Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 22-151
District Docket No. XIV-2014-0277E

In the Matter of	:
John M. Mavroudis	:
An Attorney at Law	:

Decision

Argued: November 17, 2022

Decided: January 31, 2023

Timothy McNamara appeared on behalf of the Office of Attorney Ethics.

Michael Camarinos appeared on behalf of respondent.

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

This matter was before us on a recommendation for a reprimand filed by a special ethics master. The formal ethics complaint charged respondent with having violated RPC 3.3(a)(1) (making a false statement of material fact to a tribunal); RPC 3.4(c) (knowingly disobeying an obligation under the rules of a

tribunal); RPC 8.1(a) (making a false statement of material fact in a disciplinary matter); RPC 8.4(b) (two instances – committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer); RPC 8.4(c) (three instances – engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); and RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice).

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

Respondent earned admission to the New Jersey bar in 1974, to the Florida bar in 1972, and to the New York bar in 1973. He has no disciplinary history. At the relevant times, he maintained a law practice in Hackensack, New Jersey.

We now turn to the facts of this matter.

In addition to his practice of law, respondent is a real estate developer in Bergen County, New Jersey. On January 30, 2012, in connection with civil litigation, General Electric Capital Corporation (GECC) obtained a $2,503,551.90 judgment against respondent; Michael Mavroudis (respondent's son); Thomas Dinardo; Joseph Belasco; and Imaging Center of Oradell, LLC (one of respondent's real estate development entities). Respondent, along with his co-defendants, were jointly and severally liable for payment of the judgment.

The judgment, which was affirmed by the Appellate Division on June 12, 2013, stemmed from GECC's lawsuit against respondent, his business, and his business partners for their failure to make required payments pursuant to a lease agreement for medical equipment. GE Capital Corp. v. Imaging Ctr. of Oradell, LLC, 2013 N.J. Super. Unpub. LEXIS 1430.

On March 5, 2012, the Honorable Peter E. Doyne, A.J.S.C., issued a Writ of Execution to the Bergen County Sheriff's Office, commanding the Sheriff to satisfy the $2,503,551.90 judgment out of the personal property of respondent and his co-defendants. Thereafter, GECC proceeded with depositions of respondent and his co-defendants, as well as respondent's wife, Anne Mavroudis, to ascertain the parties' assets and income.[1]

Accordingly, on July 9, 2012, respondent was deposed by Mitchell Cohen, Esq., an attorney for GECC. During the deposition, respondent testified that he routinely gifted any property he purchased to Anne, pursuant to their verbal prenuptial agreement, whereby Anne would "own all [their] personal properties" and he would be liable for all business expenses.[2] Respondent asserted that Anne assumed ownership of all their personal property because he was "concerned

[1] Because respondent and his wife, Anne, share a last name, this decision refers to the parties by their first names to avoid any confusion.

[2] At the time respondent and Anne were married, in 1970, respondent had not yet graduated law school and did not have any business ventures.

about [his] business exposure," and that the arrangement protected their personal assets. However, respondent clarified that his transfer of all personal property to Anne was "not specifically" done to shield his assets.

With respect to their personal property, respondent related that, in 2010, Anne had sold a William Bougoureau painting, for $600,000, at a Sotheby's auction in New York City.[3] When asked if there was any other art in his home valued at $5,000 or more, respondent testified:

> we have some miscellaneous paintings. I don't know what they would fetch, but they are not significant in value. We paid less than [$5,000] for them and the market is currently depressed for that kind of artwork. They are all owned by my wife. [The Bougoureau was] the most significant thing that she sold. The rest could be, I don't know, 50, $60,000.
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> [P-52,p.192.][4]

Respondent denied the paintings were by notable artists, maintaining that the paintings were by "secondary French and German artists."

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[3] According to the Sotheby's website, it was established in 1744 and is "the world's largest, most trusted[,] and dynamic marketplace for art and luxury. We empower our international community of collectors and connoisseurs to discover, acquire, finance[,] and consign fine art and rare objects." https://www.sothebys.com/en/about?locale=en

[4] "P" refers to the presenter's exhibits that were admitted during the ethics proceeding.
"OAEb" refers to the OAE's post-hearing summation, dated March 17, 2022.
"SEM" refers to the special ethics master's report, dated April 18, 2022.

Respondent testified that, in 1975, he conveyed the deed to the marital home to Anne, pursuant to their verbal prenuptial agreement. The only thing that respondent claimed to have ownership of in his home were the clothes that he wore. Respondent also denied that his home contained any flat-screen televisions.[5] Respondent reiterated that, although he purchased many things during his marriage to Anne, it was done with the understanding that "they were all gifts or bought for her or owned by her."

During Anne's November 15, 2012 deposition, she clarified that the prenuptial agreement was done at her behest, after her friend, Lenore, gave her the idea. Lenore made the suggestion to Anne because, in the event respondent and Anne later were divorced, all assets already would be in Anne's name. Anne denied ever discussing finances with respondent and maintained that her understanding was that, with respect to personal property, "what's [hers] is what's in [her] name, and what's [respondent's] is what's in [respondent's] name." Anne clarified that she owned the marital home and two real property lots. According to Anne, she and respondent co-owned a home in Vermont.

[5] The Sheriff's inventory revealed that respondent had multiple flat-screen televisions in his home. Indeed, Anne explained during her deposition that the couple had an approximately 40-inch flat-screen television set up on a table at the base of their bed in their bedroom, and that they watched television together at night.

Anne repeatedly denied that she owned anything other than the marital home, the two property lots, and a share of the Vermont home.

Cohen asked Anne if the paintings in the marital home were done by any famous artists, and Anne said they were not. Anne recalled that she used to own a Bougoureau painting but that, after she sold that painting, her home no longer contained any valuable artwork. In fact, when asked to describe the contents of her billiard room, Anne denied there were any paintings located within the room.

However, during his interview with the OAE, respondent noted that, within his home's billiard room, he had a wall specially constructed so that he could display a painting by Francis Picabia, titled *Effet de soleil a Saint Honorat* (the Picabia). The Picabia is approximately seven-and-a-half feet by ten feet in dimension. According to respondent, the Picabia was the first piece of art Anne acquired and she "cherished" it. Indeed, respondent referred to Anne as an "art aficionado" who would spend her time with friends attending art shows and auctions because it was "their thing."

On January 25, 2013, the Honorable Mark M. Russello, J.S.C., entered an order directing the Bergen County Sheriff's Office to "break open and enter" respondent's home so that the Sheriff could "inventory the real and personal property contained therein and thereafter conduct a sale in furtherance of a Writ of Execution."

Accordingly, on March 13, 2013, the Sheriff entered respondent's home and generated an inventory of the real and personal property contained within the home and on respondent's property. Included among the many items inventoried was an item identified as "LARGE WALL ART (TREES & WATER)" in respondent's billiard room. Respondent understood the "LARGE WALL ART" to be the Picabia.

On March 19, 2013, following the Sheriff's inventory, respondent and Anne filed a lawsuit against GECC and the Bergen County Sheriff's Office, alleging that all the property within respondent's home, including the home itself, belonged to Anne.

On April 22, 2013, the Honorable Susan J. Steele, J.S.C., entered an order prohibiting respondent and Anne from "removing, discarding, hiding, transferring, selling, gifting, conveying, or destroying all the personal property set forth in Exhibit "A,"' which was the inventory list prepared by the Sheriff. The following day, Judge Steele entered a second order maintaining the provision that respondent and Anne were prohibited from "removing, discarding, hiding, transferring, selling, gifting, conveying, or destroying" the property identified on the Sheriff's inventory, but added that GECC and the Bergen County Sheriff also were enjoined from proceeding with the sale of the Mavroudis' personal property. Trial was scheduled for July 15, 2013. For

reasons that are not clear in the record, the trial was adjourned to September 9 and, again, to November 4, 2013.

On August 9, 2013, notwithstanding the pending trial and the Superior Court's April 22 and 23, 2013 orders, respondent contacted Sotheby's to arrange for the sale of the Picabia, which was in the impressionistic style. Respondent had a decades-long relationship with Sotheby's and knew that it held its annual auction of impressionist paintings in November. Respondent indicated to Sotheby's that he was interested in selling the Picabia as soon as possible and wanted an auction estimate. Sotheby's noted that their records reflected that respondent had purchased the Picabia, in 1985, for $80,000.

Furthermore, on December 1, 1987, Sotheby's had provided respondent with an "insurance appraisal" of the artwork "belonging to" respondent. At that time, the Picabia was appraised at $150,000. Five other paintings were appraised at $200,000; $50,000; $15,000; $20,000; and $25,000. On June 4, 2003, respondent obtained another insurance appraisal of his artwork. The totality of respondent's fine art was appraised at $1,827,000. In particular, by that date, the appraisal value of the Picabia had increased to $600,000.

On August 13, 2013, Sotheby's noted that a representative spoke with respondent, who was "interested in consigning the Picabia to the November day sale, though his only hold up is the emotional attachment that he and his wife

have." Sotheby's further noted that respondent was not "interested in [Sotheby's] coming to see [the Picabia] until he had made up his mind to definitely sell." However, respondent was "very impressed" by the $500,000 to $1 million auction estimate Sotheby's provided. Respondent indicated he would call Sotheby's in a few days to discuss the sale further, after he discussed it with Anne.

Approximately one month later, on September 12, 2013, Benjamin Doller, the Executive Vice President and Chairman of Sotheby's, with whom respondent had a friendly relationship for thirty-eight years, wrote in an e-mail that respondent was "leaning to selling and wants a copy made," but that respondent also wanted to know how much a reproduction would cost and "how quickly could it be made," as well as what marketing efforts Sotheby's could offer to increase the Picabia's value.

The very next day, on September 13, 2013, respondent and Sotheby's persuaded Anne to sell the Picabia. Consequently, the same date, Sotheby's catalogued the Picabia for sale at its November impressionist auction.

