Supreme Court of New Jersey
Disciplinary Review Board
Docket No. 20-095
District Docket No. XIV-2019-0403E

In the Matter of	:
Jacqueline Patricia Gruhler	:
An Attorney at Law	:

Decision

Decided: February 22, 2021

Ashley L. Kolata-Guzik, Assistant Deputy Ethics Counsel for the Office of Attorney Ethics, waived oral argument.

Kim D. Ringler, counsel for respondent, waived oral argument.

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

This matter was before us on a motion for final discipline filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-13(c)(2), following respondent's guilty plea and conviction in the Superior Court of New Jersey, Law Division, Criminal Part, Cape May County, to third-degree possession of

a controlled dangerous substance (CDS) (methamphetamine), with intent to distribute, contrary to N.J.S.A. 2C:35-5(a)(1) and (b)(3).

For the reasons set forth below, we determine to grant the motion for final discipline and recommend respondent's disbarment.

Respondent was admitted to the New Jersey bar in 2007 and to the Pennsylvania bar in 2006. At some point in her career, she spent nine years as an Assistant District Attorney with the City of Philadelphia District Attorney's Office. It is not clear from the record whether respondent ever has practiced law in New Jersey, where she has no disciplinary history.

We now turn to the facts of this matter.

On June 25, 2019, respondent was arrested and charged with multiple offenses involving controlled dangerous substances (CDS) and weapons. The CDS charges included second-degree possession of CDS (heroin), with intent to distribute, within 500 feet of public property (Wildwood boardwalk), contrary to N.J.S.A. 2C:35-7(1)(a); third-degree possession of CDS (methamphetamine), contrary to N.J.S.A. 2C:35-10(a)(1); third-degree possession of CDS (heroin), with intent to distribute, contrary to N.J.S.A. 2C:35-10A(1) and (4) and N.J.S.A. 2C:35-5(b)(3); third-degree possession of CDS (cocaine), contrary to N.J.S.A. 2C:35-10(a)(1); fourth-degree possession of five or more dosage units of a prescription legend drug (gabapentin),

without a prescription, contrary to N.J.S.A. 2C:35-10.5(e)(2); and the disorderly persons offenses of (1) possession of CDS (marijuana), contrary to N.J.S.A. 10(a)(4), (2) possession of drug paraphernalia, contrary to N.J.S.A. 2C:36-2(a), and (3) possession of four or fewer dosage units of a prescription legend drug (gabapentin) without a prescription, contrary to N.J.S.A. 2C:35-10.5(e)(1).

The weapons charges included second-degree possession of a handgun (Ruger LC9 9mm with a defaced serial number) without a permit, contrary to N.J.S.A. 2C:39-5(b)(1); second-degree possession of a firearm (Ruger LC9 9mm with a defaced serial number) while in the course of committing, or attempting to commit, or conspiring to commit a violation of N.J.S.A. 2C:35-5, N.J.S.A. 2C:35-7, and N.J.S.A. 2C:35-7.1, contrary to N.J.S.A. 2C:39-4(1)(a); and fourth-degree possession of a defaced firearm, contrary to N.J.S.A. 2C:39-3(d).

On September 26, 2019, respondent waived her right to an indictment and agreed to proceed by way of an accusation charging her with second-degree possession of CDS (methamphetamine), with intent to distribute, contrary to N.J.S.A. 2C:35-5(a)(1).

On December 6, 2019, before the Honorable Michael J. Donohue, J.S.C., respondent entered a guilty plea to a downgraded charge of third-degree

possession of CDS (methamphetamine), with intent to distribute, contrary to N.J.S.A. 2C:35-5(a)(1) and (b)(3). Specifically, respondent allocuted that, on June 24 and 25, 2019, when she and her husband, Mutatie Hakeem Johnson, were in Wildwood, New Jersey, she knew that he was in possession of methamphetamine, which he intended to sell. She was assisting him in selling that methamphetamine "at or around the motel area," where they had rented a room. Pursuant to her plea agreement, respondent was admitted to the Pre-Trial Intervention Program (PTI) for a period of twenty-four months and ordered to pay $1,225 in fines, penalties, and assessments.[1]

