Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 22-029
District Docket No. XIV-2019-0547E

In the Matter of	:
Albert O. Grant, II	:
An Attorney at Law	:

Decision

Argued: April 21, 2022

Decided: August 8, 2022

Hillary K. Horton appeared on behalf of the Office of Attorney Ethics.

Albert O. Grant, II 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 final discipline filed by the Office of Attorney Ethics (the OAE), pursuant to R. 1:20-13(c)(2), following respondent's guilty plea and convictions, in the United States District Court for

the Southern District of New York (the SDNY), for one count of conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349, and two counts of wire fraud, in violation of 18 U.S.C. §§ 1343 and 2. The OAE asserted that these offenses constitute violations of the principles of In re Wilson, 81 N.J. 451 (1979), and In re Hollendonner, 102 N.J. 21 (1985) (knowingly misappropriating client and escrow funds); RPC 8.4(b) (committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer); and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

For the reasons set forth below, we determine to grant the motion for final discipline and recommend to the Court that respondent be disbarred.

Respondent earned admission to the New Jersey bar in 1971 and to the New York bar in 1976. He has no prior discipline in New Jersey. At the relevant times, he maintained a practice of law with offices in Randolph, New Jersey, and New York, New York.

Effective April 29, 2020, the Court temporarily suspended respondent from the practice of law in New Jersey in connection with his criminal conduct underlying this matter. In re Grant, 241 N.J. 528 (2020). He remains temporarily suspended to date.

Effective June 18, 2020, the Supreme Court of New York, Appellate Division, temporarily suspended respondent from the practice of law in New York in connection with his theft of client funds underlying this matter and his failure to cooperate with New York disciplinary authorities. Matter of Grant, 184 A.D.3d 315 (2020).

We now turn to the facts of this matter.

I. Respondent's Involvement in an Advanced Fee Scheme

Between January 2014 and February 2019, respondent and his co-conspirators, Joseph Perlman; Michael Solomon Markowitz; David Binet; Omar Young; and Ulysses "Malick" Smith, engaged in an "advanced fee scheme"[1] in which they illegally obtained at least $4.8 million from victims who sought "stand-by letters of credit"[2] (SBLCs) from various financial institutions.

Specifically, respondent's co-conspirators would issue the victims a phony SBLC, typically in the name of a fake bank with no assets, in exchange

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[1] "[I]n an 'advanced fee scheme,' a victim pays money to someone in anticipation of receiving something of greater value, such as a loan, contract, investment, or gift, and then receives little or nothing in return." In the Matter of Eric Alan Klein, DRB 17-039 (July 21, 2017) at 3 (quoting https://www.fbi.gov/scams-and-safety/common-fraud-schemes/advance-fee-schemes).

[2] SBLCs are bank-issued financial instruments that constitute a promise to pay on behalf of the bank's client. In effect, the issuing bank promises to allow its client to draw down on the SBLC if the bank's client cannot pay a counterparty in a business transaction.

for significant, advanced fees. To ensure confidence in the scheme and to project an appearance of legitimacy, the co-conspirators recruited respondent to serve as the "escrow agent[,]" whereby he would deposit the victims' advanced fees in his attorney trust account (ATA) while the co-conspirators prepared the phony SBLCs. Before depositing the victims' advanced fees in his ATA, respondent, a co-conspirator, and the victim would execute an "Escrow Agreement," in which respondent not only held himself out as "Albert O. Grant, II, Esq., Attorney at Law (Escrow Agent)[,]" but also promised not to disburse the advanced fees from his ATA until the victim had received the promised SBLC. Respondent, however, would immediately disburse, via wire transfer, the advanced fees to his co-conspirators and then lie to the victims regarding the status of their funds. Respondent would also permit one of his co-conspirators to falsify bank records, purporting to be in respondent's name, to placate the victims anxious about the status of their advanced fees. Meanwhile, respondent's co-conspirators would send the purported SBLCs to legitimate banks, via the Society for Worldwide Interbank Financial Telecommunication (the SWIFT) system, or directly to the victims.[3] During the five years he participated in the advanced fee scheme,

[3] The SWIFT system "is a messaging network used by banks and financial institutions to transfer money internationally and securely." Hake v. Citibank, N.A., 2020 U.S. Dist. LEXIS 52782 at 2 n.3 (S.D.N.Y. March 26, 2020).

respondent received approximately $160,000 from his co-conspirators.

