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RICHARD J. HUGHES JUSTICE COMPLEX
P.O. BOX 962
TRENTON, NEW JERSEY 08625-0962
(609) 815-2920

ELLEN A. BRODSKY
CHIEF COUNSEL

TIMOTHY M. ELLIS
DEPUTY COUNSEL

BARRY R. PETERSEN, JR.
DEPUTY COUNSEL

JESSICA A. CALELLA
ROCCO J. CARBONE, III
ELIZABETH L. LAURENZANO
COLIN T. TAMS
KATHRYN ANNE WINTERLE
ASSISTANT COUNSEL

June 23, 2020

Heather Joy Baker, Clerk
Supreme Court of New Jersey
P.O. Box 970
Trenton, New Jersey 08625-0962

Re: **In the Matter of Richard Evan Alexander**
Docket No. DRB 20-068
District Docket No. XIV-2019-0069E

Dear Ms. Baker:

The Disciplinary Review Board has reviewed the motion for discipline by consent (a censure, a three-month suspension, or such lesser discipline as the Board deems appropriate) filed by the Office of Attorney Ethics (OAE) in the above matter, pursuant to R. 1:20-10(b). Following a review of the record, the Board granted the motion and determined to impose a three-month suspension for respondent's violation of RPC 3.1 (frivolous litigation); RPC 3.3(a)(1) (false statement of material fact to a tribunal); RPC 3.3(a)(4) (offer evidence that the lawyer knows to be false); RPC 3.4(b) (falsify evidence, or counsel or assist a witness to testify falsely); RPC 8.1(a) (false statement of material fact in a disciplinary matter); RPC 8.4(b) (criminal act that reflects adversely on a lawyer's honesty, trustworthiness, or fitness as a lawyer); RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation); and RPC 8.4(d) (conduct prejudicial to the administration of justice).

Specifically, on January 22, 2019, the Honorable Radames Velazquez, Jr., J.S.C., reported to the OAE that respondent gave false testimony before a hearing officer and the court on January 14 and 15, 2019, respectively, in connection with a domestic violence matter. Respondent falsely claimed that, on January 13, 2019, he was the victim in a domestic violence incident perpetrated by his girlfriend, A.B., with whom he resided in North Bergen, New Jersey, for the prior eighteen months. The next day, January 14, 2019, respondent filed an application for a protective order against A.B., claiming that, when he had arrived home the night before, A.B. had knives laid out on the kitchen counter and had caused him to fear for his safety. Respondent met with a domestic violence case worker, filed a complaint, and

testified under oath before a hearing officer to the above facts, adding that A.B. screamed at his family members to leave the home. He further testified that A.B. had committed acts of domestic violence against him in the past. The hearing officer found probable cause to recommend entry of a temporary restraining order (TRO) against A.B. Judge Velazquez issued the TRO, which provided that A.B. was forbidden from contacting respondent, and granted respondent exclusive possession of their residence.

On appeal before Judge Velazquez, which took place on January 14, 2019, A.B. presented an audio recording of the incident that had occurred the night before. The judge found that respondent's testimony did not support the TRO, because the recording revealed that respondent and his family members had ordered A.B. to leave the premises, which she refused to do. Judge Velazquez granted A.B.'s appeal, struck the residency restrictions of the TRO, and ordered the parties to appear before him the next day for a final hearing.

On January 15, 2019, during the final hearing, the judge allowed respondent the opportunity to listen to the audio recording, and then asked him whether he wanted to proceed. Respondent replied in the affirmative, stating that he "need[ed] [his] house back." Respondent again testified, under oath, that A.B. had a knife on the kitchen counter when he arrived with his family members, and that she hid it when she saw he was not alone.

After respondent informed the court that his cousin had an audio-visual recording of the incident, Judge Velazquez asked to view it. Respondent admitted that the recording showed the entirety of the alleged domestic violence incident. Judge Velazquez reviewed the video and found that A.B. had not engaged in threatening conduct and that there was no evidence of the existence of a knife. Although respondent claimed that A.B. was blocking the camera, the judge remarked that the video showed respondent and his family members screaming at A.B. and attempting to illegally evict her from the house. Judge Velazquez dismissed the domestic violence complaint, admonished respondent on the record, and informed him that a referral to the OAE would follow.

Respondent initially denied to the OAE that he had testified before the hearing officer and the judge that A.B. had knives. However, after respondent reviewed the transcript of his testimony, he admitted that he had testified to the presence of the alleged knives.

Respondent then admitted to the OAE that he had not seen A.B. with knives during the January 13, 2019 incident. He insisted that his accompanying family members told him that they thought she had knives, although they did not see them. Respondent further admitted that he had wanted A.B. to move from the home, as their relationship had broken down, and that he was trying to evict A.B. by means of a TRO. He contended that A.B. was bullying and taking advantage of him, that his family had intervened to help him eject her from the residence, and that his family had encouraged him to file the TRO. Finally, respondent admitted that he should have filed an ejectment action, not a TRO.