Further details about respondent's criminal conduct are set forth in various police reports and two recorded interviews of respondent. According to Patrolman Peter Hand's report, on June 24, 2019, between 5:30 and 6:00 a.m., respondent, who was with Johnson, checked into the Monaco Motel in Wildwood, New Jersey. Throughout the day, the hotel manager, Jerald Kretchman, observed "foot traffic to and from the room." Kretchman informed respondent that unregistered guests were not welcome on the property.

[1] For his crimes, Johnson pleaded guilty to second-degree unlawful possession of a handgun and second-degree possession of CDS with intent to distribute. He received a prison term of five years, with one year of parole ineligibility.

Kretchman claimed that respondent and Johnson checked out on June 24, 2019, at 11:30 p.m., but returned to the motel on June 25, 2019, at 1:50 a.m. Kretchman called the police shortly thereafter. By the time Patrolman Hand arrived, respondent and Johnson had once again departed the motel premises.

According to Hand's report, Kretchman accompanied him to the room, where two handwritten messages, written on cardboard, were tucked into the door. Together, the notes stated:

> [r]oom #5 please do not have room cleaned a watch, necklace, car keys were left in the room. Please call [redacted] before anyone cleans room thank you. Check out is not until 10 AM we will be here before then to retrieve items in room. We will be here before checkout 10AM.
>
> Valuable items were left in room please call [redacted]. We will be here before checkout.
>
> [OAEa,Ex.C.][2]

In response to the notes, Kretchman searched the room, looked under the bed, and found a backpack that contained a loaded gun, four bundles of what appeared to be heroin, and four containers of suspected marijuana. Consequently, Patrolman Hand contacted detectives.

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[2] "OAEa" refers to the appendix to the OAE's March 31, 2020 brief in support of its motion for final discipline. "Ex." refers to the exhibits attached to the OAE's brief.

On June 25, 2019, shortly after 9:00 a.m., Kretchman called the police again, after respondent and Johnson returned to the property. Although they left the motel in a vehicle before the police arrived, the police located the vehicle, which Johnson was driving and in which respondent was a passenger. Johnson's papers identified him as Malik K. John-Garner, however. He and respondent were taken into custody.

At police headquarters, a search of respondent's purse revealed cocaine; methamphetamine; marijuana; gabapentin; and plastic straws. In addition, the police learned that Malik K. John-Garner was, in truth, Johnson.

On June 25, 2019, Wildwood Police Department Detective Tristan Johns conducted two recorded interviews of respondent, after she waived her Miranda right to have an attorney present. During the first interview, which took place during late morning, respondent identified Johnson as Malik K. John-Garner. She claimed that she did not have a gun, never carried a gun, and neither ingested nor sold drugs. She also denied ever seeing Johnson with a gun or narcotics.

Respondent told Detective Johns that, even though her family had a house in Wildwood Crest, she and Johnson had elected to stay at the Monaco Motel. She acknowledged that Kretchman had confronted her about having

guests on the property but claimed that the visitors were her cousin and her brother.

According to respondent, she decided to leave the motel because the Kretchman's behavior made her uncomfortable. When she checked out of the motel, at 11:30 p.m., she returned the room key and parking pass to Kretchman. She claimed that, shortly thereafter, she and Johnson returned to retrieve a watch and jewelry that she had inadvertently left in the room. However, because they were unable to locate Kretchman and gain entry to the room, they went to her family's house in Wildwood Crest. Respondent claimed that she returned to the hotel a second time with her brother, who left the notes.

Respondent stated that, when the police called her, at approximately 2:00 a.m., she was not in the area. She claimed that the officer did not want to wait for her to return to the motel, so she and Kretchman agreed that she would return at 9:00 a.m.