An egregious example of respondent's participation in the advanced fee scheme occurred in 2018, when LS, a business entity, contacted respondent in connection with its attempt to secure a $30 million SBLC to help finance the construction of a youth sports complex in Arizona. Respondent informed LS that he could secure an SBLC, on its behalf, in exchange for an advanced fee to be held in his ATA. Thereafter, LS, respondent, Perlman, and a company established by Markowitz entered into an "agreement" to provide LS a $30 million SBLC from Scotiabank, in exchange for a $2.4 million advanced fee. According to the "agreement," if Markowitz's company could not deliver to LS the $30 million SBLC, LS would be entitled to a "full refund" of its entire advanced fee. The "agreement" further provided that respondent would hold the advanced fee in his ATA and that he would only "release" the advanced fee when "the SBLC [had] been delivered" to LS.

On December 13, 2018, LS electronically transferred $2.4 million to respondent's ATA. On February 1, 2019, prior to the issuance of the phony SBLC, respondent, pursuant to instructions from Perlman and Young, disbursed $900,000 of LS's $2.4 million to a different bank account. On February 26, 2019, United States Marshals arrested respondent, who immediately agreed to cooperate with the government's investigation of the advanced fee scheme.

Thus, when Perlman and Young instructed respondent to provide them the remaining $1.5 million, respondent did not comply and informed federal agents, who obtained a search warrant for respondent's ATA.

Following his arrest, respondent continued to cooperate with federal agents in connection with their investigation of his co-conspirators. Specifically, in March 2019, BV, a biofuel development company, began negotiating with Perlman for a $15 million SBLC, to finance a new biofuel facility in California. Perlman agreed to provide BV a $15 million SBLC, in exchange for a $3.5 million advanced fee to be held in two separate escrow accounts, one of which belonged to respondent. After BV electronically transferred $2.4 million of its $3.5 million advanced fee to respondent's ATA, but before the issuance of the purported SBLC, Young instructed respondent to disburse to him a portion of the $2.4 million. Because respondent was cooperating with federal agents, respondent did not comply, and the agents seized the funds in respondent's ATA.

Thereafter, respondent continued to cooperate with federal agents by allowing "consensual recordings of all his communications with his co-conspirators" and by contacting federal agents immediately after such conversations. The consensual recordings allowed federal agents "to develop leads in real-time, recover victim funds, and resulted in extremely strong evidence against [respondent's] co-conspirators." As a result of respondent's

cooperation, federal agents managed to recover approximately $4,270,121.38 from various accounts associated with SBLC advanced fee schemes. Moreover, respondent's cooperation allowed federal agents to arrest all his co-conspirators, except Smith, who, as of July 28, 2021, remained a fugitive.

II. Respondent's Theft of Client Funds

In addition to respondent's involvement in the advanced fee scheme, he admitted to federal agents that, in 2014, he misappropriated $19,000 from a client's estate; misappropriated $40,000 from another client in connection with a real estate closing; and misappropriated $25,000 from a third client to pay purported bank fees. Respondent maintained, without corresponding proof, that he had repaid each client.

Additionally, in April 2017, respondent's longtime friend, and fellow attorney, retained respondent in connection with the sale of his business's sole asset, a commercial property, in Long Island City, New York. In June 2017, the friend's business entered into a contract to sell its commercial property to a buyer for $4.075 million.

On June 28, 2017, the buyer issued to respondent two deposit checks, totaling $407,500, which respondent was obligated to hold, inviolate, pending the closing. Although respondent deposited the $407,500 in his ATA, within a

"few months," he disbursed "almost all" of those funds to an escrow account he used to deposit fraudulently obtained advanced fees. Additionally, the friend instructed respondent to direct the buyer to remit the projected $3,541,331.75 in net sales proceeds directly to the friend's business's bank account following the January 2018 closing.

On January 10, 2018, respondent represented his friend's business at the closing and, contrary to his friend's express instructions, requested that the buyer issue a $3,541,331.75 check payable to respondent's escrow account. On January 11, 2018, respondent deposited the $3,541.331.75 check in his escrow account and, immediately thereafter, disbursed $22,000 of those funds to his personal checking account. Additionally, on or around January 22, 2018, respondent disbursed an additional $15,400 of the net sales proceeds to an unknown associate's bank account. Finally, on January 31, 2018, respondent disbursed $150,000 of the net sales proceeds to a foreign bank account, in Abu Dhabi, United Arab Emirates, even though the friend and his business had no bank accounts in Abu Dhabi.

