Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 20-333
District Docket No. XIV-2020-0067E

In the Matter of	:
Jason Edward Rheinstein	:
An Attorney at Law	:

Decision

Argued: May 20, 2021

Decided: September 16, 2021

Eugene A. Racz 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 motion for reciprocal discipline filed by the Office of Attorney Ethics (the OAE), pursuant to R. 1:20-14(a), following the Court of Appeals of Maryland's January 24, 2020 order disbarring respondent.

In the Maryland matter, respondent was found to have violated Maryland RPC 1.1 (competent representation); RPC 3.1 (meritorious claims); RPC 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal); RPC 3.4(e) (in trial, alluding to any matter that the lawyer does not reasonably believe is relevant or will not be supported); RPC 4.4(a) (using a means with no substantial purpose other than to embarrass, delay, or burden a third person); RPC 8.4(a) (violating or attempting to violate the Maryland Lawyers' Rules of Professional Conduct); RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); and RPC 8.4(d) (engaging in conduct that is prejudicial to the administration of justice).[1]

The OAE asserted that respondent was found guilty of having violated the equivalent of New Jersey RPC 1.1(a) (committing gross neglect); RPC 3.1 (asserting an issue with no basis in law or fact); RPC 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal); RPC 3.4(e) (making an allusion to matters that are not relevant or supported by admissible evidence); RPC 4.4(a) (engaging in conduct that has no substantial purpose other than to embarrass, delay, or burden a third person); RPC 8.4(a) (violating or attempting

[1] Originally, respondent also was charged with having violated Maryland RPC 3.2 (failure to expedite litigation), but that charge ultimately was withdrawn.

to violate the New Jersey Rules of Professional Conduct); RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); and RPC 8.4(d) (engaging in conduct that is prejudicial to the administration of justice), which are substantially similar or equivalent to the Maryland RPCs.

For the reasons set forth below, we determine to grant the motion for reciprocal discipline and impose a deferred, one-year suspension.

Respondent earned admission to the New Jersey bar in 2004; to the District of Columbia, Maryland, and New York bars in 2005; to the California bar in 2006; to the Pennsylvania and Virginia bars in 2007; and to the Florida bar in 2008. During the relevant timeframe, he maintained a law office in Severna Park, Maryland. Respondent has no prior discipline in New Jersey.

Since November 21, 2016, respondent has been administratively ineligible to practice law in New Jersey for failure to comply with continuing legal education requirements. Moreover, since August 28, 2017, respondent has been administratively ineligible to practice law in New Jersey for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection.

On February 17, 2016, the Attorney Grievance Commission of Maryland filed a petition instituting formal disciplinary charges against respondent. On April 22, 2016, respondent was served with the petition and, more than one year

later, on July 20, 2017, filed an untimely answer to the petition. On August 19, 2019, the Honorable Glenn L. Klavans, of the Circuit Court for Anne Arundel County, issued findings of fact and conclusions of law, determining that respondent had violated the charged Maryland rules. On January 24, 2020, the Court of Appeals of Maryland upheld Judge Klavans' findings and imposed disbarment as the sanction.

In September 2008, Charles and Felicia Moore, a married couple, entered into a $200,000 construction loan agreement with Imagine Capital (Imagine), a private commercial lender that finances residential rehabilitation projects in Maryland. As collateral for the loan, the Moores pledged four Baltimore properties they owned. After Imagine disbursed $67,419.92 to the Moores, they defaulted on required monthly interest payments. Consequently, in June 2009, Imagine, through its attorney, James Holderness, Esq., filed a complaint for confessed judgment in the Circuit Court for Baltimore City, docketed as Imagine Capital, Inc. v. Charles E. Moore, et al. (the Imagine matter). The Circuit Court then entered a $113,683.76 judgment against the Moores.

In September 2009, Imagine and the Moores reached an agreement whereby the Moores conveyed one of the properties pledged as collateral to Imagine, at an agreed value of $65,000, and signed a promissory note for

$20,000; the Moores defaulted on that agreement, and the original note terms resumed. Imagine then sought to collect the full amount due, less the $65,000 value of the previously conveyed collateral property.

In November 2010, Imagine began collection efforts. In response, Mr. Moore sent two pro se letters to the court that were treated as motions to vacate and revise the judgment. Both motions were denied, and Imagine resumed collection efforts.

In October 2011, the Moores retained respondent to represent them in challenging the judgments. Specifically, on October 18, 2011, respondent entered his initial appearance on behalf of the Moores in the Imagine matter, filed a motion to vacate and revise the judgments, and asserted that the judgments were obtained by fraud. On October 31, 2011, Imagine's counsel, Jeffrey Tapper, Esq., filed opposition, and the Court scheduled a hearing for December 7, 2011.

In November 2011, prior to the scheduled hearing, respondent filed a grievance against Tapper with the Attorney Grievance Commission of Maryland. As a result, approximately one week prior to the hearing, Tapper withdrew his appearance, citing a conflict due to the grievance.

On December 7 and 8, 2011, a hearing was held before the Honorable Emanuel Brown, with Troy Swanson, Esq. appearing for Imagine. During the hearing, respondent "interjected irrelevant and unsubstantiated accusations against Imagine and its members regarding an elaborate fraud scheme," and "leered" at Imagine member, Robert Svehlak during the proceeding. Respondent also led the court to believe that Svehlak was under investigation by the Department of Justice. Svehlak invoked his Fifth Amendment right to remain silent. As a result of respondent's representations, the court vacated the judgments.

