Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 22-046
District Docket No. XIV-2018-0427E

In the Matter of

Joseph John Asterita

An Attorney at Law

Decision

Argued: June 16, 2022

Decided: September 12, 2022

Amanda Figland appeared on behalf of the Office of Attorney Ethics.

Charles J. Uliano 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 disciplinary stipulation between the Office of Attorney Ethics (the OAE) and respondent. Specifically, respondent stipulated to having violated RPC 1.7(a)(1) (engaging in a concurrent conflict of interest); RPC 1.8(a) (engaging in an improper business transaction); and

RPC 1.10(a) (engaging in an imputed conflict of interest).

For the reasons set forth below, we determine that a reprimand is the appropriate quantum of discipline for respondent's misconduct.

Respondent was admitted to the New Jersey bar in 1999 and to the New York bar in 2000. He has no prior discipline in New Jersey. At the relevant times, respondent practiced law as the "junior partner" of Bonfiglio & Asterita, LLC (B&A), while Thomas John Bonfiglio practiced law as B&A's "managing[,] senior partner." B&A maintained offices in Staten Island, New York, and Red Bank, New Jersey.[1]

Respondent and the OAE entered into a disciplinary stipulation, dated March 28, 2022, which sets forth the following facts in support of respondent's admitted ethics violations.

Bonfiglio and Andrew Cameron, a successful businessman, had an ongoing personal friendship and attorney-client relationship from 1992 through December 2012, when their relationship deteriorated. During that timeframe, Cameron became "a regular fixture" in B&A's Staten Island law office, where he would spend "many hours" talking to office staff regarding his "business and

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[1] Bonfiglio passed away in July 2022, subsequent to the OAE's filing of a formal ethics complaint against him arising from the same facts underpinning this matter.

personal matters." Additionally, Bonfiglio and respondent handled Cameron's personal legal matters.

Specifically, in "the mid-1990s," Bonfiglio represented Cameron in connection with Cameron's purchase of a laundromat in Rockaway, New York, and with the sale of a cooperative apartment, in Brooklyn, New York. Respondent, in turn, represented Cameron in a "handful" of real estate matters "in the early 2000s." Additionally, in 2008, Bonfiglio directed respondent to prepare a pre-nuptial agreement for Cameron in contemplation of his marriage. Moreover, in 2012, respondent and Bonfiglio represented Cameron in connection with estate and malpractice litigation, following the death of Cameron's mother.

In 2000, Bonfiglio's attorney-client relationship with Cameron began to evolve into a business relationship. That year, Bonfiglio, Cameron, and Mary Ann Palladino formed Abstracts Unlimited, a title insurance company licensed to do business in New York and New Jersey. Bonfiglio, however, quickly removed himself from the venture because of his concerns about doing business with Palladino.

In 2003, Bonfiglio and respondent, at Bonfiglio's direction, represented Cameron in connection with a transaction in which Cameron and Palladino separated their ownership interests in Abstracts Unlimited. Specifically, the

transaction resulted in Palladino solely owning Abstracts Unlimited in New York, and Cameron solely owning Abstracts Unlimited in New Jersey, which Cameron re-named American Abstract Associates (AAA NJ).

In 2005, following the closure of Abstracts Unlimited in New York, Bonfiglio and Cameron formed a new entity together, American Abstract Associates (AAA NY), hoping to "capture some of the business left by the defunct" New York Abstracts Unlimited. Bonfiglio's wife and Cameron each held a fifty-percent interest in AAA NY, while Cameron solely owned AAA NJ. Respondent had no business interest in either AAA NJ or AAA NY.

In 2006, Cameron alleged that the relationship between AAA NY, AAA NJ, and B&A became "intertwined." Specifically, in that year, AAA NY and AAA NJ began operating in the same building as B&A's Staten Island law office. Additionally, respondent and Bonfiglio provided legal advice to AAA NY and AAA NJ and represented the companies in litigation. Although Bonfiglio had no ownership interest in AAA NJ, Cameron claimed, in his grievance to the OAE, that Bonfiglio asserted "unfettered control and management over" that business. B&A received no legal fees for its services to AAA NY and AAA NJ, however, B&A benefited by performing real estate closings for the companies.

A. Respondent's Involvement in the Consumer Mortgage Group

Meanwhile, in 2004, Bonfiglio and Cameron agreed to form Consumer Mortgage Group, Inc. (CMG), a mortgage banking and brokerage services company. Bonfiglio and Cameron agreed that they would each invest initial capital in CMG and that Cameron would provide marketing services, business leads, and run the day-to-day operations of CMG. In turn, Bonfiglio would manage CMG's financial affairs and oversee CMG's "general business strategy." Additionally, Cameron and Bonfiglio suggested that respondent join the business venture by obtaining mortgage brokerage and banking licenses for CMG and, in exchange for holding those licenses, Bonfiglio promised respondent that he would receive a ten-percent ownership interest in CMG. Respondent, who, in his brief to us, described the business arrangement as an unwritten, "handshake deal," agreed to Cameron and Bonfiglio's suggestion and, under Bonfiglio's supervision, obtained the necessary brokerage and banking licenses and prepared the corporate documents to form CMG.

Following CMG's formation, it set up offices in the same building occupied by B&A's Staten Island law office, AAA NY, and AAA NJ. As initially formed, although CMG's corporate filings listed respondent as the sole owner, respondent, Bonfiglio, and Cameron had an "unwritten side deal" that Bonfiglio and Cameron would each receive forty-five percent of CMG's profits

while respondent would receive ten percent. Thereafter, Cameron recruited Sal Criscuolo, who had experience in the mortgage brokerage industry, to help sell CMG loans. Following the addition of Criscuolo, the parties agreed that Bonfiglio, Criscuolo, and Cameron would each own thirty percent of CMG while respondent would own the remaining ten percent.[2] Respondent and Bonfiglio, however, failed to amend CMG's corporate documents or to create a shareholder's agreement to reflect CMG's change in ownership.

Shortly after Criscuolo joined CMG, Cameron and Criscuolo relocated CMG's offices to Woodbridge, New Jersey. Respondent reviewed the lease agreement for CMG's Woodbridge office. Despite the relocation, respondent and Bonfiglio continued to serve as authorized signatories on CMG's bank accounts while Bonfiglio managed CMG's financial affairs and monitored its expenses and financial performance. Respondent, however, made no significant management or financial decisions without Bonfiglio's input.

Although CMG issued no distributions to any of its shareholders, including respondent, CMG generated real estate closing work for B&A and "title work" for AAA NY and AAA NJ, Cameron's solely owned New Jersey title insurance company. In respondent's brief to us, he described AAA NJ as

[2] Respondent was not involved in Criscuolo's recruitment and only learned of the change in ownership after Criscuolo had agreed to join CMG.

"the primary beneficiary" of CMG because AAA NJ acted as the settlement agent on many of CMG's mortgage loans. During his September 2015 deposition in connection with Cameron's malpractice lawsuit, respondent testified he did not "think that [B&A] ever" billed CMG for legal services.

