Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 23-105
District Docket No. XIV-2017-0613E

In the Matter of

Dennis J. Oury

An Attorney at Law

Decision

Argued: June 21, 2023

Decided: October 27, 2023

Ryan M. Moriarty appeared on behalf of the Office of Attorney Ethics.

Respondent waived appearance for oral argument.

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 three-year suspension filed by a special ethics master. The formal ethics complaint charged respondent with having violated RPC 1.16(a) (representing a client when the representation will result in a violation of the Rules of Professional Conduct or

other law); RPC 5.5(a)(1) (practicing law while suspended); RPC 8.1(b) (failing to comply with Rule 1:20-20 governing suspended attorneys); RPC 8.4(b) (committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer); RPC 8.4(c) (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 to recommend to the Court that respondent be disbarred.

Respondent earned admission to the New Jersey bar in 1975. During the relevant timeframe, he was suspended from the practice of law in New Jersey and resided in Florida.

On November 17, 2009, the Court temporarily suspended respondent from the practice of law in connection with his guilty plea and convictions for one count of conspiracy to defraud the Borough of Bergenfield of money, property, and honest services, in violation of 18 U.S.C. § 1349, and one count of failure to file a federal income tax return, in violation of 26 U.S.C. § 7203. In re Oury, 200 N.J. 435 (2009).

On November 1, 2016, the Court suspended respondent for three years, retroactive to his November 17, 2009 temporary suspension, in connection with his criminal conduct. In re Oury, 227 N.J. 47 (2016) (Oury I).

In that matter, in 2001, respondent and his co-conspirator formed Governmental Grants Consulting (GCC), a business that offered grant consulting services to municipalities. In the Matter of Dennis J. Oury, DRB 15-337 (June 15, 2016) at 3. Respondent and his co-conspirator deliberately structured GCC to conceal from others their financial interest and involvement in the company. Ibid.

In late 2001, respondent solicited several municipal officials to retain GCC, including in municipalities where he served as a public official, and deliberately failed to disclose his financial interest in GCC. Ibid. Additionally, in November or December 2001, respondent and his co-conspirator created a proposed municipal resolution appointing GCC as the grants consultant for the Borough of Bergenfield, where respondent was to be appointed as the Borough's attorney, effective January 1, 2002. Id. at 4. The proposed resolution contained several false statements regarding GCC, including that it had special expertise in acquiring state and federal government grants, low interest loans, and passive economic benefits for municipalities. Id. at 4-5.

On December 31, 2001, respondent sent the Borough administrator the proposed resolution appointing GCC as grants consultant. Ibid.

Following his appointment as the Borough attorney, respondent provided advice regarding the proposed resolution to the Borough's mayor and council,

which adopted the resolution. Id. at 4. Respondent again failed to disclose his interest in GCC. Ibid.

At subsequent council meetings and work sessions throughout 2002, during which GCC's work for the Borough was discussed, respondent continued to conceal from municipal officials his interest in GCC. Id. at 5. Moreover, as the Borough's attorney, respondent obtained correspondence regarding the progress of the Borough's grant applications and provided them to his co-conspirator, who then urged GCC's grant writer to apply for certain grants. Ibid.

In June 2004, the Borough paid GCC approximately $128,625 for the grant applications it had procured on its behalf. Ibid. Of that amount, respondent received $25,016 from his co-conspirator. Id. at 5-6.

During the criminal proceedings, respondent conceded that he had breached his duty to provide honest services to the Borough, as its attorney, by concealing his involvement with GCC. Id. at 6. Additionally, respondent admitted that he failed to file a federal income tax return for the 2006 tax year, despite knowing that he owed significant taxes. Id. at 6-7. Respondent received a three-year sentence of probation for his criminal conduct, based on his significant cooperation with federal agents in connection with the prosecution of his co-conspirator. Id. at 7.

We determined that a three-year suspension was the appropriate quantum of discipline for the totality of respondent's criminal conduct based on the applicable disciplinary precedent for attorneys who commit fraud on government entities. Id. at 14. The Court agreed.

As detailed below, respondent has remained suspended since November 17, 2009, the effective date of his disciplinary suspension in Oury I.

The facts of the instant matter are largely undisputed, although respondent denied having violated any of the charged RPCs.

In the Court's November 17, 2009 Order temporarily suspending respondent in connection with his criminal conduct underlying Oury I, the Court "restrained and enjoined" respondent "from practicing law during the period of his suspension" and required that he "comply with Rule 1:20-20 dealing with suspended attorneys."

