1:39-6(b), which prohibits the improper use of the New Jersey Board of Attorney Certification emblem; the attorney's website, which was created by a nonlawyer who wanted it to look "attractive and appealing," contained the emblem, even though the attorney was not a certified civil trial lawyer; the attorney was unaware of the emblem's placement on the website and, upon being told of its presence, immediately removed it; the emblem was not on his letterhead or business cards, and he did not tell anyone that he was a certified civil trial attorney); In re Uffelman, 200 N.J. 260 (2009) (noting that a misrepresentation is always intentional "and does not occur simply because an attorney is mistaken or his statement is later proved false, due to changed circumstances;" the RPC 8.4(c) charge against the attorney was dismissed because his unmet assurances to the client that he was working on various aspects of the case were the result of gross neglect rather than dishonest conduct; reprimand for gross neglect, lack of diligence, and failure to communicate with the client); and In the Matter of Karen E. Ruchalski, DRB 06-062 (June 26, 2006) (case remanded where the attorney did not know that her statements in reply to a grievance were inaccurate but, nevertheless, stipulated that she had made misrepresentations; the attorney had not intended to make the misrepresentations and did not stipulate intent).

Because the record before us does not contain clear and convincing evidence that respondent intended to make a misrepresentation, to deceive anyone, including T.I., or to lead anyone to believe that his statements regarding Knapp were true, we cannot find that he violated RPC 8.4(c). To the contrary, the overwhelming evidence is that respondent engaged in reckless banter, making wholly false statements regarding Knapp. That misconduct is adequately addressed by the RPC 8.4(d) and (e) charges.

We first consider the relevant evidence and circumstances underpinning the RPC 8.4(e) allegation. During extremely contentious domestic violence proceedings, which were part of what respondent described as "the most highly contested divorce case I've ever had in 43 years," and after having been personally sued by T.I., respondent accused T.I. of having committed a criminal offense, by obtaining security footage of L.I. and their children, to use as evidence against L.I. Respondent, thus, requested that the court refer T.I. to the Morris County Prosecutor's Office for investigation and potential criminal charges. The court promptly took a recess to contact the Morris County Prosecutor's Office.

During that recess, Sarno made a reasonable inquiry as to whether the Morris County Prosecutor – Knapp – was respondent's former law partner, and the recorded exchange unfolded. In reply to Sarno's legitimate question,

respondent stated that Knapp, indeed, was his former partner, that he had gotten Knapp that government position, that he had Knapp "in [his] pocket," and that Knapp was "irrecusable." Respondent made those comments in the presence of L.I., T.I., court staff, and sheriff's officers, while in a courtroom, seated at counsel table. At a minimum, his comments were false and reckless, and a poor attempt at humor. At worst, they were intended to intimidate and "shut up" T.I., given T.I.'s relentless, "scorched earth" approach to the litigation.

Based on the plain language of RPC 8.4(e), which states that "[i]t is professional misconduct for a lawyer to . . . state or imply an ability to influence improperly a government agency or official," it is irrelevant whether respondent's comments were made in jest, made with malice toward T.I., or made for any other reason, because respondent stated that Knapp was "in his pocket" and, thus, that respondent could improperly influence him.

In In the Matter of Kevin J. Daly, DRB 00-386 (September 6, 2001), the attorney was found to have violated RPC 8.4(e) by telling a client that a judge was his friend and would not enforce the daily monetary sanction for the attorney's failure to provide discovery materials to opposing counsel. In In re Sears, 71 N.J. 175 (1976), the attorney was found to have violated DR 9-101(c), the precursor to RPC 8.4(e), by creating the impression that he could

improperly influence a federal judge in connection with a pending Securities and Exchange Commission investigation. The Court opined in respect of that attorney's mens rea, that

> [i]t is irrelevant whether [the attorney] actually makes the attempt [to influence the judge] or accomplishes the objective (citations omitted) . . . . Aside from the obvious appearance of impropriety, such a statement creates an erroneous impression that the attorney occupies a peculiarly advantageous position in his association with the judge or government official.
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> [Id. at 191.]

The scant New Jersey analysis of RPC 8.4(e), and our common-sense reading of the text, supports a plain language interpretation of the Rule, and leads us to conclude that such statements constitute per se unethical conduct. Thus, in our view, respondent's comments, made during the recorded exchange, violated RPC 8.4(e).

