Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 19-089
District Docket No. XII-2015-0034E

In the Matter of

Seth Asher Nadler

An Attorney at Law

Decision

Argued: May 23, 2019

Decided: November 8, 2019

Karen E. Bezner appeared on behalf of the District XII Ethics Committee.

Lee A. Gronikowski appeared on behalf of respondent.

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

This matter was before us on a recommendation for a censure, filed by the District XII Ethics Committee (DEC), based on respondent's violation of RPC 8.1, presumably (a) (knowingly making a false statement of material fact in connection with a disciplinary matter) and RPC 8.4(c) (conduct involving

dishonesty, fraud, deceit or misrepresentation). For the reasons set forth below, we determine to impose a two-year suspension on respondent for his unethical conduct.

Respondent was admitted to the New Jersey bar in 2014 and to the New York bar in 2015. Presently, he is an associate with Imbesi Law P.C., a New York City law firm. Respondent has no history of discipline in New Jersey or New York.

From 2011 to 2014, respondent attended the University of Minnesota Law School (law school). On May 17, 2014, he graduated with a 3.269 cumulative grade point average (GPA) and received a juris doctor degree. Respondent passed the New Jersey bar examination later that year.

From September 2014 to July 2015, respondent was employed by the Administrative Conference of the United States (ACUS), a small federal agency, located in Washington, D.C. ACUS representative Shawne McGibbon testified that respondent was hired as a GS-9 law clerk and that, after he had passed the bar examination, he was promoted to a GS-11 attorney advisor for a one-year probationary period. However, on the conclusion of the probationary period, his appointment was not extended because the agency required a more senior level attorney. Respondent, thus, resigned, effective July 10, 2015.

Meanwhile, on May 4, 2015, respondent applied for an associate position with Williams & Connolly. With his application, respondent submitted an unofficial law school transcript and a résumé.

Sanjiv Laud, Esquire, a Williams & Connolly attorney and alumnus of the law school, reviewed respondent's employment application. In August 2015, Laud contacted Erin Keyes, the law school's assistant dean of students, and expressed concern about respondent's unofficial transcript. Keyes compared the unofficial and official transcripts, and confirmed that there were significant discrepancies. After Keyes contacted the law school's career center, she concluded that inaccuracies existed between the résumés and unofficial transcripts that had been uploaded to the career center's program and those that respondent had sent to Williams & Connolly.

Respondent admitted that he had made twenty-six misrepresentations on the unofficial transcript submitted to Williams & Connolly. Specifically, he had falsified the transcript to reflect, among other things, grades that were higher than he had received, high grades in courses that he had never taken, and a cumulative GPA of 3.825, rather than the 3.269 that he had actually achieved. Notwithstanding respondent's admissions, former DEC investigator Peter Choy described in detail the misrepresentations on respondent's unofficial transcript.

We detail the changes made to the transcript for the purpose of showing the depth and degree of respondent's conduct.

Choy testified that, during respondent's first semester of law school (Fall 2011), he took four courses. Although respondent received one B+, two Bs, and a C+, he changed the grades to one A+, two As, and one A-. He also changed the GPA from 2.889 to 3.889.

During the Spring 2012 semester, respondent took five courses. Two of those courses, including "Legal Writing/Statutory Interpretation," were graded on a pass/fail basis. Respondent passed those courses, receiving a "P," and received a grade of A-, B+, and B, in the other courses. Nevertheless, he altered the Bs to an A and A-. Further, although respondent's semester GPA was 3.333, the unofficial transcript reflected a 3.831 average.

In the Fall 2012 semester, respondent took seven courses. On the unofficial transcript, he replaced five of the seven courses with courses that he did not take and grades that he did not receive. He did not alter the grades for the two courses that he had taken. Although the grades on the official transcript for the courses that respondent had taken were mostly above average, Choy testified that respondent explained his alterations by saying that he had gotten "greedy." For the Fall 2012 semester, respondent's official transcript reflected a 3.267 GPA. The unofficial transcript contained a 3.767 GPA.

