Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 21-117
District Docket No. IV-2018-0031E

In the Matter of	:
Ralph Alexander Gonzalez	:
An Attorney at Law	:

Decision

Argued: October 21, 2021

Decided: November 30, 2021

Jeffrey I. Baron appeared on behalf of the District IV Ethics Committee.

Justin T. Loughry appeared on behalf of respondent.

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

This matter was before us on a recommendation for a one-year suspension filed by the District IV Ethics Committee (the DEC). The formal ethics complaint charged respondent with having violated RPC 3.3(a)(1) (false statement of material fact to a tribunal – two instances); RPC 3.3(a)(5) (failure

to disclose a material fact to a tribunal, knowing that the omission is reasonably certain to mislead the tribunal – two instances); RPC 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal, (here, R. 1:20-20), except for an open refusal based on an assertion that no valid obligation exists); RPC 5.5(a)(1) (unauthorized practice of law – two instances); and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit, and misrepresentation – two instances).

For the reasons set forth below, we determine to impose a one-year suspension.

Respondent earned admission to the New Jersey and Pennsylvania bars in 1987 and to the Florida bar in 1996. He maintains a practice of law in Voorhees, New Jersey.

In 1995, on a motion for final discipline, respondent received a reprimand for violating RPC 8.4(b) (commission of a criminal act that reflects adversely on a lawyer's honesty, trustworthiness, or fitness as a lawyer), RPC 8.4(c), and RPC 8.4(d) (conduct prejudicial to the administration of justice), after he was adjudicated guilty of obstructing the administration of law, contrary to N.J.S.A. 2C:29-1, a disorderly persons offense. In re Gonzalez, 142 N.J. 482 (1995).

That criminal charge was based on respondent's unlawful presentation of his cousin's driver's license to a police officer who had pulled him over for

speeding. Following persistent questioning by the officer, respondent admitted that he had been using his cousin's license for several weeks, because he was afraid of losing his driving privileges based on the number of points that had already been assessed against his license.

In 2012, respondent received an admonition for again violating RPC 8.4(d), after he had attempted to persuade a former client to withdraw her ethics grievance against him as part of the settlement of a civil action he had filed against her. In the Matter of Ralph Alexander Gonzalez, DRB 12-283 (November 16, 2012).

In 2017, the Court suspended respondent from the practice of law for three months, in connection with a motion for discipline by consent, wherein he stipulated to violating RPC 8.4(b) and RPC 8.4(d). In re Gonzalez, 229 N.J. 170 (2017). In that matter, a Burlington County Grand Jury indicted respondent on one count of third-degree possession of a weapon for an unlawful purpose, contrary to N.J.S.A. 2C:39-4(d), and one count of fourth-degree criminal mischief, contrary to N.J.S.A. 2C:17-3(a)(i). Those charges arose from respondent's involvement in an August 15, 2014 "road-rage" incident in Evesham Township, during which he threw a golf club at the victim's car and then approached the car with the club. In the Matter of Ralph Alexander

Gonzalez, DRB 16-422 (March 21, 2017). On September 25, 2017, the Court reinstated respondent to the practice of law. In re Gonzalez, 230 N.J. 456 (2017).

Respondent was represented by counsel during the four-day ethics hearing in this matter, at which many of the facts were disputed.

There was no dispute, however, that, effective June 22, 2017, the Court suspended respondent from the practice of law for a period of three months. In re Gonzalez, 229 N.J. 170 (2017). Consequently, respondent was not authorized to practice law between June 22 and September 25, 2017, the effective date of the Court's reinstatement Order. In re Gonzalez, 230 N.J. 456 (2017).

The disputed facts at the hearing involved whether, in July 2017, respondent represented himself to be an attorney or engaged in the unauthorized practice of law in connection with the potential driver's license suspension of his friend, Christopher D. Stoner.

On or before July 13, 2017, Stoner received a notice from the Motor Vehicle Commission (the MVC) instructing him to appear at a July 18, 2017 pre-hearing conference at the MVC conference center in Trenton (the Trenton MVC), regarding the suspension of his New Jersey driving privileges. Stoner spoke to respondent about the pending MVC suspension.

Respondent suggested to Stoner that Stoner appeal his driver's license suspension, appear at the Trenton MVC, and explain the facts concerning the

suspension. Respondent opined that, if Stoner did so, the MVC would reduce the severity of the proposed suspension.

On July 13, 2017, respondent called the MVC and left a voicemail seeking information on how to reschedule Stoner's hearing. In the voicemail, respondent identified himself as "Ralph Gonzalez" and provided two telephone numbers for a return call, both of which are associated with respondent's law practice.

Jack G. Mattaliano was, at that time, one of the two MVC employees in the MVC's Hearing Unit who would return calls concerning rescheduling. Mattaliano returned respondent's call that afternoon and spoke to the person who answered the phone.