Moreover, respondent's conduct was clearly prejudicial to the administration of justice, because it undermined the integrity of, and served to disrupt public confidence in, both the judicial system and the criminal justice system. The recorded exchange occurred in the presence of the litigants, court staff, and sheriff's officers, and suggested corruptive forces could be at play in respect of a potential criminal investigation of T.I. Ultimately, the recorded exchange was published in newspapers and periodicals, causing unnecessary

public scrutiny and controversy over respondent's wholly false statements. In addition, respondent's injurious comments eventually directly affected the underlying litigation and the operation of the Morris County Prosecutor's Office, spawning the public statement from that office, an internal investigation of that office, and unwarranted disruption and wasted resources by that office. Respondent, thus, violated RPC 8.4(d).

The sole issue left for our determination is the proper quantum of discipline for respondent's misconduct. Violations of RPC 8.4(d) come in a variety of forms, and the discipline imposed is typically either a reprimand or a censure, depending on the presence of circumstances such as the existence of other violations, the attorney's ethics history, whether the matter proceeded as a default, the harm to others, and mitigating or aggravating factors.

Reprimands were imposed in the following cases: In re Gellene, 203 N.J. 443 (2010) (attorney found guilty of conduct prejudicial to the administration of justice and knowingly disobeying an obligation under the rules of a tribunal, for failing to appear on the return date of an appellate court's order to show cause and failing to notify the court that he would not appear; the attorney was also guilty of gross neglect, pattern of neglect, lack of diligence, and failure to communicate with clients; mitigating factors included the attorney's financial problems, his battle with depression, and significant family problems; his

ethics history included two private reprimands and an admonition); In re Geller, 177 N.J. 505 (2003) (attorney failed to comply with court orders (at times defiantly) and the disciplinary special master's direction not to contact a judge; the attorney also filed baseless motions accusing judges of bias against him, failed to expedite litigation and to treat with courtesy judges, his adversary, the opposing party, an unrelated litigant, and a court-appointed custody evaluator, used means intended to delay, embarrass or burden third parties, made serious charges against two judges without any reasonable basis, made unprofessional and demeaning remarks toward the other party and opposing counsel, and made a discriminatory remark about a judge; in mitigation, the attorney's conduct occurred in the course of his own child custody case; no prior discipline); and In re Hartmann, 142 N.J. 587 (1995) (attorney intentionally and repeatedly ignored four court orders to pay opposing counsel a fee, resulting in a warrant for the attorney's arrest; the attorney also displayed discourteous and abusive conduct toward a judge with intent to intimidate her; no prior discipline).

Censures were imposed in the following cases: In re D'Arienzo, 207 N.J. 31 (2011) (attorney failed to appear in municipal court for a scheduled criminal trial, and thereafter failed to appear at two orders to show cause stemming from his failure to appear at the trial; by scheduling more than one

matter for the trial date, the attorney inconvenienced the court, the prosecutor, complaining witness, and two defendants; in addition, the failure to provide the court with advance notice of his conflicting calendar prevented the judge from scheduling other cases for that date; prior three-month suspension, two admonitions, and failure to learn from similar mistakes justified a censure); and In re LeBlanc, 188 N.J. 480 (2006) (attorney's misconduct in three client matters included conduct prejudicial to the administration of justice for failure to appear at a fee arbitration hearing, failure to abide by a court order requiring him to produce information, and other ethics violations; mitigation included, among other things, the attorney's recognition and stipulation of his wrongdoing, his belief that his paralegal had handled post-closing steps, and a lack of intent to disregard his obligation to cooperate with ethics authorities; no prior discipline).

Suspensions were imposed where attorneys either had significant ethics histories or were guilty of violating a number of ethics rules, or both. See, e.g., In re DeClemente, 201 N.J. 4 (2010) (three-month suspension for attorney who arranged three loans to a judge in connection with his own business, failed to disclose to opposing counsel his financial relationship with the judge and failed to ask the judge to recuse himself, made multiple misrepresentations to the client, engaged in an improper business transaction with the client, and

engaged in a conflict of interest; no prior discipline); In re Block, 201 N.J. 159 (2010) (six-month suspension where attorney violated a court order that he had drafted by failing to transport his client from prison to a drug treatment facility, instead leaving the client at a church while he made a court appearance in an unrelated case; the client fled and encountered more problems while on the run; the attorney also failed to file the affidavit required by R. 1:20-20; failed to cooperate with disciplinary authorities; failed to provide clients with writings setting forth the basis or rate of the fees; lacked diligence, engaged in gross neglect, and failed to turn over a client's file; prior reprimand and one-year suspension); and In re Bentivegna, 185 N.J. 244 (2005) (motion for reciprocal discipline; two-year suspension for attorney who was guilty of making misrepresentations to an adversary, negotiating a settlement without authority, filing bankruptcy petitions without authority to do so and without notifying her clients, signing clients' names to documents, making misrepresentations in pleadings filed with the court, and violating a bankruptcy rule prohibiting the payment of fees before paying filing fees; the attorney also was guilty of conduct prejudicial to the administration of justice, gross neglect, failure to abide by the client's decision concerning the objectives of the representation, failure to communicate with clients, excessive fee, false

statement of material fact to a tribunal, and misrepresentations; no prior discipline).