On January 3, 2012, after retaining Matthew Hjortsberg, Esq. of the firm of Bowie & Jensen, Imagine filed a Notice of Appeal to the Court of Special Appeals. Thereafter, respondent began sending a series of erratic e-mail messages to Bowie & Jensen, in which he threatened to sue the firm and to report Hjortsberg and his associates to the Attorney Grievance Commission if the appeal was not withdrawn. Respondent also engaged in an ad hominem attack on Mr. Svehlak.

As a result of the threats, Bowie & Jensen put its insurance carrier on notice, retained Ward B. Coe, III, Esq. as legal counsel, and counseled their clients about the perception that respondent was depriving them of their choice

of counsel. On February 14, 2012, Coe wrote to respondent, asking him to cease threatening Bowie & Jensen. Coe summarized respondent's improper threats and demonstrated that the appeal filed by Imagine was not frivolous, further noting that threatening attorneys with grievances to gain an advantage in litigation violated Maryland's Rules of Professional Conduct. On March 21, 2012, Hjortsberg filed a complaint against respondent with the Attorney Grievance Commission.

On April 16, 2012 respondent filed a frivolous petition for a writ of certiorari with the Court of Appeals of Maryland. In addition to violating Maryland Rules by including information not contained in the record, respondent argued in the petition that the case was an "extraordinary case of public policy" with an "almost unbelievable record . . . arguably the most shocking confessed judgment action to ever appear in Maryland's appellate courts."

On April 20, 2012, respondent filed a frivolous motion to dismiss the appeal in the Court of Special Appeals, arguing that the appeal was based upon a non-final order.

On May 3, 2012, the Court of Special Appeals stayed the appeal, pending the resolution of the petition for a writ of certiorari. However, the next day,

despite the stay and pending petition, respondent filed a second frivolous motion to dismiss the appeal in the Court of Special Appeals.

Respondent made additional filings in the Court of Appeals, including a May 9, 2012 reply that contained information outside the record and was frivolous; a May 17, 2012, "preliminary brief of the appellees and memorandum in support of motion to dismiss appeal" that violated court rules and was frivolous; and a May 17, 2012 "supplementary exhibits to petition for writ of certiorari" that violated court rules and was frivolous.

On May 21, 2012, the Court of Appeals denied the petition for writ of certiorari. On May 23, 2012, respondent filed a frivolous "motion to resume proceedings and renewed motion to dismiss appeal" in the Court of Special Appeals.

Further, on May 28, 2012, respondent sent correspondence to Coe and stated his intention to sue Hjortsberg for defamation, seeking "redress in the form of reasonable compensation, an apology letter, and an agreement that Mr. Hjortsberg will not intentionally defame [him] again." Notably, the next day, on May 29, 2012, respondent sent an e-mail to Hjortsberg with a "settlement offer," purportedly on behalf of the Moores, to settle the case for $5 million. On May 30, 2012, Coe wrote to respondent regarding his threat to sue Hjortsberg for

defamation and, in response, later that day, respondent sent an e-mail to Coe forwarding a copy of a complaint to be filed by close of business that same day.

Respondent's May 30, 2012 complaint was filed in the Circuit Court for Baltimore City on behalf of the Moores, and was docketed as Moore v. Svehlak, et al. The thirty-count complaint named twenty-eight defendants and alleged an elaborate fraud scheme, with various causes of action, including: fraud; civil conspiracy; Racketeer Influenced and Corrupt Organizations Act (RICO) violations; civil rights violations; aiding and abetting; misrepresentation; negligent misrepresentation; breach of fiduciary duty; breach of contract; professional negligence; declaratory judgment; quiet title; constructive trust; unjust enrichment; and abuse of process. The complaint sought $17 million in compensatory and punitive damages.

Next, on June 20, 2012, respondent filed a qui tam action on behalf of the Moores, in the United States District Court, District of Maryland.[2] The complaint named ten defendants, including Svehlak, and alleged mortgage fraud and violations of the False Claims Act.

[2] As noted by the OAE, the False Claims Act, 31 U.S.C. §§ 3729-3731, "permits qui tam plaintiffs and private attorneys to sue on behalf of the federal government to recover damages and penalties for allegedly fraudulent charges to the United States. A successful qui tam plaintiff receives between 15 and 30 percent of the proceeds or settlement of the action." Philip Morris, Inc. v. Glendening, 709 A.2d 1230, 1242 n.16 (1998) (citations omitted).

Meanwhile, on July 6, 2012, in the Imagine matter, the Court of Special Appeals erroneously vacated Imagine's appeal. Imagine then filed a motion to reconsider.

In response, on July 13, 2012, respondent sent an e-mail message to Coe, stating that Hjortsberg and Bowie & Jensen were "now liable" for the potential counts of civil conspiracy; civil rights violations; malicious prosecution; abuse of process; and RICO violations, and asked Coe if there was any interest in settling the matter. Later that afternoon, respondent sent another e-mail message to Coe inquiring about settlement and "whether your clients are interested in sitting down and discussing settlement possibilities for any liability they may have arising out of the Imagine Capital matter." Respondent further indicated that he would review with Coe "some of the compelling evidence with respect to Imagine Capital's Ponzi scheme and shell property mortgage fraud scam."

Also, on July 13, 2012, respondent filed a second qui tam action in federal court, listing twenty-four defendants, including Imagine.