Following the call, Mattaliano summarized his telephone conversation in Stoner's file with the following note:

> CALLED LWYR AT 3:20 PM 7/13 W/FORMAT & FAX # FOR 7/18 RSCHD RQST AS LWYR HAS FULL SLATE IN AM & CANNOT MAKE HEARING BEFOR [sic] 1:30 PM [. . .] (ATTY RALPH GONZALEZ)
>
> [C¶12,Ex.C.] [1, 2]

[1] "C" refers to the March 18, 2019 formal ethics complaint; "Ex." refers to the exhibits attached to the complaint; and "T" refers to the transcript of the September 18, 2019 ethics hearing.

[2] The ellipses in the quote replace two telephone numbers that were set forth in the record.

Using that note as his reference, Mattaliano described his call with respondent as relating to:

> Information on how to get a -- a hearing rescheduled, because the individual who called, in this case, as it says in the memo, attorney Ralph Gonzalez, was looking to change it because he had a schedule that wouldn't allow him to be there on time for the hearing that was supposed to happen that day.
>
> Q. Now, did you ever speak with attorney Ralph Gonzalez?
>
> A. If I put it in the memo here, I had to have spoken to him, or it would not go in the memo itself. If I had talked to a secretary, I would have put his secretary; if I had talked to any other individual for him, it would have been -- been put down in the memo. Generally we're not supposed to give out information of any type unless it's to the particular -- or their official representative.
>
> [T61.]

In accordance with MVC procedure, Mattaliano would not have provided information concerning Stoner's case to respondent unless respondent had identified himself as Stoner's attorney. Mattaliano described the procedure for requesting an adjournment to respondent:

> asking for -- for a -- a reschedule doesn't automatically get you a reschedule, they have to perform a function, and as it says here, as I did hundreds of times, I would give him the format and the fax number in order to get ahold of us and -- and told him that it had to be in by a certain time, otherwise the -- the -- it would be moot.

[T64.]

Mattaliano had no further contact with respondent.

On July 18, 2017, respondent provided Stoner with a ride to the Trenton MVC for the prehearing conference, which had not been adjourned. Stoner was admitted to the Trenton MVC by a clerk who marked MVC form RSC-1 to reflect that Stoner would be accompanied by an attorney who, as of 10:46 a.m., had not yet arrived.

Driver Improvement Analyst Barbara Burrows, a twelve-year MVC employee, was responsible for conducting prehearing conferences with drivers and their attorneys. Such prehearing conferences were held "for drivers who came in about being suspended for points or persistent violators, operating while suspended or doing multiple license cases where people come in with multiple license problems."

To attend such a prehearing conference, the affected driver enters the Trenton MVC through a back door. By operation of MVC policy, only drivers, attorneys, and interpreters are permitted at such prehearing conferences. If there is a second person with the driver, Burrows asks whether they are an attorney. Once in Burrows' work area, all parties are asked for identification.

The clerk gave Burrows the RSC-1 marked "Attory [sic]," Stoner's request for a hearing form, and Stoner's driving abstract. No letter of appearance

from an attorney was in the file. Stoner and respondent appeared at Counter 15. Burrows told them to come to the door. Consistent with MVC policy, Burrows confirmed that respondent was an attorney. Burrows seated both men and requested identification.

In response, Stoner provided his license. However, respondent handed Burrows a business card for "John A. Underwood, Attorney At Law." In response, Burrows informed respondent that she would need his driver's license in addition to the business card. When respondent told her that he did not have his driver's license on him, she offered to look him up in the MVC computer system using his social security number. Respondent declined to provide his social security number.

Respondent then told Burrows that his driver's license was in the car and departed to retrieve it. After respondent's departure, Burrows and Stoner

> discussed how he came about the attorney and he said he found him on the internet, he met him in restaurants and for lunches and stuff, never met him in his office. He was told to call him John and that he paid him money to come [to the MVC] with him.
>
> [T107.] [3]

[3] After consideration of both hearing arguments and post-hearing submissions, the DEC admitted Burrows' account of respondent's statements, under the relaxed evidentiary standard applicable to ethics proceedings. The DEC, however, but struck portions of Nucera's e-mail summarizing respondent's statements for the benefit of MVC counsel.

Burrows found it "unusual" that an attorney was not forthcoming with identification.

Burrows, concerned that respondent had attempted to use someone else's name to gain entry to the prehearing conference, conferred with her supervisor, Supervising Driver Improvement Analyst Jack Nucera. Burrows showed Nucera the Underwood business card. Nucera came out onto the floor.

Less than ten minutes later, respondent returned, but still did not have identification. Nucera asked respondent if he was there on behalf of his own office or another law firm. Respondent replied that he was there on behalf of another firm. Nucera asked respondent to have that firm provide a letter of representation for Stoner to the MVC, via facsimile. Respondent said, "no problem" and took the facsimile number. Respondent appeared to be on his telephone during this interaction.

Stoner and respondent stepped away from Burrows' workspace and conferred. Stoner then returned, by himself, and indicated that respondent would not be able to participate, because he did not have identification. Respondent left and the prehearing conference proceeded in respondent's absence. Stoner received a reduced, twenty-day suspension, probation, and a fee. Respondent never provided identification or a letter of representation to the MVC.

On July 18, 2017,[4] Burrows had conducted an internet search for attorney Underwood to attempt to confirm his identity in order to go forward with the hearing. However, when she searched Underwood's name, she found his firm's website, with a picture of someone who was not respondent.