On September 16, 2013, a reproduction artist told Sotheby's that he could produce a replica of the Picabia for $3,250 but that, in order to do so, he would need Sotheby's to provide him with a "really really big file" consisting of "at least 4 hi-res images" that he would then "tile" together to create the

reproduction. The next day, the reproduction artist sent Sotheby's another e-mail stressing that:

> in order to have a remotely decent print at this scale we would need a super huge file. About 300 dots per inch. The regular catalog production file at this scale would get us about 40 [dots per inch]. It would need to be photographed in sections which we could then piece together.
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> [P-49.]

Three days later, on September 19, 2013, Doller informed his staff that "we have a go ahead on the Picabia. It should receipt it [sic] to Anne Mavroudis."

On September 22, 2013, Sotheby's contacted respondent to inform him that, if the Picabia was going to be included within the November auction catalog, particularly on the front cover of the catalog, Sotheby's needed to remove the painting from respondent's home, the following day, for photography. Respondent agreed to allow Sotheby's to remove the Picabia from his home. Respondent did not tell Sotheby's that it needed to return the painting to his home.

On October 7, 2013, Sotheby's informed the reproduction artist that respondent wanted the replica produced as soon as possible. The artist again stated that he would need very high-resolution photographs of the Picabia to produce a reproduction of the size and quality of the original. The artist

estimated that, after he received the needed photography, he could produce a reproduction approximately one week later. The same date, staff from Sotheby's sent an e-mail to the artist to confirm that his previous quote of $3,250 was a quote for "a full repro with real texture throughout."

On October 11, 2013, Cohen, on behalf of Tangible Secured Funding, Inc. (Tangible),[6] issued a subpoena to Sotheby's seeking information regarding any property that respondent or Anne had sold, purchased, or consigned via the auction house. On October 15, 2013, Sotheby's provided Cohen with a partial reply, listing transactions that involved respondent and Anne, which disclosed that respondent had consigned the Picabia to Sotheby's for the November 7, 2013 auction.

Consequently, on October 17, 2013, after learning that the Picabia was in Sotheby's possession in New York City, Tangible filed a Verified Petition and Emergent Order to Show Cause in the Supreme Court of the State of New York seeking an order enjoining Sotheby's from transferring custody of the Picabia that had been consigned by respondent and Anne. The Honorable Melvin L.

[6] On September 18, 2013, GECC assigned its judgment to Tangible, and on September 27, 2013, the Superior Court entered an order substituting Tangible for GECC in the civil litigation.

Schweitzer entered an order in New York enjoining Sotheby's from transferring custody of the Picabia, except in the event of a sale at the November auction.

The same date, respondent's counsel in the civil litigation in New Jersey sent a letter[7] to Judge Steele stating that Anne "has been provided an opportunity and encouraged to sell the [Picabia] at auction at Sotheby's at an upcoming sale on November 7th. Given the prior Order entered by Your Honor in this matter, however, an Order permitting this limited disposition is necessary." Respondent contended that he believed he would prevail in the trial to demonstrate that Anne was the sole owner of the contents of his marital home and stated that selling the Picabia would not prejudice Tangible because "the proposed method of sale will result in the highest possible value for this art work for whatever the outcome is of the trial." Attached to his letter, respondent included a proposed order permitting the sale of the Picabia.

On October 29, 2013, respondent submitted a certification in support of his October 17, 2013 letter request to Judge Steele seeking permission to sell the Picabia. In his certification, respondent asserted that the proofs at his upcoming trial would demonstrate that Anne always had owned their personal assets. Furthermore, respondent asserted that he and Anne had been married for forty-four years and that, pursuant to their verbal prenuptial agreement, he handled all

[7] Respondent did not file a formal motion seeking permission to sell the Picabia.

the finances for the family; however, their resources included not only the income respondent earned from his various business ventures, but also proceeds from the sale of property "owned by Anne or that we owned together from time to time."

Regarding the trial to determine ownership of the couple's assets, respondent contended that he believed the trial would take place on September 9, 2013, as previously scheduled, and was "confident that the trial would prove that Anne was the owner of all of the contents of the house, including the painting by Picabia, which is the subject of this request for emergency relief." Respondent stated that Anne wished to sell the Picabia so that she could use the proceeds to satisfy the mortgage on their marital home because of her "concern about the downward spiral of [respondent's] real estate interests and the economy in general. [Respondent] therefore called Sotheby's on her behalf on August 12th to discuss the potential sale of this work."

Respondent alleged that, when he contacted Doller at Sotheby's, respondent neither knew the trial would be adjourned, nor was he "aware that Sotheby's had a sale that would be particularly suitable for this work scheduled

for November 7th, 2013."[8] Respondent stated that, for one month, he discussed the sale of the Picabia with Sotheby's "without any action."

Although respondent asserted that the Picabia was a "cherished item" to Anne because it was the first painting she acquired, and that any decision to sell the painting was "extremely difficult for her," respondent nevertheless certified that "it was not until September 13th that Sotheby's and I persuaded Anne that the upcoming sale on November 7th was a good opportunity to sell the same and that the value of the work had significantly appreciated."

Despite the success that respondent and Sotheby's had in persuading Anne to sell the Picabia, respondent claimed to be "surprised" when he received an e-mail from Doller, on September 22, 2013, explaining that Sotheby's needed to retrieve the painting the next day for the painting to be included within the November impressionist sale. Respondent certified that he "did not have the opportunity to review the Court's Orders and the listing of the items levied, but [he] fully intended to do so and have Anne make an application to the court regarding the sale if the same were required."[9]

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[8] However, during his interview with the OAE, respondent unequivocally stated that he knew each November Sotheby's held its annual sale of impressionist paintings. Although Picabia experimented with many genres of twentieth century art, the *Effet de soleil a Saint Honorat* is an impressionist painting.

[9] However, during his interview with the OAE, respondent clearly stated that not only had he reviewed the April orders when they were issued, but he also knew that the Picabia was on the

(footnote cont'd on next page)

Respondent pointed to the consignment agreement that Sotheby's prepared, dated September 23, 2013, which indicated that Anne was the owner and seller of the Picabia, as evidence that he believed conclusively established that Anne owned the painting.[10]

Respondent explained that, in late September 2013, "Sotheby's advised [him] that it was possible to have a high quality photographic copy of the painting made to hang on the wall in Anne's home, which was a shock to [him] because of the size and scale of the work." Nevertheless, respondent ordered the reproduction because he "believed that the photographic copy of the painting was a good solution to replace the decorative feature on the wall and sentimental value and for no other reason."

Respondent denied that he attempted to "covertly" sell the Picabia, contending that "this is an outrageous assertion considering the high profile of the painting which makes such action impossible." Furthermore, respondent claimed that:

> Anne's application to the Honorable Susan J. Steele would have been made earlier had it not been for the fact that our law firm was engaged in the preparation

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Sheriff's inventory, albeit described as the large painting of "TREES & WATER" in the billiard room.

[10] It is undisputed that Anne never communicated with Sotheby's regarding the sale of the Picabia. To the contrary, the Sotheby's e-mails clearly indicate that respondent requested that Sotheby's prepare the consignment agreement indicating that Anne owned the painting.

> for and conducting of the actual jury trial before [the] Honorable William C. Meehan in Bergen County from September 24th and September 26th (when a jury was picked) through October 16th, when the jury trial concluded."[11]
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> [P-20A.]

On October 28, 2013, Anne executed the consignment agreement with Sotheby's, providing the auction house with authorization to sell the Picabia at its November 7, 2013 impressionist sale.

On November 1, 2013, Judge Steele granted Tangible's motion to impose sanctions on respondent and Anne for arranging the sale of the Picabia. Judge Steele found respondent and Anne to be in contempt of court for:

> purposefully and intentionally violating two separate Orders of this Court, dated April 22, 2013 and April 23, 2013, which prohibited Plaintiffs 'from removing, discarding, hiding, transferring, selling, gifting, conveying, or destroying all the personal property set forth' in the Sheriff's inventory report taken on or about March 13, 2013.
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> [P-12.]

Specifically, Judge Steele determined that respondent and Anne:

> improperly transferred a Francis Picabia oil painting titled *Effet de soleil a Saint Honorat* to Sotheby's for a sale scheduled to take place on or about November 7, 2013. Plaintiffs' intentional and willful contempt is further evidenced by John Mavroudis' commission of a reproduction of the aforementioned painting to cover

[11] Anne was not a party to that civil litigation.

> up their wrongful and contemptuous transfer of this painting.
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> [Ibid.]

Consequently, Judge Steele imposed a $10,000 sanction[12] and ordered respondent and Anne, "as additional sanctions for their wrongful conduct," to pay Tangible's attorneys' fees, costs, and expenses related to their "contemptuous conduct." Judge Steele reserved judgment on Tangible's request to find that respondent and Anne had committed perjury, noting that Tangible was not precluded from raising the issue of perjury at the November 4, 2013 trial. Finally, Judge Steele ordered that the proceeds of the sale of the Picabia be placed in escrow with the Bergen County Court Clerk.

On November 6, 2013, the trial to determine whether Anne was the sole owner of the items located within the marital home commenced. During the trial, respondent testified that he insisted that Sotheby's give the Picabia "top profile coverage" because he believed the marketing efforts would result in a higher auction price for the painting. Respondent also testified that Anne was able to

[12] On June 14, 2016, the Appellate Division reversed Judge Steele's determination to impose a monetary sanction. Mavroudis v. Tangible Secured Funding Inc., 2016 N.J. Super. Unpub. LEXIS 1357. The Appellate Division found that Judge Steele had failed to conduct a plenary hearing, as R. 1:10-2 requires. Thus, the Appellate Division reversed only Judge Steele's imposition of a $10,000 sanction for respondent's violation of the April orders. The Appellate Division did not find that Judge Steele erred in finding that respondent violated the April orders. To the contrary, but for the monetary sanction, the Appellate Division affirmed Judge Steele's orders in all other respects.

furnish the marital home and purchase art because he "facilitated it for her because she was again, not a financial person. I was a financial person. So, I facilitated this for her through various different means," which respondent explained meant he provided Anne with the funds she used to acquire the items "we purchased."