At respondent's second police interview, which took place later the same day, she admitted that Malik K. John-Garner was not Johnson's name, that his real name was Mutatie Johnson, and that he had been using his brother's identification. Respondent stated that she had met Johnson in September 2018, that they were married in May 2019, and that she knew he was a drug dealer.

By the time of the second interview, the police had found the drugs and drug paraphernalia in respondent's purse. She admitted that, in the past, she had agreed to hold drugs for Johnson in her purse because, if she were caught with CDS, she would be released on bail, considering her lack of a criminal record. In contrast, Johnson would be incarcerated, because the Police Department of Ridley Township, Pennsylvania had issued an outstanding warrant for him, as an "absconder for drugs and a gun." Despite these statements, respondent insisted that she was not aware of the drugs in her purse and, further, that they did not belong to her.

In connection with these disciplinary proceedings, respondent's counsel, Kim Ringler, submitted an April 20, 2020 letter to Office of Board Counsel advancing the following mitigation: respondent (1) accepted responsibility for her actions; (2) cooperated with law enforcement and disciplinary authorities; (3) served for nine years as an Assistant District Attorney with the Philadelphia District Attorney's Office; (4) prior to her arrest, had maintained a good reputation as an attorney; (5) paid all fees and fines that the Superior Court of New Jersey had imposed on her and remains current with the monthly supervision fee imposed by the Pennsylvania Board of Probation and Parole (Pennsylvania Board), which now supervises her; (6) complied with all reporting instructions and special conditions that the Pennsylvania Board

imposed on her; (7) underwent a drug and alcohol screening and evaluation, with no recommendation that she receive additional treatment for substance abuse; (8) voluntarily sought outpatient treatment by a therapist and psychiatrist, who provide individual counseling and medical management services; (9) is a single mother of two children, ages six and eight; and (10) is committed to completing PTI and resuming a productive, law-abiding life.

Although, in aggravation, the OAE asserted that respondent failed to report her criminal charges, according to respondent's counsel, respondent "advised the OAE of the status of the charges against her.".

The OAE charged that, in addition to the criminal conduct, respondent violated RPC 8.4(c) during her first police interview by misrepresenting Johnson's identity to the Wildwood police detective. Later, during her second interview, she corrected that intentional misstatement.

Following a review of the record, we determine to grant the OAE's motion for final discipline. Final discipline proceedings in New Jersey are governed by R. 1:20-13(c). Under that Rule, a criminal conviction is conclusive evidence of guilt in a disciplinary proceeding. R. 1:20-13(c)(1); In re Magid, 139 N.J. 449, 451 (1995); and In re Principato, 139 N.J. 456, 460 (1995). Respondent's guilty plea to third-degree possession of a controlled dangerous substance (methamphetamine), with intent to distribute, in violation

of N.J.S.A. 2C:35-5(a)(1) and N.J.S.A. 2C:35-5(b)(3), thus, establishes a violation of RPC 8.4(b). Pursuant to RPC 8.4(b), it is unethical conduct for an attorney to "commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer." Moreover, pursuant to RPC 8.4(c), it is unethical conduct for an attorney to "engage in conduct involving dishonesty, fraud, deceit or misrepresentation." Respondent also violated RPC 8.4(c) by making blatant misrepresentations to the Wildwood police during her first interview, which lies were intended to shield her husband and herself from criminal prosecution. Hence, the sole issue is the extent of discipline to be imposed. R. 1:20-13(c)(2); In re Magid, 139 N.J. at 451-52; and In re Principato, 139 N.J. at 460.

In determining the appropriate measure of discipline, we must consider the interests of the public, the bar, and the respondent. "The primary purpose of discipline is not to punish the attorney but to preserve the confidence of the public in the bar." Ibid. (citations omitted). Fashioning the appropriate penalty involves a consideration of many factors, including the "nature and severity of the crime, whether the crime is related to the practice of law, and any mitigating factors such as respondent's reputation, his prior trustworthy conduct, and general good conduct." In re Lunetta, 118 N.J. 443, 445-46 (1989).