After the hearing, Burrows found in Stoner's file Mattaliano's note regarding his July 13, 2017 telephone call with respondent. Burrows used respondent's name, which was contained in that note, to perform an internet search for respondent. That afternoon, Burrows located and printed a website bearing the banner "Ralph A. Gonzalez, Attorney at Law," that contained a picture of respondent. Burrows recognized the individual on the website as the man that had been in her workspace with Stoner.

Burrows printed the information she discovered and brought it to Nucera's attention. The day after the prehearing conference, on July 19, 2017, Nucera sent an e-mail to legal personnel at MVC, summarizing respondent's presentation of himself as a different attorney and seeking advice on how to proceed.

During the disciplinary hearing, New Jersey attorney John A. Underwood, Esq., testified that he had known respondent for approximately twenty years. Underwood's firm had a professional association with respondent, and

[4] The record varies regarding the timing of this discovery. Specifically, Burrows testified that she had used the internet to locate a picture of Underwood before the pre-hearing conference, and Nucera testified that it had occurred after respondent's departure.

occasionally sent him work when both partners had a conflict or were unavailable.

Underwood confirmed that the business card respondent had presented to Burrows on July 18, 2017 was the card used by his office in July 2017. After checking his records, at the presenter's request, Underwood determined that he was in Camden at the workers' compensation court on the morning of July 18, 2017. His office calendar had no record of covering any case for respondent on July 17 or 18, 2017. Underwood had not "had a DMV [sic.] case in years."

Underwood also checked his firm log and determined that his firm had never represented Stoner. Nor did the firm have any record of Stoner contacting the firm to inquire about representation. Underwood also had no record of speaking to respondent on July 18, 2017.

Underwood testified that he considered respondent to be honest and forthright and had no issues with respondent's work. In the fall of 2019, respondent disclosed the pending ethics investigation to Underwood and described it as a big misunderstanding.

Both through his own testimony and during vigorous cross-examination by the presenter, respondent disputed certain facts about his interactions with MVC staff on both July 13 and July 18, 2017. He also presented character

testimony as to his reputation for honesty from his friend from recreational basketball, Gary Gaskins, Jr., and his neighbor, Maurice Colantino.

Through cross-examination of Burrows and Nucera, respondent's counsel elicited that respondent had not verbally identified himself either as Ralph Gonzalez or John Underwood. He also established that the policy that only drivers, their attorneys, parents of minors, and interpreters are permitted in the back area is not posted on signage.

Respondent recounted that he knew Stoner through recreational basketball. Stoner knew that respondent was a lawyer and knew that he had been suspended from the practice of law. Respondent denied, however, that he had represented Stoner, offered to represent him, or accepted $500 from him for that purpose. Respondent conceded that he had shared with Stoner his own personal experiences contesting the suspension of his own license, but maintained that he "certainly didn't give [Stoner] any advice regarding it." He acknowledged, however, that he had previously submitted, through counsel, a September 19, 2018 letter to the presenter in which he admitted telling Stoner that he could proceed with the pre-hearing conference without a lawyer. Respondent further denied that he opined that the MVC would reduce the violations against Stoner.

Respondent both denied and stated that he did not recall making the July 13, 2017 telephone call to the MVC. He acknowledged that, in his answer, he

had admitted the possibility that he was with Stoner and made a call to the MVC. He denied holding himself out as an attorney. He agreed, however, that both of the phone numbers in Mattaliano's notation in the file belonged to him.

He testified that, on July 18, 2017, he drove Stoner to the Trenton MVC because Stoner needed a ride. According to respondent, on July 18, 2017, he "dropped off" Stoner at the Trenton MVC, parked his car, and then entered the MVC several minutes later.

He admitted that he accompanied Stoner to the back area of the Trenton MVC, but claimed he did so "for [his] own curiosity to see what took place and to – just [give] moral support." Respondent denied holding himself out as an attorney for Stoner, handing Burrows a business card, or otherwise representing himself to be Underwood. Respondent suggested that Stoner must have given Underwood's business card to Burrows. Respondent stated that Burrows never asked his identity and that he "never got to the point where [he] identified [him]self to her."

Respondent admitted that he entered Burrows' cubicle and was asked for identification, "which [he] thought was odd."

Further, respondent testified that Nucera did not ask who he was, but that when he realized his driver's license was not in the vehicle, he returned to the MVC and told Nucera that he did not have his license. When asked if he recalled

Nucera inquiring whether he had been retained by Stoner or on behalf of another firm, respondent testified, "[s]omething vaguely to that effect, but at the point when I came back in I was on my cell phone speaking to him, I don't recall him saying exactly that. Or I misunderstood or he misunderstood what was being asked about representing [Stoner]." Respondent further testified that he thought Nucera "asked [him] something about faxing a letter over or something." Respondent indicated that he would have told MVC staff that he could not represent Stoner but that they "never got to that" when he returned while on a telephone call unrelated to Stoner's matter.