In May 2010, following a decline in the real estate market, CMG formally ceased operations. Although Cameron had invested a total of $290,905.22 in CMG, he received no return on his investment. During CMG's six years of operation, respondent and Bonfiglio failed to advise Cameron of the desirability of consulting with independent counsel to review their business arrangement. Moreover, despite respondent and Bonfiglio's ongoing attorney-client relationship with Cameron, they failed to secure from Cameron a written waiver acknowledging a conflict of interest in their business arrangement, given respondent and Bonfiglio's significant involvement and stake in CMG's financial affairs, and waiving Cameron's right to consult with independent counsel before commencing their business arrangement.

B. <u>Respondent's Involvement in 136 Development Corporation</u>

In December 2004, Bonfiglio and his wife purchased a New Jersey shorefront property as their primary residence. Bonfiglio's property borders a river/bay, on its west side, and an adjacent property, on its east side. Bonfiglio's

property also has a narrow right-of-way to a road, which borders the Atlantic Ocean, on its east side. By contrast, the adjacent property had a narrow strip of land, twenty-five feet wide by seventy-five feet long, which bordered the north side of Bonfiglio's property and provided a narrow right-of-way for the owners of the adjacent property to access the river.

"Sometime in mid-2006," Bonfiglio approached Cameron about investing in the adjacent property, so that it could be renovated and sold for a profit. Cameron agreed to Bonfiglio's proposal, and Bonfiglio and Cameron agreed that they would each contribute equal amounts towards the business venture and would each receive equal profit distributions following the sale of the adjacent property.

In June 2006, Bonfiglio created "136 Development Corporation" for the business venture, and Bonfiglio and Cameron agreed that Bonfiglio would serve as president of the company. Bonfiglio, however, failed to prepare a written agreement to document the terms of the business arrangement. Compounding matters, Bonfiglio failed to advise Cameron of his intention to acquire the adjacent property's right-of-way to the river, which acquisition would expand the property line of his personal residence and, thus, solely benefit Bonfiglio and reduce the value of the adjacent property.

On June 20, 2006, Bonfiglio and the owner of the adjacent property executed a contract whereby Bonfiglio agreed to purchase the property, in his name only, for $1.9 million. The contract further required that, upon execution of the agreement, Bonfiglio pay the owner of the adjacent property a $190,000 deposit. Upon execution of the contract, Cameron paid the seller the entire $190,000 deposit, from his personal funds. In turn, Bonfiglio contributed $100,000 to 136 Development Corporation's bank account, in order to cover other closing costs.

At the September 22, 2006 closing, Bonfiglio received a $1.425 million mortgage loan, secured by the adjacent property, to acquire the property in the name of 136 Development Corporation. Respondent neither attended nor was aware of the closing.

On October 24, 2006, Bonfiglio appeared before the borough planning board, in his capacity as the owner of his property and as "principal" of 136 Development Corporation, which owned the adjacent property, to seek approval to subdivide the adjacent property such that its right-of-way to the river would be merged into his property. On November 28, 2006, the Borough Planning Board approved Bonfiglio's proposed subdivision; however, Bonfiglio failed to inform Cameron of the approval. On January 26, 2007, Bonfiglio prepared the subdivision deeds to reflect the new property boundaries and, on April 3, 2007,

the County recorded the deeds. Although respondent was not involved in "the approval work" for the subdivision deeds, he notarized Bonfiglio's signatures on the deeds.

Following Bonfiglio's acquisition of the adjacent property's right-of-way to the river, Bonfiglio made improvements to his own property, including the addition of a game room, a master bedroom and bathroom, and a pool. Cameron eventually learned of the subdivision and confronted Bonfiglio, who stated that he would "make it up to him."

Meanwhile, Cameron contributed more than $230,000 to help pay for the adjacent property's mortgage, operating expenses, and renovation costs. Bonfiglio, however, failed to maintain a ledger of Cameron's contributions and, instead, merely provided Cameron with "a scrap of paper" to document his total investments and remaining financial obligations. Following the completion of improvements to the adjacent property, Bonfiglio attempted to sell the property, but was unsuccessful due to the declining real estate market.

In 2012, Cameron, concerned about the absence of a written agreement governing the business venture, requested that respondent and Bonfiglio create a shareholder's agreement to document Cameron and Bonfiglio's respective fifty-percent interests in 136 Development Corporation. Bonfiglio requested that respondent prepare the shareholder's agreement. Respondent claimed, during

his September 15, 2015 deposition in Cameron's malpractice lawsuit, that he drafted a "vanilla shareholder's agreement[,]" given that he did not "know anything about the business or the property." Respondent, thus, conferred with Bonfiglio regarding the agreement's "basic terms" and incorporated Bonfiglio's proposed revisions to the agreement. Respondent also advised Cameron to speak with Bonfiglio if he had any questions regarding the agreement.

In his brief to us, respondent claimed that his knowledge of the business venture "was limited to common knowledge around the office, to wit: Bonfiglio and Cameron owned [the adjacent property] together; part of that property had been snapped off by Bonfiglio to expand his home [. . .]; and that [Cameron and Bonfiglio] intended to either sell off or lease out that property." Although respondent claimed, during his September 2015 deposition, that he verbally had advised Cameron to retain an independent attorney to draft the agreement, he admitted, in his disciplinary stipulation, that he failed to advise Cameron in writing.

On March 26, 2012, Bonfiglio and Cameron executed the shareholder's agreement, which expressly noted that it became "effective as of June 20, 2006," the same date Bonfiglio entered into the contract to purchase the adjacent property. The shareholder's agreement stated that Bonfiglio and Cameron each owned fifty percent of 136 Development Corporation's outstanding stock, but it

gave Bonfiglio sole power to serve as the company's director. The agreement, moreover, neither listed Bonfiglio or Cameron's respective capital contributions nor provided Cameron a credit for the 2007 subdivision, which Bonfiglio had used to improve his personal residence. Despite respondent and Bonfiglio's conflicts of interest, they failed to obtain Cameron's informed, written consent, waiving Cameron's right to consult with independent counsel before Cameron had executed the agreement.

Meanwhile, in October 2012, the adjacent property was damaged by Hurricane Sandy, which allegedly rendered the property unmarketable. Compounding matters, sometime in 2012, Cameron alleged that Bonfiglio had "cut him out" of 136 Development Corporation.

In the more than six years Cameron had contributed to 136 Development Corporation, he never received any distributions. During that time, respondent was unaware of whether Bonfiglio had advised Cameron to consult with independent counsel before commencing their business relationship.

C. Respondent's Involvement in 205 Wall Street, LLC

In April 2006, Bonfiglio and Cameron entered into another business partnership to acquire a twelve-unit, residential apartment building in Long Branch, New Jersey. Bonfiglio and Cameron acquired the apartment building

through their jointly owned business entity, 205 Wall Street, LLC. Bonfiglio provided legal services to 205 Wall Street and represented the entity at the April 2007 closing.

In April 2012, 205 Wall Street sold the apartment building, and respondent represented the entity at closing. During his September 2015 deposition, respondent stated that he could not recall performing any other legal services for 205 Wall Street.