R. 1:20-20(a) prohibits an attorney authorized to practice law in New Jersey from (1) employing, (2) permitting or authorizing to perform services for, or (3) sharing office space with, a suspended or disbarred attorney in connection with the practice of law. Moreover, R. 1:20-20(b) prohibits a suspended or disbarred attorney from, among other activities, (1) "practice[ing] law in any form either as a principal, agent, servant, clerk or employee of another;" (2) "occupy[ing], shar[ing], or us[ing] office space in which an attorney practices

law;" (3) "furnish[ing] legal services, giv[ing] an opinion concerning the law or its application or any advice with relation thereto, or . . . draw[ing] any legal instrument;" or (4) "solicit[ing] or procur[ing] any legal business or retainers for [himself] or for any other attorney."

On July 27, 2010, respondent, through counsel, filed with the Office of Attorney Ethics (the OAE) his affidavit of compliance with R. 1:20-20, as R. 1:20-20(b)(15) requires.[1] In his affidavit, respondent certified, among other things, that, since his November 17, 2009 temporary suspension, he had not (1) "in any way been involved with or participated in the practice of law;" (2) "practiced law in any way;" (3) provided any service to any client other than to transfer their file to a new attorney on their behalf;" (4) "provided legal services, opinions, or advice to anyone, and [had] not prepared any legal instruments;" (5) "in any way indicated that [he] was connected with the practice of law;" (6) "solicited or procured any legal business or retainers for . . . any other attorney;" and (7) "shared in any legal fees, nor accepted any fees, for any matters whatsoever."

Despite respondent's sworn statement in his R. 1:20-20 affidavit attesting to his total abstinence from the practice of law, between approximately October

[1] Respondent, however, failed to file his affidavit within thirty days of the Court's November 17, 2009 Order, as R. 1:20-20(b)(15) requires.

2010 and March 2018, he performed more than 1,900 hours of legal work for five separate New Jersey law firms, garnering $369,110.26 in earnings for himself. Respondent performed nearly all his legal work for the New Jersey law firms remotely, from his Florida residence.

Respondent's Legal Work for Brian Chewcaskie, Esq.

Respondent and Brian Chewcaskie, Esq., have had a long-standing collegial relationship dating back to 1982. Prior to Chewcaskie's 1984 admission to the New Jersey bar, he worked for respondent as a law clerk.

In or around 2010, respondent approached Chewcaskie, noted that he needed money, and requested that Chewcaskie allow him to perform work as a clerk or research assistant for his law practice. Chewcaskie agreed and, between October 2010 and April 2015, respondent performed at least 130 hours of work for Chewcaskie in connection with at least five client matters. For his work, Chewcaskie generally paid respondent a $90 hourly rate, resulting in $21,567.50 in total compensation for respondent.

Respondent's work for Chewcaskie generally included, among other tasks, (1) performing legal research; (2) drafting correspondence to adversaries; (3) composing motion briefs, including at least one summary judgment motion; (4) preparing responses to discovery requests; (5) drafting complaints and

answers; and (6) composing and transmitting hourly billing records charging Chewcaskie for the time respondent spent on each case.

In connection with one matter involving Chewcaskie's representation of the Township of Mahwah as a defendant in a Superior Court action, respondent, throughout 2014, prepared for Chewcaskie (1) an answer to the complaint; (2) a motion to dismiss the complaint; (3) a sur-reply letter in support of the motion to dismiss; (4) interrogatories, requests for admission, and document requests; (5) and answers to interrogatories and objections to the production of documents.

In another matter involving Chewcaskie's representation of the Township of Mahwah as a plaintiff in a Superior Court action, respondent, in May and June 2014, prepared two briefs in opposition to the defendant's motions to vacate a default judgment and to file an answer out of time.

During his November 7, 2018 demand interview with the OAE, respondent stated that he may have prepared a notice of appeal and an appellate brief in connection with "one of the matters involving [the Township of] Mahwah."

In a matter involving Chewcaskie's representation of the Township of Saddlebrook, respondent, in July 2014, prepared a discovery demand and a sur-reply brief in support of the Township's summary judgment motion.