Meanwhile, following the closing, the friend contacted respondent numerous times regarding the status of the net sales proceeds. By the end of January 2018, respondent began to ignore his friend's attempts to communicate and, when he did reply, he offered "an avalanche of absurd excuses" regarding

the status of the funds. Specifically, respondent claimed that he "was having difficulties preparing his timesheets so that he could provide an accurate closing statement[,]" despite the fact that the closing had already occurred.

On February 16, 2018, respondent sent his friend an e-mail, advising him that, on February 14, he had sent each member of his friend's business a series of checks representing their respective shares of the net sales proceeds. Respondent also informed his friend that he would send him a check for his share of the net sales proceeds, via FedEx, on February 17.[4]

On February 19, 2018, the friend received from respondent two post-dated checks – one for $626,000, dated February 20, 2018, and the second for $316,699.08, dated February 23, 2018. Although the friend successfully deposited the $626,000 check, when he attempted to deposit the $316,699.08 check, the bank manager informed him that a "stop payment" order had been placed on that check. When the friend requested that respondent issue a replacement check, respondent concocted a series of "implausible excuses" to avoid having to do so, including that a snowstorm had prevented him from sending the check and that his bank account containing the friend's funds had been frozen.

[4] The record is unclear whether the friend's business associates received their respective shares of the net sales proceeds.

In March 2018, respondent claimed to his friend, on three separate occasions, that he had sent a replacement check, via FedEx. However, the tracking numbers for the package were invalid, and the friend never received his $316,699.08 because respondent had electronically transferred those funds, at the direction of a co-conspirator in the advanced fee scheme, to a foreign bank account belonging to a third-party. Respondent later alleged to the government that he could not recover his friend's funds.

On May 2, 2018, the friend filed a civil lawsuit, in the SDNY, to attempt to recover his unremitted $316,699.08 in net sales proceeds from respondent. Thereafter, the presiding judge of the SDNY froze respondent's ATA. During the civil lawsuit, although respondent readily admitted that he had "misappl[ied]" his friend's $316,699.08 in entrusted funds, respondent took steps to prevent his friend's attorney and federal authorities from investigating exactly what had happened to his friend's money. Specifically, respondent would feign or exaggerate his medical conditions to delay his cooperation and would blame his failure to appear at status conferences on his purported medical conditions or on alleged injuries sustained in an automobile accident.[5] More egregiously, respondent also submitted to the SDNY a false certification, from

[5] According to the friend's attorney, respondent "strode in" to court within days of the alleged accident "looking just fine."

one of his co-conspirators in the advanced fee scheme, wherein the co-conspirator misrepresented that he had a legitimate claim to the funds in respondent's frozen ATA. Respondent's obstructive behavior caused the SDNY to threaten respondent with sanctions to compel his cooperation.

On December 13, 2018, the SDNY issued a "Final Consent Default Judgment and Permanent Injunction," in which respondent "deliberately and unequivocally" admitted to "all facts alleged in" his friend's lawsuit and "his liability as to each cause of action." Respondent further admitted his liability to his friend, for $426,749.95, which included interest and $50,000 in attorney's fees. Despite respondent's admission of liability, he did not have the resources to repay his friend.

III. The Criminal Proceedings Before the SDNY

For his role in the advanced fee scheme and for his theft of his friend's $316,699.08 in entrusted funds, on December 20, 2019, the United States Attorney for the SDNY charged respondent with one count of conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349, and two counts of wire fraud, in violation of 18 U.S.C. §§ 1343 and 2. Respondent waived indictment and, on December 20, 2019, pleaded guilty as charged. During the proceeding, respondent admitted (1) his more than five-year participation in the advanced

fee scheme and (2) that he had "misappropriated client funds" from his ATA "on multiple occasions." In his attorney's September 3, 2020 sentencing memorandum, respondent urged a non-custodial sentence, based on his advanced age, remorse, and lack of criminal history.

On July 28, 2021, respondent appeared for sentencing, where he apologized for his criminal behavior; stated that his actions reflected "negatively on the legal profession[;]" and noted his cooperation with federal agents in connection with their investigation of the advanced fee scheme. Additionally, the Assistant United States Attorney emphasized respondent's complete and "proactive cooperation" with federal agents but declined to "take a position on sentencing." In his victim impact statement to the SDNY, the friend stated that he did not know "what ha[d] happened to" respondent, his friend of more than fifty years whom he had trusted; urged the SDNY not to underestimate respondent's role in the advanced fee scheme; and emphasized respondent's improper attempts to stonewall the resolution of the civil lawsuit.