After conveying to Nucera that he did not have his license, respondent told Stoner he would wait in the car and for Stoner to call him when he was finished. Respondent testified that, while at the Trenton MVC during Stoner's matter, he called another law firm, Garces and Grabler, located across the street from the Trenton MVC, to attempt to secure representation for Stoner.

Over objection, respondent's counsel introduced a New Jersey Attorney General's press release relating to the conclusion of Operation Stonewall, a criminal investigation, which document contained photographs. Respondent used that picture and his own testimony to establish that Stoner was African American. He then challenged Burrows' credibility because she had testified,

on cross-examination, that Stoner was white. Respondent then asserted that Burrows "was wrong about several other things."

The presenter recalled Burrows and Nucera to testify as to their perceptions of Stoner's race. Burrows had testified on direct that Stoner was white and repeated that testimony when recalled. Nucera testified on recall that he, too, recalled both Stoner and his attorney being white. Nucera also authenticated an official MVC document that included a photograph of Stoner. Nucera testified that Burrows would not have had access to that document on July 18, 2017.

Burrows and Nucera both testified consistently that the system Burrows used on July 18, 2017 to process Stoner's case contained birth dates, but did not display licensee images. Both testified that there is only one Christopher Stoner licensed to drive in the MVC database, and that the image associated with that license depicts a black male. Nucera confirmed that no surveillance footage was available from July 18, 2017, because no request to retain it was made prior to it being automatically overwritten.

On December 2, 2020, the presenter filed a post-hearing brief on behalf of the DEC. In the brief, the DEC argued that it had proven, by clear and convincing evidence, that respondent violated the RPCs charged in the complaint. The DEC asserted that the MVC witnesses were credible and

convincing, and noted that it had unsuccessfully attempted to subpoena Stoner. Further, the DEC noted that the direct facts testified to by the MVC witnesses confirmed the charges in the complaint, without reliance on hearsay evidence. Finally, the DEC noted that the issue before the hearing panel was whether respondent violated the RPCs, and that whether Stoner or an impersonator appeared at the Trenton MVC that day was not at issue and did not need to be resolved to evaluate the ethics charges against respondent.

On December 9, 2020, respondent filed a post-hearing brief, arguing that the DEC had failed to prove that he had handled a legal matter for Stoner but, rather, had proven that he had left the Trenton MVC prior to the prehearing conference, and that Stoner had represented himself at the prehearing conference. Respondent also argued that the hearsay statements of Stoner, as relayed by Burrows in her testimony, should be excluded. Respondent further argued that any contention that the individual who appeared at the Trenton MVC was not actually Stoner was unworthy of belief and unsupported by evidence in the record.

The parties were thereafter invited to submit briefs as to the effect, if any, to be given to respondent's disciplinary history. On March 15, 2021, respondent, through his attorney, submitted a letter brief concerning respondent's ethics history, concluding that the "prior instances ought not to cancel out many years

of untarnished conduct, and should not significantly aggravate any recommended penalty." The presenter did not file a brief regarding respondent's ethics history.

On April 21, 2021, the DEC issued its hearing panel report. Regarding the July 13, 2017 telephone call, the DEC found, by clear and convincing evidence, that respondent made the telephone call. Specifically, the DEC determined that the testimony of MVC witness Mattaliano was credible and that respondent's testimony was not. The DEC found respondent to be "evasive and combative" and "clearly self-interested."

Further, the DEC deemed significant the fact that respondent's telephone numbers were left on the voicemail for Mattaliano, reasoning that an impersonator would not have left respondent's numbers on the voicemail and thereby risk a call back from the MVC. The DEC found "it is incredible, and unsupported by any record evidence, to conclude that anyone other than Respondent made the telephone call, identifying himself as an attorney and leaving his own telephone numbers as the callback numbers."

Regarding the July 18, 2017 visit to the MVC office, the DEC examined the testimony of Burrows; Nucera; Underwood; and respondent, and found, "by clear and convincing evidence that Respondent turned over a business card that was not his to Ms. Burrows in an effort to pass himself off as someone he was

not and in an attempt to represent Mr. Stoner." The panel gave "little weight" to the testimony of the two character witnesses and did not consider their testimony in mitigation.

Based on its determinations, the DEC found respondent violated all the charged RPCs. However, the DEC found that respondent violated RPC 3.3(a)(1) in only one instance, when he falsely represented himself as Underwood to the MVC, on July 18, 2017. Further, the DEC found that respondent violated RPC 3.3(a)(5) only to the extent that he failed to disclose that he was a suspended attorney, but not for failing to disclose that he was not Underwood.

As to quantum of discipline, the DEC examined New Jersey disciplinary precedent, focusing on the misconduct of practicing law while suspended, and noted that the typical range of discipline was between a one- and three-year suspension, with disbarment in the most egregious of cases. The DEC further examined respondent's ethics history and found his prior misconduct to be an aggravating factor. The DEC found no mitigating factors but did weigh the fact that respondent "practiced in only one matter for a very brief period" in favor of a shorter term of suspension.

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

Factually, we accept the DEC's findings that respondent was incredible, "evasive and combative," and "clearly self-interested," particularly when compared with the credible and disinterested MVC witnesses.