As in the prior business ventures, respondent failed to advise Cameron of respondent's conflict of interest, given Bonfiglio's personal interest in 205 Wall Street, and of the desirability of consulting with independent counsel, before respondent represented 205 Wall Street at the April 2012 closing. In that vein, respondent also failed to obtain from Cameron his written, informed consent waiving his right to consult with independent counsel.

D. Respondent's Involvement in 1400 Ocean, LLC

In January 2009, Bonfiglio and Cameron agreed to acquire an interest in "The Dockside" restaurant in Sea Bright, New Jersey. Bonfiglio and Cameron each agreed to invest equal amounts into the restaurant, share equal ownership, and share equal managerial responsibilities. Respondent had no role in the initial business discussions. On January 12, 2009, B&A formed 1400 Ocean, LLC, for

the business venture. Michael R. Ross, the restaurant's prior chef and current manager, was listed as the "[m]ember[]/[m]anager" on 1400 Ocean's certificate of formation.

B&A also created a separate business entity for the restaurant venture, Dockside Partners, LLC, in which Cameron and Bonfiglio's wife each owned an equal fifty-percent interest. In turn, Dockside Partners owned a fifty-percent interest in 1400 Ocean while Kimberly Ross, Michael Ross's wife, owned the remaining fifty-percent interest in 1400 Ocean.

On January 15, 2009, respondent and Cameron executed a retainer agreement, which allowed Bonfiglio and respondent to provide "[g]eneral [c]ounsel [s]ervices for[] 1400 Ocean." Specifically, respondent, under Bonfiglio's supervision, would "prepare agreements and negotiate leases for 1400 Ocean." Unlike Bonfiglio, however, respondent held no business interest in 1400 Ocean or Dockside Partners.

In March 2009, Cameron, Kimberly Ross, and Bonfiglio's wife, as the owners of 1400 Ocean, executed an agreement which rendered 1400 Ocean responsible for the restaurant's liquor licensing fees. Respondent negotiated the terms of the agreement with the restaurant's landlord, who maintained the liquor license. Bonfiglio and Michael Ross also signed a management agreement with the restaurant's landlord, which designated them as the restaurant's managers.

In approximately June 2009, Michael Centaro, a former client of B&A, acquired a twenty-five percent interest in 1400 Ocean. As a result of Centaro's ownership acquisition, Cameron, Bonfiglio's wife, Centaro, and Kimberly Ross each held a twenty-five percent interest in 1400 Ocean. Neither respondent nor Bonfiglio, however, prepared a shareholder's agreement to document the owners' interests.

In 2010, Bonfiglio, Kimberly Ross, Cameron, and Centaro began to look for a buyer for 1400 Ocean to allow them to invest more resources into a new group of pizza restaurants. Bonfiglio suggested to Brian Goldstein, whom respondent previously had represented in a 2007 purchase of a different restaurant, that he purchase 1400 Ocean. Goldstein agreed and, in 2011, Bonfiglio and Goldstein directed respondent to prepare an agreement documenting that Goldstein would be acquiring "an interest" in 1400 Ocean.

On January 18, 2011, Goldstein purchased Kimberly Ross's twenty-five percent interest for $125,000. Bonfiglio acted as an escrow agent for the sale, whereby he received from Goldstein $125,000 and distributed those funds to Kimberly Ross, upon her execution of the sale documents.

Thereafter, Goldstein arranged to borrow $340,000 from his father-in-law, Paul Fagerstrom, an investor with whom Bonfiglio had no prior relationship, in order to acquire Cameron and Centaro's respective twenty-five percent interests

in 1400 Ocean. On January 21, 2011, Fagerstrom issued a $340,000 check to B&A, representing Goldstein's loan proceeds, and Bonfiglio deposited the check in his trust account. Following Centaro's execution of the undated sale documents, Bonfiglio transferred to Centaro $165,000 of Goldstein's $340,000, which resulted in Goldstein's acquisition of Centaro's twenty-five percent interest. As a result of Goldstein's acquisition, $175,000 remained to fund the sale of Cameron's twenty-five percent interest.

Bonfiglio and Cameron agreed that Bonfiglio would serve as Cameron's attorney and escrow agent for the sale of Cameron's interest. In his disciplinary stipulation, respondent also admitted that he had concurrently represented Goldstein, as the buyer, and Cameron, as the seller, in the transaction. In his brief to us, however, respondent maintained that he had "no role in the allocation of [the business's] funds" and that he merely prepared the documents reflecting the change in ownership.

On March 1, 2011, following Cameron's execution of a "release[,]" which relinquished his entire interest in 1400 Ocean, Bonfiglio informed Cameron that he had received $150,000 from the sale of his interest and suggested that Cameron invest $75,000 of those funds into Tommy's Brick, LLC, one of their separate pizza businesses. Bonfiglio also suggested that Cameron allow

Bonfiglio to personally keep the remaining $75,000, so that Cameron could become an equal, "silent partner[,]" with Bonfiglio's wife, in 1400 Ocean.

Specifically, Bonfiglio explained that Goldstein would own a seventy-five percent interest in 1400 Ocean while Bonfiglio, through his wife, would officially own the remaining twenty-five percent interest. However, of Bonfiglio's wife's official twenty-five percent interest, Bonfiglio explained that Cameron and Bonfiglio's wife would each share a "silent" twelve and one-half percent interest in 1400 Ocean. Cameron agreed to Bonfiglio's proposal, and he authorized Bonfiglio to invest $75,000 into Tommy's Brick, on his behalf, and allowed Bonfiglio to keep, for himself, the remaining $75,000, so that Cameron could become a twelve and one-half percent "silent" partner, with Bonfiglio's wife, in 1400 Ocean. Bonfiglio, however, failed to prepare a written agreement to document Cameron's financial arrangement or his "silent" twelve and one-half percent ownership interest in 1400 Ocean.

When Cameron reviewed Bonfiglio's May 2015 deposition testimony, Cameron realized that Bonfiglio had concealed the fact that Cameron had earned $175,000, not $150,000, in sale proceeds, and that Bonfiglio improperly had invested the entirety of those proceeds into Tommy's Brick, without authorization. Compounding matters, Cameron learned that, of the $175,000 Bonfiglio had invested into Tommy's Brick, Bonfiglio attributed $75,000 of

those funds as Cameron's capital contributions and attributed the remaining $100,000 as Bonfiglio's wife's capital contributions, even though at least $25,000 of that $100,000 belonged to Cameron.

On March 1, 2011, immediately following the sale of Kimberly Ross, Centaro, and Cameron's interests in 1400 Ocean, respondent, at Bonfiglio's direction, drafted an "Amendment to [the] Operating Agreement of 1400 Ocean," which noted that Goldstein held a seventy-five percent interest and that Bonfiglio's wife held the remaining twenty-five percent interest.

Between April and July 2011, B&A continued to represent 1400 Ocean and Goldstein in contract negotiations with the restaurant's liquor license holder. Additionally, in September 2011, respondent represented Goldstein in connection with his execution of a promissory note in favor of Fagerstrom,[3] to whom Goldstein still owed $172,500 in connection with the original $340,000 loan.

Throughout 2012, B&A continued to provide general counsel services for 1400 Ocean. In October 2012, the restaurant was damaged by Hurricane Sandy. Because the restaurant had no flood insurance, Goldstein, Bonfiglio, and Cameron "all lost money."