The Honorable Paul A. Engelmayer, U.S.D.J., sentenced respondent to a fourteen-day term of imprisonment, followed by a three-year term of "supervised release." Judge Engelmayer further required respondent to pay $316,399 in restitution to the friend and to pay joint and several restitution, with his co-conspirators, in an amount to be determined, to the victims of the

advanced fee scheme. In imposing the sentence, Judge Engelmayer noted that, had it not been for respondent's significant cooperation with federal agents, "a substantial prison term" would have been warranted. Judge Engelmayer characterized respondent's theft of the friend's funds as "reprehensible[,]" emphasized that respondent had leveraged his status as a lawyer to provide an appearance of legitimacy to the victims of the advanced fee scheme, and stated that, although he had cooperated with federal agents, respondent attempted to "cover[] up" his theft of his friend's funds from both his friend and the SDNY.

Although respondent failed to notify the OAE of his December 20, 2019 criminal charges, as R. 1:20-13(a)(1) requires, respondent provided the OAE copies of his attorney's September 3, 2020 sentencing memorandum and the pre-sentence report.

In support of its recommendation for disbarment, the OAE analogized respondent's criminal conduct to the disbarred attorneys in In re Klein, 231 N.J. 123 (2017), In re Bultmeyer, 224 N.J. 145 (2016), and In re Marino, 217 N.J. 351 (2014).

As detailed below, the attorney in Klein was convicted of wire fraud for engaging in an advanced fee scheme that lasted eight years and defrauded twenty-one victims of more than $819,000. In the Matter of Eric Alan Klein, DRB 17-039 (July 21, 2017) at 19. In that matter, the attorney leveraged his

status as an attorney to provide a "veneer of respectability and legality" to the criminal scheme, including the use of his attorney escrow account. Id. at 26.

The attorney in Bultmeyer was convicted of conspiracy to commit wire fraud for his participation in a fraud that resulted in a loss of more than $7 million to 179 victims. In the Matter of Paul G. Bultmeyer, DRB 15-056 (September 15, 2015) at 15. Specifically, the attorney, in his capacity as the owner of a payroll company, illegally diverted millions of dollars of the company's entrusted client funds to satisfy the payroll obligations of other clients or to make unrelated tax payments on behalf of the other clients. Id. at 4.

The attorney in Marino was convicted of "misprision of a felony"[6] for participating in a fraud that resulted in a loss of more than $309 million to investors. In the Matter of Matthew A. Marino, DRB 13-135 (December 10, 2013) at 10-11. He also affirmatively assisted his brother and another co-conspirator in the fraud, which involved, among other things, the creation of a false financial history for a failing hedge fund to induce contributions from potential investors. Id. at 3-8.

The OAE argued that, like the attorneys in Klein, Bultmeyer, and Marino, respondent participated in a criminal scheme that defrauded victims of at least

[6] Misprision of a felony occurs when an individual conceals from federal authorities his or her knowledge of the commission of a federal felony. See 18 U.S.C. § 4.

$4.8 million. Although the OAE noted that respondent was not the "architect" of the advanced fee scheme, it emphasized that he permitted his co-conspirators to use his ATA to "shield and launder" their fraudulently obtained money. The OAE also underscored the $316,699.08 that respondent stole from his client and friend in connection with the sale of his business's property. Because of respondent's theft of client funds, the OAE maintained that, pursuant to the principles of In re Wilson, 81 N.J. 451 (1979), disbarment is the only possible sanction for respondent's misconduct.

At oral argument and in his April 6, 2022 brief to us, respondent admitted to the facts underlying his criminal convictions and urged us to impose a three-year term of suspension "to run concurrently [with] his period of supervisory release."[7] In support of his position, respondent claimed that his "mitigating circumstances" should spare him from disbarment, including his alleged good reputation and character;[8] his lack of prior discipline; his remorse and contrition; his lack of criminal activity since his February 2019 arrest; his cooperation with disciplinary authorities and law enforcement; and the fact that he is no longer practicing law. Additionally, respondent claimed that he is "exceedingly

[7] According to the SDNY's criminal judgment, respondent's three-year period of supervisory release commenced on October 11, 2021.