That an attorney's conduct did not involve the practice of law or arise from a client relationship will not excuse an ethics transgression or lessen the degree of sanction. In re Musto, 152 N.J. 165, 173 (1997). Offenses that evidence ethics shortcomings, although not committed in the attorney's professional capacity, may, nevertheless, warrant discipline. In re Hasbrouck, 140 N.J. 162, 167 (1995). The obligation of an attorney to maintain the high standard of conduct required by a member of the bar applies even to activities that may not directly involve the practice of law or affect his or her clients. In re Schaffer, 140 N.J. 148, 156 (1995).

In sum, we find that respondent violated RPC 8.4(b) and (c). The only remaining issue is the appropriate quantum of discipline to be imposed for respondent's misconduct.

The Court has declared that, although it does not conduct "an independent examination of the underlying facts to ascertain guilt," it will "consider them relevant to the nature and extent of discipline to be imposed." Magid, 139 N.J. at 452. In motions for final discipline, it is acceptable to "examine the totality of the circumstances" including the "details of the offense, the background of respondent, and the pre-sentence report" before "reaching a decision as to [the] sanction to be imposed." In re Spina, 121 N.J. 378, 389 (1990). The "appropriate decision" should provide "due consideration

to the interests of the attorney involved and to the protection of the public." Ibid.

Considering the totality of respondent's misconduct, we determine that disbarment is the only appropriate result. As the Court held in In re Hasbrouck, 152 N.J. 366, 371-72 (1998), "[s]ome criminal conduct is so utterly incompatible with the standard of honesty and integrity that we require of attorneys that the most severe discipline is justified by the seriousness of the offense alone."

Specifically, in June 2019, respondent and her husband were engaged in the street-level distribution of a variety of CDS in Wildwood, New Jersey, while armed with a defaced firearm. Despite her extensive experience as a law enforcement officer in Philadelphia, respondent married Johnson, knowing he was an active drug dealer. Rather than attempt to rehabilitate him, she joined him in a life of crime, and further admitted that, as his partner in crime, she would often assist him in dealing drugs, particularly by holding the drugs for him, due to his criminal record and outstanding warrants. Moreover, they had entered into a pact that, if they were arrested for their crimes, respondent would take responsibility, because, based on her unblemished criminal record, she would receive preferential treatment. Simply put, what happened in

Wildwood was not an aberrational event for respondent but, rather, was an occupation.

Once arrested, respondent did not cooperate with law enforcement, as she claimed to us in her letter brief. To the contrary, she blatantly attempted to obstruct justice by lying about her husband's identity and their illicit activities in Wildwood. She also claimed that she had never seen her husband with CDS or a gun – a complete misrepresentation to the police, at odds with her husband's criminal record and outstanding warrant on a gun charge. Ultimately, she confessed to their crimes, but only after the police had seized CDS and drug paraphernalia from her purse. In other words, she came clean because she was forced to do so. Respondent's egregious criminal behavior evidences a complete lack of moral fiber and vitiates and possibility of future public trust.

The Court has concluded that attorneys who commit crimes that are serious or that evidence a total lack of moral fiber must be disbarred in order to protect the public, the integrity of the bar, and the confidence of the public in the legal profession. See, e.g., In re Quatrella, 237 N.J. 402 (2019) (attorney convicted of conspiracy to commit wire fraud after taking part in a scheme to defraud life insurance providers via three stranger-originated life insurance policies; the victims affected by the crimes lost $2.7 million and the intended