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[3] The promissory note specified that B&A did not represent Fagerstrom.

During their involvement in 1400 Ocean, respondent and Bonfiglio failed to advise Cameron of Bonfiglio's conflict of interest, given Bonfiglio's wife's ownership interest in 1400 Ocean, and Bonfiglio's goal to use Cameron's sale proceeds to fund his wife's capital contributions in Tommy's Brick. Bonfiglio also failed to advise Cameron of the desirability of consulting with independent counsel before Cameron had acquired his interest in 1400 Ocean. Moreover, Bonfiglio failed to advise Cameron of the desirability of consulting with independent counsel before Cameron had agreed to Bonfiglio's suggestion that he become an equal, "silent" partner with Bonfiglio's wife, in exchange for $75,000 of Cameron's sale proceeds. Finally, respondent and Bonfiglio failed to obtain from Cameron any written conflict waiver.

Likewise, respondent and Bonfiglio failed to advise Goldstein, prior to Bonfiglio's suggestion that he purchase a seventy-five percent interest in 1400 Ocean, of Bonfiglio's conflict of interest, or of the desirability of consulting with independent counsel, given Bonfiglio's status as the restaurant's manager, Bonfiglio's wife's interest in 1400 Ocean, and Bonfiglio's desire to sell the respective interests of Cameron, Kimberly Ross, and Centaro to fund his separate pizza businesses, including Tommy's Brick. Additionally, respondent and Bonfiglio failed to secure from Goldstein any written conflict waiver.

E. Respondent's Involvement in the Tommy's Restaurant Entities

In June 2009, Bonfiglio and Cameron discussed investing in a series of new pizza restaurants and bars. Respondent, however, was not involved in those business discussions and had "no direct knowledge" of the proposed business arrangements between Bonfiglio and Cameron.

In July 2009, B&A formed "BCRC Management, LLC" (BCRC) in order to "manage and operate Pizzeri/Italian restaurants [and] bars." "BCRC" was an acronym for the last names of its four principal investors – Bonfiglio; Michael Centaro; Kimberly Ross; and Andrew Cameron. Bonfiglio himself drafted BCRC's operating agreement, served as BCRC's managing member, and held a 33.71% ownership interest. Additionally, Cameron and Centaro each held a 25.95% interest, and Kimberly Ross held a 14.39% interest.

Also in July 2009, B&A formed 2 Bridge Coal Fire, LLC, (Tommy's Red Bank) for the purpose of owning and operating a pizza restaurant and bar in Red Bank, New Jersey. BCRC held a 69.6% interest in Tommy's Red Bank and served as its managing member. Additionally, Charlene Corso of "CJCA Enterprises, LLC" (CJCA) held a 15.35% interest, Gregg Mark held a 7.65% interest, and Ivan Weiner held a 7.5% interest. Bonfiglio himself drafted the operating agreement for Tommy's Red Bank, which the members executed, and respondent notarized, on June 10, 2010.

In connection with his management of Tommy's Red Bank, Bonfiglio created another business entity, "Coal Fire Holdings, LLC" (Tommy's Red Bank Liquor), to maintain a liquor license for the Tommy's Red Bank restaurant. Bonfiglio's wife, Cameron, and Centaro each held a one-third interest in Tommy's Red Bank Liquor. In December 2009, Tommy's Red Bank opened for business.

In March 2010, B&A formed another entity, Coal Ocean Holdings, LLC, (Tommy's Ocean) to own and operate a pizza restaurant and bar, in Oakhurst, New Jersey. BCRC held a 46.15% interest in Tommy's Ocean and CJCA and the Adamo Family Limited Partnership each held a 23.07% interest. Gerald Fede held the remaining 15.38% interest. Respondent, at Bonfiglio's direction and supervision, prepared the operating agreement for Tommy's Ocean and incorporated all of Bonfiglio's requested edits.

In October 2010, B&A formed Tommy's Brick, LLC, to own and operate another pizza restaurant and bar, in Brick, New Jersey. Respondent, again at Bonfiglio's direction and under his supervision, prepared the operating agreement for Tommy's Brick. BCRC held a 28.23% interest in Tommy's Brick

and served as its managing member.[4] In addition to Cameron's 7.325% interest in Tommy's Brick, which he held through his 25.95% interest in BCRC, in March 2011, when Bonfiglio advised Cameron that he purportedly had received $150,000 from the sale of his interest in 1400 Ocean, Cameron authorized Bonfiglio to invest $75,000 of those funds into Tommy's Brick, to allow Cameron to acquire a ten percent individual interest in Tommy's Brick. Additionally, as noted above, although Cameron authorized Bonfiglio to keep the remaining $75,000, in exchange for Cameron to become a "silent" partner in 1400 Ocean, Cameron, in fact, had received an additional $25,000 from the sale of his interest in 1400 Ocean. However, rather than disclose to Cameron his additional $25,000 in sale proceeds, Bonfiglio utilized those undisclosed funds, in addition to the $75,000 that Cameron had authorized Bonfiglio to keep for himself, to allow Bonfiglio's wife to purchase a ten-percent interest in Tommy's Brick for $100,000.

Following Cameron's $75,000 investment in Tommy's Brick, Bonfiglio informed Cameron that he would need to come up with an additional $25,000, the exact amount that Bonfiglio had concealed from him and had used to fund

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[4] In addition to BCRC's 28.23% interest, Ivan Weiner held an 18.82% interest while CCJA, Alan Epstein, and Rick Centra each held a 9.41% interest. Gregg Mark held a 4.72% interest.

his wife's interest, in order to acquire a ten-percent individual interest in Tommy's Brick. Cameron, thus, issued a $25,000 check from his personal funds to B&A, which allowed Cameron to acquire his ten-percent individual interest. In March 2011, Tommy's Brick opened for business.

In February 2012, B&A formed Paramus Coal Holdings, LLC, (Tommy's Paramus) to own and operate a final pizza restaurant, in Paramus, New Jersey. Respondent prepared the operating agreement for Tommy's Paramus, under Bonfiglio's supervision and at his direction. Bonfiglio held a 37.5% interest in Tommy's Paramus and served as its managing member. Additionally, Cameron held a 42.5% interest, Christopher Lombardi held a 15% interest, and Gregg Mark held a 5% interest.

In December 2012, Cameron completed construction of Tommy's Paramus, at significant cost to himself, and the restaurant was finally ready to open. However, by December 2012, Cameron and Bonfiglio's relationship had "broke[n] down."

Throughout their involvement in the Tommy's restaurant entities, respondent and Bonfiglio failed to advise Cameron of Bonfiglio's conflict of interest, given Bonfiglio and his wife's substantial interests in the Tommy's restaurant entities, or of the desirability of consulting with independent counsel,

before Cameron had invested into the entities. Further, respondent and Bonfiglio failed to obtain Cameron's written conflict waiver.