[8] Respondent provided to the SDNY three positive character reference letters.

unlikely to ever commit another offense[,]" given his advanced age, and contended that his criminal conduct amounted to an "isolated incident." Respondent also noted that he is paying $100 per month in restitution to the Clerk of the SDNY.

Respondent further argued that, unlike the disbarred attorneys in Klein, Marino, and Bultmeyer, he was not the "architect" of the advanced fee scheme and that, "at the outset" of the advanced fee scheme, "he was shown valid SBLC documents."

Finally, respondent, citing In re Jacob, 95 N.J. 132 (1984), urged, as mitigation, his "psychiatric history," which is detailed in respondent's provided confidential medical records. Respondent, however, requested permission to submit additional medical records "to the Court before any adjudication."

In his April 7, 2022 certification to us, respondent maintained that he had notified his clients of his temporary suspension in New Jersey, described his history of mental illness, and alleged that, since 2014, he has suffered from a series of physical ailments. Additionally, respondent requested that he be "examined by an independent psychiatrist selected by [the] Court."

Following a review of the record, we determine to grant the OAE's motion for final discipline. Final discipline proceedings in New Jersey are governed by R. 1:20-13(c). Under that Rule, a criminal conviction is conclusive evidence of

guilt in a disciplinary proceeding. R. 1:20-13(c)(1); In re Magid, 139 N.J. 449, 451 (1995); In re Principato, 139 N.J. 456, 460 (1995).

Pursuant to RPC 8.4(b), it is misconduct for an attorney to "commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer." Thus, respondent's guilty plea and conviction of the federal charges of conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349, and wire fraud, in violation of 18 U.S.C. §§ 1343 and 2, establishes his violation of RPC 8.4(b). Furthermore, the facts underlying respondent's participation in the advanced fee scheme and his repeated attempts to conceal his theft of his friend's $316,699.08 in entrusted client funds clearly and convincingly demonstrate his violation of RPC 8.4(c) and the principles of In re Wilson, 81N.J. 451 (1979). Accordingly, we need not further analyze his misconduct under the principles of Hollendonner.

Following our review of respondent's medical records, we determine to reject respondent's proffered psychiatric defense and his requests for an independent psychiatric examination and for permission to submit additional medical documentation. It is well-settled that mental illness serves as a defense only where the illness reduces the mental state of the attorney beyond that required to establish the charged violations of the Rules of Professional Conduct. The Court has explained that such a defense is not established where,

as here, an attorney does not:

> furnish any basis grounded in firmly established medical facts for a legal excuse or justification for respondent's [misconduct]. There has been no demonstration by competent medical proofs that respondent suffered a loss of competency, comprehension or will of a magnitude that could excuse egregious misconduct that was clearly knowing, volitional and purposeful.
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> [In re Jacob, 95 N.J. 132, 137 (1984).]

Nor has respondent argued that he is afflicted by "[a] mental illness that impairs the mind and deprives [him] of the ability to act purposely or knowingly, or to appreciate the nature and quality of the act he was doing, or to distinguish between right and wrong." In re Cozzarelli, 225 N.J. 16, 31 (2016). In fact, to the contrary, respondent allocuted, under oath in the SDNY, his participation in the advanced scheme and his theft of entrusted client funds. Indeed, respondent's attorney advised the SDNY, during respondent's plea hearing, that he had no "doubt[s]" regarding respondent's "competence to plead [guilty][.]" Accordingly, we determine to reject respondent's proffered psychiatric defense.

In sum, we find that respondent violated the principles of Wilson, RPC 8.4(b), and RPC 8.4(c). The sole issue left for our determination is the proper quantum of discipline for respondent's misconduct. R. 1:20-13(c)(2); In re Magid, 139 N.J. at 451-52; and In re Principato, 139 N.J. at 460.

In determining the appropriate measure of discipline, we must consider

the interests of the public, the bar, and respondent. "The primary purpose of discipline is not to punish the attorney but to preserve the confidence of the public in the bar." In re Principato, 139 N.J. at 460 (citations omitted). Fashioning the appropriate penalty involves a consideration of many factors, including the "nature and severity of the crime, whether the crime is related to the practice of law, and any mitigating factors such as respondent's reputation, his prior trustworthy conduct, and general good conduct." In re Lunetta, 118 N.J. 443, 445-46 (1989).

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

Here, multiple lines of New Jersey disciplinary precedent mandate respondent's disbarment.