loss to the insurance providers would have been more than $14 million); In re Klein, 231 N.J. 123 (2017) (attorney convicted of wire fraud for engaging in an "advanced fee" scheme that lasted eight years and defrauded twenty-one victims of more than $819,000; Klein leveraged his status as an attorney to provide a veneer of respectability and legality to the criminal scheme, including the use of his attorney escrow account); In re Seltzer, 169 N.J. 590 (2001) (attorney working as a public adjuster committed insurance fraud by taking bribes for submitting falsely inflated claims to insurance companies and failed to report the payments as income on his tax returns; Seltzer was guilty of conspiracy to commit mail fraud, mail fraud, and conspiracy to defraud the Internal Revenue Service); In re Lurie, 163 N.J. 83 (2000) (attorney convicted of eight counts of scheming to commit fraud, nine counts of intentional real estate securities fraud, six counts of grand larceny, and one count of offering a false statement for filing); In re Chucas, 156 N.J. 542 (1999) (attorney convicted of wire fraud, unlawful monetary transactions, and conspiracy to commit wire fraud; Chucas and his co-defendant used for their own purposes $238,000 collected from numerous victims for the false purpose of buying stock); In re Hasbrouck, 152 N.J. 366 (1998) (attorney pleaded guilty to several counts of burglary and theft by unlawful taking, which she had committed to support her addiction to pain-killing drugs); In re Goldberg, 142

N.J. 557 (1995) (two separate convictions for mail fraud and conspiracy to defraud the United States); In re Messinger, 133 N.J. 173 (1993) (attorney convicted of conspiracy to defraud the United States by engaging in fraudulent securities transactions to generate tax losses, aiding in the filing of false tax returns for various partnerships, and filing a false personal tax return; Messinger was involved in the conspiracy for three years, directly benefited from the false tax deductions, and was motivated by personal gain); and In re Mallon, 118 N.J. 663 (1990) (attorney convicted of conspiracy to defraud the United States and aiding and abetting the submission of false tax returns; Mallon directly participated in the laundering of funds to fabricate two transactions reported on two tax returns in 1983 and 1984).

In crafting the appropriate discipline in this case, we also considered respondent's misconduct through the lens of disciplinary precedent for CDS offenses. A three-month suspension is generally the measure of discipline for an attorney's mere possession of a controlled dangerous substance. In re Musto, 152 N.J. at 174. See also In re Holland, 194 N.J. 165 (2008) (three-month suspension for possession of cocaine); In re Sarmiento, 194 N.J. 164 (2008) (three-month suspension for possession of ecstasy); and In re McKeon, 185 N.J. 247 (2005) (three-month suspension for possession of cocaine).

Some offenses attributable to drug addiction may warrant stronger disciplinary measures. In re Musto, 152 N.J. at 174. See, e.g., In re Stanton, 110 N.J. 356 (1988) (six-month suspension for possession of cocaine where attorney had acknowledged ten years of drug abuse); In re Pleva, 106 N.J. 637 (1987) (six-month suspension for attorney who pleaded guilty to possession of nine and one-half grams of cocaine, eleven grams of hashish, and fifty-two grams of marijuana; Pleva was a regular drug user and had been arrested previously; the Court further imposed a three-month suspension for his guilty plea to the charge of giving false information about drug use, when he completed a certification required before purchasing a firearm); In re Kaufman, 104 N.J. 509 (1986) (six-month suspension for attorney who pleaded guilty to two separate criminal indictments for possession of cocaine and methaqualude; Kaufman had a prior drug-related incident and a long history of drug abuse); In re Rowek, 220 N.J. 348 (2015) (one-year retroactive suspension for attorney who pleaded guilty to possession of Vicodin, GBL, Percocet, and a device used to assist him in fraudulently passing a drug urinalysis, and driving under the influence of GBL; Rowek had a long history of drug abuse and, after being admitted to PTI, continued to use drugs and attempted to improperly pass his court-mandated drug test; we emphasized the attorney's lack of respect for the criminal justice system as an aggravating

factor warranting enhanced discipline); and In re Salzman, 231 N.J. 2 (2017) (two-year suspension for attorney who engaged in blatant drug abuse and criminal conduct, despite having been placed on supervised probation for a heroin conviction; enhanced discipline was imposed based on egregious aggravation, including Salzman's extensive criminal history, sheer disdain for court appearances and court orders, and life-long drug addiction and abuse).