As a preliminary legal matter, our analysis requires a finding of whether the MVC qualifies as an administrative tribunal. As a threshold matter, RPC 1.0(n) states that

> "Tribunal" denotes a court, an arbitrator in an arbitration proceeding or a legislative body, administrative agency or other body acting in an adjudicative capacity. A legislative body, administrative agency or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter.

The MVC is empowered by statute and regulations to hold pre-hearing conferences and render final agency decisions on behalf of the Commission. N.J.S.A. 39:5-30.14 (entitled "Notice of suspension, revocation, postponement; hearing request"); N.J.A.C. 13:19-1.2(g) ("When there are no disputed material facts and when a request for a hearing sets forth legal issues and presents arguments on those issues, the Chief Administrator may either consider those legal issues and arguments on the basis of the written record and render a written determination which shall constitute the final agency decision in the matter; or may require the licensee to attend a prehearing conference conducted by

designated employees of the Commission; or may transmit the matter directly to the Office of Administrative Law for a hearing pursuant to N.J.A.C. 1:1"); see also Allstars Auto Group, Inc. v. New Jersey Motor Vehicle Comm'n, 234 N.J. 150, 159-161 (2018) (describing MVC's statutory authority to hold hearings and resolve cases, or alternatively, pass the matter on to the Office of Administrative Law).

Based on the definition of "tribunal" set forth in RPC 1.0(n), we conclude that the MVC was a tribunal for purposes of the application of RPC 3.3(a)(1), RPC 3.3(a)(5), and RPC 3.4(c). Specifically, the MVC was acting as a neutral administrative agency empowered to render a binding legal judgment directly affecting Stoner's interest in the suspension of his driving privileges.

Beyond that preliminary issue, we also agree with the DEC's finding that respondent violated RPC 3.3(a)(1). Specifically, the DEC found that respondent violated this Rule by representing himself to be Stoner's attorney, on July 18, 2017, and by holding himself out to be Underwood, an attorney with an active license. Through those actions, respondent made false statements of material fact to MVC and, thus, violated RPC 3.3(a)(1). In particular, consistent with the testimony of the MVC employees and the DEC's findings below, we find that respondent was permitted into the back area of the MVC building only because he held himself out to be Stoner's attorney. Respondent presented Underwood's

business card in order to hold himself out as a lawyer, and, more egregiously, a lawyer other than himself.

As noted above, the DEC declined to find that the July 13, 2017 adjournment call violated RPC 3.3(a)(1). The DEC found by clear and convincing evidence that respondent had represented himself to be an attorney but declined to find a violation of RPC 3.3(a)(1) on two bases. First, the DEC found that, although "[r]espondent represented himself as an attorney when he made the July 13, 2017 telephone call to the MVC," that representation "was not a false statement[.]" Second, the DEC expressed that "the fact that Respondent was suspended at the time is encompassed within the scope of other RPCs."

On this point, we part company with the DEC and find that the presenter independently established a separate instance of misconduct on that basis. As to the first point, we reject the view that it is permissible to present oneself as an "attorney" when one's license is suspended. We understand the DEC's more conservative approach to suggest that a suspended attorney would not be making a false statement by identifying himself to a tribunal as an "attorney" without reference to the status of his inoperable license. The DEC preferred to view the omission of the modifier "suspended" as more appropriately addressed under subparagraph (5) of the same Rule. We read the rule more broadly and find

respondent's telephone call constituted both a false statement and an omission of the critical fact of his suspension.

Next, we determine that the DEC correctly found that Respondent's conduct violated RPC 3.3(a)(5). Whereas the DEC viewed only one charged theory applicable, we believe this record contains clear and convincing evidence of both theories alleged in count two of the complaint: his failure to disclose to the MVC that he was a suspended attorney, and his presentation of the Underwood business card in anticipation of the July 18, 2017 prehearing conference.

RPC 3.3(a)(5) provides that it is unethical for an attorney to "fail to disclose to the tribunal a material fact knowing that the omission is reasonably certain to mislead" that tribunal. On July 18, 2017, respondent deliberately created the impression that he was Underwood, which he thereafter failed to correct. Further, both during his July 13, 2017 conversation and during the July 18, 2017 MVC visit, respondent failed to disclose that he was suspended from the practice of law and misled the MVC regarding his status as an attorney.

We have no trouble viewing respondent's failure to correct the misimpression that he was Underwood as a separate omission. Respondent had multiple opportunities to correct the misimpression that he was Underwood. He took the opposite path, doubling down on his offer to retrieve identification.

Consequently, respondent twice violated RPC 3.3(a)(5) by knowingly failing to disclose material facts that were certain to mislead the MVC and its staff.

Most importantly, we agree with the DEC that respondent twice engaged in the unauthorized practice of law, in violation of RPC 5.5(a)(1). First, during the July 13, 2017 telephone call, while suspended, he identified himself as an attorney and requested and adjournment on behalf of Stoner. Second, on July 18, 2017, while suspended, he appeared on behalf of Stoner, at the MVC, in a representative capacity.