One week later, on July 20, 2012, respondent sent an e-mail message to Coe, stating, in relevant part:

> Please pardon my French but I can't wait to see [M]att [H]jortsberg's balls shoved down his fucking threat [sic] . . . pardon me again, we could turn [H]jortsberg

> fucking upside down, chew him up and spit him out in so many pieces you cannot imagine . . . again excuse my French, he was 'sooo smart, a real fuckin genius . . . .' [sic]
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> ***
>
> Mr. Hjortsberg knows he is in trouble . . . he's known for awhile this was a mistake . . . I hope he's lost sleep about it . . . he should have . . . There are many potential causes of action . . . let's take rico [sic] for one . . . most civil rico cases are a bunch of crap, this one isn't . . . a jury will hang [M]att [H]jortsberg, no less than they would his clients. The media, the public, and the bar will crucify him . . . think about the economy and type of fraud he attempted to conceal . . . the amount, etc. People are hurting out there and they would view [H]jortsberg's 'defense' strategy quite poorly.
>
> ***
>
> By [close of business] today, I want a response to take to my client . . . I am authorized to offer $5M for a global settlement of this case . . . .
>
> ***
>
> if it is within [H]jortsberg[']s policy limits, he[']d be damn smart to go for a global . . . With my proposal, Mr. Hjortsberg and his firm need admit no wrong or liability. We can have complete confidentiality (we would still have to deal with his disingenuous bar complaint which I think may still be under review, but we can do it later).
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> [OAEb5;Ex.B¶38.] [3]

On July 24, 2012, Coe responded, describing respondent's e-mail message as "laced with invective and profanity," possibly interpreted as threatening

[3] "OAEb" refers to the OAE's November 24, 2020 brief in support of the motion. "Ex.B" refers to Exhibit B, attached to the brief.

physical violence, and constituting misconduct. Respondent replied and apologized for his "unprofessional tone," promising "to keep the tone civil from this point forward, and assure you that there were no threats of anything other than a possible lawsuit."

On July 26, 2012, respondent again sent an e-mail message to Coe, following up on a possible settlement, and again threatening Hjortsberg with a lawsuit and tying him "to a big mortgage fraud scam."

On July 31, 2012, Bar Counsel for the Attorney Grievance Commission wrote to respondent and asked him to explain the July 20, 2012 e-mail correspondence with Coe. Respondent sent a series of e-mail messages to Bar Counsel, including an e-mail message in which he stated:

> Things are not always what they appear. Although my emails have not always sounded professional, the message has always been the same . . . My emails simply asked if his firm wanted to settle his potential liability arising out of his intent to conceal this mortgage fraud scam. It's a reasonable question because he has liability for attempting to violate my clients' due process rights in a false civil proceeding to cover up a major mortgage fraud scheme. We would accept [sic] a nickel from his clients (it's all stolen money), we would from Mr. Hjortsberg.
>
> [Ex.B¶43.]

During this period, the Imagine matter continued. On July 27, 2012, the Court of Special Appeals granted Imagine's motion for reconsideration and entered an order vacating the July 6, 2012 order dismissing the appeal. On August 8, 2012, respondent filed a motion to reconsider that decision reinstating the appeal.

On August 10, 2012, Coe wrote to respondent and outlined respondent's numerous threats and inappropriate conduct, and requested that respondent cease threatening Bowie & Jensen, its attorneys, and employees. On August 20, 2012, respondent replied to Coe, stating:

> As someone licensed to practice law in seven states and the District of Columbia, I would never accuse an attorney (especially one I have never met) of the type of wrongdoing that I believe to be implicated in this case, unless I firmly believed there was substantial basis to do so. Even if it turns out my beliefs are erroneous (which is highly unlikely), no ethical violations were presented by my emails because there is a good faith basis for the belief. My one regrettable email, which used figure of speech that were less than prudent, were expressions of MY opinion about the strength of the evidence in this case.
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> [Ex.B¶47.]

Two days later, on August 22, 2012, respondent sent a sixteen-page letter to the Chief Judge of the Court of Special Appeals, accusing Hjortsberg, his

associate, and non-attorney members of his staff of misconduct, including having ex parte communications with the clerk's office in an attempt to manipulate the trial court record and manufacturing arguments for appellate review "surrounding the void, erroneously-issued and unrecorded May 20, 2011 Order."

On September 14, 2012, the Court of Special Appeals denied respondent's motion to reconsider, and respondent filed a second petition for writ of certiorari in the Court of Appeals. On November 19, 2012, the Court of Appeals denied the second petition for a writ of certiorari. On December 12, 2012, the Court of Special Appeals heard oral argument in the Imagine matter.

On September 12, 2012, a number of the defendants in Moore v. Svehlak successfully removed the case to federal court. Respondent filed a motion to remand, and the defendants filed a series of motions to dismiss and for summary judgment.

On December 12, 2012, the day of the hearing in the Imagine matter in the Court of Special Appeals, respondent and Hjortsberg were waiting for the matter to be called for argument. As they waited, respondent sent Hjortsberg a sixty-eight page "Memorandum in Support of Plaintiffs' Emergency Motion to Disqualify the Imagine Defendants' Counsel, et al." in the Moore v. Svehlak

matter. Respondent sent a copy of the memorandum to Coe, asking whether Hjortsberg "is leaving the federal case voluntarily." Two days later, on December 14, 2012, respondent filed the memorandum and motion, which argued that Hjortsberg and Bowie & Jensen were potential co-conspirators and should be disqualified. However, on December 17, 2012, the District Court sua sponte struck respondent's memorandum and motion for violating a local rule concerning the size of the brief.

On December 28, 2012, respondent sent Coe a thirteen-page letter in which respondent outlined the "fallacies" of Hjortsberg's legal strategy; reiterated that Hjortsberg was "complicit in the very same fraud as [his] clients;" threatened to re-file the motion to disqualify; and then asked if Hjortsberg was interested in settling the matter.