Attorneys convicted of either distribution of, or possession with intent to distribute, controlled dangerous substances often have been disbarred, if the distribution is for gain or profit. In re Kinnear, 105 N.J. 391, 396 (1987). See In re Canton, 193 N.J. 331 (2008) (attorney also was disbarred in New York after he pleaded guilty in a New York federal district court to possession with intent to distribute controlled substances (five kilograms and more of cocaine) and importing or exporting controlled substances; Canton had agreed to import into the United States approximately one thousand kilograms of cocaine belonging to a Colombian paramilitary organization; in exchange, a portion of the proceeds from the sale of the cocaine would be used to pay him for the weapons that he planned to provide to the organization; he was sentenced to fourteen years in prison and five years of supervised release); In re Valentin, 147 N.J. 499 (1997) (attorney also was disbarred in New York for selling more than a pound of cocaine to a police informant for $11,500; the distribution was

solely for financial gain); In re McCann, 110 N.J. 496 (1988) (attorney was involved in a large scale and prolonged criminal narcotics conspiracy, as well as tax evasion; greed was his motivation); and In re Goldberg, 105 N.J. 278 (1987) (attorney played a significant role in a three-year criminal conspiracy to distribute, and possession with intent to distribute, large quantities of phenyl acetone, a Schedule II controlled substance, phenylacetone (P-2P), contrary to 21 U.S.C. § 846; the defendants purchased nine tons of P-2P, enough for $200 million worth of speed, at a profit of at least $3.5 million; Goldberg was moved by financial gain).

Disbarment, however, may not be imposed for drug distribution if the attorney has advanced compelling mitigation and realistic hopes for rehabilitation. In In re Farr, 115 N.J. 231 (1989), after the attorney had completed PTI, the OAE charged him with various ethics infractions arising from the underlying criminal conduct, which resulted in a formal accusation alleging that he had given false information to a law enforcement officer, by denying his use and possession of controlled dangerous substances (marijuana), contrary to N.J.S.A. 2C:29-3(b)(4). In the Matter of L. Gilbert Farr, DRB 88-088 (October 19, 1988) (slip op. at 13-14). Farr, a young assistant county prosecutor, who was described by supervisors as "hardworking" but "naive, immature, and susceptible to manipulation by

others," became involved in an inappropriate relationship with a couple who were acting as police informants. In re Farr, 115 N.J. at 233. He became "infatuated" with the young female informant and committed "gross improprieties" to "ingratiate himself with her." Ibid. Specifically, Farr misappropriated marijuana and PCP from the evidence room of the prosecutor's office for his personal use and to share with the couple, and manipulated the justice system through search warrants, bail motions, and appellate arguments, in an attempt to further his relationship with the female. Id. at 234. The Court found that "while [Farr] thought he was manipulating the informants, they were also manipulating him," noting that the male had an extensive criminal history. Ibid.

The Court suspended Farr for six months. Id. at 238. In crafting the appropriate discipline, the Court concluded that, although Farr had "lost his ethical compass and went astray," his conduct "was aberrational and not likely to occur again," adding that he had "found his bearings" through rehabilitation by effective psychiatric counseling. Id. at 236-37. The Court concluded:

> [a]s offensive as was [Farr's] conduct, we are persuaded that "the root of his transgressions is not intractable dishonesty, venality, immorality, or incompetence. We generally acknowledge the possibility that the determinative cause of wrongdoing might be some mental, emotional, or psychological state or mental condition that is not obvious and, if present, could be corrected through treatment." By

> receiving needed psychotherapy and performing various good works, respondent has rehabilitated himself.
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> [Id. at 237 (citation omitted).]

In In re Musto, 152 N.J. 165 (1997), the attorney was convicted, in both state and federal court, of conspiracy to distribute cocaine, possession of methyl ecgonine, conspiracy to possess heroin and cocaine, and possession of heroin and cocaine. Id. at 168. We recommended the attorney's disbarment, but the Court disagreed and suspended him for three years. Id. at 167.