For the Spring 2013 semester, respondent changed his grade for Professional Responsibility from B to B+, and another grade from B+ to A+. He omitted Immigration Law, for which he had received a B+ and replaced it with Secured Transactions, which he had not taken, and fabricated a grade of A+. Respondent's unofficial GPA was 3.762, rather than the actual 3.562.

Respondent took six courses in the Fall 2013 semester. With the exception of two classes for which he received an A- and A+, he changed his grades from three Bs and one B+ to one B+, one A+, one A, and one A-.

For respondent's last semester of law school, Spring 2014, he repeated his conduct in respect of changing grades. His official transcript reflected a 3.269 cumulative GPA. The unofficial transcript showed a 3.825 cumulative GPA.

In addition to the altered transcript, respondent submitted to Williams & Connolly a résumé that contained misrepresentations. The résumé reflected that respondent had graduated with a 3.825 cumulative GPA and that he had received "Honors in Legal Writing," instead of "P."

The résumé also listed the following publication: Denying Credit: The Failure to Transition Troops to Civilian Employment, YALE LAW SCHOOL, Connecticut Veterans Legal Center (2013) (Denying Credit article). When respondent was a law student, he researched and wrote the article with three others. Yet, respondent's résumé failed to identify the co-authors. According to

Choy, respondent knew that he was required to identify the co-authors because he had done so with another article listed on the résumé and on his profile on social media.

When Choy first spoke to respondent about the grievance, respondent claimed that the inaccurate submission to Williams & Connolly was an isolated incident, and he denied having committed any other misconduct. Further, when Choy met with respondent, Choy mentioned In re Prothro, 208 N.J. 340 (2011), a case which he described as involving an attorney who "sort of took a gamble that the investigation would not sort of follow up with other résumés that he had sent." Choy asked respondent whether the Williams & Connolly incident was "a one-off situation," or whether he had submitted other résumés that contained inaccurate information. Respondent denied that he had sent inaccurate résumés to other prospective employers. At the time, respondent was working at Eisenberg & Baum (the Eisenberg firm). Therefore, Choy asked him to identify the documents that he had submitted in support of that application. Respondent provided Choy with an e-mail chain, cover letter, and résumé that he had submitted to the Eisenberg firm on July 10, 2015. In one of the e-mails, respondent stated that he had "recently completed a year-long attorney honors position with the federal government." In the cover letter, respondent wrote that he had "publish[ed] a white paper," the Denying Credit article.

The résumé submitted to the Eisenberg firm contained the same misrepresentations as the one sent to Williams & Connolly, namely that respondent had received Honors in Legal Writing, that he had authored the Denying Credit article, and that he had been an Honors Attorney Advisor for ACUS.

Choy asked respondent whether he had submitted his résumé to other organizations. Respondent provided Choy with a copy of an e-mail cover letter and résumé that he had sent to the Legal Aid Society of New York (Legal Aid) on July 6, 2015. Respondent had contacted Legal Aid to inquire about becoming a volunteer attorney. The résumé represented that respondent had received Honors in Legal Writing, and both the résumé and the cover letter represented that he had solely authored the Denying Credit article.

In a letter dated February 3, 2016, respondent told Choy that the misrepresentations in his résumé were limited to his GPA. Choy testified that that was not true, in light of the representations about Honors in Legal Writing and the omission of co-authors from the Denying Credit article.

Respondent told Choy that his Legal Writing professor had told him that he could truthfully represent that he had received Honors in Legal Writing because he "did well in organize [sic] arguments of appellate advocacy section of the course." At the hearing, respondent insisted that everything he told the

Eisenberg firm was truthful because he did receive Honors in Legal Writing; he did serve as an Honors Attorney Advisor at ACUS; and he did not improperly omit the names of the Denying Credit article's co-authors.

Respondent testified that the honors award was limited to two students per section of is law school class. Although respondent was not one of the two students who had received the award for his section, some professors who taught other sections of the course had awarded honors to three students. Respondent complained to his professor, who said that she would talk to the dean about it and told respondent that he could "have honors in Oral Advocacy or Legal Writing." Thereafter, according to respondent, the professor sent an e-mail to him stating that he had been "officially approved" for the Honors in Legal Writing award/grade. Respondent could not locate that e-mail, however, because he no longer had access to his university e-mail account. Respondent also pointed out that, if his statement on the résumé were a willful lie, he would have changed his grade on the transcript, which remained a "P."