On February 20, 2013, prior to the Court of Special Appeals issuing its ruling, the Moores filed a voluntary Chapter 7 bankruptcy petition, and the Court of Special Appeals matter was stayed. With that filing, all Moore litigation was automatically stayed and became property of the bankruptcy estate; however, on February 25, 2013, respondent sent an e-mail message to Hjortsberg and, without advising Hjortsberg that the Moores had filed for bankruptcy, stated that he was prepared to take depositions as soon as possible.

On April 3, 2013, David Daneman, Esq. was appointed as special counsel to the bankruptcy Trustee, and entered an appearance in both the Imagine matter and the Moore v. Svehlak matter. On December 11, 2013, the Trustee filed a motion to approve a settlement that Daneman had reached in the two matters, providing that: in exchange for defendants' payments in the aggregate amount of $137,500, the Trustee would dismiss Moore v. Svehlak, and that the stay would be lifted in the Imagine matter to allow the Court of Special Appeals to render an opinion. On March 17, 2014, the bankruptcy court granted the Trustee's motion for approval of the settlement.

On November 17, 2014, the Court of Special Appeals issued its opinion in the Imagine matter, reversing the Circuit Court finding and remanding the case for further proceedings. On December 18, 2014, respondent filed three motions: a motion for rehearing and reconsideration; a motion requesting a reported opinion; and a motion for leave to file amicus submissions. On December 19, 2014, the Imagine matter was dismissed. By order of January 14, 2015, respondent's motions were denied.

In November 2014, the government filed notices of election to decline intervention in both qui tam actions in federal court.

Respondent then filed five proofs of claim, totaling $85,604.61, against the debtors' estate associated with his representation of the Moores. The Trustee and the Moores objected to the claims. In exchange for withdrawal of his claims against the estate, on May 21, 2015, the Trustee filed a Notice of Assignment of Bankruptcy Estate's Qui Tam Claims; however, as of the date of filing of the ethics petition, respondent had not caused any of the qui tam defendants to be served.

Based on the foregoing, the Petition for Disciplinary or Remedial Action (the Petition), filed by the Attorney Grievance Commission, asserted that respondent engaged in misconduct and violated the following Maryland Rules of Professional Conduct: Maryland RPC 1.1; RPC 3.1; RPC 3.2 (later withdrawn); RPC 3.4(c) and (e); RPC 4.4(a); and RPC 8.4 (a), (c), and (d).

On February 17, 2016, Bar Counsel of the Attorney Grievance Commission filed the aforementioned petition. In February 2016, the Court of Appeals of Maryland transmitted the matter to the Circuit Court for Anne Arundel County, to be heard by the Honorable Paul F. Harris, Jr.

On April 22, 2016, respondent was served with the petition; the February 19, 2016 transmittal order; a summons; a first set of interrogatories; and a first request for the production of documents. Pursuant to Maryland Rules, the matter

should have been completed by August 20, 2016; however, due to a series of delays caused by respondent, the case was not considered by the Circuit Court until July 2019, after Judge Harris retired and the matter was reassigned to the Honorable Glenn L. Klavans.

The Court of Appeals opinion sets forth, in detail, the procedural history and discovery issues encountered during the ethics proceedings. On May 12, 2016, respondent filed a "motion to dismiss petition for disciplinary or remedial action for failure to state a claim and lack of ripeness; or in the alternative, motion for definite statement; and request for hearing." While that motion was pending, on May 23, 2016, respondent attempted to remove the matter to federal court. On March 17, 2017, the federal district court remanded the matter for lack of jurisdiction.

On June 8, 2017, upon remand, Judge Harris heard arguments on the 2016 motion to dismiss and denied it. Judge Harris set a discovery deadline for August 8, 2017 and a hearing date of September 5, 2017.

On July 19, 2017, Bar Counsel filed a motion for sanctions and an order of default, based upon respondent's failure to answer the petition within fifteen days of April 22, 2016, the date of service. The following day, July 20, 2017, respondent filed a ninety-nine-page answer to the petition, in which he denied

the allegations of the petition and asserted that his actions in the Imagine matter were justified. Respondent asserted fourteen affirmative defenses, but did not proffer any mitigation.

By order dated August 14, 2017, Judge Harris denied Bar Counsel's motion for an order of default, citing respondent's July 20, 2017 answer.

On September 2, 2017, three days before trial was set to begin, respondent again filed a notice of removal to federal court, arguing that the second attempt at removal was based on Bar Counsel's responses to interrogatories and to respondent's request for documents. On September 5, 2017, the day which trial was set to begin, Bar Counsel filed in federal court an emergency motion for remand for lack of federal jurisdiction. Fifteen days later, on September 20, 2017, the court granted Bar Counsel's emergency motion. On the same date, respondent filed an appeal of the order granting Bar Counsel's motion in the United States Court of Appeals for the Fourth Circuit (the Fourth Circuit). In response to the appeal, the parties consented to staying the disciplinary matter.

On February 5, 2019, the Fourth Circuit affirmed the district court's decision to remand the case to state court and, on May 17, 2019, the stay was lifted. At that point, Judge Klavans took over the matter, as Judge Harris had retired.

On June 10, 2019, new counsel entered an appearance for respondent and Judge Klavans scheduled a hearing for July 1, 2019.

On June 12, 2019, Bar Counsel filed a motion for sanction and/or motion in limine, asking the court to grant the motion; order that averments in the petition be deemed admitted; strike respondent's answer; order respondent be precluded from calling witnesses and presenting documents at trial; and order that respondent be precluded from presenting evidence or testimony in contradiction to the averments in the petition.

