Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 19-407
District Docket Nos. XIV-2015-0391E
and XIV-2019-0136E

In the Matter of

Neal M. Pomper

An Attorney at Law

Decision

Argued: May 21, 2020

Decided: August 12, 2020

Ryan J. Moriarty appeared on behalf of the Office of Attorney Ethics.

Respondent appeared pro se.

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

This matter was before us on a disciplinary stipulation between the Office of Attorney Ethics (OAE) and respondent. Respondent stipulated to having violated RPC 1.15(a) (commingling); RPC 1.15(d) and R. 1:21-6

(recordkeeping); RPC 8.4(b) (criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects); 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, retroactive suspension.

Respondent was admitted to the New Jersey bar in 1982, the New York bar in 1981, and the Massachusetts bar in 1980. In 1986, he received a private reprimand for engaging in a conflict of interest. In the Matter of Neal M. Pomper, DRB 86-182 (December 23, 1986).

In 2004, respondent received an admonition for failing to set forth in writing the basis or rate of the fee in a post-judgment matrimonial matter, and for improperly agreeing to share his legal fee with another attorney. In the Matter of Neal M. Pomper, DRB 04-216 (September 28, 2004).

On February 10, 2009, respondent was censured for assisting his paralegal in the unauthorized practice of law, violations of RPC 5.5(a)(2) and RPC 8.4(a). Respondent directed the paralegal to attend a paternity hearing with a client, where the paralegal advocated in behalf of the client. In re Pomper, 197 N.J. 500 (2009).

On September 18, 2019, respondent was temporarily suspended from the practice of law based on the misconduct underlying this matter. He remains suspended to date. In re Pomper, 239 N.J. 566 (2019).

At all relevant times herein, respondent maintained an office for the practice of law in Haddonfield, New Jersey.

Respondent and the OAE entered into a disciplinary stipulation which sets forth the following facts in support of respondent's admitted ethics violations.

The Highland Park Matter – District Docket No. XIV-2015-0391E

In 2011, after respondent's home was damaged in a flood, he contracted with Rivera Remodeling (Rivera) to remediate the water damage. At the time, respondent had a homeowner's insurance policy with Selective Insurance Company (Selective).

An employee of respondent, Larissa Sufaru, sent to Selective a fax purporting to be Rivera's invoice for remediation performed at respondent's home. Sufaru wrote "paid in full" on the invoice to reflect an alleged payment of $14,000 by respondent. After Selective learned, during its investigation, that Rivera had not prepared that invoice, Selective denied the claim.

On July 10, 2015, a superseding indictment issued by a grand jury in Middlesex County charged respondent with the following crimes: (1) third-degree conspiracy to commit insurance fraud, contrary to N.J.S.A. 2C:5-2; (2) third-degree insurance fraud, contrary to N.J.S.A. 2C:21-4.6a, N.J.S.A. 2C:21-4.6b, and N.J.S.A. 2C:2-6; (3) third-degree attempted theft by deception, contrary to N.J.S.A. 2C:2-4 and N.J.S.A. 2C:2-6; (4) fourth-degree uttering, contrary to N.J.S.A. 2C:21-1a(3) and N.J.S.A. 2C:2-6;[1] and (5) fourth-degree forgery, contrary to N.J.S.A. 2C:21-1a(2) and N.J.S.A. 2C:2-6.

Although respondent initially was granted admission into the Pretrial Intervention Program, the Appellate Division reversed that decision and remanded the case for trial. Beginning on November 6, 2018, the Honorable Dennis Nieves, J.S.C. conducted a three-day bench trial. Sufaru testified at the criminal trial that, at respondent's direction, she created the $14,000 invoice and transmitted it to Selective. Respondent argued that Sufaru's invoice represented actual, post-flood repair work to the home for which he was entitled to reimbursement.

[1] The charge for uttering was dismissed prior to the trial.

On March 20, 2019, Judge Nieves found respondent guilty of three crimes: third-degree conspiracy to commit insurance fraud, based on respondent's agreement with Sufaru to create and transmit a fraudulent invoice to Selective to receive insurance funds; third-degree insurance fraud, because he directed Sufaru to create a phony invoice for the purpose of obtaining a benefit from Selective; and third-degree attempted theft by deception, because, if Selective had relied on the phony invoice, respondent would have received funds from Selective to which he was not entitled. Judge Nieves found respondent not guilty of the forgery charge.