In respondent's brief to us, he made certain claims regarding his involvement with the Tommy's entities that both exceeded and contradicted his stipulation. Particularly, respondent claimed that, following his preparation of the initial operating agreement, he met with Cameron at a highway rest stop, where Cameron "complained to [r]espondent" regarding Bonfiglio's handling of their business entities. During that meeting, respondent claimed that, for "the first time[,]" he "recognized that there was a conflict." Thus, when respondent "circulated[,]" via e-mail, the proposed amendments to the initial operating agreement, respondent claimed that he "specifically stated in the e-mail" that Cameron and the other investors had the right to consult with independent counsel in connection with their involvement in Tommy's Paramus. Respondent claimed, however, that the parties decided to "move[] forward" with Tommy's Paramus.

F. Cameron's Litigation and the Resulting Settlement

On February 19, 2013, Cameron filed, in the Superior Court of New Jersey, Monmouth County, a lawsuit against Bonfiglio, Bonfiglio's wife, and respondent, in connection with their involvement in 136 Development

Corporation and CMG, seeking damages for, among other legal theories, Bonfiglio's breach of fiduciary duty and unjust enrichment and respondent and Bonfiglio's professional malpractice. Cameron simultaneously filed a second lawsuit against Bonfiglio and respondent, in the same jurisdiction, in connection with their involvement in the five Tommy's restaurant entities and BCRC, seeking damages under similar legal theories.

Later in 2013, Weiner and Epstein, both former members of the Tommy's restaurant entities, filed a separate Monmouth County Superior Court lawsuit against Bonfiglio and respondent, in connection with their involvement in the Tommy's restaurant entities, seeking damages under similar legal theories. The Monmouth County Superior Court consolidated Cameron's lawsuits with Weiner and Epstein's lawsuit.

Also in 2013, Goldstein, who acquired a seventy-five percent interest in 1400 Ocean, and Fagerstrom, who had loaned Goldstein $340,000 to acquire that interest, filed a lawsuit against Bonfiglio and respondent, in the Middlesex County Superior Court, after the Dockside restaurant venture failed, following Hurricane Sandy.[5]

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[5] The record neither sets forth Goldstein and Fagerstrom's asserted legal theories nor the ultimate outcome of their lawsuit.

In March 2014, Cameron and several other members of the Tommy's restaurant entities voted in favor of Bonfiglio's removal from management.

On February 6, 2015, the parties to the Monmouth County litigation reached a confidential settlement regarding Cameron and the other plaintiffs' claims against Bonfiglio in connection with his handling of the Tommy's restaurant entities. The confidential settlement resolved all claims against Bonfiglio in connection with the Tommy's restaurant entities, except for Cameron's malpractice claim. On November 4, 2016, Cameron, Bonfiglio, and respondent reached a confidential settlement resolving all of Cameron's remaining claims.

G. Respondent's Stipulated Misconduct and the Parties' Recommended Discipline

Based on the foregoing facts, respondent stipulated that he violated RPC 1.10(a) by concurrently representing Cameron and several business entities in which Cameron and Bonfiglio, either through himself, individually, or through his wife, held ownership interests, including AAA NY; CMG; 136 Development Corporation; 205 Wall Street; 1400 Ocean; and at least three of the Tommy's restaurant entities in which respondent had prepared the operating agreements. Respondent admitted that his conflicted representation occurred between 2004

and 2012 and arose by imputation, through his association with Bonfiglio, who served as B&A's senior, managing partner, and who held a significant financial interest in each of the business entities. Respondent conceded that "[t]here was a significant risk that [his] representation of [. . .] Cameron and the business entities was materially limited[,]" because Bonfiglio "directed and controlled [r]espondent's representation of Cameron and the business [entities]."

Respondent further stipulated that he violated RPC 1.7(a)(1) by concurrently representing Goldstein, Cameron, and 1400 Ocean in connection with Cameron's 2011 sale of his twenty-five percent interest in 1400 Ocean to Goldstein.

Finally, respondent stipulated that he violated RPC 1.8(a) by entering into a business transaction with Cameron. Specifically, between 2004 and 2010, respondent held a ten-percent interest in CMG, a mortgage banking and brokerage services company, while Cameron and Bonfiglio simultaneously held at least a thirty-percent interest in the entity.

In aggravation, the parties stipulated that respondent's conflicts of interests were "numerous[,]" spanned more than eight years, and resulted in harm to Cameron and Goldstein, who were both B&A clients. Specifically, respondent's conflicted representation of Cameron and Goldstein, in connection with Cameron's sale of his interest in 1400 Ocean, resulted in harm to Goldstein,

who, within two years of acquiring the Dockside restaurant, sued respondent and Bonfiglio after that restaurant venture failed.

Moreover, Bonfiglio and respondent's conflicts in connection with their involvement in 136 Development Corporation resulted in significant harm to Cameron, who sued Bonfiglio and respondent after Bonfiglio had "cut [Cameron] out of that business venture in 2012." The parties agreed that, although respondent "had a less active role" in 136 Development Corporation, he still drafted the 2012 shareholder's agreement shortly before Cameron and Bonfiglio's relationship collapsed.

Additionally, Bonfiglio and respondent's conflicts in connection with their involvement in the Tommy's restaurant entities resulted in harm to Cameron and the other investors, who, in 2013, filed malpractice lawsuits against Bonfiglio and respondent after their relationship with Bonfiglio had "unraveled." The parties highlighted that, although respondent had no "initial[]" "direct role" in the Tommy's restaurant entities, he prepared the operating agreements for Tommy's Ocean, Tommy's Brick, and Tommy's Paramus.

In mitigation, the parties stipulated that respondent's business arrangement with Cameron in CMG resulted in no ultimate harm to Cameron, who "received a substantial benefit from that business venture" because it generated "title work" for Cameron's solely owned title insurance company,

AAA NJ. Moreover, the parties stipulated that, between 2004 and 2012, respondent represented Cameron and the business entities at the direction of Bonfiglio, who was "solely in charge of all business and legal matters and" who rarely included respondent in business meetings. Finally, the parties emphasized respondent's lack of prior discipline and the fact that he stipulated to his misconduct.

Based upon respondent's stipulated violations of RPC 1.10(a); RPC 1.7(a)(1); and RPC 1.8(a), the OAE urged the imposition of a reprimand and likened respondent's misconduct to that of the admonished attorneys in In re Gilbert, 248 N.J. 270 (2021), and In re Gilman, 184 N.J. 298 (2005), who, as detailed below, both engaged in conflicts of interest at the direction of a senior attorney. Like Gilbert and Gilman, the OAE argued that respondent acted under Bonfiglio's direction and supervision whereby Bonfiglio had instructed him to draft corporate documents; prepare agreements; attend real estate closings; or perform other legal assignments for Cameron and the businesses. However, although at least ten years have elapsed since respondent's misconduct, the OAE noted that the misconduct spanned at least eight years, encompassed numerous matters, and resulted in harm to Cameron and Bonfiglio's business partners.

At oral argument and in his May 12, 2022 brief to us, respondent urged the imposition of a reprimand or an admonition, emphasizing his lack of prior

discipline; the fact that he stipulated to his misconduct; his subordinate status to Bonfiglio; and his comparatively limited role in the misconduct. Specifically, respondent characterized himself as Bonfiglio's "scrivener" because he did not initiate any of the business transactions and merely completed various legal assignments for the businesses at Bonfiglio's direction. Respondent, however, maintained that he should have advised Cameron of his right to consult with independent counsel "much sooner than in 2012," when Bonfiglio and Cameron's relationship began to unravel. In that vein, respondent also conceded that he should have obtained a written conflict waiver from Cameron.