We likewise agree with the DEC's finding that clear and convincing evidence established respondent's violation of RPC 3.4(c). Respondent, as a suspended attorney, was required to adhere to R. 1:20-20(b), which provides in relevant part that a suspended attorney:

> (1) shall not practice law in any form either as principal, agent, servant, clerk or employee of another, and shall not appear as an attorney before any court, justice, judge, board, commission, division or other public authority or agency;
>
> * * *
>
> (3) shall not furnish legal services, give an opinion concerning the law or its application or any advice with relation thereto, or suggest in any way to the public an entitlement to practice law, or draw any legal instrument;
>
> (4) shall not use any stationery, sign or advertisement suggesting that the attorney, either alone or with any

> other person, has, owns, conducts, or maintains a law office or office of any kind for the practice of law, or that the attorney is entitled to practice law;
>
> * * *
>
> (6) shall, from the date of the order imposing discipline (regardless of the effective date thereof), not solicit or procure any legal business or retainers for the disciplined attorney or for any other attorney[.]

As noted in the above analysis of RPC 5.5(a)(1), respondent practiced law in violation of R. 1:20-20(b)(1) by both interfacing with the MVC by telephone on Stoner's behalf, on July 13, 2017, and by presenting himself as an attorney before the MVC, on July 18, 2017. Respondent furnished legal services to Stoner, in violation of R. 1:20-20(b)(3), by both providing strategic legal advice on his approach to his case before the pre-hearing conference and by appearing on his behalf, on July 18, 2017. Respondent violated R. 1:20-20(b)(3) on July 18, 2017 by furnishing a business card that suggested he was entitled to practice law, albeit as an individual whom he was impersonating. His presentation of Underwood's card likewise qualified as a violation of R. 1:20-20(b)(4) because respondent used that document to create the false impression that he "has, owns, conducts, or maintains a law office or office of any kind for the practice of law" and that he was entitled to practice law.

Finally, we determine that the DEC correctly found that, on July 18, 2017, respondent violated RPC 8.4(c) both by failing to disclose to the MVC

employees that he was a suspended attorney and by holding himself out as Underwood and presenting Underwood's card in furtherance of that deception.

In sum, we find that respondent violated RPC 3.3(a)(1) (two instances); RPC 3.3(a)(5) (two instances); RPC 3.4(c); RPC 5.5(a)(1) (two instances); and RPC 8.4(c) (two instances). The sole issue remaining for determination is the appropriate quantum of discipline for respondent's misconduct.

The core of respondent's misconduct is his practice of law while suspended. The quantum of discipline for that behavior ranges from a lengthy suspension to disbarment, depending on the presence of other misconduct, the attorney's disciplinary history, and aggravating or mitigating factors. See, e.g., In re Phillips, 224 N.J. 274 (2016) (one-year suspension for an attorney who stipulated that, while suspended, he had secured consent to an adjournment of a matrimonial motion that was to be heard during the term of suspension, and assisted the client in the matter; extensive prior discipline, including a prior admonition, two censures, and a three-month suspension); In re Brady, 220 N.J. 212 (2015) (one-year retroactive suspension imposed on an attorney who, after a Superior Court judge had restrained him from practicing law, represented two clients in municipal court and appeared in a municipal court on behalf of a third client, after the Supreme Court had temporarily suspended him; the attorney also failed to file the required R. 1:20-20 affidavit following the temporary

suspension; significant mitigating factors, including the attorney's diagnosis of a catastrophic illness and other circumstances that led to the dissolution of his marriage, the loss of his business, and the ultimate collapse of his personal life, including becoming homeless, and, in at least one of the instances of his practicing while suspended, his desperate need to provide some financial support for himself; prior three-month suspension); In re Wheeler, 140 N.J. 321 (1995) (two-year suspension imposed on an attorney who practiced law while serving a temporary suspension for failure to refund a fee to a client; the attorney also made multiple misrepresentations to clients, displayed gross neglect and pattern of neglect, engaged in negligent misappropriation and in a conflict of interest, and failed to cooperate with disciplinary authorities);[5] In re Marra, 183 N.J. 260 (2005) (three-year suspension for an attorney found guilty of practicing law while suspended in three matters; the attorney also filed a false affidavit with the Court stating that he had refrained from practicing law during a prior suspension; the attorney had received a private reprimand, a reprimand, two three-month suspensions, a six-month suspension, and a one-year suspension – also for practicing law while suspended); In re Cubberley, 178 N.J. 101 (2003) (three-year suspension for an attorney who solicited and continued to accept fees

[5] In that same Order, the Court imposed a retroactive one-year suspension, on a motion for reciprocal discipline, for the attorney's retention of unearned retainers, lack of diligence, failure to communicate with clients, and misrepresentations.