Respondent gave a detailed, but rambling, explanation of his claim that he had served as an Honors Attorney Advisor at the ACUS. Respondent testified:

> Okay. Well, as Ms. McGibbon testified I resigned there after. I was there for less than a year. I had a very, very upsetting time while I was there. It was very, very bad. And I don't want to go into how I was treated, but there were certain things that happened to me that drove me to

a very, very low point of depression. And, you know, as Ms. McGibbon testified -- what happened was is that they hired me out of law school to do this very, very high stressful job in government. They never hired any kid out of law school to do it before. The only reason they told me they were interested was [sic] is because I had Yale on my resume and they figured they got more money in the budget so they would go and hire a young person out of law school. And it was really, really stressful. And I couldn't handle it. And I felt like an utter failure because I feel like this was my first job out of law school. I totally botched this. It's a good job. I screwed this up. And I felt like garbage about it. I was extremely depressed. I felt like it was my fault. There were certain things that happened to me in the agency I don't want to go into, but let's just say it was not like the world's happiest environment for various reasons I don't want to go into on the record.

So things happened. I was extremely depressed. They liked me there as Ms. Shawne McGibbon testified. And I said, well, I don't know what to do here. I said I was here for less than a year. I can't apply for other jobs. I look like -- I don't look good applying to other places. This looks really, really badly. I don't know what to do. They kind of felt bad because they said I shouldn't have been hired because it was a very high stressful high level job. And I went up to a beautiful Turkish restaurant with Shawne. It was nice. And she said, look, I don't want any problems. I don't want anything to happen to you. Let's fix this. I said, what am I suppose [sic] to do? What am I supposed to call the year that I had here? I said, do you want me to call this a fellowship? Do you want me to call it clerkship? She said, no, we're not going to call it that because you were a clerk then you were promoted. She said, fellow, no, we can't really do that. So you can call it an honors attorney position because in the government I don't know if you're familiar the Department of Transportation, EPA, all these agencies have these positions when you come out of law school. And it doesn't look weird because most kids stay

there for one or two years, like a two year thing, and then you go on to a big firm or whatever you want to do. So I ask [sic] her if I could recategorize it because I felt like a failure. I didn't know how to explain this when I'm going to go interview some place, they're asking me. And she said it was fine. She said it's not [sic] big deal. She said I didn't have any issue. It's not like I did anything and got fired and acted recklessly or did anything that was stupid, dangerous or, you know, I was not showing up or [sic] a bad employee. So she said that was fine. It was a nice [sic]. We went out to a Turkish restaurant. It was the whole thing. I think she genuinely felt bad for me because I was very young. I graduated law school young. And I got along with everyone. She didn't want to see me suffer. She wanted to see me get back on my feet. It turns out it was a moot point because I wasn't like applying up the hilt when I was applying for New York because like I said, one of the earliest places I applied was a place where my friend was. And I said great, I'll go there. I didn't want to like, a bird in the hand with two in the bush. I wasn't going to, you know, shirk that aside. I said great, I got a job. Let's go with it. So that's basically how I got to that firm and what happened in New York. I don't know if I was rambling.

[T78-13 to T81-10.][1]

Respondent had nothing in writing to substantiate his claim that McGibbon either told him to characterize his position at the ACUS as an honors attorney or approved his decision to do so. Significantly, McGibbon testified that there is no "honors attorney advisor" position and, thus, respondent never

[1] "T" refers to the transcript of the June 26, 2018 DEC hearing.

held that title. Although respondent's counsel examined McGibbon, he did not ask whether she had suggested or approved respondent's use of the title.

In respect of the Denying Credit article, respondent testified that he was told, presumably by a professor, to cite it without reference to the co-authors. Respondent pointed out that, if one were to look for the article, the co-authors' names would appear. Further, when he mentioned to an Eisenberg firm partner that his omission of the co-authors' names had led to disciplinary charges, the partner laughed and said that he "didn't know there [sic] model rules against bad blue booking."