On August 1, 2019, Judge Nieves denied respondent's motion for a new trial and sentenced him to three, concurrent, one-year terms of probation with mandatory fines. At sentencing, Judge Nieves found several mitigating factors: (1) respondent's conduct neither caused nor threatened serious harm; (2) he did not contemplate that his conduct would cause or threaten serious harm; (3) he had no history of delinquency or criminal activity, and had led a law-abiding life for a substantial period of time before the commission of the present offense; (4) his conduct was the result of circumstances unlikely to recur; (5) he is particularly likely to respond affirmatively to probationary treatment; and (6) imprisonment would entail excessive hardship to him or his dependents.

Respondent stipulated that his misconduct constituted criminal conduct, in violation of RPC 8.4(b), and conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of RPC 8.4(c).

The Recordkeeping Matter – District Docket No. XIV-2019-0136E

On August 28, 2018, the OAE sent respondent a random compliance audit letter requesting copies of certain financial records for the preceding twelve-month period. The OAE's audit of those records revealed the following recordkeeping deficiencies: (1) client ledger cards not fully descriptive [R. 1:21-6(c)(1)(B)]; (2) legal fees were not deposited in the attorney business account (ABA) [R. 1:21-6(a)(2)]; (3) improper ABA account designation [R. 1:21-6(a)(2)]; (4) improper attorney trust account (ATA) designation [R. 1:21-6(a)(2)]; (5) noncompliant ABA imaged-processed checks [R. 1:21-6(b)]; (6) noncompliant ATA imaged-processed checks [R. 1:21-6(b)]; and (7) improper electronic transfers made from the ATA [R. 1:21-6(C)(1)(a)].

In a January 16, 2019 letter to respondent, the OAE outlined the deficiencies and notified him that, within forty-five days, he must acknowledge receipt of the correspondence and inform the OAE, in writing, of his intended corrective measures.

On March 20, 2019, the OAE requested respondent's explanation for the January 16, 2019 deficiencies and sent a second letter scheduling a demand audit interview. On March 25, 2019, respondent denied having received the OAE's January letter; therefore, on that same date, the OAE again sent the letter to him. On May 13, 2019, respondent provided a written explanation for the deficiencies and a corrective plan.

Respondent stipulated that, during two prior audits, the OAE had provided instruction to him in respect of the requirements of the recordkeeping Rules. Yet, once again, he failed to comply with his recordkeeping obligations, in violation of RPC 1.15(d) and R. 1:21-6. Specifically, respondent previously had been the subject of random audits in 1987 and 2013. On April 10, 2013, respondent had certified to the OAE that he corrected the 2013 deficiencies.

Further, the 2018 audit revealed that, on December 28, 2017, respondent deposited a $5,675 check for legal fees from a client, Thomas Paddock, in his ATA. On January 5, 2018, respondent transferred those funds to the ABA. In a January 4, 2019 letter to the OAE, respondent explained that he had deposited the check in the ATA:

> because it was received by me at the conclusion of the 2017 calendar year. As Congress had recently passed a tax reform law which reduced tax brackets for 2018, I was advised by my accountant to defer income for

> 2017, if possible. I deposited the money in my trust account at the end of 2017 and moved the money into my personal account at the beginning of calendar year 2018.
>
> [S¶¶57-61;Ex.17.][2]

At an April 29, 2019 demand audit interview, respondent again admitted that he had deposited the fee in the Paddock matter in his ATA to avoid paying taxes on those fees in tax year 2017, "as per the advice from his accountant." He further admitted that, on occasion, if he received a legal fee at the end of a calendar year, he would place the check in his desk drawer and deposit it in the ABA at the beginning of the new calendar year. The Paddock check was an exception, because he did not want to leave it in his desk while he traveled. Respondent agreed that, going forward, he would not delay the deposit of fees in his ABA. In the stipulation, the OAE acknowledged that it did not find clear and convincing evidence of unethical conduct sufficient to support an ethics violation for prior instances of tax evasion.

Respondent stipulated that, by depositing the Paddock fee in his ATA, instead of his ABA, he commingled personal and client funds, a violation of RPC 1.15(a). Further, respondent stipulated to having engaged in conduct

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[2] "S" refers to the October 28, 2019 disciplinary stipulation.

involving dishonesty, fraud, deceit, or misrepresentation by placing the Paddock fee in his ATA in an attempt to "reduce his tax liability for 2017 and receive the benefit of a presumably more favorable tax bracket in 2018."