However, respondent maintained that as "a young, impressionable attorney working under Bonfiglio, the only attorney for whom [r]espondent had ever worked, it never occurred to [r]espondent to take the steps necessary to comply with the RPCs." Respondent, however, now recognizes that he "should have insisted on compliance on his own and not relied upon Bonfiglio[,] despite Bonfiglio's senior position," a duty of which he was not absolved by his comparatively limited role in the misconduct. Respondent claimed that he "understands the gravity" of his misconduct, noted that he is "embarrassed and remorseful[,]" and maintained that he never intended to harm or deceive Cameron.

Following a review of the record, we are satisfied that the facts set forth in the stipulation clearly and convincingly support the finding that respondent committed all the charged unethical conduct.

As the Court observed in In re Berkowitz, 136 N.J. 134, 145 (1994), "[o]ne of the most basic responsibilities incumbent on a lawyer is the duty of loyalty to his or her clients. From that duty issues the prohibition against representing clients with conflicting interests." (Citations omitted).

In that vein, RPC 1.7(a) prohibits a lawyer from representing a client if the representation involves a concurrent conflict of interest. Under the Rule, a concurrent conflict of interest exists not only if "the representation of one client will be directly adverse to another client[,]" but also if "there is a significant risk that the representation of one or more clients will be materially limited by the [. . .] personal interest of the lawyer." Under RPC 1.7(b), however, "[n]otwithstanding the existence of a concurrent conflict of interest under paragraph (a)," a lawyer may represent a client, if:

> (1) each affected client gives informed consent, confirmed in writing, after full disclosure and consultation;
>
> (2) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
>
> (3) the representation is not prohibited by law; and

> (4) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

In turn, RPC 1.10(a) prohibits lawyers associated in a firm from "knowingly represent[ing] a client when any one of them practicing alone would be prohibited from doing so by RPC 1.7 or RPC 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm." The "personal interest" exception of RPC 1.10(a) "is narrow and generally includes only interests arising due to family relationships or personal beliefs, not business or investment interests." A.C.P.E. Opinion 743, __ N.J.L.J. __ (July 23, 2022) at 3.

Here, between 2004 and 2012, respondent and Bonfiglio concurrently represented Cameron and several business entities in which both Cameron and Bonfiglio, or his wife, held substantial ownership interests, including AAA NY; CMG; 136 Development Corporation; 205 Wall Street; 1400 Ocean; Tommy's Ocean; Tommy's Brick; and Tommy's Paramus. Bonfiglio's concurrent representation of Cameron, thus, was materially limited by his significant financial interests that he held in each of those entities, in violation of RPC 1.7(a)(2). Despite Bonfiglio's egregious conflicts of interest, Bonfiglio, at no

point in his protracted attorney-client and business relationship with Cameron, disclosed to Cameron his conflicts or obtained Cameron's written, informed consent waiving those conflicts, as RPC 1.7(b) requires.

Although respondent himself held no ownership interest in the business entities, except for his ten-percent interest in CMG, he nevertheless engaged in a concurrent conflict of interest, by imputation, in violation of RPC 1.10(a), by serving as Bonfiglio's "junior partner" while representing Cameron and the entities. Specifically, respondent drafted operating agreements, notarized business and legal documents, and conducted real estate closings, at Bonfiglio's supervision and direction. Respondent's subordinate status to Bonfiglio, however, created a significant risk of materially limiting respondent's representation of Cameron and the entities, given respondent's admission that Bonfiglio "directed and controlled" his representation and was "solely in charge of all business and legal matters." Despite that significant risk, respondent failed to comply with the safeguards of RPC 1.7(b), even after he claimed that he first "recognized" the existence of the conflicts, following his 2012 meeting with Cameron at a highway rest stop.

Additionally, respondent violated RPC 1.7(a)(1) by concurrently representing Goldstein, as the buyer, Cameron, as the seller, and 1400 Ocean, in connection with Cameron's 2011 sale of his interest in 1400 Ocean. See In the

Matter of Maria J. Rivero, DRB 14-310 (June 9, 2015) at 25-26 (noting the concurrent representation of a buyer and a seller constitutes a "nonwaivable" conflict because the interests of the buyer and the seller "are diametrically opposed").

However, respondent's representation of the parties was limited in comparison to Bonfiglio, who solicited Goldstein to purchase the business, in order to allow Cameron, Centaro, and Kimberly Ross to invest their sale proceeds in Bonfiglio's new pizza restaurants. Bonfiglio, moreover, served as the escrow agent for each of the sales transactions and suggested that Cameron allow Bonfiglio to keep a portion of Cameron's sale proceeds and to invest the remainder in Tommy's Brick, one of Bonfiglio's new pizza restaurants. Bonfiglio, moreover, concealed from Cameron $25,000 of his sale proceeds and, thereafter, appeared to misappropriate those funds for his own purposes.[6]

Despite respondent's comparatively limited role, he still took part in the improper representation, under Bonfiglio's supervision and direction, by preparing the "agreement" documenting Goldstein's intent to acquire an interest in 1400 Ocean while simultaneously representing Cameron and providing

[6] The record, however, does not reveal that respondent had any involvement in that misconduct.

general counsel services for 1400 Ocean. Further, following Goldstein's acquisition of 1400 Ocean, respondent, at Bonfiglio's direction, drafted the amended operating agreement documenting Goldstein's seventy-five percent interest in that entity and Bonfiglio's wife's twenty-five percent interest. Respondent and Bonfiglio, however, failed to disclose their conflicts to Cameron or Goldstein or obtain from them the required written conflict waivers.

RPC 1.8(a) prohibits a lawyer from entering into a business transaction with a client or knowingly acquiring an ownership, possessory, security, or other pecuniary interest adverse to a client unless:

> (1) the transaction and terms in which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner that can be understood by the client;
>
> (2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel of the client's choice concerning the transaction; and
>
> (3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

Respondent violated RPC 1.8(a), from 2004 through 2010, by engaging in a business transaction with Cameron and Bonfiglio to form and operate CMG. During that timeframe, respondent held a ten percent interest in CMG; obtained

the necessary brokerage and banking licenses for the business; reviewed the lease agreement for its Woodbridge office; and, along with Bonfiglio, served as an authorized signatory on the business's bank accounts. Respondent, however, made no significant management or financial decisions without the input of Bonfiglio, who managed CMG's financial affairs and monitored its expenses. Finally, during CMG's six years of operation, respondent and Bonfiglio failed to provide the required written disclosures or to obtain the informed, written consent of Cameron in connection with their business venture, as RPC 1.8(a) requires.

In sum, we find that respondent violated RPC 1.7(a)(1); RPC 1.8 (a); and RPC 1.10(a). The sole issue left for us to determine is the appropriate quantum of discipline for respondent's misconduct.