Respondent claimed that he had been "very open about what happened," but insisted that he had doctored only his transcript and that the misrepresentations on his résumé were limited to the one sent to Williams & Connolly. Respondent denied that he had lied, in any respect, to the Eisenberg firm or Legal Aid.

Respondent repeatedly stated that Choy was "very adversarial," screamed at him, and accused him of lying. Respondent described his relationship with Choy as "weird" and stated that Choy did "really weird things that weirded [respondent] out." For example, Choy told respondent that he had watched the video recording of respondent's law school graduation and asked respondent whether he had listened to the dean. Choy also asked respondent to produce a

copy of the cover letter to Williams & Connolly. When respondent told Choy that he could not remember whether he had sent a cover letter to the firm, Choy accused respondent of lying to him. The next day, Choy told respondent that there was no cover letter.

In respondent's amended answer to the ethics complaint, he cited, in mitigation, his unblemished disciplinary history, his dedication to serving the community through volunteer work and pro bono legal representation, and the absence of a connection between the alleged unethical conduct and "any jurisdictional contacts with the state of New Jersey."

At the disciplinary hearing, respondent testified that, in addition to practicing law, he taught high school advanced placement social studies. He volunteered for the Trevor Project and had been president of the disability committee of the American Bar Association (ABA) for two years. He has published "a lot of articles and go[es] to meetings through them."

Respondent's testimony suggested that he may suffer from untreated depression. He claimed that he was depressed while working at ACUS, but that he had never been diagnosed with depression. Respondent explained that he was embarrassed to see a doctor because he thought he would lose his license. Moreover, "the meds freak me out." He did not want to "get hooked" and risk committing suicide.

Respondent did "reach out" to the NJLAP, however. He has not received a diagnosis or formal treatment from NJLAP. Instead, he just "talk[s] through things" with "a nice guy" there, who "was like a good counselor."

At the hearing, respondent submitted letters from Jill W. Sanders, the former principal of the high school where he teaches social studies; Michael P. Corcoran, Esq., an adversary in one of his cases; and Brittany Weiner, Esq., his supervisor at the Imbesi firm where he now works. All three attested to respondent's work ethic, honesty, and good character.

Respondent also submitted proof that he had served as a volunteer attorney for the DC Volunteer Lawyers Project from November 2014 through August 2015. He provided a copy of his high AVVO rating, which was based on a single review. Finally, respondent provided copies of three short articles that he had published in the newsletter of the Disability Rights Committee of the ABA Young Lawyers Division.

Although the DEC found that respondent violated District of Columbia RPC 8.4(c), the applicable RPCs in this matter are those governing New Jersey attorneys. We note that D.C. RPC 8.4(c) and New Jersey RPC 8.4(c) are the same. In the DEC's view, respondent violated RPC 8.4(c), by submitting "a drastically altered unofficial transcript to the firm of Williams & Connolly as well as a resume concerning [sic] false information concerning his grade point

average and a grade in Legal Writing." According to the DEC, respondent's conduct was "flagrant" in that he "altered grades in 26 instances."

The DEC found that respondent again violated RPC 8.4(c), by failing to credit the co-authors of the Denying Credit article. Despite respondent's claim that a professor had instructed him to omit the names, the DEC found that respondent's social media profile demonstrated that he knew to attribute credit to the co-authors. Finally, the DEC found that respondent's "attempted excuse that others verbally instructed him to make representations contrary to the objectively documented facts wore thin." These included the claim that his law school professor had verbally approved the Honors in Legal Writing designation and that his supervisor at ACUS had verbally granted him permission to use the non-existent title "Honors Attorney Advisor."

The DEC also found that respondent violated New York RPC 8.4(c), by submitting an e-mail to the Eisenberg firm that falsely identified his position at ACUS as an honors attorney. As stated above, the applicable RPC is New Jersey 8.4(c), which is the same as New York RPC 8.4(c). According to the DEC, respondent's claim that the supervisor had authorized this action lacked credibility. The supervisor testified that the agency has no honors attorney position, and respondent did not challenge her testimony on cross-examination.

According to the DEC, respondent's résumé submitted to the Eisenberg firm also falsely represented that he had been an honors attorney and that he had received Honors in Legal Writing. He also failed to acknowledge the co-authors when he cited the Denying Credit article.