The Court recognized that "[i]n most cases an attorney convicted of distribution of controlled dangerous substances would be disbarred" and that "[d]isbarment would certainly be appropriate if the distribution were done for gain or profit." Id. at 176 (citing Kinnear, 105 N.J. at 396). On balance, however, the Court determined that a three-year suspension, rather than disbarment, was appropriate, emphasizing that Musto's distribution of cocaine was limited to providing it to a friend for her personal use; that Musto "was primarily a drug user;" that the $200 profit realized from the cocaine distribution was used "to fund his heroin addiction;" that his misconduct did not harm his clients; that he met professional obligations while "spiral[ing] down the path of drug addiction;" that his crime did not relate to the practice of law; that he did not "use his professional status or skills as an attorney to

assist in his criminal acts;" and that he was not actively practicing law at the time of his criminal conduct. Id. at 178-79. The Court concluded that, "given [Musto's] efforts to rehabilitate himself," his ethics infractions did not "reflect a defect in professional character so grave as to require disbarment." Id. at 181.

In In re Neggers, 185 N.J. 397 (2005), a two-count accusation charged the attorney with possession of a controlled dangerous substance (heroin), contrary to N.J.S.A. 2C:35-10(a)(1), and possession of a controlled dangerous substance (heroin), with intent to distribute, contrary to N.J.S.A. 2C:35-5(b)(3). In the Matter of Wendy Ellen Neggers, DRB 05-217 (October 26, 2005) (slip op. at 3). She was accepted into PTI. Ibid.

Neggers, whose charges arose from a drug overdose in her parents' home, was a recovering heroin addict at the time. Id. at 2. Her father found thirty-one bags of heroin, which he turned over to the police. Ibid. Hospital nursing staff found five additional packets. Ibid. After she was treated and released from the hospital, Neggers completed a partial hospitalization drug treatment program, followed by an intensive outpatient program. Ibid. She was "very remorseful" for the overdose and had taken full responsibility for her actions. Ibid.

In determining the appropriate quantum of discipline to impose on Neggers, we took into account "the considerable strides" that she had made in her efforts at rehabilitation, which included in-patient and out-patient treatment, methadone maintenance, psychotherapy, and the pursuit of both a certification in alcohol and drug counseling and a master's degree. Id. at 4-5. We also took into consideration her retirement from the bar, as she intended to pursue a career in the addictions field. Id. at 5.

We juxtaposed the attorney's "tremendous gains in her efforts at drug rehabilitation and her eagerness to move forward with her life" against the thirty-six bags of heroin in her possession at the time of her arrest, as to which she was charged with intent to distribute, and her intoxicated state, and determined that a one-year suspension was appropriate. Id. at 8. The Court disagreed and imposed a three-month suspension. In re Neggers, 185 N.J. 397.

In In re Kapalin, 227 N.J. 224 (2016), the Court imposed a three-year suspension on an attorney who pleaded guilty, in the United States District Court for the District of New Jersey, to conspiracy to smuggle contraband into a correctional facility, in violation of 18 U.S.C. § 371 and 18 U.S.C. § 1791(a). The attorney was sentenced to one month in custody and five months of home confinement, followed by three years of supervised release, and was ordered to pay more than $5,000 in fines and assessments. Id. at 4.

Between August 2013 and May 2014, Kapalin engaged in a scheme to smuggle contraband to inmates who were held on federal charges in the Essex County Correctional Facility. In the Matter of Charles B. Kapalin, DRB 15-385 (August 12, 2016) (slip op. at 2-3). Specifically, he used his status as an attorney to secure meetings with the inmates, who were part of the scheme. Id. at 3. Kapalin delivered the marijuana and tobacco to the inmates inside of an attorney conference room and was paid cash for each instance of smuggling. Ibid. In total, he carried out the smuggling operation on eight occasions, for which he received cash payments totaling $5,000 to $6,000. Ibid.