The OAE cited a number of insurance fraud and tax evasion cases in support of its recommendation of a one-year to eighteen-month suspension. The OAE likened the insurance aspect of this case to In re Fisher, 185 N.J. 238 (2005). In respect of respondent's admission that he acted dishonestly by placing the 2017 Paddock fee in his ATA, the OAE noted that he was not charged with tax evasion and compared respondent's actions to those of the attorney in In re Adelhock, 232 N.J. 359 (2018). We discuss the Fisher and Adelhock cases, in detail, below.

In aggravation, the OAE cited respondent's prior discipline and his motivation for personal gain. In mitigation, respondent admitted his misconduct, entered into the disciplinary stipulation, corrected the recordkeeping deficiencies, and expressed an intention to retire from the practice of law.

Following a review of the record, we are satisfied that the facts contained in the stipulation clearly and convincingly support the finding that respondent violated RPC 1.15(a); RPC 1.15(d) and R. 1:21-6; RPC 8.4(b); and RPC 8.4(c).

In respect of respondent's insurance claim, after Rivera made repairs to respondent's flood-damaged home, respondent directed his employee, Sufaru, to prepare a phony invoice purporting to have been submitted by Rivera. Sufaru wrote "paid in full" on the invoice in an attempt to add a veneer of credibility to respondent's purported payment of $14,000 to Rivera. When the insurance company, Selective, learned that Rivera had not prepared the invoice, it denied respondent's claim.

Sufaru testified that, at respondent's direction, she created the $14,000 invoice and transmitted it to Selective. The stipulation reiterated respondent's assertion that Sufaru's invoice represented actual repairs that Rivera had performed at his home – work for which respondent was entitled to reimbursement. The stipulation does not clarify whether the OAE accepted respondent's assertion. If so, respondent's insurance claim was not bogus, rather, the claim was genuine, but the proof presented to Selective was phony. Nevertheless, respondent was convicted of conspiracy to commit insurance fraud, insurance fraud, and attempted theft by deception. His criminal acts constitute multiple violations of RPC 8.4(b) and RPC 8.4(c).

In respect of the commingling charge, respondent received a $5,675 check for a legal fee earned in 2017 and, on December 28, 2017, purposely deposited

it in his ATA. Eight days later, on January 5, 2018, he transferred the funds into his ABA. Respondent, therefore, commingled personal and client funds in his ATA, a violation of RPC 1.15(a). He also engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of RPC 8.4(c), by depositing the fee in his ATA to reduce his tax liability for 2017.

Respondent also admitted to the OAE that he occasionally had received a legal fee at the end of the year and placed the check in his desk drawer until the new year, before depositing it in his ABA. He agreed to cease that practice, for which the OAE did not charge an ethics violation.

Finally, the OAE audit of respondent's attorney books and records revealed recordkeeping deficiencies, which respondent committed, despite having been educated about proper recordkeeping practices during two prior random audits in 1987 and 2013. Respondent stipulated that the new deficiencies constituted violations of RPC 1.15(d) and R. 1:21-6.

In sum, we find that respondent violated RPC 1.15(a); RPC 1.15(d); RPC 8.4(b); and RPC 8.4(c). The sole issue left for us to determine is the appropriate quantum of discipline for respondent's misconduct.

Ordinarily, commingling of an attorney's personal funds with trust account funds will be met with an admonition. See, e.g., In the Matter of Richard

P. Rinaldo, DRB 18-189 (October 1, 2018) (commingling of personal loan proceeds in the attorney trust account, in violation of RPC 1.15(a); recordkeeping violations also found; the commingling did not impact client funds in the trust account); In the Matter of Richard Mario DeLuca, DRB 14-402 (March 9, 2015) (the attorney had a trust account shortage of $1,801.67; because the attorney maintained more than $10,000 of earned legal fees in his trust account, no client or escrow funds were invaded; the attorney was guilty of commingling personal and trust funds and failing to comply with recordkeeping requirements); and In the Matter of Dan A. Druz, DRB 10-404 (March 3, 2011) (OAE audit revealed that, during a two-year period, the attorney had commingled personal and client funds in his trust account, in violation of RPC 1.15(a), by routinely using the account for business and personal transactions; recordkeeping deficiencies also found, violations of RPC 1.15(d) and R. 1:21-6).