The DEC found that the résumé submitted to the Legal Aid Society falsely represented that respondent had received Honors in Legal Writing. Further, the cover letter was "designed to convey the false impression that the respondent was the sole author of the Yale article and the resume does nothing to dispel his deception."

Finally, the DEC found that respondent violated RPC 8.1, by misrepresenting to the DEC investigator that he had sent a fraudulent transcript only to Williams & Connolly, and that the misstatement to Williams & Connolly was limited to his grade point average. As noted above, the DEC found that respondent made other misrepresentations, not only to Williams & Connolly, but also to the Eisenberg firm and to Legal Aid.

The DEC gave no weight to respondent's claim of depression. First, he offered no evidence of having sought treatment, other than telephone calls with a representative from the NJLAP. Second, he offered no evidence in respect of the NJLAP's recommendations, if any, and whether he has abided by those recommendations.

According to the DEC, respondent was "not sufficiently contrite," seeking instead to "justify some of his conduct on verbal permissions granted by teachers and supervisors," and criticized the investigator for "pursuing allegations other than those relating to the altered transcript." The DEC concluded: "Respondent does not appear to understand the seriousness of his conduct or to appreciate the need for a lawyer to be honest."

The DEC recommended the imposition of a censure, citing In re Hawn, 193 N.J. 588 (2008), and In re Prothro, 208 N.J. 340 (2011).

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

As the DEC found, respondent violated RPC 8.1(a) and RPC 8.4(c). He admitted having violated RPC 8.4(c), by altering his law school transcript to reflect grades that he did not receive and courses that he did not take. He also misrepresented in e-mails, cover letters, and résumés that he had received Honors in Legal Writing and that he had worked as an Honors Attorney Advisor with the ACUS. His claim that he had received Honors in Legal Writing was unsubstantiated. His claim that he was an honors attorney was contradicted by his ACUS supervisor, whose testimony respondent neither challenged nor rebutted.

Respondent's omission of his co-authors' names from the Denying Credit article also was deceitful. This is especially so because his résumé listed two publications, and he did identify the co-authors of the second publication. By these actions, respondent violated RPC 8.4(c).

Respondent violated RPC 8.1(a) when he told DEC investigator Choy that his misrepresentations were limited to the unofficial transcript and the grade point average on the résumé submitted to Williams & Connolly. As shown above, the résumé, as well as e-mails and cover letters sent to Williams & Connolly, the Eisenberg firm, and Legal Aid contained many misrepresentations, including respondent's receipt of Honors in Legal Writing and his service as an Honors Attorney Advisor with ACUS.

There remains for determination the quantum of discipline to impose on respondent for his violation of RPC 8.1(a) and RPC 8.4(c).

The discipline imposed on attorneys who, in connection with applications for legal employment, fabricate or falsify law school transcripts and résumés, ranges from a reprimand to a three-month suspension. See, e.g., In re Tan, 188 N.J. 389 (2006) (reprimand); In re Prothro, 208 N.J. 340 (2011) (censure); and In re Hawn, 193 N.J. 588 (2008) (three-month suspension).

In Tan, the attorney falsely represented to the New Jersey Board of Bar Examiners that he had received his bachelor's degree from New York University,

even though he had fallen one course short of doing so. In the Matter of Herbert Tan, DRB 06-021 (slip op. at 3). Despite the absence of an undergraduate degree, Tan was admitted to and graduated from law school, without having disclosed the above deficiency. Ibid.

Tan claimed that he had made the misrepresentation on the bar application because he was the sole financial support of his family, and he feared that telling the truth would prevent him from practicing law. Id. at 5-6. After Tan had passed the bar examination, he made efforts to cure the undergraduate deficiency. Id. at 9. Someone at Tan's previous law firm learned of his lack of a bachelor's degree and reported him to the disciplinary authorities. Id. at 10.