from a client after he had been suspended, misrepresented to the client that his disciplinary problems would be resolved within one month, failed to notify the client or the courts of his suspension, failed to file the affidavit of compliance required by Rule 1:20-20(a), and failed to reply to the OAE's requests for information; the attorney had an egregious disciplinary history including an admonition, two reprimands, a three-month suspension, and two six-month suspensions); In re Walsh, Jr., 202 N.J. 134 (2010) (the attorney was disbarred, in a default matter, for practicing law while suspended by attending a case conference and negotiating a consent order on behalf of five clients and making a court appearance on behalf of seven clients; the attorney also was guilty of gross neglect, lack of diligence, failure to communicate with a client, and failure to cooperate with disciplinary authorities during the investigation and processing of the grievance; the attorney failed to appear on an order to show cause before the Court; extensive disciplinary history: reprimanded in 2006, censured in 2007, and suspended twice in 2008); and In re Olitsky, 174 N.J. 352 (2002) (the attorney was disbarred after he was suspended and agreed to represent four clients in bankruptcy cases, did not notify them that he was suspended from practice, charged clients for the prohibited representation, signed another attorney's name on the petitions without that attorney's consent and then filed the petitions with the bankruptcy court; in another matter, after

the attorney was suspended, he agreed to represent a client in a mortgage foreclosure, accepted a fee, and took no action on the client's behalf; in yet another matter, the attorney continued to represent a client in a criminal matter after the attorney's suspension; the attorney also made misrepresentations to a court and was convicted of stalking a woman with whom he had had a romantic relationship; prior private reprimand, admonition, two three-month suspensions, and two six-month suspensions).

According, respondent's unauthorized practice of law warrants a term of suspension. Respondent, however, committed additional misconduct.

Generally, the discipline imposed on an attorney who makes misrepresentations to a court or exhibits a lack of candor to a tribunal, or both, ranges from a reprimand to a long-term suspension. See, e.g., In re Marraccini, 221 N.J. 487 (2015) (reprimand imposed on an attorney who attached to approximately fifty eviction complaints, filed on behalf of a property management company, verifications that had been pre-signed by the manager, who had since died; the attorney was unaware that the manager had died and, upon learning that information, withdrew all complaints; violations of RPC 3.3(a), RPC 8.4(c), and RPC 8.4(d); in mitigation, we found that the attorney's actions were motivated by a misguided attempt at efficiency, rather than by dishonesty or personal gain); In re Schiff, 217 N.J. 524 (2014) (reprimand for

an attorney who filed inaccurate certifications of proof in connection with default judgments; specifically, at the attorney's direction, his staff prepared signed, but undated, certifications of proof in anticipation of defaults; thereafter, when staff applied for default judgments, at the attorney's direction, they completed the certifications, added factual information, and stamped the date; although the attorney made sure that all credits and debits reflected in the certification were accurate, the signatory did not certify to the changes, after signing, a practice of which the attorney was aware and directed; the attorney was found guilty of lack of candor to a tribunal and failure to supervise nonlawyer employees, in addition to RPC 8.4(a) and RPC 8.4(c)); In re McLaughlin, 179 N.J. 314 (2004) (reprimand imposed on an attorney who had been required by the New Jersey Board of Bar Examiners to submit quarterly certifications attesting to his abstinence from alcohol, but falsely reported that he had been alcohol-free during a period within which he had been convicted of driving while intoxicated, a violation of RPC 8.4(c); in mitigation, after the false certification was submitted, the attorney sought the advice of counsel, came forward, and admitted his transgressions); In re Duke, 207 N.J. 37 (2011) (the attorney received a censure for failure to disclose his New York disbarment on a form filed with the Board of Immigration Appeals, a violation of RPC 3.3(a)(5); the attorney also failed to adequately communicate with the client and

was guilty of recordkeeping deficiencies; prior reprimand; the attorney's contrition and efforts at rehabilitation justified only a censure); In re Monahan, 201 N.J. 2 (2010) (the attorney was censured for submitting two certifications to a federal district court in support of a motion to extend the time within which to file an appeal; the attorney misrepresented that, when the appeal was due to be filed, he was seriously ill and confined to his home on bed rest and, therefore, either unable to work or unable to prepare and file the appeal, a violation of RPC 3.3(a)(1); the attorney also practiced law while ineligible); In re Clayman, 186 N.J. 73 (2006) (censure imposed on an attorney who misrepresented the financial condition of a bankruptcy client in filings with the bankruptcy court to conceal information detrimental to the client's Chapter 13 bankruptcy petition; in mitigation, we observed that, although the attorney had made a number of misrepresentations in the petition, he was one of the first attorneys to be reported for his misconduct by a new Chapter 13 trustee who had elected to enforce the strict requirement of the bankruptcy rules, rather than permit what had been the "common practice" of bankruptcy attorneys under the previous trustee; violations of RPC 3.3(a)(1), (2), and (5); RPC 4.1(a)(1) and (2); and RPC 8.4(c) and (d); in further mitigation, the attorney also had an unblemished disciplinary record, was not motivated by personal gain, and did not act out of venality); In re Trustan, 202 N.J. 4 (2010) (three-month suspension for an attorney who,