The following day, respondent served Bar Counsel with his answers to interrogatories and documents, including an extensive list of individuals he intended to call as witnesses to the hearing. Respondent also noted that he intended to call expert witnesses, including a practicing lawyer, as well as a mental health expert to testify as to respondent's Attention Deficit Hyperactivity Disorder (ADHD). Bar Counsel filed a supplement to its motion, arguing that respondent had not, for the three years the case had been pending, stated his intention to offer a purported ADHD diagnosis as a defense or for mitigation.

On June 27, 2019, Judge Klavans granted Bar Counsel's motion for sanctions and request for default, resulting in the admission of the allegations of the petition; striking respondent's answer; precluding respondent from calling

witnesses; precluding respondent from presenting documents, evidence, or testimony that would contradict the allegations; and deeming the allegations proven by clear and convincing evidence. In his decision, Judge Klavans noted respondent's "purposeful and willful" failure to respond to discovery, his "willful and deliberate course of conduct to subvert the discovery process," and his failure to make a good faith effort to resolve the discovery dispute.

Judge Klavans found that respondent violated Maryland RPC 1.1 in his representation of the Moores, emphasizing that respondent repeatedly failed to analyze the relevant factual and legal elements in the case and disregarded applicable rules of procedure. Judge Klavans pointed to respondent's petition for a writ of certiorari, wherein he argued that the Imagine matter had an "unbelievable record" and a "shocking" confessed judgment, when, actually, the Judge pointed out, the case "was nothing more than an ordinary confessed judgment action." The judge further noted that respondent demonstrated a lack of competence as to the relevant court rules, either in error, inadvertent omission, or via knowing violations.

Judge Klavans also found that respondent violated Maryland RPC 3.1 by filing numerous frivolous papers and pleadings, and by taking positions unsupported by fact or law.

Additionally, Judge Klavans found that respondent's elaborate conspiracy theories to force a settlement from Hjortsberg and his clients demonstrated "a complete disregard for his obligations as an attorney" and violated Maryland RPC 3.4(c). Further, at the December 2011 hearing, respondent's irrelevant and unsubstantiated accusations against Imagine and its officers, including that they were under investigation by the Department of Justice, constituted a violation of Maryland RPC 3.4(e).

Regarding Maryland RPC 4.4(a), Judge Klavans determined that respondent violated the rule when he developed an elaborate conspiracy theory in complete disregard of his obligations to his clients, the courts, and opposing counsel and parties; when he launched an ad hominem attack on Svehlak's character; when he threatened to report Hjortsberg and others to the Attorney Grievance Commission if they refused to dismiss the appeal; when he wrote to the judge and accused Hjortsberg of misconduct and of having ex parte communications; when he threatened to sue Bowie & Jensen without any substantial basis; when he exhibited a pattern of using threats, disciplinary complaints, and lawsuits to deprive opposing parties of their choice of counsel; and when he filed suit against twenty-eight defendants in the Circuit Court seeking $17 million in damages.

Judge Klavans further found that respondent violated Maryland RPC 3.4(c) by his attempt to prove his conspiracy theory and force a settlement from Hjortsberg with a "persistent course of conduct that demonstrated a complete disregard for his obligations as an attorney under the [court rules]." As to Maryland RPC 3.4(e), Judge Klavans determined that respondent violated the rule when, during the December 2011 hearing, he interjected "irrelevant and unsubstantiated accusations against Imagine."

As to Maryland RPC 4.4(a), Judge Klavans held that respondent violated the rule on numerous occasions, and that his conduct "exceeded the bounds of zealous advocacy." In particular, Judge Klavans noted respondent's ad hominem attack on Svehlak's character; his threats to report Hjortsberg and others to the Attorney Grievance Commission; his accusations of ex parte communications against Hjortsberg in an attempt to manipulate the trial court record; his pattern of using threats to sue Bowie & Jensen, Hjortsberg, and others to procure a settlement; his arguments that Bowie & Jensen were potential co-conspirators and should be disqualified from the Moore v. Svehlak matter; and his suit against twenty-eight defendants seeking $17 million to procure settlement.

Finally, as to Maryland RPC 8.4(a), (c), and (d), Judge Klavans found that respondent was a "vexatious litigant," with "a complete disregard for his

obligations as a member of the Bar," who "subordinated his responsibility to the courts, his clients, third parties, and his opponents in an effort to advance his own agenda and financial gain." Judge Klavans commented that respondent "sullied the reputation of the legal profession;" "engaged in a persistent course of misconduct fueled by his conspiracy theories and disconnected from facts and the applicable procedural and substantive law;" "wasted judicial resources with his frivolous and incompetent filings;" and "caused those he threatened and sued to spend time and resources to defend against his baseless allegations and repeatedly sought to intimidate and harass his opponents to coerce a settlement contrary to the merits of any of his claims."

As to mitigating factors, Judge Klavans found only that respondent had no prior attorney discipline. As to aggravating factors, Judge Klavans found that respondent demonstrated: a dishonest or selfish motive; a pattern of misconduct; multiple offenses; bad faith obstruction of the disciplinary proceeding; submission of false evidence, false statements, or other deceptive practices during the disciplinary process; refusal to acknowledge the wrongful nature of the conduct; and substantial experience in the practice of law.

In an eighty-two-page decision, the Court of Appeals of Maryland reviewed Judge Klavans' findings of facts and conclusions of law, found that

respondent had violated the charged RPCs, and determined to disbar respondent in Maryland.