As previously noted, disciplinary cases involving violations of RPC 8.4(e) are so rare that there is no direct precedent to consider in crafting the appropriate quantum of discipline in this case.[3] Respondent's misconduct, however, is akin to violations of RPC 3.2 and RPC 8.2(a), which prohibit attorneys from displaying disrespectful or insulting conduct to persons involved in the legal process, and from making statements "that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications of a judge, adjudicatory officer or other public legal officer . . ."

Attorneys who, in violation of RPC 3.2, display disrespectful or insulting conduct to persons involved in the legal process, including clients and judges, are subject to a broad spectrum of discipline, ranging from an admonition to a term of suspension. See, e.g., In re Gahles, 182 N.J. 311

[3] Our legal research regarding the quantum of discipline imposed for violations of RPC 8.4(e) in other model RPC jurisdictions yielded a similar dearth of precedent. One helpful case is In re Reines, 771 F.3d 1326 (Fed. Cir. 2014) (public reprimand imposed on attorney who disseminated to clients and prospective clients a private e-mail from the then-chief judge of the Federal Circuit; the e-mail complimented the attorney's advocacy skills and was found to have suggested a special relationship with the court that would benefit clients; mitigation included the attorney's otherwise unblemished record, substantial public service record, and remorse for his actions).

(2005) (admonition for attorney who, during oral argument on a custody motion, called the other party "crazy," "a con artist," "a fraud," "a person who cries out for assault," and a person who belongs in a "loony bin;" in mitigation, it was considered that the attorney's statements were not made to intimidate the party but, rather, to acquaint the new judge on the case with what the attorney perceived to be the party's outrageous behavior in the course of the litigation); In the Matter of Alfred T. Sanderson, DRB 01-412 (February 11, 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; in a letter to the judge, the attorney wrote: "How fortunate I am to deal with you. I lose a motion I haven't had [sic] made. Frankly, I am sick and tired of your pro-prosecution cant;" the letter continued, "It is not lost on me that in 1996 your little court convicted 41 percent of the persons accused of DWI in Salem County. The explanation for this abnormality should even occur to you."); In re Zieqler, 199 N.J. 123 (2009) (reprimand imposed on attorney who told the wife of a client in a domestic relations matter that she should be "cut up into little pieces . . . put in a box and sent back to India;" and in a letter to his adversary, accused the wife of being an "unmitigated liar" and threatened that he would prove it and have her punished for perjury; the

attorney also threatened his adversary with a "Battle Royale" and ethics charges; mitigating factors included the attorney's otherwise unblemished forty-year ethics history, his recognition that his conduct had been intemperate, and the passage of time – seven years – since the incident had occurred); In re Geller, 177 N.J. 505 (reprimand imposed on attorney who filed baseless motions accusing two judges of bias against him; failed to expedite litigation and to treat judges with courtesy (characterizing one judge's orders as "horse***t," and, in a deposition, referred to two judges as "corrupt" and labeling one of them "short, ugly and insecure"), his adversary ("a thief"), and the opposing party ("a moron," who "lies like a rug"); failed to comply with court orders (at times defiantly) and with the disciplinary special master's direction not to contact a judge; used means intended to delay, embarrass or burden third parties; made serious charges against two judges without any reasonable basis; made a discriminatory remark about a judge; and titled a certification filed with the court "Fraud in Freehold;" in mitigation, the attorney's conduct occurred in the course of his own child-custody case, and the he had an unblemished twenty-two-year career, was held in high regard personally and professionally, and was involved in legal and community activities); In re Supino, 182 N.J. 530 (2005) (attorney suspended for three months after he exhibited rude and intimidating behavior in the course of

litigation and threatened the other party (his ex-wife), court personnel, police officers, and judges; other violations included RPC 3.4(g), RPC 3.5(c), and RPC 8.4(d)); In re Rifai, 204 N.J. 592 (2011) (three-month suspension imposed on an attorney who called a municipal prosecutor an "idiot," among other things; intentionally bumped into an investigating officer during a break in a trial; repeatedly obtained postponements of the trial, once based on a false claim of a motor vehicle accident on the Turnpike; and was "extremely uncooperative and belligerent" with the ethics committee investigator; the attorney had been reprimanded on two prior occasions); In re Stolz, 219 N.J. 123 (2014) (three-month suspension for attorney who made "sarcastic," "wildly inappropriate," and "discriminatory" comments to his adversary; the attorney also lied to the court and to his adversary that he had not received the certification in support of a motion filed by the adversary; aggravating factors were the attorney's lack of early recognition of and regret for his actions; violations of RPC 3.3(a)(1), RPC 3.3(a)(5), RPC 4.1(a), RPC 8.4(a), and RPC 8.4(d); no prior discipline); In re Van Syoc, 216 N.J. 427 (2014) (six-month suspension imposed on attorney who, during a deposition, called opposing counsel "stupid" and a "bush league lawyer;" the attorney also impugned the integrity of the trial judge, by stating that he was in the defense's pocket, a violation of RPC 8.2(a); we found, in aggravation, the attorney's disciplinary