On November 12, 2013, in less than twenty minutes, the jury returned a verdict finding that respondent and Anne had failed to prove that the items contained on the Sheriff's inventory belonged solely to Anne.

Immediately following the trial, respondent filed a certification in support of an emergent order to show cause seeking temporary restraints on the sale of his personal property. Anne did not file a certification. In respondent's certification, he asserted that "absent an orderly removal and reasonable method of sale of the property, irreparable damage will result because the personal property within the home has special value and is unique and irreplaceable."

Also within the certification, respondent noted that, at the November 7, 2013 Sotheby's auction, the Picabia sold for $1,565,000, far exceeding the expected sale price of between $600,000 and $800,000. Factoring in Sotheby's commission for selling the Picabia, respondent received net sales proceeds of $1,300,000. Respondent argued that, if the proceeds of the Picabia sale were applied to his outstanding judgment, there was no need for the Sheriff to auction

all the belongings in his marital home. For example, respondent certified that, of the remaining items on the Sheriff's inventory, there were "seven additional paintings of significant value, antiques of significant value and other furnishings, furniture, rugs and items," which items' value exceeded the remaining balance of the judgment after applying the Picabia's sale proceeds. Moreover, respondent certified that Anne had "purchased these items with great effort over nearly 4 decades and they are comprised of irreplaceable works of art and antiques – one of a kind items created by artists and craftsmen who are no longer alive, some of which are very old and fragile." Moreover, respondent alleged that the Sheriff was "not equipped to properly handle, store and sell these items to achieve a price commensurate with their value."

On July 18, 2014, respondent provided the OAE with his initial "verified response" to the ethics grievance against him.[13] In his reply, respondent accused the grievant, Robert du Purton, who is Tangible's owner, of being a convicted felon. Respondent also accused his co-defendants in the civil litigation of being criminals. Thus, respondent asserted that du Purton was "engaged in a personal

[13] The OAE docketed this matter on May 29, 2014 after receiving an ethics grievance on December 30, 2013. At respondent's request, and due to the continued litigation in the civil matter, the OAE placed the ethics matter on untriable status. Once the Appellate Division issued its opinions regarding the underlying litigation, the OAE determined that respondent's alleged misconduct was now independent of the controversy that had been the subject of the underlying civil litigation and, thus, re-opened the ethics investigation.

vendetta" against him and his family because du Purton had been unable to fully collect on the judgment entered against respondent and his co-debtors.[14]

Nevertheless, respondent contended that he had "never knowingly and intentionally violated [the April Superior Court orders]." Respondent claimed that the Sheriff's inventory did not "make any explicit reference to the Picabia painting. Irrespective of this ambiguity, as a result of both the New York ex-parte [sic] proceeding instituted by Tangible and the Mavroudis application on October 17th, the parties agreed that the sale should proceed in the best interests of the controversy." Indeed, respondent argued that he could not have violated the April orders "for the simple reason that there was no clear Order that allegedly was violated."

Additionally, respondent informed the OAE that, because Anne wanted to sell the Picabia to satisfy the mortgage on the marital home, he contacted Sotheby's, on August 12, 2013, to discuss selling the artwork. Respondent explained that this "was consistent with his handling of all of Anne Mavroudis' financial affairs during their 44-year marriage." Respondent stated that, on September 13, 2013, he and Sotheby's persuaded Anne that the November 7,

[14] According to the New Jersey Courts Judgment Search, GECC/Tangible still has an open judgment against respondent and his co-debtors.

2013 auction "was a good opportunity to sell the Picabia and that the value of the work had significantly appreciated."

Notwithstanding his September 13, 2013 success, respondent asserted that "on October 17th, 2013, ***prior to signing any consignment agreement with Sotheby's or to the Picabia being sold,*** Anne Mavroudis made an application to the Court to permit the sale of the Picabia." (emphasis in original). Furthermore, respondent asserted that, on October 15, 2013, Cohen "was aware of the consignment of the painting to Sotheby's,"[15] but did not mention that to respondent's counsel in the civil litigation.

Moreover, respondent accused Judge Steele of improperly holding him in contempt of court.[16] Specifically, respondent asserted that:

> certainly had [he] been attempting to covertly sell the Picabia, no application to Judge Steele would have been made to permit the sale. Certainly had [he] been attempting to hide the sale by commissioning a reproduction to be made, (i) [he] (as opposed to a Southeby [sic] representative) would have suggested

[15] Throughout the ethics hearing, respondent repeatedly claimed that Anne did not decide to sell the Picabia until October 28, 2013, the date she executed the consignment agreement with Sotheby's.

[16] Nearly two years after respondent submitted his initial reply to the OAE, the Appellate Division issued its decision regarding the propriety of Judge Steele's contempt order. Mavroudis v. Tangible Secured Funding Inc., 2016 N.J. Super. Unpub. LEXIS 1357. Importantly, in its decision, the Appellate Division reversed only the imposition of the monetary sanction, finding that Judge Steele had failed to conduct a required plenary hearing, pursuant to R. 1:10-2. The Appellate Division affirmed Judge Steele's decision in all other respects.

> that a reproduction be made, and (ii) the reproduction would have been of a much higher quality, as anyone looking at the reproduction would have known that it was not an original. Moreover, nobody could hope to conceal such a high-profile sale when the Picabia was featured on the cover of the Southeby [sic] sale catalogue which was arranged through negotiations between Anne Mavroudis and Sotheby's![17]
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> [P-58,p.11.]

Furthermore, respondent argued that there was "no showing that there was a transfer of the Picabia painting. The removal of the painting form [sic] the home of Anne Mavroudis was necessitated for purposes of photography and was placed in the hands of the pre-eminent auction house in the world, Sotheby's."

Finally, respondent argued that he did not commit perjury by testifying, during his deposition, that he did not own any valuable artwork, antiques, or furnishing, because his "deposition testimony was absolutely true, and in any event was nothing other than an opinion." Respondent cited Garden Realty Corp. v. Hadley, 110 N.J. Eq. 474, 475-76 (E. & A. 1932) ("[r]epresentations by a seller as to the value of his property are not usually a basis for a claim of fraud.

[17] The record reflects that at respondent's request – not Sotheby's suggestion – it agreed to commission the reproduction of the Picabia. The record also reflects that, contrary to respondent's statement that the Picabia was on the cover of the auction catalogue due to negotiations between Anne and Sotheby's, Anne never communicated with Sotheby's regarding the terms of the sale of the Picabia. To the contrary, respondent explained that, per their prenuptial arrangement, he was the one that negotiated with Sotheby's, which is consistent with the e-mails produced by Sotheby's and consistent with Doller's testimony.

Value is a matter of opinion.") to support his assertion that he did not commit perjury when he testified that he did not own anything valuable.

On January 25, 2021, respondent filed a motion to stay the ethics proceedings or, in the alternative, dismissal of the ethics complaint, pending the conclusion of three lawsuits he had initiated against Vedder Price (Cohen's law firm); Cohen; McElroy, Deutsch, Mulvaney & Carpenter, LLP; and William F. O'Connor, Jr., Esq., whom he contended all engaged in a fraud against him in connection with the underlying civil litigation. Respondent alleged that "newly discovered evidence" demonstrated that Tangible acted in bad faith "on the basis of a scheme to defraud the Respondent of millions of dollars, ***which they succeeded to do.***"[18] Respondent argued that, after GECC obtained a judgment against respondent and his co-defendants, it improperly concealed both a settlement agreement it had entered with DiNardo and Belasco and their payment of $1.1 million. Thereafter, respondent alleged that GECC used Tangible as a "straw man" to seek payment from respondent for the outstanding judgment.

[18] According to New Jersey eCourts, the Honorable Rachelle Lea Harz, J.S.C., ruled in favor of the defendants in respondent's lawsuits, and entered orders disposing of the litigation on March 11 and June 29, 2022. During oral argument before us, counsel for respondent stated that respondent's appeal of Judge Harz's decision remains pending.

According to respondent, he learned of Tangible's fraudulent scheme only after Judge Harz entered disclosure orders after the Appellate Division's remand of the underlying civil litigation.

Respondent asserted that, because his lawsuits against GECC, Tangible, and Cohen were derived from their conduct in the underlying civil litigation, principles of equity, as well as R. 1:20-3(f), required that the ethics matter be stayed until the conclusion of the civil litigation and the recent lawsuits alleging fraud.

Respondent maintained that Tangible's alleged fraudulent scheme "goes to the essence of the claims against the Respondent in [the ethics] proceeding." Indeed, respondent argued that Judge Steele's orders finding respondent in contempt of court "were Obtained Pursuant to the Fraudulent Scheme and Should be Vacated." Therefore, respondent contended that the OAE filed the ethics complaint against respondent "without the details of Tangible's wrongdoing which was uncovered subsequent to the OAE complaint." Consequently, respondent argued that Tangible's "unclean hands" in the underlying civil litigation weighed in favor of dismissing or, at a minimum, staying the ethics proceedings.

Furthermore, respondent argued that his October 17, 2013 application to Judge Steele, seeking permission to sell the Picabia, served as a mitigating

circumstance in the ethics matter. Although respondent did not dispute that Sotheby's had removed the Picabia from his home approximately one month before his application to the court, he nevertheless contended that he "viewed the movement of the painting as akin to his use of several automobiles which were also the subject of the Sheriff's Inventory Report."[19] Respondent claimed that the Picabia "was moved to Sotheby's with the intent to move it back to the residence upon completion of the photography. If a decision to sell the painting was made, Respondent intended to seek approval from the New Jersey Superior Court and relief from the April 2013 Orders. Accordingly, Respondent did not believe that movement violated the court's April 2013 Orders."[20] Thus, respondent asserted that his application for leave to sell the Picabia was not only a mitigating factor in the ethics proceeding but was "indicative of Respondent's good faith towards compliance with the Orders of Aril [sic] 22, 2013 and April 23, 2013."

Finally, respondent argued that, due to the complexity of the ethics matter, it required an in-person proceeding to allow the special master to appropriately

[19] Respondent's companies, and not respondent personally, owned or leased the vehicles he and his family used.