Finally, at some point during respondent's employment with Chewcaskie, he became involved in Chewcaskie's representation of a business before the zoning board of the Borough of Bergenfield, where respondent previously had served as the Borough's attorney. In contrast to his usual $90 hourly rate, respondent charged a $100 hourly rate in connection with his work in the Bergenfield matter. Respondent stipulated that Chewcaskie would have testified, at the ethics hearing, that respondent had increased his hourly rate by $10 based on his prior experience working for the Borough of Bergenfield.

In April 2015, Chewcaskie ended his business relationship with respondent.

Respondent's Legal Work for Paul Cecere, Esq.

Like his relationship with Chewcaskie, respondent and Paul Cecere, Esq., have had a long-standing, collegial relationship dating back to 1974. Cecere earned admission to the New Jersey bar in 1973, following which he maintained a solo practice of law in Hackensack, New Jersey, until 2007, when he relocated to Florida. After relocating to Florida, Cecere still maintained a practice of law in New Jersey and, in 2012, earned admission to the Florida bar.

In 2011, respondent, who maintained social contact with Cecere while they were living in Florida, offered to help Cecere with the work associated with

his law practice. Specifically, respondent told Cecere that, although he had "voluntarily surrendered his law license," he still could "clerk" for him by drafting pleadings and performing "back room work."

Moreover, respondent assured Cecere that he was "clerking" for other firms. Cecere agreed to the arrangement and, between June 2011 and September 2013, respondent performed at least 500 hours of work for Cecere in connection with at least three client matters. For his work, Cecere paid respondent a $150 hourly rate, resulting in $89,730.25 in total compensation for respondent.

Respondent's work for Cecere included, among other tasks, (1) conducting legal research; (2) drafting an order staying litigation and placing a lien on funds; (3) drafting a notice to produce documents; (4) drafting a brief in opposition to a trial court's ruling on counsel fees; (5) sending direct e-mail messages to Cecere's adversaries and clients; (6) meeting with clients; (7) drafting a certification in opposition to the turnover of funds; (8) drafting a brief and certification in support of a motion to add an estate to an appeal; (9) preparing a civil case information statement; (10) organizing discovery; and (11) drafting general correspondence to courts for Cecere's signature.

Respondent further stipulated that Cecere would have testified, at the ethics hearing, that respondent had encouraged him to represent Elizabeth Lee in connection with her intent to appeal a New Jersey Superior Court order

directing that she turn over approximately $46,000 from her bank account to her adversary's attorney. On June 9, 2011, Lee and Cecere executed a retainer agreement authorizing Cecere to pursue her appeal. Cecere would also have testified that he and respondent had agreed to "split" Lee's "funds evenly." Respondent met with Cecere on "multiple days" each week to work on Lee's appeal. In connection with Lee's appeal, respondent conducted legal research, drafted a certification to the Superior Court seeking a stay pending appeal, and drafted a reply brief to the Appellate Division.

Additionally, respondent stipulated that Cecere would have testified that respondent had advised Cecere's clients on potential causes of action, via e-mail. Specifically, in March 2012, respondent sent an e-mail to two of Cecere's New York clients, who were the beneficiaries of an estate, advising them that they had a potential "cause of action against" an individual who had mismanaged the estate. During his November 2018 demand interview, respondent claimed that Cecere had provided him with the relevant strategic advice, which he had directed respondent to send to the clients, via e-mail, because Cecere "was not great with the computer."

Finally, in a February 1, 2012 e-mail to the accountant for Cecere's New York clients, respondent stated that he was "employed by Paul Cecere, Esq.,"

and requested that the accountant provided copies of certain financial documents relating to the estate.

In September 2013, Cecere formally ended his business relationship with respondent. Nevertheless, respondent periodically continued to call Cecere to offer "assistance."

Respondent's Legal Work for Francis DeVito, Esq.

Respondent and Francis DeVito, Esq., have had a longstanding, collegial and social relationship dating back to approximately 1987. DeVito earned admission to the New Jersey bar in 1968 and maintained a practice of law in Moonachie, New Jersey.

Sometime in 2012, respondent offered to assist DeVito with work while DeVito was hospitalized. DeVito, who was aware that respondent was working for other lawyers, agreed and, between February 11, 2013 and March 7, 2018, respondent performed at least 1,114 hours of work for DeVito in connection with approximately twenty-eight client matters. For his work, DeVito typically paid respondent a $125 hourly rate, resulting in $187,601.26 in total compensation for respondent.