Recordkeeping irregularities ordinarily are met with an admonition, so long as they have not caused a negligent misappropriation of clients' funds. See, e.g., In the Matter of Eric Salzman, DRB 15-064 (May 27, 2015); In the Matter of Leonard S. Miller, DRB 14-178 (September 23, 2014); and In the Matter of Sebastian Onyi Ibezim, Jr., DRB 13-405 (March 26, 2014). Even in the absence

of a negligent misappropriation, however, a reprimand may be imposed if, as is the case here, the attorney has failed to correct recordkeeping deficiencies that had been brought to his or her attention previously, or the attorney has prior discipline for similar misconduct. See, e.g., In re Michals, 224 N.J. 457 (2015) (reprimand by consent; an OAE audit revealed that the attorney had issued trust account checks to himself or others for personal or business expenses; however, because he maintained sufficient personal funds in his trust account, he did not invade client funds; following a prior admonition for negligent misappropriation of client funds and recordkeeping violations, the attorney still failed to resolve several improprieties); In re Murray, 220 N.J. 47 (2014) (reprimand by consent; a random compliance audit by the OAE revealed that the attorney had not corrected some of the same recordkeeping violations for which he had been admonished one month earlier); and In re Colby, 193 N.J. 484 (2008) (attorney violated the recordkeeping rules; although the recordkeeping irregularities did not cause a negligent misappropriation of clients' funds, the attorney had previously been reprimanded for the same violations and for negligent misappropriation).

It is well-settled that a violation of either state or federal tax law is a serious ethics breach. In re Queenan, 61 N.J. 578, 580 (1972), and In re Duthie,

121 N.J. 545 (1990). "[D]erelictions of this kind by members of the bar cannot be overlooked." In re Gurnik, 45 N.J. 115, 116 (1965). "A lawyer's training obliges him to be acutely sensitive of the need to fulfill his personal obligations under the federal income tax law." Ibid.

Cases involving an attorney's attempted or actual income tax evasion have resulted in suspensions ranging from six months to three years, although two-year suspensions have been imposed most often. See, e.g., In re Kleinfeld, 58 N.J. 217 (1971) (six-month suspension following a plea of nolo contendere to one count of tax evasion, for which a fine was paid; unspecified mitigating circumstances considered); In re Hand, 235 N.J. 367 (2018) (one-year suspension for attorney who pleaded guilty to two misdemeanor counts of failure to file income tax returns for two consecutive years, causing a stipulated $50,588 tax loss to the government; in exchange for her plea, the government agreed to forgo further criminal charges for tax offenses for years 2006 through 2012; attorney was sentenced to three years' federal probation, five months of home confinement; and $50,588 in restitution; two prior admonitions for unrelated conduct and a temporary suspension for her guilty plea); In re Landi, 65 N.J. 322 (1974) (one-year suspension for filing a false and fraudulent joint income tax return for one calendar year; the attorney was found guilty of income tax

evasion; twenty-nine-year career without a disciplinary record considered in mitigation, along with other unspecified factors); In re D'Andrea, 186 N.J. 586 (2006) (eighteen-month suspension imposed on attorney who pleaded guilty to willfully subscribing to a false federal income tax return; the attorney was sentenced to one year of probation, including six months of house arrest and fifty hours of community service; the attorney also was ordered to pay a $10,000 fine and $34,578 in restitution to the Internal Revenue Service; mitigating factors were the attorney's unblemished disciplinary history, his genuine remorse, the deficiencies in his law office's accounting system, and the passage of ten years since he had filed the return); In re Kirnan, 181 N.J. 337 (2004) (eighteen-month retroactive suspension for filing a joint individual tax return that deliberately did not report the receipt of income from the attorney's law practice, resulting in the nonpayment of $31,000 for two tax years; the attorney's cooperation with the criminal authorities was considered in mitigation); In re Rich, 234 N.J. 21 (2018) (two-year suspension for attorney who pleaded guilty to only one count of criminal tax fraud; a criminal complaint had charged him with four counts of second-degree tax fraud and four counts of fifth-degree criminal tax fraud for failure to file state income tax returns for the years 2008 through 2013; later, upon waiver of indictment, a nine-count information