[20] Respondent testified during the ethics proceeding that he did not tell Sotheby's that the Picabia needed to be returned to his home following the conclusion of the photography session. Specifically, respondent testified that he never informed Sotheby's that it needed to return the Picabia.

weigh the credibility of witness testimony. Therefore, respondent argued that the ethics matter should be delayed until in-person ethics proceedings resumed because a Zoom hearing would violate his due process rights.[21]

On February 25, 2021, the OAE filed opposition to respondent's motion. Specifically, the OAE argued that R. 1:20-3(f) authorizes only the Director to dismiss or hold in abeyance an ethics matter pending the completion of related litigation. Thus, the OAE asserted that the special master was not authorized to dismiss or hold the ethics proceeding in abeyance.

Furthermore, the OAE contended that the alleged fraudulent scheme of GECC, Tangible, and Cohen was irrelevant for purposes of disposing of the allegations contained within the ethics complaint, which consisted of allegations regarding respondent's truthfulness in his certifications to the Superior Court; respondent's truthfulness in his statements under oath; the propriety of respondent's actions in arranging for the sale of the Picabia; and respondent's false statements to the OAE during the ethics investigation. Thus, the OAE argued that respondent's misconduct was independent of whether a fraud occurred in the underlying civil litigation and militated against delaying the ethics proceeding until the conclusion of the civil litigation.

[21] On September 29, 2021, the third day of the ethics proceeding, counsel for respondent indicated that he had "now reviewed" the Court's COVID Omnibus Orders and believed the Zoom hearing was in compliance with the Orders.

Finally, the OAE asserted that the Court had issued Omnibus Orders which authorized the use of Zoom for trials and, in accordance with those Orders, the OAE had conducted numerous hearings utilizing Zoom. The OAE contended that Zoom proceedings did not preclude respondent's ability to confront witnesses and, thus, did not violate his due process rights.

On April 7, 2021, the special master denied respondent's motion.

On September 27, 2021, approximately twenty minutes prior to the commencement of the ethics proceeding, respondent filed a motion seeking leave to file a supplemental verified answer in reply to paragraph four of the formal ethics complaint.[22]

In support of his motion, respondent wished to supplement paragraph four of his verified answer with a seven-part reply.[23] Respondent explained that, after Judge Harz issued her October 3, 2019 and February 19, 2020 disclosure orders, he "uncovered for the first time" a settlement agreement among DiNardo,

[22] Paragraph four of the formal ethics complaint alleged: "On September 18, 2013, GECC assigned the judgment to Tangible Secured Funding Inc. (Tangible) and Tangible was substituted in for GECC on September 27, 2013 by court order."

[23] Paragraph four of respondent's verified answer stated: "Answering paragraph 4 of the Complaint, Respondent admits that Tangible Secured Funding, Inc. ("Tangible") was substituted for General Electric Capital Corporation ("GECC") in the matter bearing Docket No. BER-L-825-11. Respondent admits, on information and belief, that GECC assigned the January 30, 2012 judgment to Tangible but is not in possession of such assignment."

Belasco, Tangible, and GECC, which he asserted was the crux of the fraud against him and was the subject of recent litigation he filed against those entities.

Having just received respondent's papers, the OAE opposed the motion on the record, noting that whether GECC, Tangible, or Cohen committed fraud had no bearing on whether respondent lied about the value of his personal assets. The OAE also argued that respondent's motion should be denied because it represented an attempt to collaterally argue issues from the civil litigation in the ethics forum.

The special master denied respondent's motion, on the record, finding that even if GECC, Tangible, and Cohen committed the alleged fraud, it would not excuse respondent's alleged misconduct. The special master entered an order memorializing his denial of respondent's motion.

During his testimony at the ethics hearing, respondent asserted that, in the underlying civil litigation, he "answered to the best of [his] knowledge, information and belief and [his] understanding of the questions that were posed at the time of the deposition." Respondent also denied that he had lied in his October 29, 2013 certification.

Respondent contended that he did not think allowing Sotheby's to remove the Picabia to photograph it was a "removal" as contemplated by Judge Steele's orders because, in respondent's assessment, the definition of removal is an

action that is permanent. Furthermore, respondent asserted that the Picabia "was picked up by Sotheby's. I didn't remove it."

Respondent further testified that, on September 23, 2013, he did not review the Sheriff's inventory list. Nevertheless, respondent testified that he had known the Picabia was included within the inventory, described as "LARGE WALL ART WITH TREES & WATER" within respondent's billiard room. Respondent also testified that he knew he was prohibited from "removing, discarding, hiding, transferring, selling, gifting, conveying, or destroying all the personal property" within his home, because he had read Judge Steele's orders when she issued them.

Although respondent acknowledged that the jury's verdict was that Anne did not have sole possession of the assets within his marital home, respondent denied that the jury determined that he and Anne jointly owned those assets.

Respondent admitted that he requested Sotheby's to make a reproduction of the Picabia and to do so quickly.

Respondent testified that the statement in his October 29, 2013 certification – that he had persuaded Anne to sell the Picabia – did not mean that Anne affirmatively had decided to sell the painting.

Nevertheless, respondent testified that his certification was "inaccurate" because he intended to order the reproduction of the Picabia but had not yet done

so. However, respondent contended that he ordered the full-scale reproduction of the Picabia, even though he had not yet decided to sell the original painting.

Respondent blamed his attorney in the civil litigation for the inaccuracies in his own certification, testifying that "what happened was my attorneys in court took the position that the levy was ineffective because there wasn't an explicit reference even though I always acknowledged that the Picabia was included in the sale as an inventory but not explicitly." However, respondent, again, was clear that he had read the April orders at the time Judge Steele issued them.

Although respondent referred to his attorneys as "disingenuous," he testified that he did not mean to call his attorneys disingenuous, but rather, meant to call their arguments disingenuous, because there was "no denial that the painting was included. And the technical requirement that it wasn't specified as a Picabia, I mean it was an interesting argument. It didn't prevail in Court but that didn't make any difference as to my belief that the Picabia was included . . . ."

Doller also testified at the ethics proceeding. Doller has worked at Sotheby's for forty-two years. Regarding the Picabia, Doller testified that there was "no question" in his mind that it was a valuable piece of art. Doller testified that, although Picabia was not in the same category of artists as Claude Monet,

Edgar Degas, Camille Pissarro, and Alfred Sisley, he did not know if a lay person would have the opinion that Picabia was a secondary artist. Indeed, Doller explained that many museums around the world had exhibited Picabia's work.

Doller testified that he spoke with respondent approximately "a dozen" times about selling the Picabia but had never spoken with Anne about the sale. However, Doller testified that respondent told him to prepare the consignment agreement in Anne's name. Doller denied that Sotheby's required a signed consignment agreement before taking possession of a painting for sale.

Thus, Doller explained that, when he wrote in his e-mail that Sotheby's had a "go ahead" from respondent, it meant that "we had a go ahead to collect it and to sell it." Doller added that Sotheby's would not have transported a painting of the Picabia's size if an individual were merely thinking about selling a painting and had not yet made up their mind. Furthermore, Doller testified that Sotheby's catalogued the Picabia on September 13, 2013, after respondent indicated he wanted to sell the painting.

With respect to respondent's request for a full-scale reproduction of the Picabia, Doller testified that, at the time respondent made the request, Sotheby's did reproductions "every now and again" for its customers but had not done a reproduction with dimensions similar to the Picabia.

Doller also discussed the different types of appraisals Sotheby's performs for its customers. Doller, who is a Uniform Standards of Professional Appraisal Practice (USPAP) certified appraiser, explained that an insurance appraisal provides a customer with the total replacement value. A fair market appraisal provides a customer with a mid-auction estimate plus a buyer's premium, and is used for estate appraisals, gift taxes, or collection management. Finally, an auction estimate appraisal provides a customer with a high and low value range for a work.

Mark Benjamin Arey also testified on respondent's behalf at the ethics hearing. Arey served as a priest of the Greek Orthodox Church in the United States, but later left the clergy so that he could marry. Arey now does philanthropy with a nonprofit organization in Greece.

Arey first met respondent in 1997, when respondent served as legal counsel of the Order of Archons, which is an ancillary group to the archdiocese. According to Arey, Archons are named by the highest religious authority in the Orthodox community, located in Istanbul, Turkey. Respondent also was the finance chair of the Order of Archons. Arey testified that respondent was "invaluable" in helping the archdiocese remove members of the clergy who sexually abused children. Respondent also helped to establish policies and procedures to protect the young members of the church.

Arey testified that he always has known respondent to have a good personal character and to be of the "highest ethical standard." Arey was unaware of the allegations of the ethics complaint.

Respondent also submitted character letters from his former law partner, John Adams Rizzo, Esq. Rizzo explained that he had known respondent since 1986, when he interviewed for an associate position with respondent's then law firm. In 1992, he and respondent formed their own law firm, which was focused primarily on real estate transactions and development, as well as corporate matters. Rizzo stated that he has known respondent to be a "kind, honest, trustworthy, respectful, diligent, competent and ethical person and attorney."

Lauren Mavroudis, respondent's daughter, also submitted a letter in support of respondent. Lauren was admitted to the New Jersey bar in 2011. Lauren explained that respondent has a "lifetime of generosity and great character" and had made a positive impact on her life. Lauren also stated that respondent is now the sole caretaker for Anne, who is suffering from a health malady. Lauren speculated that, without respondent's continual support, Anne "would be left in an inhumane situation or worse, dead." Lauren stated that respondent's only source of income was his law practice, and if that were taken away from him, she worried for the well-being of Anne.

In his post-hearing summation, respondent argued that he did not violate RPC 3.3(a)(1) because he has consistently denied that his statements in his October 29, 2013 certification were false. Rather, respondent contended that his statement – that he did not have an opportunity to review the April orders – was true because he did not review them on September 23, 2013, the day Sotheby's arrived at his home to remove the Picabia. Respondent also attributed his failure to review the April orders on that particular day to the stress of preparing for a jury trial in one of his civil matters, even though his "recollection and understanding [was] that he could not sell or transfer the painting."