We determined that Tan violated RPC 8.1(a) and RPC 8.4(c), by knowingly making false statements on his bar application. Id. at 13. We imposed a reprimand because Tan was candid about his misconduct, which was the result of poor judgment and inexperience, rather than a lack of scruples; he recognized the impropriety of his conduct, accepted responsibility for what he had done, and expressed remorse; he had no disciplinary history; eight years had passed since he had committed the offense; he had given back to his community; and he deserved a second chance. Id. at 26. We note that Tan was disbarred in April 2016, based on an extensive disciplinary history and his demonstrated inability

to conform his conduct to the standards expected of an attorney licensed to practice law in this State. In re Tan, 224 N.J. 438 (2016).

In Hawn, the attorney violated RPC 8.4(c), by falsifying his résumé and altering his law school transcripts in an attempt to obtain legal employment in California. In the Matter of Gregory G. Hawn, DRB 07-243 (December 17, 2007) (slip op. at 1-2). Specifically, in March 2005, Hawn, who had passed the District of Columbia (D.C.) bar in 2004 and was employed by a law firm there, moved to Los Angeles to escape financial and personal problems. Id. at 2. He contacted a "head hunter" but, ultimately, received rejection letters from nearly all the law firms to which he had sent his résumé. Id. at 3. As a result, Hawn believed that, in order to obtain employment, he would have to "embellish" his résumé to impress each prospective employer. Id. at 3-4.

Hawn modified his résumé to falsely reflect that, in law school, he had received an academic scholarship and an AmJur award and that he was a moot court finalist. Ibid. His résumé also misrepresented that, as an attorney, he was co-chair of an ABA working group on technology, program director of a D.C. bar standing committee, and an advisory board member and docent of a Smithsonian museum. Id. at 4.

Both Hawn and the "head hunter" sent Hawn's modified résumé and law school transcript to law firms, including Mayer Brown Rowe & Mew (Mayer

Brown). Ibid. When Hawn continued to receive mostly rejection letters, he determined that his law school grade point average was the problem. Ibid. Accordingly, he downloaded a program designed to alter computer document files and proceeded to alter an electronic version of his law school transcript. Id. at 5. Specifically, Hawn changed twelve grades, thereby raising his cumulative GPA from 3.12 to 3.59. Ibid.

In late June and early July 2005, Hawn mailed the falsified résumé and falsified transcript to five large Los Angeles law firms. Ibid. In the meantime, he learned that Mayer Brown was seeking a real estate associate with experience similar to his. He, therefore, sent a second résumé to that firm, with the altered transcript. Ibid.

On July 26, 2005, someone at Mayer Brown discovered that the firm had received two different transcripts from Hawn. The firm reported that information to Hawn's law school. Ibid. Two days later, the academic dean requested that Hawn explain the discrepancy. Ibid.

In an e-mail to the dean, Hawn denied that he had altered the transcript, falsely suggesting that the discrepancies may have resulted from a malfunction in the electronic transmission of the transcript from the law school registrar to him. Ibid. After insisting that he had not altered the transcript, Hawn granted the dean permission to contact certain law firms where he had applied, in order to

obtain copies of the materials that he had sent to them. Id. at 5-6. However, none of those firms had been sent the altered transcript. Id. at. at 6.

Hawn also implored the dean to launch an investigation within the registrar's office to uncover the source of the error, claiming that he was "stricken with grief over the thought that an error like this could affect [his] fitness to practice law for the remainder of [his] career." Id. at 6.

On July 18, 2005, Hawn met with three law school deans. Ibid. He soon became overwhelmed with emotion, sensed that he needed an attorney, and ended the meeting. Ibid. Three days later, he retained counsel and reported his conduct to the D.C. Office of Bar Counsel. Ibid.

In the letter to Bar Counsel, Hawn noted that his actions did not affect any clients and that his behavior was "caused by a lapse of judgment." Id. at. 7. A few weeks later, he withdrew all applications for employment and requested that the "head hunter" do the same. Ibid.

According to Hawn, his dishonest conduct was due to panic caused by increasing pressure. Ibid. He claimed that he had altered the transcripts for the sole purpose of determining whether his inability to secure an interview for a job was due to his GPA. Ibid. He further claimed that he knew that he could never accept any interview or actually obtain employment from any of the firms.

Ibid. He also asserted that he had inadvertently sent the second transcript to Mayer Brown. Id. at 8.