Generally, the discipline imposed on an attorney who makes misrepresentations to a court or exhibits a lack of candor to a tribunal, or both, ranges from a reprimand to a long-

term suspension. See, e.g., In re Marraccini, 221 N.J. 487 (2015) (reprimand imposed on attorney who attached to approximately fifty eviction complaints, filed on behalf of a property management company, verifications that had been pre-signed by the manager, who had since died; the attorney was unaware that the manager had died and, upon learning that information, withdrew all complaints; violations of RPC 3.3(a), RPC 8.4(c), and RPC 8.4(d); in mitigation, the Board found that the attorney's actions were motivated by a misguided attempt at efficiency, rather than by dishonesty or personal gain); In re Duke, 207 N.J. 37 (2011) (attorney received a censure for failure to disclose his New York disbarment on a form filed with the Board of Immigration Appeals, a violation of RPC 3.3(a)(5); the attorney also failed to communicate with the client and failed to comply with recordkeeping requirements; prior reprimand; the attorney's contrition and efforts at rehabilitation justified only a censure); In re Trustan, 202 N.J. 4 (2010) (three-month suspension for attorney who submitted to the court a client's case information statement that falsely asserted that the client owned a home, and drafted a false certification for the client, which was submitted to the court in a domestic violence trial; violations of RPC 3.3(a)(1) and (4); other violations included RPC 1.8(a) and (e), RPC 1.9(c), and RPC 8.4(a), (c), and (d)); and In re Kornreich, 149 N.J. 346 (1997) (three-year suspension for attorney who had been involved in an automobile accident and then misrepresented to the police, to her lawyer, and to a municipal court judge that her babysitter had been operating her vehicle; the attorney also presented false evidence in an attempt to accuse the babysitter of her own wrongdoing; violations of RPC 3.3(a)(4), RPC 3.4(f), and RPC 8.4(b), (c), and (d)).

Likewise, a reprimand or censure is typically imposed for a misrepresentation to disciplinary authorities, as long as the lie is not compounded by the fabrication of documents to conceal the misconduct. See, e.g., In re Maziarz, 238 N.J. 476 (2019) (reprimand for attorney who, in a 2017 demand audit, misrepresented in a letter to disciplinary authorities that he had corrected recordkeeping deficiencies found in an earlier, 2016 random audit; commingling, negligent misappropriation, recordkeeping violations, and failure to cooperate with disciplinary authorities also found); In re DeSeno, 205 N.J. 91 (2011) (reprimand for attorney who misrepresented to the district ethics committee the filing date of a complaint on the client's behalf; the attorney also failed to communicate with the client and failed to cooperate with the investigation of the grievance; prior reprimand); In re Otlowski, 220 N.J. 217 (2015) (censure for attorney who made misrepresentations to the OAE and the client's lender by claiming that funds belonging to the lender, which had been deposited in the attorney's trust account, were frozen by a court order; to the contrary, they had been disbursed to various parties); and In re Schroll, 213 N.J. 391 (2013) (censure for attorney who misrepresented to a district ethics committee secretary that the personal injury matter in which he was representing the plaintiff was pending, when he knew that the complaint had been dismissed over a year earlier; for the next three years, the attorney continued to mislead the committee secretary that the case was still active; in addition, the attorney misrepresented to the client's former lawyer that he had obtained a judgment of default against the defendants; the attorney also was guilty of gross neglect, lack of diligence, and failure to reply to the client's numerous attempts to obtain information about her case; no prior discipline).

In crafting the appropriate discipline in this matter, the Board also considered aggravating and mitigating factors. In aggravation, respondent failed to withdraw his false testimony, even after Judge Velazquez gave him the opportunity to review the evidence, and respondent failed to admit to the OAE that he had testified about the presence of knives until he was presented with the transcript. In mitigation, the stipulation noted that respondent had an unblemished disciplinary history; he eventually expressed regret for filing the TRO; his family members influenced his actions; respondent's relatives, not respondent, were the aggressors toward A.B. during the January 13 incident; and respondent ultimately admitted his wrongdoing and agreed to file the motion for discipline by consent.

For the totality of respondent's misconduct, and considering the aggravating and mitigating factors presented, the Board determined that a three-month suspension is the appropriate sanction necessary to protect the public and preserve confidence in the bar.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated January 24, 2020.
2. Stipulation of discipline by consent, dated January 24, 2020.
3. Affidavit of consent, dated January 8, 2020.
4. Ethics history, dated June 23, 2020.

Very truly yours,

for: 
Ellen A. Brodsky
Chief Counsel

EAB/jm
Enclosures

- c: (w/o enclosures)
Bruce W. Clark, Chair
Disciplinary Review Board (e-mail)
Charles Centinaro, Director
Office of Attorney Ethics (e-mail and interoffice mail)
Amanda Figland, Deputy Ethics Counsel
Office of Attorney Ethics (e-mail)
Richard E. Alexander, Respondent (e-mail and regular mail)