Thus, respondent argued that the OAE had failed to present evidence that he, on September 23, 2013, and that date alone, had "the opportunity to review and did review the April Orders and the listing of the items levied, which Respondent has denied in certifications and testimony." Instead, respondent justified his actions by stating he "significantly maximized the value of painting [sic] to the benefit of Respondent's creditors."

Additionally, respondent argued that the OAE had failed to prove that he violated RPC 3.4(c) because he believed that the "removal" referenced in Judge Steele's orders meant permanent removal. Respondent contended that the evidence demonstrated that Sotheby's removal of the painting from his home was not permanent but, rather, a temporary removal to allow for the photography

of the Picabia in the event Anne decided to sell the painting. According to respondent, Sotheby's temporary removal of the Picabia from his home was akin to when he drove his vehicle to work and brought his laptop out of his home, something he routinely did, which was not a violation of the April orders.

Moreover, respondent argued that the "inference that Respondent's actions were in furtherance of a wrongful motive are belied by the application of simple logic, despite any disputed facts." Specifically, respondent claimed that, had he intended to conceal his sale of the Picabia, he would have "orchestrated the reproduction of the painting hanging in place of the original before the original was removed and sold." However, according to respondent, because that did not happen, and the Picabia was on the front cover of the Sotheby's November auction catalog, there could be no finding that he violated RPC 3.4(c).

Consequently, respondent asserted that the evidence did not demonstrate that he "knowingly" violated the April orders because "he did not understand, believe, know or intend that Sotheby's [sic] temporary pick up of the painting for photography purposes was a violation of the April 2013 Orders."

With respect to the RPC 8.1(a) charge, respondent denied making a false statement of material fact to the OAE regarding the removal of the Picabia from his home and his intention to sell the painting. Respondent argued that Sotheby's

had informed him that, unless it picked up the painting to photograph it for the catalog, the Picabia could not be included in the November sale. Respondent pointed to Anne's October 28, 2013 signature on the consignment agreement as evidence that (1) he did not intend to sell the painting on the day Sotheby's removed the painting, and (2) proof that he permitted Sotheby's to remove the Picabia for photography purposes only. Respondent also argued that, because he did not authorize the reproduction artist to go forward with creating the reproduction, the OAE had failed to prove that he made false statements.

Furthermore, respondent denied that he committed perjury in the underlying civil proceeding and, thus, argued that he did not violate RPC 8.4(b). Respondent asserted that, during his July 9, 2012 deposition, he was not asked to specify any art in his home, and that Cohen's "questioning was non-specific and not related to any particular painting, art, antiques or other asset, but it could have been." Respondent contended that Tangible could have had respondent's artwork appraised, but it chose not to do so. Instead, the "opinion that [respondent] gave was a layman's opinion based on his limited knowledge of art and art values."

Respondent accused the OAE of mischaracterizing his deposition testimony and asserted that it failed to offer clear and convincing evidence that

respondent "knew the value of the art on July 9, 2012 to contradict his testimony otherwise and to proove [sic] that his testimony was false."

To illustrate his argument, respondent contended that the OAE relied "upon the purchase costs of art, furniture and jewelry between 1999 and 2010 (most between 2003 and 2004) as reflected in the Sotheby's account statements and invoices. These costs of purchase do not represent the value of the items on January 9, 2012."[24] Additionally, respondent argued that the appraisals Sotheby's performed on the art between 1987 and 2003 were "old insurance appraisals" that had no bearing on the value of his art on July 9, 2012. Respondent again cited Garden Realty Corp. to argue that "value is a matter of opinion."

Respondent also denied that he committed perjury when he testified that he owned paintings only by "secondary French and German artists," because his opinion regarding Picabia's standing in the art world was merely a layman's opinion. Respondent also accused Cohen of asking a "vague and unclear" question about owning art by any notable artists.

Finally, respondent argued that none of the judges in the underlying civil litigation determined that he perjured himself, which respondent asserted proved that he did not violate RPC 8.4(b).

[24] It is likely respondent meant to refer to July 9, 2012 and not January 9, 2012.

With respect to the RPC 8.4(c) charge, for the aforementioned reasons, respondent denied having violated the Rule. Respondent also denied that he violated RPC 8.4(d), asserting that the OAE had failed to prove he knowingly disobeyed the controlling Superior Court orders.

In mitigation, respondent asserted that he is "an elderly attorney of advanced age who will celebrate his fiftieth anniversary as a member of the Florida Bar with New York and New Jersey fifty-year anniversaries the next years following in 2023 and 2024." Respondent argued that his unblemished disciplinary history mitigated against the imposition of any discipline in this matter.

Moreover, respondent contended that Arey's testimony demonstrated that he is "held in a person of exemplary and the highest ethical character and is held in very high regard by prominent people nationally in the Greek Orthodox community, is well liked [sic] and honest."

Additionally, respondent asserted that the character letters from his daughter and former law partner demonstrate that respondent has good character.

Finally, respondent argued that his alleged misconduct did not cause harm to du Purton or his creditors. Thus, respondent urged the dismissal of the entirety of the ethics complaint.

In its post-hearing summation, the OAE argued that the record supported each of the charged RPC violations.

With respect to the RPC 3.3(a)(1) charge, the OAE asserted that respondent's attempt to massage the language of his October 23, 2019 certification to mean that he did not review the April orders the day Sotheby's removed the Picabia was an attempt to "back pedal" from the "plain language he used in his Certification to the Court."

To the contrary, the OAE contended that respondent's admissions that he reviewed the April orders when they were issued; concession that the Picabia was on the Sheriff's inventory; concession that his attempt to sell the painting was a technical violation of the April orders; and acknowledgment that his attorneys' arguments in court were "disingenuous," all supported a finding that respondent violated not only RPC 3.3(a)(1), but RPC 8.4(c) as well.

The OAE asserted that. to accept respondent's argument that he was not required to comply with Judge Steele's April orders:

> because he did not have the opportunity to review either of the two April orders on the specific date when Respondent invited Sotheby's to the residence, and allowed them to pick up the painting [. . .] would render any like order issued by a judge to be meaningless since Respondent is trying to justify his actions by adding the word 'permanent' [sic] to the Orders even though such verbiage is not contained anywhere in either of the two Orders issued by Judge Steele.

[OAEb9.]

The OAE also argued that respondent's attempt to "awkwardly" justify his "conscious act of allowing Sotheby's to go to the residence and remove the painting by saying it was not a permanent removal" did not absolve him of his obligation to comply with Judge Steele's orders. The OAE asserted that "there is simply no wording in either of Judge Steele's Orders, which provided an exception for 'temporary removals.'" Therefore, respondent's non-compliance with the April orders, the OAE argued, violated not only RPC 3.4(c), but RPC 8.4(d), as well.

Furthermore, the OAE argued that respondent's failure to comply with Judge Steele's orders necessitated Tangible to take action, in the Supreme Court of New York, after learning of respondent's attempt to sell the Picabia. Thus, the OAE contended that respondent engaged in conduct prejudicial to the administration of justice and wasted judicial resources by knowingly disobeying Judge Steele's orders.

Regarding the RPC 8.1(a) charge, the OAE argued that the e-mails from Sotheby's prove that respondent was not truthful when he told the OAE that he allowed Sotheby's to remove the painting from his home for photography purposes only.

The OAE relied on respondent's own statements in his certification to conclude that, but for respondent's preparation for his civil jury trial, he would have applied to Judge Steele for permission to sell the Picabia before September 24, 2013. Specifically, respondent certified that, on September 13, 2013, he and Sotheby's persuaded Anne that the November sale would be a good opportunity to sell the Picabia. On October 17, 2013, when he requested permission from Judge Steele to sell the Picabia, he stated that he was preparing for the jury trial, which began on September 24, 2013.[25] Additionally, the OAE argued that Doller's testimony that Sotheby's catalogued the Picabia on September 13, 2013, for sale at the upcoming auction, was consistent with respondent's statement that he and Sotheby's persuaded Anne, on that date, to sell the Picabia. Therefore, the OAE asserted that it had proven by clear and convincing evidence that respondent violated RPC 8.1(a) and RPC 8.4(c).

Furthermore, the OAE argued that respondent violated RPC 8.4(b) by committing third-degree perjury, in violation of N.J.S.A. 2C:28-1, and fourth-degree false swearing, in violation of N.J.S.A. 2C:28-2(a),[26] by denying that the

[25] Respondent's certification noted that he was busy preparing for – and participating in – the trial, which began on September 24, 2013, and concluded on October 16, 2013.

[26] N.J.S.A. 2C:28-1 provides that "a person is guilty of perjury, a crime of the third degree, if in any official proceeding he makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of a statement previously made, when the statement is material and he does not believe it to be true."

(footnote cont'd on next page)

artwork in his home exceeded $5,000 in value. The OAE asserted that respondent's statements that he did not own art that was significant in value; that he paid less than $5,000 for his art; that the art market was depressed; that Anne owned all the art; and that he owned art only by secondary French and German artists, were all false. Specifically, the OAE asserted that respondent purchased the Picabia for $80,000; that respondent acknowledged that Picabia is a world-famous artist; that Sotheby's catalogued the Picabia with a sale estimate of $600,000 to $800,000;[27] that he did not own any valuable artwork or antiques; and respondent's subsequent statements to the court that he owned valuable, one-of-a-kind antiques and pieces of artwork that were irreplaceable, all demonstrated that he knew his statements to the court and his deposition testimony were untrue.

Thus, the OAE argued that respondent committed perjury and violated RPC 8.4(b) when he "lied during his sworn deposition. The lies went to the heart of the issues at stake in the dispute he had with others, which concerned the

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N.J.S.A. 2C:28-2(a) provides that "a person who makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, when he does not believe the statement to be true, is guilty of a crime of the fourth degree."

[27] Sotheby's provided the auction estimate price approximately one year after respondent's deposition testimony; however, via the previous appraisals Sotheby's conducted of the Picabia, respondent was on notice that, at least as of June 4, 2003, the Picabia had an insurance appraisal value of $600,000, compared to its insurance appraisal value of $150,000, in 1987.

existence and/or ownership of property that could be levied upon to satisfy the judgment." Further, the OAE argued that respondent lacked remorse and failed to accept responsibility for his lies.