Respondent's work for DeVito included, among other tasks, (1) conducting legal research and reviewing briefs; (2) composing memoranda of

law; (3) drafting answers, counterclaims, briefs, and correspondence; (4) preparing a consent order, a frivolous litigation letter, and an arbitration agreement; (5) drafting a motion to dismiss, a motion for summary judgment, a brief in response to a motion to quash, and an application for restraints; (6) corresponding and meeting with clients; (7) preparing and responding to discovery; (8) speaking with clients, via telephone; and (9) assisting DeVito with deposition, arbitration, and trial preparation.

In late 2016, respondent's former client, Anthony Fortino, contacted respondent for assistance in connection with a lawsuit in which he had been named as a defendant. Respondent referred Fortino to DeVito for representation. Although DeVito did not provide respondent with a "flat" referral fee, he paid respondent a $150 hourly rate, $25 more than respondent's usual hourly rate, for his work on the matter. During his November 2018 demand interview, respondent stated that he could not recall why he had received "an elevated rate" in connection with his work on Fortino's matter.

Also during the demand interview, the OAE and respondent reviewed several examples of his work for DeVito.

In connection with one matter in which DeVito represented the seller of commercial property encumbered by a mortgage, respondent stated, in an e-mail to the client, that "we're definitely underwater if you include the whole broker's

commission, but that will not hold up at the closing." In a separate e-mail, respondent told the attorney for the buyer to "reconsider his client's position" in light of the death of one of the seller's business partners.

In connection with a separate matter in which DeVito represented the petitioner of an expungement application, respondent stated, in an e-mail to the client, that he was "confident" that they could "show the prosecutor's office that you're entitled to an expungement—and if for some reason, they continue to object, then I'm confident that the Court will overrule their objection."

During the demand interview, respondent testified he had communicated with clients and adversaries only at DeVito's direction. In respondent's view, he served only as "an intermediary" between DeVito and others, and he made no "independent decisions" without the input of DeVito, whom he kept "abreast of what was going on."

In July 2017, Brian M. Foley, Esq., a New Jersey attorney, represented a hospital in connection with a medical staff hearing in which DeVito represented the physician. Foley noticed that respondent had been included on various correspondence in the matter and discovered that respondent was suspended from the practice of law. Consequently, on July 17, 2017, Foley sent DeVito an e-mail requesting that he confirm that respondent had been restored to practice.

On July 18, 2017, DeVito replied to Foley that respondent "works for me and has as a clerk for years. He has not represented himself to anyone as an attorney." DeVito further alleged that respondent was "scheduled for reinstatement within weeks" and that Foley's inquiry was "typical of [his] cheap shots in lieu of directing it to the real issues." Later on July 18, Foley sent DeVito a reply e-mail suggesting that he "obtain independent legal advice as to your relationship with [respondent]."

Two months later, on September 26, 2017, Foley filed an ethics grievance against respondent based on his view that respondent's employment arrangement with DeVito violated R. 1:20-20.

In March 2018, DeVito ended his business relationship with respondent.

Respondent's Legal Work for Michael Heitmann, Esq.

Respondent and Michael Heitmann, Esq., have had an intermittent collegial relationship dating back to 2002. Heitmann earned admission to the New Jersey bar in 2001, around which time respondent interviewed Heitmann for a job at his law firm.

In early 2014, a colleague noticed that Heitmann was "overwhelmed" by the volume of his work and placed Heitmann in contact with respondent. Respondent stipulated that Heitmann would have testified, at the ethics hearing,

that the colleague had informed Heitmann that respondent was working for other New Jersey attorneys. In March 2014, Heitmann hired respondent to assist him with his workload.

At the outset of his employment with Heitmann, respondent informed Heitmann that he had found "some opinions" regarding suspended or disbarred attorneys working in law firms. Specifically, respondent stipulated that Heitmann would have testified that respondent had "misrepresented" that he had discovered "case law" that stood for the proposition "that it was acceptable for a disbarred attorney to work in a law firm." On October 16, 2014, Heitmann sent respondent an e-mail requesting that he provide the relevant case law. Later on October 16, 2014, respondent sent Heitmann a copy of the Court's opinion in In re Opinion No. 24 of Comm. on Unauthorized Practice of Law, 128 N.J. 114 (1992).

In Opinion No. 24, the Court declined to impose "a categorical ban on all independent paralegals" and emphasized that, "regardless of whether the paralegal is employed or retained by the attorney," the attorney "is ultimately accountable" for their supervision and conduct, pursuant to RPC 5.3 (requiring a lawyer to ensure that the conduct of a non-lawyer assistant is compatible with the professional obligations of the lawyer). Id. at 116, 127, 134-35. In Opinion

No. 24, the Court made no reference to disbarred or suspended attorneys working for a law firm, as R. 1:20-20 expressly prohibits.