The OAE requested that we grant the motion and impose either a censure or a three-month suspension for respondent's misconduct.

In mitigation, the OAE acknowledged respondent's lack of disciplinary history. In aggravation, the OAE argued that respondent's conduct was motivated by greed, that he failed to report his Maryland disbarment, as R. 1:20-14(a)(1) requires, and that he failed to admit his wrongdoing.

On March 1, 2021, the Office of Board Counsel received respondent's reply to the OAE's motion for reciprocal discipline. Respondent argued that (1) the due process exception to R. 1:20-14(a)(4)(D) applies, and as such, the Maryland decision does not conclusively establish the facts upon which his purported misconduct was predicated; (2) the OAE misinterpreted facts from Maryland's decision; and (3) that we should reject the OAE's assertion of various aggravating factors.

Throughout his brief, respondent simply sought to relitigate the ethics proceedings that took place in Maryland, which is not colorable opposition to a motion for reciprocal discipline. As detailed above, respondent's disciplinary

case was evaluated by the Circuit Court, the Court of Appeals of Maryland, and the Maryland Supreme Court.

On February 24, 2021, the OAE submitted a letter reply to respondent's submission, arguing that respondent seeks to expand the Maryland record with multiple documents that were excluded from the Maryland proceedings, and that his efforts should be denied.

* * *

Following our review of the record, we determine to grant the OAE's motion for reciprocal discipline. Pursuant to R. 1:20-14(a)(5), "a final adjudication in another court, agency or tribunal, that an attorney admitted to practice in this state . . . is guilty of unethical conduct in another jurisdiction . . . shall establish conclusively the facts on which it rests for purposes of a disciplinary proceeding in this state." Thus, with respect to motions for reciprocal discipline, "[t]he sole issue to be determined . . . shall be the extent of final discipline to be imposed." R. 1:20-14(b)(3).

Like New Jersey, in Maryland, the Attorney Grievance Commission must establish an attorney's misconduct at trial by clear and convincing evidence. "When a party excepts to a factual finding, we conduct an independent review of the record to ensure that the finding is supported by clear and convincing

evidence." Atty. Griev. Comm'n of Md. v. Sperling, 2021 WL 777617 at *31 (Mar. 1, 2021) (citing Atty. Griev. Comm'n of Md. v. Hodes, 105 A.3d 533, 552 (Md. 2014)).

Reciprocal discipline proceedings in New Jersey are governed by R. 1:20-14(a)(4), which provides in pertinent part:

> The Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record on which the discipline in another jurisdiction was predicated that it clearly appears that:
>
> (A) the disciplinary or disability order of the foreign jurisdiction was not entered;
>
> (B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;
>
> (C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;
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> (D) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
>
> (E) the unethical conduct established warrants substantially different discipline.

Subsection (E) applies in this matter because the unethical conduct warrants substantially different discipline.

Specifically, respondent violated New Jersey RPC 1.1(a) by filing meritless pleadings and motions, by failing to follow proper procedural rules in both federal and state court, and by assessing the Imagine matter as one of "extraordinary public policy" that was "unbelievable" and "shocking." Respondent's conduct demonstrates gross negligence and incompetence, and constitutes unethical practice.

When respondent filed lawsuits with "vexatious" RICO and fraud counts, asserted incredible conspiracy theories, and bullied Imagine, Hjortsberg, and their associates, he violated New Jersey RPC 3.1 by asserting claims which he knew were frivolous in order to attempt to extract a settlement from Imagine.

By persisting in the elaborate conspiracy theory against Imagine; by continuing to force litigation during the bankruptcy stay; by not informing opposing counsel that the Moores had filed for bankruptcy; by pursuing the Moores for attorney fees despite their having filed for bankruptcy; and by asserting to the court that Imagine's members were being investigated by the Department of Justice, respondent violated New Jersey RPC 3.4(c) and RPC 3.4(e).

Respondent's threats to Hjortsberg and his associates, wherein he stated he would report them to the Attorney Grievance Commission if they did not

withdraw their appeal, violated New Jersey RPC 4.4(a). Respondent's accusations against Hjortsberg indicating that Hjortsberg was conducting ex parte communications, and his threats of lawsuits, served no purpose other than to embarrass or delay the proceedings, in violation of New Jersey RPC 4.4(a).

Finally, respondent violated New Jersey RPC 8.4(a), RPC 8.4(c), and RPC 8.4(d) via his persistent subjection of Imagine and its attorneys to conspiracy theories, harassment, and irrelevant and unsubstantiated accusations. Respondent's misconduct caused the Imagine matter, as well as his own Maryland disciplinary matter, to linger for years. Filing after filing by respondent sought to delay the matters and to force a settlement from Imagine, driving up respondent's legal fees to be incurred by the Moores in the process.

Respondent's assertion in his brief to us that Maryland deprived him of due process in upholding the default judgment in the disciplinary proceeding is without merit. At oral argument, respondent argued that, pursuant to R. 1:20-14(a)(4)(D), the due process exception to the reciprocal discipline rule applies, specifically, that "the procedure followed in the [Maryland] matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process." However, we note that this exception refers to procedural due process, and that, when questioned by us further, respondent conceded that he had raised

the due process issue in the highest tribunal in Maryland during his proceedings. Although the Maryland Court of Appeals did not address the issue, it is implicit that, because it was presented, that the Maryland court rejected the argument.