Therefore, the OAE asserted that it had proven, by clear and convincing evidence, that respondent violated RPC 3.3(a)(1); RPC 3.4(c); RPC 8.1(a); RPC 8.4(b); RPC 8.4(c); and RPC 8.4(d). The OAE recommended that respondent receive a six-month suspension for his misconduct.

After reviewing the evidence and testimony presented at the ethics hearing, the special master concluded that respondent had violated RPC 3.4(c); RPC 8.1(a); RPC 8.4(c) (one instance); and RPC 8.4(d).

Specifically, the special master found that the OAE failed to prove that respondent violated RPC 3.3(a)(1), concluding there was not clear and convincing evidence that respondent's statement – in his October 29, 2013 certification to the court – that he did not have an opportunity to review the April orders and the Sheriff's list of levied items, was false. The special master found that the certification did not state that respondent "had never had the opportunity to review the Orders or the Sheriff's Inventory, but rather 'On September 22nd . . .".' he had not reviewed the orders. The special master emphasized that "respondent did in fact review or have the opportunity to review the Court's

Orders etc. on the date set forth in the Certification has not been demonstrated by clear and convincing evidence."

Conversely, the special master found that the OAE demonstrated, by clear and convincing evidence, that respondent violated RPC 3.4(c) by participating in Sotheby's removal of the Picabia from his home. The special master determined that, "sometime prior to September 23, 2013, respondent read and knew that the painting was on the Sheriff's Inventory, had read the two Orders issued by Judge Steele, yet he allowed Sotheby's to remove the painting." The special master rejected respondent's attempt to argue that his removal of the Picabia was temporary, akin to wearing his clothes out of the home and driving his vehicle to work.

Citing the model criminal jury charge language, found in N.J.S.A. 2C:2-2, the special master determined that respondent knowingly violated Judge Steele's orders. Specifically, the special master determined:

> this was a post-judgment collection matter, and to equate clothing, laptop and vehicle to a painting that sold at auction a few months later for $800,000[28] is not tenable. I am further persuaded by the fact that respondent is an attorney, was represented by an attorney, and in fact made application to the Court for permission to have the painting sold, and the fact that the painting was never returned to respondent's

[28] Although $800,000 was the high-end value that Sotheby's provided to respondent for the Picabia's sale, at auction, the painting actually sold for $1.6 million.

> residence makes respondent's explanations unbelievable.
>
> [SEM7-8.]

Likewise, the special master found that respondent violated RPC 8.1(a) by making a false statement of material fact to the OAE, stating that Sotheby's removed the Picabia for photography purposes only. The special master rejected respondent's argument that, on the date Sotheby's picked up the painting, he had no intention to sell the Picabia. The special master found that respondent's statement that, on September 13, 2013, he and Sotheby's persuaded Anne to sell the Picabia, clearly and convincingly established that his later statement to the OAE – that he had no intention to sell the painting on that date – was false.

Consequently, the special master found "no merit" to respondent's argument that his decision to sell was not binding until October 28, 2013 – the date Anne signed the consignment agreement. Instead, the special master found that respondent's actions leading up to the removal of the Picabia from his home clearly demonstrated that he intended to sell the Picabia at the time Sotheby's removed the painting from his home.

Based upon his finding that respondent did not violate RPC 3.3(a)(1), the special master concluded that the OAE also had failed to prove that respondent violated RPC 8.4(b). Although the special master noted that the OAE offered evidence that respondent purchased the Picabia for $80,000, possessed an

insurance appraisal valuing the Picabia at $600,000, and a separate appraisal valuing the totality of the art in respondent's home at $1,827,000, the special master determined that the OAE had failed to produce any evidence demonstrating the value of the art as of July 9, 2012, the date of respondent's deposition testimony. Thus, the special master reasoned that the appraised value of respondent's art ten years before he provided testimony did not establish the value of the art the day of his testimony.

The special master stressed that respondent's testimony offered an "opinion" regarding the value of his art and that the OAE had failed to produce evidence to establish that respondent's opinion was false. Accordingly, the special master did not find that respondent committed perjury.

With respect to the allegation that respondent violated RPC 8.4(c), the special master concluded that, based upon his finding that respondent did not violate RPC 3.3(a)(1) or RPC 8.4(b), the OAE had failed to prove that respondent engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation during his July 9, 2012 deposition testimony, particularly with regard to his testimony that he did not own art of significant value and his artwork was done by secondary French and German artists.

However, pursuant to his finding that respondent violated RPC 8.1(a) by providing the OAE false statements regarding his intent to sell the Picabia, the special master concluded that respondent violated RPC 8.4(c) in that respect.

Finally, the special master concluded that respondent's violation of Judge Steele's April orders further violated RPC 8.4(d).

In mitigation, the special master emphasized respondent's long history at the bar with no disciplinary infractions; his contributions and pro bono work for his church; the character evidence; and the fact that nine years had passed since the misconduct. The special master also concluded that the sanction Judge Steele imposed for respondent's misconduct served as a mitigating factor.

The special master noted that respondent's misconduct did not occur while respondent was acting as a litigator and opined that "it is rare that the RPCs, are applied to persons who happen to be attorneys but are not acting as attorneys when the alleged infraction occurred." Nevertheless, the special master noted that attorneys have been disciplined for misconduct they commit outside the practice of law.

Indeed, the special master found that "when the infraction alleges that the attorney lied to the court, the matter clearly requires review by the DRB and Court." Citing In re Edson, 108 N.J. 464, 473 (1987), the special master explained that attorneys "must possess a certain set of traits – honesty and

truthfulness, trustworthiness and responsibility, and a professional commitment to the judicial process and the administration of justice. Those personal characteristics are required to ensure that lawyers will serve both their clients and the administration of justice honorably and responsibly."

Therefore, the special master determined that the appropriate quantum of discipline for respondent's misconduct was a reprimand.

In his submission to us, respondent indicated that he "accepts the determination of the Special Master that the removal of the painting constituted a violation of **RPC 3.4(c)** but respectfully points out that Respondent acted on the basis of a good faith understanding and belief otherwise and that the removal lacked any harm to a client or creditor arising therefrom." (emphasis in original).

Relying upon his February 15, 2022 post-hearing summation, respondent argued that for the remainder of the alleged RPC violations, the mitigating factors weighed against "any adverse ruling in this matter."

In its submission to us, the OAE relied upon its March 17, 2022 summation in support of its argument that respondent violated RPC 3.3(a)(1); RPC 3.4(c); RPC 8.1(a); RPC 8.4(b); RPC 8.4(c); and RPC 8.4(d).

The OAE respectfully disagreed with the special master's determination to dismiss the RPC 3.3(a)(1); RPC 8.4(b); and RPC 8.4(c) (one instance) charges. Relying upon its post-hearing summation arguments, the OAE asserted

that, notwithstanding the special master's determination to dismiss the RPC 3.3(a)(1); RPC 8.4(b); and RPC 8.4(c) charges for lack of clear and convincing evidence, the record clearly and convincingly demonstrated that respondent knowingly violated Judge Steele's April orders and then lied about his actions in certifications to the court and in statements to the OAE. Therefore, the OAE maintained that a six-month suspension was the appropriate quantum of discipline for respondent's misconduct.

During oral argument before us, the OAE reiterated the arguments it made in its written summation to the special master, as well as its submission to us.

Specifically, the OAE maintained that it had proven all the alleged RPC violations because respondent knew he made false statements during his deposition testimony, knew he made false statements to the court in his certification, and made false statements to the OAE during its investigation.

The OAE argued that the special master erred in not finding an RPC 8.4(b) violation because respondent unequivocally testified that he paid less than $5,000 for his artwork collection, a statement that had no truth to it based on the purchase price for the Picabia alone. The OAE stressed that the price respondent paid for his art was a matter of payment, not the value of the artwork. Thus, the OAE asserted that the special master, by virtue of his failure to find an RPC 8.4(b) violation, failed to consider the relevant case law in fashioning the

appropriate disciplinary recommendation.

Finally, the OAE argued that respondent had been obstinate throughout the ethics investigation and ethics proceedings, and his refusal to accept responsibility for his misconduct – even after the benefit of time to reflect upon the special master's findings – justified the imposition of discipline under In re Batcha, 225 N.J. 608 (2016) (censure imposed on attorney who, as the closing agent in a sale leaseback transaction, misrepresented on the HUD-1 the amounts paid by the buyer and received by the seller; although the attorney had no prior discipline in more than twenty years at the bar, in aggravation, he exhibited a steadfast refusal to acknowledge and to accept that his conduct was unethical).

Thus, the OAE contended that for the totality of respondent's misconduct, a six-month suspension was the appropriate quantum of discipline to impose.

During oral argument before us, respondent relied upon his written summation to the special ethics master and his written submission to us. However, respondent recanted his prior "acceptance"[29] of the special ethics master's finding that he violated RPC 3.4(c), argued that he did not violate any Rules of Professional Conduct, and urged us to dismiss the ethics complaint.

[29] During oral argument, counsel for respondent attempted to explain that his "acceptance" of the special master's RPC 3.4(c) finding was his attempt to express his belief that the special ethics master's opinion was thorough. However, in the submission, respondent's counsel did not offer his acceptance of any other RPC violations the special ethics master found; instead, in his submission, but for the RPC 3.4(c) acceptance, respondent argued that the special master had erred in finding any violations.

Conversely, respondent also argued that the special ethics master "had it right" and urged us to defer to the special ethics master.

Respondent maintained that, throughout the underlying civil litigation and during the ethics proceeding, he testified truthfully and therefore, did not violate any of the charged RPCs. Respondent emphasized that his testimony offered answers to "general questions" about his artwork and that he merely stated his own opinion regarding the value of his artwork. Indeed, respondent argued that the fraud litigation he filed against Tangible and Cohen was relevant to the ethics proceeding because the OAE improperly focused its ethics investigation on his deposition testimony that he paid less than $5,000 for his artwork, despite respondent not being asked a "single question about specific art." Respondent did not explain to us how his testimony during the deposition related to the fraud litigation he filed years later.