In mitigation, Hawn alleged that, as a result of his personal problems, he had developed severe anxiety for which he took medication. Ibid. He apologized to D.C. Bar Counsel, resigned from his position with the D.C. law firm, turned to volunteer work with several charitable organizations, and expressed the intention to seek employment in another field. Ibid.

In determining that a three-month suspension was appropriate discipline under the circumstances, we found that Hawn's conduct fell somewhere between that of Tan and the attorney in In re Telson, 138 N.J. 47 (1994), who received a six-month suspension. In the Matter of Gregory G. Hawn, DRB 07-243 (slip op. at 18).[2] The Court agreed and suspended Hawn for three months. We note that Hawn never sought reinstatement and, further, he resigned from the New Jersey bar in 2008.

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[2] In re Telson did not involve an attorney who falsified law school transcripts. Rather, the attorney altered a court record, by "whiting out" an entry noting that his client's divorce complaint had been dismissed. He then presented the case to a different judge, who granted the divorce. In the Matter of Scott A. Telson, DRB 93-147 (March 3, 1994) (slip op. at 2). When Telson was asked to explain himself, he admitted his wrongdoing in going to another judge, but denied that he had whited-out the court record. Id. at 3. He later recanted, explaining that he had lied because he was "scared." Ibid. We imposed a reprimand, citing the attorney's extreme candor, deep contrition, and unblemished career. Id. at 7. The Court suspended the attorney for six months. In re Telson, 138 N.J. 47.

In Prothro, the attorney attended Rutgers School of Law – Newark, where, for the fall 2001 semester, he received a B in Torts and a B in Legal Research and Writing. In the Matter of Philip C. Prothro, DRB 11-061 (August 4, 2011) (slip op. at 2-3). For the spring 2002 semester, Prothro received a C+ in Constitutional Law. Id. at 3.

Prothro worked as a summer associate for Sills Cummis & Gross in 2002 and 2003, and was an associate from September 2004 until October 10, 2008. Ibid. On October 13, 2008, he began employment as an associate with Herrick, Feinstein, LLP, where he remained until his employment was terminated in October 2009. Ibid.

When the Herrick firm hired Prothro, he provided a photocopy of his law school transcript, which reflected an A in Constitutional Law. Ibid. After repeated requests for the original transcript, Prothro finally provided it a year later. Ibid. He concealed the C+ in Constitutional Law by using a self-stick note and a black indelible marker. Id. at 3-4. When someone at the firm held the transcript up to the light, the C+ was exposed. Ibid. Prothro was fired and reported to the ethics authorities. Ibid.

Prothro admitted his misconduct to the DEC investigator. Id. at 5. He described his conduct as indefensible and expressed sincere remorse. Id. at 5-6. When the investigator asked Prothro if he had provided Sills Cummis with the

altered transcript or had made any misrepresentations, Prothro denied that he had provided an altered transcript to the firm. Id. at 7-8. This was not true. Prothro had altered his Torts and Legal Research grades to B+ and changed his Constitutional Law grade to B-. Id. at 8.

In determining the appropriate measure of discipline to impose on Prothro, we were divided equally between a censure and a three-month suspension. Those who voted for a three-month suspension noted that Prothro's conduct was nearly identical to Hawn's. Id. at 15. They also noted that Prothro had made multiple misrepresentations to multiple parties, including the DEC investigator, whom he deliberately had attempted to mislead. Id. at 24. The members found no compelling mitigation to justify less than a suspension. Ibid.

Those members who voted for a censure acknowledged the absence of compelling mitigation. Id. at 26. Nevertheless, the members believed a censure to be sufficient discipline because nothing in the record suggested that Prothro's grades were material to either firm's decision to hire him and, further, no one had suffered harm as a result of his misrepresentations. Id. at 26.

For Prothro's violation of RPC 8.1(a) and RPC 8.4(c), the Court imposed a censure. 208 N.J. 340 (2011). We note that, on September 12, 2016, Prothro's license to practice law in New Jersey was administratively revoked, pursuant to R. 1:28-2(c), because he had been ineligible to practice law for seven or more

consecutive years due to nonpayment of the annual attorney assessment to the New Jersey Lawyers' Fund for Client Protection.