In imposing a three-year suspension, we considered Kapalin's significant mitigation. Id. at 11-12. After many years of dedication to public service as an assistant prosecutor, he decided against pursuing a "lucrative job," choosing instead to become a criminal defense attorney to "under-represented communities." Id. at 11. Further, as reflected in a psychological evaluation, Kapalin became caught in a "perfect storm of clinical depression and financial stress," as the result of his wife's death following a prolonged battle with cancer and his son's battle with cocaine addiction, which included stealing from Kapalin and his wife. In additional mitigation, Kapalin cooperated with federal law enforcement. Ibid.

Like the attorney in Farr, we found Kapalin's conduct to be aberrational. Id. at 12. Although his conduct was reprehensible, "the root of his transgressions [was] not intractable dishonesty, venality, immorality, or incompetence." Ibid. Rather, as the psychological evaluation concluded, Kapalin's conduct amounted to "'professional suicide,'" which was "motivated by 'overwhelming feelings of desperation' and depression." Ibid.

As the Court held in Musto, detailed above, "[i]n most cases an attorney convicted of distribution of controlled dangerous substances would be disbarred" and "[d]isbarment would certainly be appropriate if the distribution were done for gain or profit." Id. at 176 (citing Kinnear, 105 N.J. at 396). Here, respondent was engaged in the distribution of CDS, with a firearm, for profit. Unlike the attorneys in Farr, Musto, and Kapalin, she has provided no basis for us to conclude that she had simply lost her ethical compass and went astray, or that her conduct was aberrational. To the contrary, despite having previously served as a law enforcement officer, respondent married a known drug dealer and, thereafter, joined and abetted him in his criminal enterprise – the street-level distribution of addictive and dangerous drugs. Her conduct was not aberrational, but was planned and tailored, as evidenced by her pact with her husband, their motel rental, his fake identity to avoid detection and arrest on an outstanding warrant, and their defaced firearm.

Moreover, once arrested, respondent initially made brazen misrepresentations to the police, denied any wrongdoing, and actively attempted to conceal her husband's identity. Respondent admitted her crimes only after the police had found drugs in her purse, and she had no choice but to confess. Even then, she attempted to mitigate her culpability. Such behavior evidences the type of "intractable dishonesty, venality, [and] immorality" cited by the Court in Farr. Further, although respondent's counsel reported that respondent is receiving therapy and medication management, nothing in the record suggests that her conduct in Wildwood stemmed from "some mental, emotional, or psychological state or mental condition that is not obvious and, if present, could be corrected through treatment" – the saving grace emphasized in Farr and Kapalin. Nor was her distribution of drugs limited to friends, or caused by drug addiction, key facts that spared the attorneys in Musto and Neggers from disbarment.

Finally, respondent's prior career in law enforcement serves as an aggravating, not a mitigating, factor as her counsel suggested. After spending nine years as a district attorney in the criminal justice system, respondent intentionally began to engage in a life of crime, for profit. Based on her history as a prosecuting attorney, she knew not only the grim consequences of such conduct on society, but also on her status as an attorney.

The most recent low-level drug distribution case we have decided is Kapalin. That attorney had dedicated his retirement years to representing members of under-represented communities. He had suffered significant psychological and financial stress due to his wife's illness and their son's drug addiction. He cooperated with federal law enforcement. Finally, his conduct was considered aberrational. We determined to impose a three-year suspension, rather than the presumptive disbarment of Kinnear, due to the compelling mitigation that Kapalin presented.

Respondent, however, failed to present mitigation on par with Kapalin, and thus, should face the ultimate sanction of disbarment for her egregious, criminal misconduct.

Members Joseph and Rivera 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: **/s/ Timothy M. Ellis**
Timothy M. Ellis
Acting Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Jacqueline Patricia Gruhler
Docket No. DRB 20-095

Decided: February 22, 2021

Disposition: Disbar

Members	Disbar	Recused	Did Not Participate
Clark	X		
Boyer	X		
Gallipoli	X		
Hoberman	X		
Joseph			X
Petrou	X		
Rivera			X
Singer	X		
Zmirich	X		
Total:	7	0	2

/s/ Timothy M. Ellis
Timothy M. Ellis
Acting Chief Counsel