Respondent also emphasized that, in mitigation, he had a nearly fifty-year unblemished disciplinary record and presented evidence of good moral character. Furthermore, respondent argued that the events in question occurred more than ten years ago. Thus, respondent asked that we dismiss all the misconduct charges against him.

Following a de novo review of the record, we determine that the special master's finding that respondent violated RPC 3.4(c); RPC 8.1(a); RPC 8.4(c)

(one instance); and RPC 8.4(d) is supported by clear and convincing evidence. We respectfully part company with the special master's finding that respondent did not violate RPC 3.3(a)(1); RPC 8.4(b) (two instances); and RPC 8.4(c) (two instances).

There is no question that respondent reviewed the Superior Court's April orders and knew the Picabia was contained within the Sheriff's inventory. Furthermore, the April orders unambiguously prohibited respondent from "removing, discarding, hiding, transferring, selling, gifting, conveying, or destroying all the personal property" identified in the Sheriff's inventory. Judge Steele did not include any qualifying language in her orders and respondent did not timely seek modification of the orders.

Instead, beginning on August 12, 2013, respondent surreptitiously began arranging for the sale of the Picabia. Respondent admitted in his October 29, 2013 certification to the court that, on September 13, 2013, he convinced Anne to sell the painting and, the same date, Sotheby's catalogued the Picabia for sale at its November auction.

The pertinent part of respondent's certification to the court states, in full:

> On September 22nd, I was surprised to receive an email from Doller of Sotheby's dated September 22, 2013 that the work had to be picked up the next day to be included in the sale on November 7th. Sotheby's made all of the arrangements to pick up the work on September 23rd without our involvement. A copy of the email from

> Doller dated September 22, 2013 is annexed hereto as Exhibit "F". I did not have the opportunity to review the Court's Orders and the listing of the items levied, but I fully intended to do so and have Anne make an application to the court regarding the sale if the same were required, as more fully explained in paragraph 12, 13 and 14 of this certification.

Paragraph twelve of respondent's certification contained respondent's claim that he could not have "covertly" arranged for the sale of the Picabia due to its inclusion on the cover of the Sotheby's November sale catalog. Paragraph thirteen contained respondent's certification that, but for his involvement in a civil jury trial from September 24, 2013, through October 16, 2013, he would have made an application to the court for permission to sell the Picabia earlier than October 17, 2013. Paragraph fourteen contained respondent's certification that Cohen's order to show cause in New York, seeking to prohibit Sotheby's from selling the Picabia, was a waste of judicial resources.

In our view, respondent's belated attempt to massage the language of his certification to mean that, solely on the day Sotheby's removed the Picabia from his home, he did not have an opportunity to review the April orders or the Sheriff's inventory and, thus, was not aware his actions were in violation of the order, defies logic. Not only is that qualifying language wholly absent from any paragraph in his certification to the court but, before respondent even began negotiating the Picabia's sale with Sotheby's, he admittedly knew the April

orders prohibited him from "removing, discarding, hiding, transferring, selling, gifting, conveying, or destroying all the personal property" identified in the Sheriff's inventory. Thus, it matters not whether respondent reviewed the April orders the day Sotheby's removed the painting because, for five months, respondent knew he could not permit the Picabia to leave his home, yet, he chose to arrange for its removal and sale.

Therefore, respondent's clear statement to the court that he did not have an opportunity to review the April orders and the list of items the Sheriff levied was unquestionably a false statement to the court, in violation of RPC 3.3(a)(1).

Similarly, respondent violated RPC 3.4(c) by disobeying Judge Steele's April orders by arranging for the sale of the Picabia without the court's knowledge or permission, and by allowing Sotheby's to remove the painting from his home.

Preliminarily, during his interview with the OAE, respondent admitted that he knew his certification was "inaccurate" and that his attorneys had been "disingenuous" with their "interesting" legal arguments, because he knew all along that the Picabia was on the list of items Judge Steele prohibited him from removing or otherwise taking action to divest himself of ownership of his property.

However, respondent's argument that he believed the April orders prohibited only the permanent removal of the items on the Sheriff's inventory is simply inconsistent with the language of the orders and inconsistent with the definition of removal. Judge Steele prohibited respondent from "removing, discarding, hiding, transferring, selling, gifting, conveying, or destroying all the personal property" identified on the Sheriff's inventory. We are hard-pressed to imagine another word that Judge Steele could have included within her order to ensure that the parties knew respondent's property was to remain in his home. Surely, had Judge Steele intended to allow for the temporary removal of respondent's property – particularly a 7.5 foot by 10 foot, $1.8 million painting – she would have included the word "permanent" in her order. Simply put, respondent knew he could not remove the Picabia from his home but he did so anyway, in violation of Judge Steele's orders.

Furthermore, during the ethics investigation, respondent's statement to the OAE that he permitted Sotheby's to remove the Picabia for photography purposes only, because he had no intention to sell the painting, was false, in violation of RPC 8.1(a). In fact, respondent already had made up his mind to sell the Picabia ten days before Sotheby's removed the painting from his home, when he convinced Anne to sell the Picabia.

Indeed, respondent admitted in his certification to the court that, but for preparation and participation in a civil jury trial, he would have applied to the court for permission to sell the Picabia before September 24, 2013, which is the day after Sotheby's removed the painting from his home. Therefore, respondent's attempts to argue that, until October 28, 2013 – the date Anne signed the consignment agreement – neither he nor Anne intended to sell the Picabia, is inconsistent with the facts and respondent's own statements in this matter.

Additionally, respondent violated RPC 8.4(b) by lying during his deposition testimony, on July 9, 2012, stating that the artwork in his home was "not significant in value;" that he had paid less than $5,000 for the art; and that the art was done by "secondary French and German artists." Respondent knew, from two prior appraisals that Sotheby's conducted of his artwork, that its value was significant. In 1987, the Picabia was valued at $150,000 and, by June 2003, it increased in value to $600,000. Respondent presented no evidence to rebut the OAE's evidence that, notwithstanding a global recession, the value of his artwork had not depreciated at all, let alone significantly. To the contrary, the Picabia's $1.8 million sale price in November 2013 demonstrates that the value of respondent's artwork had continued to appreciate in the ten years following the last Sotheby's appraisal respondent had obtained.

Respondent also clearly paid more than $5,000 for his artwork, because the purchase price for the Picabia alone was $80,000, back in 1987. Respondent's attempts to conflate his opinion regarding the value of his artwork with its actual purchase price sorely misses the mark. In fact, during his deposition, respondent was asked "in your home is there any other art that has a value of more than $5,000?" Respondent's answer was that "we have some miscellaneous paintings. I don't know what they would fetch, but they are not significant in value. **We paid less than that for them**." (emphasis added). Therefore, we are not persuaded that respondent's testimony was truthful when, in his own words, he differentiated between the **value** and the amount he **paid** for the artwork. We, thus, find that respondent's statement constituted perjury, in violation of RPC 8.4(b).

Therefore, in our view, the special master's finding that the OAE failed to prove the value of respondent's artwork on the date of his deposition testimony was misplaced. Likewise, the special master wrongly concluded that respondent did not provide a false statement in his October 29, 2013 certification. As previously discussed, respondent knew his statement that he did not have an opportunity to review the April orders was false, yet, he submitted the certification to the court. We, thus, conclude that respondent twice violated RPC 8.4(b).

Furthermore, we conclude that respondent violated RPC 8.4(c) three distinct ways. First, he lied during his deposition testimony about the value of the artwork in his home and the prominence of the artists who painted the artwork. Second, respondent lied to the court by stating he did not have an opportunity to review the April orders, when, in fact, he had reviewed them when Judge Steele issued them and understood the Picabia to be on the Sheriff's inventory, which he was prohibited from removing from his home. Third, respondent falsely told the OAE that Sotheby's only removed the Picabia from his home for photography purposes when, at the time of the removal, he clearly intended for Sotheby's to sell the painting at its November impressionism auction.

Finally, respondent violated RPC 8.4(d) by virtue of his violation of Judge Steele's April orders.

In sum, we find that respondent violated RPC 3.3(a)(1); RPC 3.4(c); RPC 8.1(a); RPC 8.4(b) (two instances); RPC 8.4(c) (three instances); and RPC 8.4(d). The sole issue remaining for our determination is the appropriate quantum of discipline to recommend for respondent's misconduct.

The discipline imposed on attorneys who make misrepresentations to a court or exhibit a lack of candor to a tribunal, or both, ranges from a reprimand to a long-term suspension. See, e.g., In re Marraccini, 221 N.J. 487 (2015)

(reprimand imposed on an attorney who attached to approximately fifty eviction complaints, filed on behalf of a property management company, verifications that had been pre-signed by the manager, who had since died; the attorney was unaware that the manager had died and, upon learning that information, withdrew all the affected complaints; violations of RPC 3.3(a), RPC 8.4(c), and RPC 8.4(d); in mitigation, we found that the attorney's actions were motivated by a misguided attempt at efficiency, rather than by dishonesty or personal gain); In re Clayman, 186 N.J. 73 (2006) (censure imposed on an attorney who misrepresented the financial condition of a bankruptcy client in filings with the bankruptcy court to conceal information detrimental to the client's Chapter 13 bankruptcy petition, in an effort to secure a more favorable outcome than his client was entitled to under the law; in mitigation, we observed that, although the attorney had made a number of misrepresentations in the petition, he was one of the first attorneys to be reported for his misconduct by a new Chapter 13 trustee who had elected to enforce the strict requirement of the bankruptcy rules, rather than permit what had been the "common practice" of bankruptcy attorneys under the previous trustee; in further mitigation, the attorney had an unblemished disciplinary record, was not motivated by personal gain, and did not act out of venality); In re Trustan, 202 N.J. 4 (2010) (three-month suspension imposed on an attorney who, among other misconduct, submitted to the court a

client's case information statement that falsely asserted that the client owned a home, and drafted a false certification for the client, which was submitted to the court in a domestic violence trial); In re Forrest, 158 N.J. 428 (1999) (six-month suspension imposed on an attorney who, in connection with a personal injury action involving injured spouses, failed to disclose the death of one of his clients to the court, his adversary, and an arbitrator, and advised the surviving spouse not to voluntarily reveal the death; the attorney's motive was to obtain a personal injury settlement); In re Cillo, 155 N.J. 599 (1998) (one-year suspension for attorney who, after misrepresenting to a judge that a case had been settled and that no other attorney would be appearing for a conference, obtained a judge's signature on an order dismissing the action and disbursing all escrow funds to his client; the attorney knew that at least one other lawyer would be appearing at the conference and that a trust agreement required that at least $500,000 of the escrow funds remain in reserve); In re Bernstein, 249 N.J.357 (2022) (two-year suspension imposed, on a motion for reciprocal discipline, on an attorney who violated RPC 3.3(a)(1) and RPC 8.4(c) by making misrepresentations of facts to a Virginia federal court regarding his prior discipline and lawsuits pending against him for legal malpractice; at least one client was substantially harmed by the attorney's misconduct); In re Kornreich, 149 N.J. 346 (1997) (three-year suspension for attorney who had been involved in an automobile

accident and then misrepresented to the police, her lawyer, and a municipal court judge that her babysitter had been operating her vehicle; the attorney also presented false evidence in an attempt to falsely accuse the babysitter of her own wrongdoing).