In this case, respondent's conduct went well beyond that of the attorney in Tan, who, made a single misrepresentation on his bar application. Further, Tan worked diligently at rectifying the deficiency in his college education, admitted his misconduct, and expressed remorse for his actions.

Respondent's conduct also went beyond the attorney's conduct in Prothro. Although both attorneys lied to the DEC investigator by stating that they had made misrepresentations to only one law firm, Prothro's misconduct was limited to the alteration of a few grades on his law school transcript, whereas respondent altered twenty-six grades for all six semesters of law school. Further, respondent made additional misrepresentations on his résumé, in e-mails, and in cover letters. In addition, unlike respondent, Prothro ultimately took "full responsibility" for his actions, expressed deep remorse for his conduct, and apologized to the Herrick firm. In the Matter of Philip C. Prothro, DRB 11-061 (slip op. at 5-6).

Although Hawn is not directly on point, it serves as a guide in this case. Like respondent, Hawn made several misrepresentations on his résumé and altered several grades on his transcript for the purpose of advancing his own interests. Yet, Hawn ultimately admitted his wrongdoing, which was attributed,

in part, to personal problems and severe anxiety, and removed himself from the practice of law, ultimately resigning from the New Jersey bar.

Here, although respondent readily admitted that he had altered his law school transcript, he held fast to his incredible claims that he had received Honors in Legal Writing, without substantiation; that he had served as an Honors Attorney Advisor with ACUS, despite McGibbon's unrefuted claim to the contrary; and that his failure to acknowledge the co-authors of the Denying Credit article was at the direction of a law school professor. He attempted to deflect attention from his wrongdoing by calling into question the actions of Choy.

The degree and scope of respondent's deception, his steadfast commitment to demonstrably false claims, and his attempt to place blame on someone else, demonstrate a disturbing pattern of dishonesty, a refusal to admit wrongdoing, and an arrogant lack of contrition that cannot be countenanced. Moreover, nothing in the record serves to mitigate his misconduct, including his alleged depression, which is undiagnosed and untreated, other than a weekly conversation with someone at the NJLAP. Moreover, although respondent was an inexperienced attorney at the time of these events, one need not have experience to know that one should not lie. Inexperience may serve as mitigation for some shortcomings, but not for engaging in repeated acts of dishonesty,

deception, and fabrication of documents. We, thus, determine to impose a two-year suspension. In addition, given respondent's claim of depression and his scattered and unfocused testimony at the hearing, we determine that, prior to reinstatement, he be required to provide proof of fitness to practice, as attested by a qualified mental health professional approved by the OAE.

We recognize that a two-year suspension is beyond the quantum of discipline that precedent suggests is appropriate in this case. In our view, however, this type of conduct and its degree and scope, committed by an attorney so early in his career for no purpose other than to promote his self-interest, call into question the core of his character. We do not believe it relevant, in any respect, that the misrepresentations may not have been material to an organization's decision to hire the attorney. Prothro, 208 N.J. 340. We do not believe it relevant, in any respect, that no one suffered harm as the result of such misrepresentations. Ibid. The purpose of discipline is to protect the public, and we are unwilling to risk exposing the public to the type of harm that may come to a client at the hands of an attorney who will go to such lengths to alter his background in order to obtain employment, with no regard for the impact his actions may have on others. It is our hope that respondent will spend the next two years reflecting on his conduct and character and taking the necessary steps to render him a trustworthy and upstanding member of the New Jersey bar.

Chair Clark voted for a one-year suspension. Member Boyer voted for a three-month suspension and filed a separate dissent. Members Petrou, Rivera, and Singer 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
Bruce W. Clark, Chair

By: Ellen A. Brodsky
Ellen A. Brodsky
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Seth Asher Nadler
Docket No. DRB 19-089

Argued: May 23, 2019

Decided: November 8, 2019

Disposition: Two-Year Suspension

Members	Two-Year Suspension	One-Year Suspension	Three-Month Suspension	Recused	Did Not Participate
Clark		X			
Gallipoli	X				
Boyer			X		
Hoberman	X				
Joseph	X				
Petrou					X
Rivera					X
Singer					X
Zmirich	X				
Total:	4	1	1	0	3

Ellen A. Brodsky
Chief Counsel