Attorneys who engage in improper business transactions with a client have received discipline ranging from an admonition to a term of suspension, depending on the number of transactions, the resulting harm to the client, and the presence of additional ethics infractions or aggravating factors. See, e.g., In the Matter of John F. O'Donnell, DRB 21-081 (September 28, 2021) (admonition for attorney who provided his client a $180,000 loan, at a six-percent interest rate, in violation of RPC 1.8(a); the attorney also engaged in a concurrent conflict of interest, in violation of RPC 1.7(a), by representing the

client in connection with "multiple promissory notes" at the same time the attorney represented a property management company in connection with a real estate transaction in which the client acted as a "broker;" the concurrent representation required the attorney to disburse to his client fees from his trust account, on behalf of the property management company; in imposing an admonition, we weighed the attorney's otherwise unblemished legal career of more than forty years and the fact that the misconduct had occurred more than ten years earlier); In re Rajan, 237 N.J. 434 (2019) (reprimand for attorney who, while representing his client in the purchase of a property that the client intended to develop into a hotel, introduced the client to two other clients who agreed to fund fifty percent of the hotel project; when the client could not fund his fifty-percent share, a holding company formed by the attorney and his brother and brother-in-law lent $450,000 ($350,000 of which was the attorney's) to the client so that he could close the transaction; the attorney, thus, acquired a security and pecuniary interest adverse to his client and became potentially adverse to the other clients; the attorney did not advise his clients to consult independent counsel, and he did not obtain their informed, written consent to the loan transaction; the attorney also represented the client in the real estate transaction and received $32,500 in legal fees; violations of RPC 1.7(a) and RPC 1.8(a); despite the attorney's unblemished disciplinary record, the absence of

harm to the client, his acceptance of responsibility, and his expression of remorse, we imposed a reprimand because he exercised such poor judgment; the attorney's prior service as a member of a district ethics committee was considered both in aggravation and in mitigation); In re Stanziola, 233 N.J. 401 (2018) (censure for attorney who agreed to provide legal services to a client, via an improper barter agreement, in return for the rent-free lease of office space in the client's commercial building, in violation of RPC 1.8(a); the client never received legal services from the attorney and, when the client became dissatisfied with the attorney's inaction, he was unable to remove the attorney from the premises without instituting legal proceedings; in further aggravation, the client believed that the attorney represented him in connection with the lease and suffered demonstrable economic injury in the form of lost rental income and additional legal expenses; we also considered that the attorney was less than forthright at the ethics hearing and had instituted criminal proceedings against his client; in mitigation, however, we highlighted the attorney's lack of prior discipline in his almost twenty-year career at the bar); In re Kim, 227 N.J. 455 (2017) (three-month suspension for attorney who borrowed $9,000 from a client, without observing the safeguards of RPC 1.8(a), and failed to preserve the client's case files, among other recordkeeping infractions; in aggravation, we weighed the attorney's failure to repay the client loans, despite the passage of

eleven years, his improper use of his trust account in connection with the client loans, and his disciplinary record, consisting of a prior admonition for recordkeeping violations, which demonstrated his failure to learn from past mistakes and justified the enhancement of the sanction).

Additionally, it is well settled that, absent egregious circumstances or serious economic injury, a reprimand is the appropriate discipline for a conflict of interest. Berkowitz, 136 N.J. at 148. See also In re Drachman, 239 N.J. 3 (2019) (the attorney engaged in a conflict of interest by recommending that his clients use a title insurance company in eight distinct real estate transactions, without disclosing that he was a salaried employee of that company; there was no evidence of serious economic injury to the clients; the attorney also violated RPC 5.5(a)(1) by practicing law while ineligible to do so; the attorney had no prior discipline).

Harsher discipline, including terms of suspension, have been imposed when an attorney's conflict of interest has caused serious economic injury or egregious circumstances exist. See In re Ianetti, 237 N.J. 585 (2019) (censure for attorney who simultaneously represented the straw seller of a residential property and the straw seller's father, who had decisional control over the disbursement of the sale proceeds; the attorney had maintained a longstanding friendship with the straw seller's father and had represented him in at least one

legal matter and some business ventures, which were ongoing; we found that a significant risk existed that the attorney's representation of the straw seller would be materially limited by his responsibility to the straw seller's father, as well as the attorney's personal interest in maintaining his relationship with the father; in imposing a censure, we found that the attorney's concurrent, conflicted representation of the straw seller and his father involved "egregious circumstances;" however, we weighed, in mitigation, the passage of almost ten years since the misconduct had occurred); In re [Stephen C.] Gilbert, __ N.J. __ (2021) (three-month suspension for a senior attorney who failed to ensure that a junior lawyer avoided an egregious conflict of interest, in which both the senior and junior attorneys concurrently represented the buyer and seller in a failed commercial real estate transaction involving the Bird & Bottle Inn, an historic bed and breakfast; the senior attorney directed the junior lawyer to review and revise documents related to the failed transaction, which resulted in significant financial harm to the prospective buyer, who canceled the deal after discovering significant issues with the property and business; thereafter, the seller sued the buyer for $3 million in damages, based on the buyer's alleged default; during the litigation, the buyer learned of an disclosed $900,000 loan, inaccuracies in the Inn's books, and the underreporting of sales and underpayment of state and

federal taxes; in our split decision,[7] the Chair and the two Members who voted for a censure weighed, in mitigation, (1) the passage of nine years since the underlying conduct, (2) that the senior attorney had a nearly unblemished thirty-nine-year career at the bar, with the exception of a 1996 reprimand for unrelated misconduct, and (3) that the senior attorney's behavior was unlikely to recur; the three Members who voted for a three-month suspension weighed, in aggravation, (1) that the senior attorney had engaged in a known conflict of interest to further his pecuniary interest, as both the buyer and seller owed him legal fees, (2) encouraged the transaction even after the buyer could not obtain conventional financing, (3) suggested that the transaction take place as a stock sale, with bootstrap financing, and (4) the fact that the senior attorney directed the junior attorney to work on the matter, thus, embroiling him in the conflict).

Junior attorneys acting under the direction of a supervising lawyer have received admonitions for engaging in conflicts of interest. See In re [Aaron Scott] Gilbert, __ N.J. __ (2021) (at the direction of senior attorney [Stephen C.] Gilbert, __ N.J. __ (2021), the junior attorney engaged in the same conflicted representation of the buyer and seller of the Bird & Bottle Inn; the junior

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[7] Then Chair Clark and Members Boyer and Singer voted to impose a censure on the senior attorney, and Members Petrou, Hoberman, and Zmirich voted for a three-month suspension. Then Vice-Chair Gallipoli was recused. Members Joseph and Rivera did not participate.

attorney claimed that his representation was limited to typing and revising the transaction documents; however, we found that the junior attorney "was very much involved" in the evolution of the transaction; specifically, the junior attorney suggested not only that the seller consider the implication of the parties' incapacity and death, but also that the firm hold the deed to the Inn in escrow until the buyer had fully complied with his payment obligations; although we recognized the junior attorney's subordinate status and the fact that he was "doing the legwork" at the senior attorney's direction and supervision, we found that the junior attorney's actions were of an attorney actively providing representation; in unanimously imposing an admonition, we found that although the matter involved egregious circumstances and serious economic harm, the senior attorney, rather than the junior attorney, was responsible for the outcome; moreover, the junior attorney had been a member of the bar for just three years); In re Gilman, 184 N.J. 298 (2005) (junior attorney engaged in a conflict of interest by imputation, in violation of RPC 1.10(a), by preparing real estate contracts for buyers requiring the purchase of title insurance from a company owned by his supervising partner; in imposing an admonition, we noted (1) the absence of egregious circumstances or harm to the clients, (2) the fact that it was the attorney's first brush with the ethics system, (3) that he had cooperated fully with the disciplinary investigation; and, more importantly, (4) that he was a new

attorney at the time, with only three years of experience at the bar).