charged him with multiple counts of criminal tax fraud; the attorney admitted that he failed to file income tax returns for years 2008 through 2013, and for each year had a tax liability of more than $50,000; he agreed to pay $1.2 million in back taxes and was sentenced to a one-year conditional discharge; the attorney notified the OAE of his conviction and had no ethics history in New Jersey); In re Rubin, 227 N.J. 229 (2016) (two-year suspension imposed on attorney who pleaded guilty to one count of tax evasion, under New York law, arising out of his failure to remit the appropriate taxes for a three-year period in amounts totaling $26,742; the attorney had an unblemished ethics history; aggravating factors included his failure to notify the OAE or New York authorities of his criminal conviction, and his failure to reply to the OAE's request for information); In re Gottesman, 222 N.J. 28 (2015) (three-year retroactive suspension for attorney guilty of tax evasion and willful failure to remit payroll taxes that he withheld from his employees' wages; he used his trust account to conceal the true extent of his income; he was sentenced to concurrent six-month terms of imprisonment on both counts and three years of supervised release; prior censure); In re Bozeman, 217 N.J. 613 (2014) (three-year suspension imposed on attorney who pleaded guilty to one count of conspiracy to defraud the United States, in violation of 18 U.S.C. § 371; the conspiracy involved his

evasion of federal income tax payments by filing false tax returns for the years 2000 through 2007; he was required to make restitution of more than $137,000; the attorney had no disciplinary record, except for the temporary suspension imposed following his guilty plea); and In re Klein, 209 N.J. 234 (2012) (three-year suspension imposed on attorney who pleaded guilty to one count of tax evasion (26 U.S.C. § 7201), and one count of criminal conspiracy to defraud the United States (18 U.S.C. § 371); aggravation included the attorney's failure to report his indictment to the OAE and his assistance of other clients in similar conduct).

In Adelhock, which the OAE cited, the attorney received a three-year suspension. Adelhock stipulated that he placed $263,000 of personal funds, legal fees, and retainers in his attorney trust account to evade taxing authorities and creditors. New Jersey taxing authorities previously had levied on his attorney business account on at least two occasions. Adelhock admitted having failed to pay income taxes since 2008. In the Matter of Michael B. Adelhock, DRB 17-180 (November 20, 2017) (slip. op at 10-11,18). He evaded federal and state income taxes, in violation of RPC 8.4(b), RPC 8.4(c), and U.S.C. § 7203. Id. at 18. He further stipulated to having practiced while suspended, a violation of RPC 8.4(b) and N.J.S.A. 2C:21-22(a). The Court found Adelhock guilty of

violations of RPC 1.4(b) (failure to communicate with the client), RPC 1.15(a), RPC 1.15(b) (failure to promptly disburse funds), RPC 1.15(d) and R. 1:21-6, RPC 5.5(a)(1) (practicing while ineligible), RPC 8.1(b) (failure to cooperate with disciplinary authorities), RPC 8.4(b), RPC 8.4(c), and RPC 8.4(d) (conduct prejudicial to the administration of justice).

Here, respondent's misconduct is not as serious as that of the attorney in Adelhock. It is more closely aligned with the six-month suspension case, Kleinfeld, where the attorney pleaded nolo contendere to a single count of tax evasion and paid a $1,000 fine. Respondent's actions were no more serious than the 2019 one-year suspension case, Hand, where the attorney pleaded guilty to two misdemeanor counts of failure to file income tax returns that caused a $50,588 tax loss to the government and where the government agreed to forgo criminal charges for tax offenses for six other years.

There is no indication here that respondent failed to file tax returns. However, in 2017, he intentionally concealed his receipt of a $5,675 fee in order to evade income taxes and admitted having engaged in similar conduct in prior years.

Finally, respondent also committed insurance fraud. Attorneys in New Jersey who have been found guilty of insurance fraud have been suspended or

disbarred. In companion cases, three attorneys pleaded guilty to mail fraud arising from a scheme to defraud insurance companies. In re Sloane, 147 N.J. 279 (1997), In re Takacs, 147 N.J. 277 (1997), and In re Kerrigan, 146 N.J. 557 (1996). They submitted false claims to insurance companies, alleging that either they or their clients had sustained personal injuries. Sloane pleaded guilty to one count of mail fraud and received a two-year suspension; Takacs was suspended for three years, after pleading guilty to two counts of mail fraud; and Kerrigan was suspended for eighteen months because, at the time of his misconduct, he was not yet an attorney and because he promptly notified and cooperated with disciplinary authorities. See, also, In re Wiss, 181 N.J. 298 (2004) (in a motion for reciprocal discipline, an attorney who pleaded guilty to the fifth-degree crime of insurance fraud received a six-month suspension; the attorney had directed a member of his staff to falsely notarize a client's signature on forms that were then submitted to an insurance company, made misrepresentations on a court form about the source of the client referral, and failed to supervise his staff, resulting in misrepresentations designed to improperly obtain insurance payments); In re Eskin, 158 N.J. 259 (1999) (in another motion for reciprocal discipline, an attorney received a six-month suspension for forgery and falsely notarizing his client's signature on a notice of claim that was served after the