Thus, it follows that respondent's claim that the OAE misinterpreted facts from the Maryland decision and failed to provide him with due process rings hollow, as Maryland has provided a complete record of the case, and, pursuant to the reciprocal discipline Rule, respondent is simply not permitted to relitigate the case before us. Respondent's default in his Maryland matter caused him to miss his opportunity to fully litigate his matter in that jurisdiction; however, he is not, in connection with this proceeding, entitled to an evidentiary hearing in New Jersey.

In sum, we find that respondent violated New Jersey RPC 1.1(a); RPC 3.1; RPC 3.4(c); RPC 3.4(e); RPC 4.4(a); RPC 8.4(a); RPC 8.4(c); and RPC 8.4(d). The sole issue left for determination is the proper quantum of discipline for respondent's misconduct.

Respondent is guilty of numerous violations of RPC 3.1 and RPC 8.4(d). Suspensions have been imposed on attorneys who have filed frivolous litigation and engaged in conduct prejudicial to the administration of justice. See, e.g., In re Shearin, 166 N.J. 558 (2001) (Shearin I) (one-year suspension imposed, in a

reciprocal discipline matter, where the attorney filed two frivolous lawsuits in a property dispute between rival churches; a court had ruled in favor of one church and enjoined the attorney's client/church from interfering with the other's use of the property; the attorney then violated the injunction by filing the lawsuits and seeking rulings on matters already adjudicated; she also misrepresented the identity of her client to the court, failed to expedite litigation, submitted false evidence, counseled or assisted her client in conduct that she knew was illegal, criminal, or fraudulent, and made inappropriate and offensive statements about the trial judge); In re Garcia, 195 N.J. 164 (2008) (fifteen-month suspension imposed in a reciprocal discipline matter, where the attorney filed several frivolous lawsuits and lacked candor to a tribunal; after her husband, with whom she practiced law, was suspended from the practice of law, the attorney aided him in the improper practice of law and used firm letterhead with his name on it during his suspension; the attorney also lacked candor to a tribunal and made false and reckless allegations about judges' qualifications in court matters); In re Khoudary, 213 N.J. 593 (2013) (two-year suspension imposed for misconduct in a bankruptcy matter; the attorney formed a corporate entity, SSR, to hold his investments in several assignments of mortgage and a default judgment for three tracts of land, investments that were in foreclosure at the time; the ownership of

SSR was vested in his then-wife; four days after forming SSR, the attorney filed a barebones Chapter 11 bankruptcy petition, ostensibly to reorganize SSR, but actually to stay the foreclosure proceedings pending in state court; fewer than two months into the Chapter 11 proceeding, the bankruptcy court dismissed the petition as a bad faith filing and lifted the automatic stay, allowing the matters to proceed in state court; four weeks later, the attorney filed a second bankruptcy petition for SSR, which again stayed the foreclosure proceeding; the bankruptcy court immediately dismissed that petition as a bad faith filing and imposed more than $11,000 in sanctions against the attorney; violations of RPC 3.1, RPC 8.4(c), and RPC 8.4(d); in aggravation, the attorney had a prior two-year suspension for unrelated conduct); and In re Shearin, 172 N.J. 560 (2002) (Shearin II) (three-year suspension imposed on attorney who had previously received a one-year suspension for misconduct surrounding a church representation; the attorney sought the same relief as in prior unsuccessful lawsuits against her client's rival church, regarding a property dispute; the attorney burdened the resources of two federal courts, defendants, and others in the legal system with the frivolous filings; she knowingly disobeyed a court order that expressly enjoined her and the client from interfering with the rival

church's use of the property, and made disparaging statements about the mental health of a judge).

Disrespectful or insulting conduct to persons involved in the legal process leads to a broad spectrum of discipline, ranging from an admonition to disbarment, depending on the presence of other ethics violations. See, e.g., In re Gahles, 182 N.J. 311 (2005) (admonition for attorney who, during oral argument on a custody motion, called the other party "crazy," "a con artist," "a fraud," "a person who cries out for assault," and a person who belongs in a "loony bin;" in mitigation, it was considered that the attorney's statements were not made to intimidate the party but, rather, to acquaint the new judge on the case with what the attorney perceived to be the party's outrageous behavior in the course of the litigation); In the Matter of Alfred T. Sanderson, DRB 01-412 (February 11, 2002) (admonition for attorney who, in the course of representing a client charged with driving while intoxicated, made discourteous and disrespectful communications to the municipal court judge and to the municipal court administrator; in a letter to the judge, the attorney wrote: "How fortunate I am to deal with you. I lose a motion I haven't had [sic] made. Frankly, I am sick and tired of your pro-prosecution cant;" the letter continued, "It is not lost on me that in 1996 your little court convicted 41% of the persons accused of DWI in

Salem County. The explanation for this abnormality should even occur to you."); In re Murray, 221 N.J. 299 (2015) (reciprocal discipline matter; reprimand for attorney who, in three separate court-appointed pro bono matters in Delaware over a two-year period, behaved discourteously toward the judge and repeatedly attempted to avoid pro bono court appointments there); In re Ziegler, 199 N.J. 123 (2009) (reprimand imposed on attorney who told the wife of a client in a domestic relations matter that she should be "cut up into little pieces . . . put in a box and sent back to India;" and in a letter to his adversary, accused the wife of being an "unmitigated liar" and threatened that he would prove it and have her punished for perjury; the attorney also threatened his adversary with a "Battle Royale" and ethics charges; mitigating factors included the attorney's unblemished forty-year ethics history, his recognition that his conduct had been intemperate, and the passage of seven years from the time of the misconduct until the imposition of discipline); In re Geller, 177 N.J. 505 (2003) (reprimand imposed on attorney who filed baseless motions accusing two judges of bias against him; failed to expedite litigation and to treat judges with courtesy (characterizing one judge's orders as "horse***t," and, in a deposition, referring to two judges as "corrupt" and labeling one of them "short, ugly and insecure"), his adversary ("a thief"), and the opposing party ("a moron," who "lies like a