Here, respondent's misconduct is most similar to the admonished attorney in Aaron Scott Gilbert. Like Gilbert, respondent, at the direction of a senior attorney, engaged in a conflict of interest involving egregious circumstances and resulting in serious economic harm to Cameron, Goldstein, and the other investors in Bonfiglio's businesses.

Specifically, in 2007, Bonfiglio surreptitiously devalued Cameron's investment in 136 Development Corporation by acquiring the corporation's tract of land adjacent to Bonfiglio's personal residence. Bonfiglio's acquisition of the tract of land, without Cameron's knowledge, solely benefited Bonfiglio and reduced the value of the remaining land owned by the Corporation.

Respondent, however, was not involved in 136 Development Corporation until 2012, when Bonfiglio requested that respondent prepare the shareholder's agreement for the corporation to document Bonfiglio and Cameron's respective fifty-percent interests. Based on his claim that he did not "know anything about the business or property[,]" respondent drafted a "vanilla shareholder's agreement" and advised Cameron to speak with Bonfiglio if he had any questions regarding the agreement. Although Cameron suffered significant harm in connection with this business transaction, the harm was fully attributable to Bonfiglio, who acquired the Corporation's tract of land to improve his personal

residence.

In respect of 1400 Ocean, respondent and Bonfiglio concurrently represented Goldstein, as the buyer, and Cameron, as the seller, in connection with Cameron's 2011 sale of his twenty-five percent interest in that entity. Bonfiglio, moreover, served as the escrow agent for Cameron, Centaro, and Kimberly Ross's sales of their respective twenty-five percent interests in 1400 Ocean. Bonfiglio, however, and not respondent, encouraged the sale transactions, in order to free up Cameron, Centaro, and Ross's respective funds to invest in Bonfiglio's new pizza restaurants. Bonfiglio, moreover, urged Cameron to invest $75,000 of his sale proceeds in Tommy's Brick, convinced Cameron to allow Bonfiglio to keep $75,000 for himself, and concealed from Cameron the remaining $25,000, which Bonfiglio utilized to fund his wife's investment in Tommy's Brick. Cameron, thus, suffered significant economic harm from his involvement in 1400 Ocean. Goldstein, moreover, suffered harm when, less than two years after he acquired the restaurant, the venture failed, which compelled him to file litigation against Bonfiglio and respondent. Cameron and Goldstein's financial harm, however, again was fully attributable to Bonfiglio, who controlled the restaurant's managerial, legal, and financial affairs.

As the junior partner, respondent's role in 1400 Ocean was less egregious. Specifically, at Bonfiglio's direction, respondent drafted the agreement documenting Goldstein's intent to purchase 1400 Ocean and, following Goldstein's acquisition, drafted the amended operating agreement documenting Goldstein and Bonfiglio's respective interests. Respondent also provided general counsel services to 1400 Ocean, which included drafting and negotiating liquor licensing agreements. Finally, respondent, along with Bonfiglio, continued to serve as Cameron's attorney throughout Cameron's involvement in 1400 Ocean.

Regarding the Tommy's restaurant entities, respondent's involvement in those ventures was limited to drafting the operating agreements for Tommy's Ocean, Tommy's Brick, and Tommy's Paramus, at Bonfiglio's direction. Although Cameron and the other investors in those entities commenced litigation against respondent and Bonfiglio within a few years after the restaurants had opened for business, the parties ultimately reached a confidential settlement, which resolved their dispute.

Finally, respondent and Bonfiglio's involvement in AAA NY, CMG, and 205 Wall Street did not appear to result in any ultimate harm to Cameron. Bonfiglio and respondent, however, failed to advise Cameron of their conflicts of interest or of the desirability of consulting with independent counsel, even

after respondent had acquired a ten percent interest in CMG, held the required banking and brokerage licenses for CMG, and, along with Bonfiglio, served as an authorized signatory on CMG's bank accounts. Despite respondent's ownership interest in CMG, he made no significant decisions for that entity without Bonfiglio's input. Finally, although CMG never issued profit distributions to any of its investors, including Cameron, Bonfiglio, and respondent, Cameron's solely owned title insurance company, AAA NJ, may have benefited from receiving "title work" from CMG.

In short, respondent's involvement in the conflicted representation and improper business ventures was comparatively limited to that of Bonfiglio, the senior attorney, who was solely in charge of all business and legal matters, who rarely included respondent in business meetings, and who embroiled respondent in egregious conflicts of interest.

Like the admonished attorney in [Aaron Scott] Gilbert, respondent performed the various legal services for Cameron and the entities at Bonfiglio's direction and supervision. However, unlike Gilbert, who had been admitted to the bar for just three years before he was entangled in the conflicted representation, which involved one transaction that spanned less than one year, respondent had between five and thirteen years of experience at the bar when he engaged in the conflicted representation, which spanned eight years, between

2004 and 2012, and encompassed multiple matters. During that timeframe, respondent failed to ensure his compliance with RPC 1.7. Additionally, despite his comparatively limited role in Bonfiglio's businesses, respondent still acquired an ownership interest in CMG and, throughout his protracted involvement in that business venture from 2004 through 2010, failed to comply with the safeguards of RPC 1.8.

Nevertheless, like Gilbert, nearly a decade has elapsed since respondent's misconduct ended and, in that time, respondent has had no additional discipline. See In re Alum, 162 N.J. 313 (2000) (after passage of eleven years with no further ethics infractions, discipline was tempered based on "considerations of remoteness"). Indeed, this matter represents respondent's first brush with the disciplinary system in his twenty-three-year career at the bar.

Consequently, weighing the significant passage of time since the underlying conduct and respondent's subordinate status to Bonfiglio against the protracted nature of respondent's conflicts of interest, we, thus, determine that a reprimand is the appropriate quantum of discipline to protect the public and to preserve confidence in the bar.

Members Hoberman and Menaker voted to impose an admonition, according significant weight to respondent's subordinate status to Bonfiglio, the

significant passage of time since the misconduct, and respondent's otherwise unblemished legal career.

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 Joseph John Asterita
Docket No. DRB 22-046

Argued: June 16, 2022

Decided: September 12, 2022

Disposition: Reprimand

Members	Reprimand	Admonition
Gallipoli	X	
Boyer	X	
Campelo	X	
Hoberman		X
Joseph	X	
Menaker		X
Petrou	X	
Rivera	X	
Singer	X	
Total:	7	2

Johanna Barba Jones
Chief Counsel