among other misconduct, submitted to the court a client's case information statement that falsely asserted that the client owned a home, and drafted a false certification for the client, which was submitted to the court in a domestic violence trial; violations of RPC 3.3(a)(1) and (4); other violations included RPC 1.8(a) and (e), RPC 1.9(c), and RPC 8.4(a), (c), and (d)); In re Perez, 193 N.J. 483 (2008) (on motion for final discipline, three-month suspension for an attorney guilty of false swearing; the attorney, then the Jersey City Chief Municipal Prosecutor, lied under oath at a domestic violence hearing that he had not asked the municipal prosecutor to request a bail increase for the person charged with assaulting him; violations of N.J.S.A. 2C:28-2a and RPC 8.4(b)); In re Stuart, 192 N.J. 441 (2007) (three-month suspension for assistant district attorney in New York who, during the prosecution of a homicide case, misrepresented to the court that he did not know the whereabouts of a witness; however, the attorney had made contact with the witness four days earlier; violations of RPC 8.4(c) and (d); compelling mitigation justified only a three-month suspension); In re Forrest, 158 N.J. 428 (1999) (six-month suspension imposed on attorney who, in connection with a personal injury action involving injured spouses, failed to disclose the death of one of his clients to the court, to his adversary, and to an arbitrator, and advised the surviving spouse not to voluntarily reveal the death; violation of RPC 3.3(a)(5), RPC 3.4(a), and RPC

8.4(c); the attorney's motive was to obtain a personal injury settlement); In re Telson, 138 N.J. 47 (1994) (after an attorney concealed a judge's docket entry dismissing his client's divorce complaint, the attorney obtained a divorce judgment from another judge without disclosing that the first judge had denied the request; the attorney then denied his conduct to a third judge, only to admit to this judge one week later that he had lied because he was afraid; the attorney was suspended for six months; violations of RPC 3.3(a)(1) and (5) and RPC 8.4(c) and (d)); In re Cillo, 155 N.J. 599 (1998) (one-year suspension for attorney who, after misrepresenting to a judge that a case had been settled and that no other attorney would be appearing for a conference, obtained a judge's signature on an order dismissing the action and disbursing all escrow funds to his client; the attorney knew that at least one other lawyer would be appearing at the conference and that a trust agreement required that at least $500,000 of the escrow funds remain in reserve; violations of RPC 3.3(a)(1) and (2), RPC 3.5(b), and RPC 8.4(c) and (d); two prior private reprimands); and In re Kornreich, 149 N.J. 346 (1997) (three-year suspension for attorney who had been involved in an automobile accident and then misrepresented to the police, to her lawyer, and to a municipal court judge that her babysitter had been operating her vehicle; the attorney also presented false evidence in an attempt

to falsely accuse the babysitter of her own wrongdoing; violations of RPC 3.3(a)(4), RPC 3.4(f), and RPC 8.4(b)-(d)).

At oral argument before us, respondent's counsel argued that respondent was not practicing law at the MVC on July 18, 2017 and that, although respondent exercised poor judgment, he did not violate any RPCs. Respondent's counsel admitted that respondent accompanied Stoner to the MVC on July 18, 2017, but contended that respondent did not present Underwood's card.

Here, we agree with the DEC that respondent's misconduct does not rise to the level of that in Walsh or Olitsky, where the Court disbarred the attorneys. As noted by the DEC, in Walsh, the attorney was disbarred for attending a case management conference, making court appearances on behalf of seven clients, failing to appear on an order to show cause, as well as other misconduct. In Olitsky, the attorney was disbarred for representing four clients, charging them fees, and signing another attorney's name to court filings, as well as other misconduct.

In this matter, respondent's misconduct is akin to the attorneys who received one-year suspensions. In Phillips, the attorney, who had extensive prior discipline, assisted one client in a matrimonial matter while suspended. In Brady, the attorney, who had a prior disciplinary suspension and significant

mitigating factors, represented three clients in municipal court after being temporarily suspended. A one-year suspension is, therefore, warranted.

There is no mitigation to consider. In aggravation, respondent has previously been disciplined on three occasions, most recently in 2017. He was previously reprimanded in 1995 for dishonest conduct, by presenting his cousin's driver's license to a police officer as if it were his own. The Court has signaled an inclination toward progressive discipline and stern treatment of repeat offenders. See In re Kantor, 180 N.J. 226 (2004) (disbarment for abandonment of clients and repeated failure to cooperate with the disciplinary system).

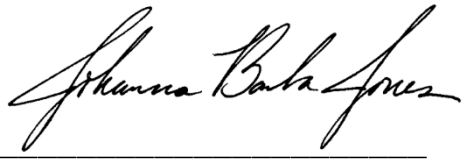
Despite the presence of aggravation, we determine that, because respondent's misconduct was limited to Stoner's matter, a one-year suspension is an adequate quantum of discipline to protect the public and preserve confidence in the bar.

Vice-Chair Singer voted to impose a censure.

Member Boyer was recused.

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: 
Johanna Barba Jones
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Ralph Alexander Gonzalez
Docket No. DRB 21-117

Decided: November 30, 2021

Disposition: One-year suspension

Members	One-Year Suspension	Censure	Recused
Gallipoli	X		
Singer		X	
Boyer			X
Campelo	X		
Hoberman	X		
Joseph	X		
Menaker	X		
Petrou	X		
Rivera	X		
Total:	7	1	1

Johanna Barba Jones
Chief Counsel