rug"); failed to comply with court orders (at times defiantly) and with the disciplinary special master's direction not to contact a judge; used means intended to delay, embarrass or burden third parties; made serious charges against two judges without any reasonable basis; made a discriminatory remark about a judge; and titled a certification filed with the court "Fraud in Freehold"; in mitigation, the attorney's conduct occurred in the course of his own child-custody case, the attorney had an unblemished twenty-two-year career, was held in high regard personally and professionally, and was involved in legal and community activities); In re Supino, 182 N.J. 530 (2005) (attorney suspended for three months after he exhibited rude and intimidating behavior in the course of litigation and threatened the other party (his former wife), court personnel, police officers, and judges; other violations included RPC 3.4(g), RPC 3.5(c), and RPC 8.4(d)); In re Rifai, 204 N.J. 592 (2011) (three-month suspension imposed on an attorney who called a municipal prosecutor an "idiot," among other things; intentionally bumped into an investigating officer during a break in a trial; repeatedly obtained postponements of the trial, once based on a false claim of a motor vehicle accident; and was "extremely uncooperative and belligerent" with the ethics committee investigator; the attorney had been reprimanded on two prior occasions); In re Stolz, 219 N.J. 123 (2014) (three-

month suspension for attorney who made "sarcastic," "wildly inappropriate," and "discriminatory" comments to his adversary, such as "Did you get beat up in school a lot . . . because you whine like a little girl"; "Why don't you grow a pair?"; "What's that girlie email you have. Hotbox.com or something?"; "Why would I want to touch a f!% like you?"; the attorney also lied to the court and to his adversary that he had not received the certification in support of a motion filed by the adversary; aggravating factors were the attorney's lack of early recognition of and regret for his actions; violations of RPC 3.3(a)(1), RPC 3.3(a)(5), RPC 4.1(a), RPC 8.4(a), and RPC 8.4(d); no prior discipline); In re Van Syoc, 216 N.J. 427 (2014) (six-month suspension imposed on attorney who, during a deposition, called opposing counsel "stupid" and a "bush league lawyer;" the attorney also impugned the integrity of the trial judge, by stating that he was in the defense's pocket, a violation of RPC 8.2(a); we found several aggravating factors, including the attorney's disciplinary history, which included an admonition and a reprimand; the absence of remorse; and the fact that his misconduct occurred in the presence of his two clients, who, as plaintiffs in the very matter in which their lawyer had accused the judge of being in the pocket of the defense, were at risk of losing confidence in the legal system); In re Vincenti, 92 N.J. 591 (1983) (Vincenti I) (one-year suspension for attorney

who displayed a pattern of abuse, intimidation, and contempt toward judges, witnesses, opposing counsel, and other attorneys; the attorney engaged in intentional behavior that included insults, vulgar profanities, and physical intimidation consisting of, among other things, poking his finger in another attorney's chest and bumping the attorney with his stomach and then his shoulder); and In re Vincenti, 152 N.J. 253 (1998) (Vincenti II) (disbarment for attorney described by the Court as an "arrogant bully," "ethically bankrupt," and a "renegade attorney;" this was the attorney's fifth encounter with the disciplinary system).

Based on New Jersey disciplinary precedent, the totality of respondent's misconduct beckons a significant term of suspension. Like the attorney in Shearin I, who received a one-year suspension, respondent repeatedly filed frivolous lawsuits, motions, and appeals. Despite receiving consistently adverse rulings and denials of his efforts, he continued, undeterred, in an attempt to relitigate the matters and to seek perceived leverage over his adversaries. Moreover, he made false, inappropriate, and offensive statements about opposing counsel, Imagine, and its representatives.

In crafting the appropriate discipline, we also consider aggravating and mitigating factors. In aggravation, respondent has failed to take responsibility

for his actions; failed to report his Maryland disbarment to New Jersey ethics authorities; his conduct was found to be motivated by pecuniary gain, as demonstrated by his claim against the Moore bankruptcy estate for over $85,000 in attorney fees; and his Maryland ethics case proceeded by way of default.

In mitigation, respondent has no prior discipline in over fifteen years as a member of the New Jersey bar.

On balance, a one-year suspension is warranted, and required, in order to protect the public and preserve confidence in the New Jersey bar. The suspension will be deferred and imposed if and when respondent regains eligibility to practice law in New Jersey. Respondent also is prohibited from pro hac vice admission before any New Jersey court or tribunal until further Order of the Court.

Chair Gallipoli and Member Petrou voted to recommend to the Court that respondent be disbarred, finding that respondent's conduct was so lacking in professional integrity and was so damaging to his clients, to the opposing party and counsel, and to the Maryland disciplinary authorities, that protection of the New Jersey public, legal profession, and judicial process merits discipline equal to that imposed by Maryland.

Member Boyer was absent.

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
Hon. Maurice J. Gallipoli, A.J.S.C. (Ret.), 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 Jason Rheinstein
Docket No. DRB 20-333

Argued: May 20, 2021

Decided: September 16, 2021

Disposition: One-year suspension

Members	One-year suspension	Disbar	Absent
Gallipoli		X	
Singer	X		
Boyer			X
Campelo	X		
Hoberman	X		
Joseph	X		
Menaker	X		
Petrou		X	
Rivera	X		
Total:	6	2	1

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