Ordinarily, a reprimand is imposed on an attorney who fails to obey court orders, even if the infraction is accompanied by other, non-serious violations. In re Ali, 231 N.J. 165 (2017) (the attorney disobeyed court orders by failing to appear when ordered to do so and by failing to file a substitution of attorney, violations of RPC 3.4(c) and RPC 8.4(d); he also lacked diligence (RPC 1.3) and failed to expedite litigation (RPC 3.2) in one client matter and engaged in ex parte communications with a judge, a violation of RPC 3.5(b); in mitigation, we considered his inexperience, unblemished disciplinary history, and the fact that his conduct was limited to a single client matter); In re Cerza, 220 N.J. 215 (2015) (attorney failed to comply with a bankruptcy court's order compelling him to comply with a subpoena, which resulted in the entry of a default judgment against him; violations of RPC 3.4(c) and RPC 8.4(d); he also failed to promptly turn over funds to a client or third person, violations of RPC 1.3 and RPC 1.15(b); prior admonition for recordkeeping violations and failure to promptly satisfy tax liens in connection with two client matters, even though he had escrowed funds for that purpose); In re Gellene, 203 N.J. 443 (2010) (attorney

engaged in conduct prejudicial to the administration of justice and knowingly disobeyed an obligation under the rules of a tribunal by failing to appear on the return date of an appellate court's order to show cause and failing to notify the court that he would not appear; the attorney also committed gross neglect, pattern of neglect, lack of diligence, and failure to communicate with clients; mitigating factors considered were the attorney's financial problems, his battle with depression, and significant family problems; his ethics history included two private reprimands and an admonition).

Generally, in matters involving misrepresentations to ethics authorities, the discipline ranges from a reprimand to a term of suspension, depending on the gravity of the offense, the presence of other unethical conduct, and aggravating or mitigating factors. See, e.g., In re DeSeno, 205 N.J. 91 (2011) (reprimand for attorney who misrepresented to the district ethics committee the filing date of a complaint on the client's behalf; the attorney also failed to adequately communicate with the client and failed to cooperate with the investigation of the grievance; prior reprimand); In re Otlowski, 220 N.J. 217 (2015) (censure for attorney who made misrepresentations to the OAE and to a client's lender by claiming that funds belonging to the lender, which had been deposited into the attorney's trust account, were frozen by a court order; to the contrary, they had been disbursed to various parties); In re Brown, 217 N.J. 614

(2014) (three-month suspension, in a default matter, for an attorney who made false statements to a disciplinary authority; failed to keep a client reasonably informed about the status of the matter; charged an unreasonable fee; failed to promptly turn over funds; failed to segregate disputed funds; failed to comply with the recordkeeping rule; and failed to cooperate with disciplinary authorities).

The level of discipline imposed in cases involving a violation of RPC 8.4(b) depends on numerous 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 . . . prior trustworthy conduct, and general good conduct." In re Lunetta, 118 N.J. 443, 445-46 (1989).

In 1984, the Court imposed a significant suspension, seven years (time served), on an attorney who attempted to persuade a witness to testify falsely before a grand jury and, thus, directly impacted the administration of justice. In re Verdiramo, 96 N.J. 183 (1984). The attorney pleaded guilty only to influencing a witness, in violation of 18 U.S.C. § 371, and, in accordance with a plea agreement, other charges against the attorney were dismissed. In finding certain conduct unworthy of lawyers, the Court stated:

> [p]rofessional misconduct that takes deadly aim at the public-at-large is as grave as the misconduct that victimizes a lawyer's individual clients. Because such a transgression directly subverts and corrupts the

> administration of justice, it must be ranked among the most egregious of ethical violations.
>
> We have not, in the past, been uniform in our approach to appropriate sanctions for serious ethical violations of this kind -- those that involve criminal acts of dishonesty that directly impact the administration of justice. Compare In re Rosen, supra, 88 N.J. 1 [1981] (respondent's conviction of attempted subornation of perjury resulted in suspension of three years in view of mitigating factors) and In re Mirabelli, 79 N.J. 597 (1979) (respondent's guilty plea to accusation charging bribery warranted three year suspension and not disbarment due to mitigating circumstances) with In re Hughes, 90 N.J. 32 (1982) (respondent's guilty plea to charges of bribing public official and forging public documents warrants disbarment despite mitigating factors). We believe that ethical misconduct of this kind -- involving the commission of crimes that directly poison the well of justice -- is deserving of severe sanctions and would ordinarily require disbarment.
>
> [In re Verdiramo, 96 N.J. at 187.]

Verdiramo was not disbarred because the events calling for his discipline had occurred more than eight years earlier. The Court remarked that "the public interest in proper and prompt discipline is necessarily and irretrievably diluted by the passage of time," and that disbarment would have been "more vindictive than just."

In In re Giordano, 123 N.J. 362 (1991), the Court remarked that crimes of dishonesty touch on an attorney's central trait of character. The Court declared that, when an attorney "participate[s] in criminal conduct designed to subvert

fundamental objectives of government, objectives designed to protect the health, safety, and welfare concerns of society, the offense will ordinarily require disbarment." Id. at 370 (citation omitted).

Finally, conduct prejudicial to the administration of justice comes in a variety of forms, and the discipline imposed for the misconduct typically results in discipline ranging from a reprimand to a suspension, depending on other factors present, including the existence of other violations, the attorney's ethics history, whether the matter proceeded as a default, the harm to others, and mitigating or aggravating factors.

We conclude, based upon disciplinary precedent, that a significant term of suspension is warranted for the totality of respondent's misconduct. Here, respondent failed to satisfy a lawful judgment obtained against him; lied under oath; lied to a court; filed litigation in a misguided attempt to prove that Anne owned everything in his home; and filed civil litigation against his adversaries in a partial attempt to justify his own misconduct. Such conduct demonstrates that respondent has an utter disregard for the requirement that attorneys conduct themselves honestly and with integrity.

In our view, little separates respondent's egregious abuse of the legal system in an effort to protect his personal assets from the misconduct we encountered in Kornreich, apart from the harm Kornreich inflicted upon her

victim.

Similar to Kornreich, respondent made an unjustifiable and knowing misrepresentation in his certification to the court in order to justify his violation of Judge Steele's order. Respondent's misrepresentation was designed to improperly lead the court to believe he was unaware that the Picabia was on the Sheriff's inventory list, or that he had even reviewed the Sheriff's inventory list at all, when he had. Moreover, it was the second time during the civil litigation that respondent had lied under oath about his artwork, and his lies were for personal gain. Similarly, just as Kornreich presented false evidence in her attempt to falsely accuse another of her own wrongdoing, here, respondent, at the ethics proceeding and before us during oral argument, attempted to blame his misconduct on the fraud allegedly perpetrated by Tangible.

Compounding those misrepresentations, during the ethics investigation, respondent lied to the OAE about his intent to sell the Picabia and denied that he had violated Judge Steele's orders or lied during his deposition testimony. In short, respondent has shown no remorse for his actions and has failed to accept any responsibility for his calculated and knowing misconduct. To the contrary, during the ethics proceeding, respondent repeatedly attempted to argue that GECC, Tangible, and Cohen committed a fraud, which should have somehow vacated Judge Steele's April orders, and according to respondent would have

excused his misconduct. Such an argument sorely misses the mark because, even if there was a fraud in the civil litigation, it is independent from, and does not excuse, respondent's conscious decision to lie under oath at every opportunity he had in order to protect his assets from a judgment properly obtained against him. Before us, during oral argument, respondent once again asserted that he had done nothing wrong in this case.

However, to craft the appropriate discipline in this case, we also considered the aggravating and mitigating factors.

In aggravation, we heavily weigh respondent's utter lack of remorse for his misconduct. During the ethics proceeding, and again before us, he attempted to argue that the ethics complaint should be dismissed due to alleged fraud in the civil proceeding – which has no nexus to respondent's misconduct and demonstrates a shocking inability to accept responsibility for his own actions.

In significant mitigation, respondent has been practicing for forty-eight years with no disciplinary infractions. Respondent is active in his church and was invaluable in helping his church address and implement procedures to protect against the sexual abuse of children. Finally, respondent's misconduct occurred nearly ten years ago.[30]

[30] To be clear, the passage of time from the commencement of the OAE's investigation, in 2014, to its conclusion, in 2022, does not appear to be the fault of any party. Rather, external

(footnote cont'd on next page)

Thus, on balance, we determine that a one-year suspension is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

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

factors, such as the ongoing civil litigation and the COVID pandemic appear to be the reason for the age of this matter.

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of John M. Mavroudis
Docket No. DRB 22-151

Argued: November 17, 2022

Decided: January 31, 2023

Disposition: One-Year Suspension

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

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