history, which included an admonition and a reprimand; the absence of remorse; and the fact that his misconduct occurred in the presence of his two clients, who, as plaintiffs in the very matter in which their lawyer had accused the judge of being in the pocket of the defense, were at risk of losing confidence in the legal system); and In re Vincenti, 92 N.J. 591 (1983) (one-year suspension for attorney who displayed a pattern of abuse, intimidation, and contempt toward judges, witnesses, opposing counsel, and other attorneys; the attorney engaged in intentional behavior that included insults, vulgar profanities, and physical intimidation consisting of, among other things, poking his finger in another attorney's chest and bumping the attorney with his stomach and then his shoulder).

In the following cases, the attorney's misconduct included violations of RPC 3.2, RPC 8.2(a), and RPC 8.4(d): In re Geller, 177 N.J. at 505; In re Garcia, 195 N.J. 164 (2008) (on motion for reciprocal discipline from Pennsylvania, fifteen-month suspension imposed on attorney who, among other serious improprieties, accused four judges of extreme bias, and filed two frivolous lawsuits; in mitigation, the attorney had no disciplinary history, admitted the misconduct, and expressed remorse for her misdeeds); and In re Shearin, 172 N.J. 560 (2002) (on motion for reciprocal discipline from Delaware, three-year suspension imposed on attorney who, in a lawsuit

involving a property dispute against a rival church, sought the same relief she had previously sought without success in prior lawsuits, knowingly disobeyed a court order expressly enjoining her and her client from interfering with the rival church's use of the property, demonstrated a reckless disregard for the truth when she made disparaging statements about the mental health of a judge, and taxed the resources of two federal courts, many defendants, and many other members of the legal system who were forced to deal with frivolous matters; the attorney had previously received a one-year suspension for similar misconduct).

Here, based on the disciplinary precedent set forth above, we determine that a reprimand is the appropriate quantum of discipline for respondent's violation of RPC 8.4(d). When respondent's particularly egregious violation of RPC 8.4(e) is considered, however, a censure or a three-month suspension is warranted.

Aggravating and mitigating factors must also be considered, however, in crafting the appropriate discipline. We find respondent's comments to be particularly offensive, given the context in which the recorded exchange was made. Specifically, his comments were made during very contentious proceedings, on the heels of having convinced Judge Sceusi to refer T.I. for potential criminal charges; in front of L.I., T.I., court staff, and sheriff's

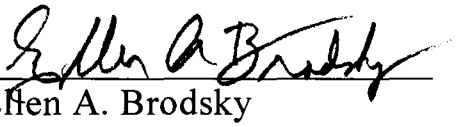
officers, and while in a courtroom, seated at counsel table. Moreover, his comments had a drastic impact on the Morris County Prosecutor's Office, spurring an internal investigation, public denials, and a waste of resources. Finally, the comments beckoned unnecessary public scrutiny, and were weaponized by T.I. and made part of the record in a subsequent court hearing. In counterpoise, we consider compelling mitigating factors. Respondent has no disciplinary history after forty-three years at the bar, has shown genuine remorse, and has enjoyed a well-deserved reputation for character and proficient advocacy.

Thus, on balance, we determine that the appropriate quantum of discipline necessary to protect the public and to deter such future misconduct is a censure.

Chair Frost and Member Hoberman were recused. Vice-Chair Clark and Member Singer voted to impose an admonition, and have filed a separate dissenting decision. Member Boyer 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
Maurice J. Gallipoli, A.J.S.C. (ret.)

By: 
Ellen A. Brodsky
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of William M. Laufer
Docket No. DRB 18-182

Argued: July 19, 2018

Decided: November 27, 2018

Disposition: Censure

Members	Censure	Admonition	Recused	Did Not Participate
Frost			X	
Clark		X		
Boyer				X
Gallipoli	X			
Hoberman			X	
Joseph	X			
Rivera	X			
Singer		X		
Zmirich	X			
Total:	4	2	2	1

Ellen A. Brodsky
Chief Counsel