deadline had expired and for serving a second notice of claim misrepresenting the date of the injury to give the appearance that the notice had been timely filed); In re Berger, 151 N.J. 476 (1997) (two-year suspension imposed on an attorney who submitted false information to his insurance agent, including an improper jurat, with the intent to defraud the law firm's insurance carrier in connection with a fire loss); In re DeSantis, 147 N.J. 589 (1997) (two-year suspension for an attorney who pleaded guilty to one count of mail fraud, relating to the submission of a false medical report of injuries sustained in an automobile accident); and In re Seligsohn, 200 N.J. 441 (2009) (disbarment for an attorney who participated in a scheme that involved staging and reporting fraudulent motor vehicle accidents for the purpose of pursuing false insurance claims; the attorney also compensated three individuals for referring clients to him and to his law firm, and filed false tax returns, improperly deducting those payments as business expenses on the firm's corporation business tax returns).

In Fisher, a case the OAE described as "strikingly similar" to the within matter, the attorney received a one-year suspension after his conviction in Pennsylvania of one count each of insurance fraud, forgery, and criminal conspiracy, all third-degree felonies. Fisher was sentenced in Pennsylvania to 200 hours of community service on the forgery count, with no further penalty

on the other two counts. In the Matter of Robert S. Fisher, DRB 05-077 (June 21, 2005) (slip. op at 3).

After a laptop computer belonging to Fisher's girlfriend was stolen from her car, she and Fisher asked a family friend who operated an appliance store to fabricate a receipt for the laptop, although it had been purchased elsewhere and the appliance store did not sell that type of computer. Ibid.

Thereafter, the attorney submitted to White Hall Mutual Insurance Company a phony $3,500 receipt for the computer. White Hall took no action on the claim, prompting Fisher to file suit. However, he did not attach the receipt to the complaint, because he knew that it was bogus. In its counterclaim, White Hall alleged fraud, based on the phony receipt. Fisher then dismissed the lawsuit in return for White Hall's withdrawal of its counterclaim, with prejudice. Ibid. When fashioning the appropriate sanction, we noted that

> the focus should be on respondent's conduct, not the category of the criminal offense. Although respondent fabricated a receipt to substantiate an insurance claim for his girlfriend, the claim itself was valid. In other words, respondent did not submit a false claim. Rather, it was the proof offered in support of the claim that was bogus.
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> [Id. at 8.]

Here, respondent directed Sufaru to create a phony invoice in an attempt to receive reimbursement for Rivera's flood repairs to his house – work that apparently had been performed. Like Fisher, respondent apparently had a legitimate claim, but attempted to support the claim with a bogus invoice.

A comparison of the aggravating and mitigating factors in Fisher with those in the instant case reveals that Fisher had a prior three-month suspension, while respondent has a prior private reprimand, admonition, and censure. Respondent also sought personal gain from the insurance claim and the tax matter, an element not present in Fisher's matter.

In mitigation, respondent readily admitted his misconduct, entered into a disciplinary stipulation, and corrected all his recordkeeping deficiencies. In addition, he expressed his intention to retire from the practice of law.

Both of respondent's most serious infractions, on their own, warrant a significant suspension. A six-month (Kleinfeld) to one-year suspension (Hand) is the appropriate sanction for respondent's tax evasion. A one-year suspension (Fisher) is warranted for his insurance fraud. On balance, thus, we determine that, to protect the public and preserve confidence in the bar, respondent should be suspended for two years, effective September 18, 2019, the date of his temporary suspension.

Vice-Chair Gallipoli and Member Zmirich voted to impose a retroactive three-year suspension.

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: _____
For: Ellen A. Brodsky
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Neal M. Pomper
Docket No. DRB 19-407

Argued: May 21, 2020

Decided: August 12, 2020

Disposition: Two-Year Suspension, Retroactive

Members	Two-Year Suspension, Retroactive	Three-Year Suspension, Retroactive	Recused	Did Not Participate
Clark	X			
Gallipoli		X		
Boyer	X			
Hoberman	X			
Joseph	X			
Petrou	X			
Rivera	X			
Singer	X			
Zmirich		X		
Total:	7	2	0	0

For: Ellen A. Brodsky
Chief Counsel