First, the OAE correctly argued that respondent's knowing

misappropriation of his friend's entrusted client funds triggers automatic disbarment under the Wilson rule. In Wilson, the Court described knowing misappropriation of client trust funds as follows:

> Unless the context indicates otherwise, 'misappropriation' as used in this opinion means any unauthorized use by the lawyer of clients' funds entrusted to him, including not only stealing, but also unauthorized temporary use for the lawyer's own purpose, whether or not he derives any personal gain or benefit therefrom.
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> [In re Wilson, 81 N.J. 455 n.1.]

Six years later, the Court elaborated:

> The misappropriation that will trigger automatic disbarment under In re Wilson, 81 N.J. 451 (1979), disbarment that is 'almost invariable' . . . consists simply of a lawyer taking a client's money entrusted to him, knowing that it is the client's money and knowing that the client has not authorized the taking. It makes no difference whether the money is used for a good purpose or a bad purpose, for the benefit of the lawyer or for the benefit of others, or whether the lawyer intended to return the money when he took it, or whether in fact he ultimately did reimburse the client; nor does it matter that the pressures on the lawyer to take the money were great or minimal. The essence of Wilson is that the relative moral quality of the act, measured by these many circumstances that may surround both it and the attorney's state of mind, is irrelevant: it is the mere act of taking your client's money knowing that you have no authority to do so that requires disbarment . . . . The presence of 'good character and fitness,' the absence of 'dishonesty, venality or immorality' – all are irrelevant.

[In re Noonan, 102 N.J. 157, 159-60 (1986).]

Thus, to establish knowing misappropriation, the presenter must produce clear and convincing evidence that the attorney used trust funds, knowing that they belonged to the client and knowing that the client had not authorized him or her to do so.

Recently, the Court disbarred an attorney convicted of five counts of felony wire fraud, in violation of 18 U.S.C. § 1343, for stealing between $250,000 and $500,000 of client funds in connection with his legal work as administrator of an estate. In re Perrucci, 249 N.J. 507 (2022). Specifically, the attorney, without authorization, systematically disbursed the estate's funds to his law firm's trust and operating accounts and to his personal account. In the Matter of Angelo M. Perrucci, DRB 21-032 (August 25, 2021) at 3-4. The attorney then utilized the stolen funds to pay for his own bills and luxury items. Id. at 7. The attorney's systematic theft, which he repeatedly attempted to conceal from the heirs, "virtually depleted" the entire estate account. Id. at 4-6. In recommending the attorney's disbarment, we observed that his theft of client funds "evidenced a total lack of 'moral fiber[.]'" Id. at 15.

Here, like the disbarred attorney in Perrucci, respondent was convicted of felony wire fraud, in violation of 18 U.S.C. §§ 1343 and 2, for stealing his friend's $316,699.08 in entrusted funds. Specifically, rather than remit those

sales proceeds to his friend, as instructed, respondent, at the direction of his co-conspirator in the advanced fee scheme, disbursed those funds to a foreign bank account belonging to a third-party. Making matters worse, respondent dodged his friend's efforts to communicate regarding the stolen funds, attempted to cover up his theft by concocting a series of "implausible excuses" to avoid having to send his friend a replacement $316,699.08 check, and improperly attempted to stonewall his friend's civil lawsuit by failing to appear for status conferences and submitting a bogus certification to the SDNY, executed by one of his co-conspirators in the advanced scheme. Respondent's grossly improper behavior in connection with his friend's civil lawsuit caused his friend to incur approximately $50,000 in legal fees and costs. Moreover, his friend never recovered his stolen funds.

Additionally, although uncharged, in 2014, respondent admitted to knowingly misappropriating a total of $74,000 from three separate clients. As the Court explained in Noonan, whether respondent had repaid his clients, as he maintained, does not spare him from the automatic disbarment rule in Wilson. Noonan, 102 N.J. at 160.

Standing alone, respondent's criminal participation in the advanced fee scheme compels his disbarment. In In re Goldberg, 142 N.J. 557 (1995), the Court enumerated the aggravating factors that normally lead to the disbarment

of attorneys convicted of crimes:

> Criminal convictions for conspiracy to commit a variety of crimes, such as bribery and official misconduct, as well as an assortment of crimes related to **theft by deception and fraud**, ordinarily result in disbarment. We have emphasized that when a criminal conspiracy evidences 'continuing and prolonged rather than episodic, involvement in crime,' is 'motivated by personal greed,' and **involved the use of the lawyer's skills 'to assist in the engineering of the criminal scheme,' the offense merits disbarment**. (citations omitted).
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> [In re Goldberg, 142 N.J. at 567.] (emphasis added)

Moreover, the Court has found that attorneys who commit crimes that are serious or that evidence a total lack of "moral fiber" must be disbarred to protect the public, the integrity of the bar, and the confidence of the public in the legal profession. See, e.g., In re Quatrella, 237 N.J. 402 (2019) (attorney convicted of conspiracy to commit wire fraud after taking part in a scheme to defraud life insurance providers via three stranger-originated life insurance policies; the victims affected by the crimes lost $2.7 million and the intended loss to the insurance providers would have been more than $14 million); In re Klein, 231 N.J. 123 (2017) (attorney convicted of wire fraud for engaging in an advanced fee scheme that lasted eight years and defrauded twenty-one victims of more than $819,000; the attorney and his co-conspirator used bogus companies to dupe clients into paying thousands of dollars in advanced fees, in exchange for

a promise of collateral that could be used to borrow much larger sums of money from well-known financial institutions; the clients, however, never received legitimate financial instruments that were acceptable to banks as collateral for financing; the attorney leveraged his status as a lawyer to provide a "veneer of respectability and legality" to the criminal scheme, including the use of his attorney escrow account); In re Bultmeyer, 224 N.J. 145 (2016) (the attorney knowingly and intentionally participated in a fraud that resulted in a loss of more than $7 million to 179 victims; the attorney and a co-conspirator owned Ameripay, LLC, a payroll company that handled payroll and tax withholding services for numerous public and private entities; the attorney and his co-conspirator also owned Sherbourne Capital Management, Ltd., which purported to be an investment company, and Sherbourne Financial, Ltd.; the attorney and his co-conspirator misappropriated monies entrusted to them by Ameripay's clients, as well as by Sherbourne investors, to conceal the shortfalls in Ameripay's payroll and tax withholding accounts; the attorney and his co-conspirator agreed to divert millions of dollars to satisfy the payroll obligations of other payroll clients or to make unrelated tax payments on behalf of other clients); In re Marino, 217 N.J. 351 (2014) (the attorney participated in a fraud that resulted in a loss of more than $309 million to 288 investors; the attorney assisted his brother and another co-conspirator in the fraud, which involved the

creation of a false financial history for a failing hedge fund used to persuade contributions from potential investors; the attorney also administered a fraudulent accounting firm that concealed the fund's true financial information; the attorney further prepared a phony purchase and sale agreement for the non-existent accounting firm).

Here, respondent's prolonged, criminal participation in the advanced fee scheme is strikingly similar to that of the disbarred attorney in Klein. Like Klein, respondent, for more than five years, participated in an advanced fee scheme that resulted in at least $4.8 million in losses to victims who sought SBLCs. Also like Klein, respondent leveraged his status as a lawyer to provide a veneer of legitimacy to the scheme. Specifically, respondent, who served as the "escrow agent[,]" held himself out to the victims as an attorney and used his ATA to deposit the fraudulently obtained advanced fees. Respondent would then disburse the victims' advanced fees to his co-conspirators, while the victims received phony SBLCs, typically in the name of a fake bank with no assets.[9] Although respondent urged us to credit his cooperation with federal agents, his cooperation only occurred after his arrest, in February 2019, more than five years after his involvement in the scheme had begun and after he had reaped the

[9] The OAE did not allege that respondent violated the principles of Hollendonner in connection with this misconduct.

pecuniary benefit of his crimes.

In short, respondent's prolonged criminal conduct evidenced a total lack of "moral fiber." He not only defrauded victims of millions of dollars in the advanced fee scheme, but he also betrayed the trust of his longtime friend, and client, by knowingly misappropriating $316,699.08 of his entrusted funds. Thus, to protect the public and preserve confidence in the bar, and consistent with New Jersey disciplinary precedent, we determine to recommend to the Court that respondent be disbarred.

Member Joseph 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 Albert O. Grant, II
Docket No. 22-029

Decided: August 8, 2022

Disposition: Disbar

Members	Disbar	Absent
Gallipoli	X	
Boyer	X	
Campelo	X	
Hoberman	X	
Joseph		X
Menaker	X	
Petrou	X	
Rivera	X	
Singer	X	
Total:	8	1

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