Between May 2014 and February 2018, respondent performed at least 127 hours of work for Heitmann in connection with at least twenty-four client matters. For his work, Heitmann paid respondent a $125 hourly rate, resulting in $61,111.25 in total compensation for respondent.

Respondent's work for Heitmann included, among other tasks, (1) conducting legal research; (2) preparing a strategy memorandum and reviewing and editing other memoranda of law (3) editing and commenting on the substance of a defendant's "affirmations;" (4) preparing discovery demands and drafting correspondence to adversaries, vendors, and courts; (5) communicating with clients, via telephone; (6) preparing a consent order; (7) conducting document and discovery review; (8) editing a complaint; (9) drafting a motion to dismiss based on the adversary's failure to comply with discovery obligations; and (10) drafting an affidavit in support of a receivership application.

In connection with his work for Heitmann, respondent utilized his skills as an attorney in preparing legal documents and in assisting a "young" attorney employed by Heitmann with his legal work. Specifically, in one matter in which respondent assisted Heitmann in drafting interrogatories, respondent sent

Heitmann an October 12, 2014 e-mail stating that, "in order to formulate good interrogatory questions[,] I will need to speak to the client and get the specifics."

In another matter in which respondent assisted the young attorney in preparing an answer to a complaint, respondent sent the attorney an October 16, 2014 e-mail, noting that he did not have "specific facts to determine if other defenses are available or if a counterclaim is appropriate. Was there a purchase money mortgage for the commercial building?" Finally, respondent sent the young attorney a separate e-mail containing a "mark[ed] up" copy of his opposition to a motion in which respondent offered substantive edits.

Heitmann ended his business relationship with respondent in February 2018, after becoming aware of the OAE's investigation of respondent.

Respondent's Legal Work for Carmine Alampi, Esq., and Santo Alampi, Esq.

Respondent and Carmine Alampi, Esq., have had a longstanding friendship dating back to 1980. Carmine earned admission to the New Jersey bar in 1977 and maintains a practice of law with his son, Santo Alampi, Esq., who earned admission to the New Jersey bar in 2005.

In April 2015, Carmine, who was aware of respondent's criminal convictions underlying Oury I, hired respondent to "support [him] during a time

of financial strain." Although Santo played no role in Carmine's decision to hire respondent, Santo managed respondent's daily activities with the firm.

Between April 2015 and December 2017, respondent performed at least 81 hours of work for both Carmine and Santo in connection with one client matter – the firm's representation of a towing company. For his work, Carmine and Santo paid respondent a $125 hourly rate, resulting in $9,100 in total compensation for respondent.

Respondent's work for Carmine and Santo included, among other tasks, (1) conducting legal research; (2) drafting and editing complaints and correspondence; (3) participating in strategy sessions with Santo; (4) preparing legal memoranda; (5) assisting Santo with deposition preparation; (6) reviewing ordinances, planning board meeting transcripts, depositions, and an order to show cause; (7) and drafting a proposed form of order and a notice of deposition.

Specifically, on April 26, 2015, respondent sent Santo a proposed letter to the Borough of Franklin Lakes Chief of Police requesting the towing company's immediate reinstatement to the Borough's "towing rotational list." Two months later, on June 9, 2015, respondent sent Santo a proposed letter, addressed to Chewcaskie, who represented the Township of Mahwah, expressing the towing company's views that it had satisfied the Township's required storage space

requirements for towing vehicles.[2] Also in June 2015, respondent drafted two complaints and a brief in support of an emergent application to compel the Borough of Upper Saddle River to renew a certificate of occupancy for commercial property owned by the towing company.

More than two years later, on December 14, 2017, Santo sent respondent an e-mail inquiring whether respondent was "currently taking on work?" Days later, respondent prepared for Santo correspondence and a complaint in support of the towing company's efforts to reinstate its suspended license in two municipalities. Respondent and Santo continued to correspond with each other regarding the towing company until January 2018. However, on December 21, 2017, respondent received his final payment from Carmine in connection with his work for the firm.

<u>Respondent's Reinstatement Proceedings</u>

As detailed above, on November 1, 2016, the Court issued an Order suspending respondent for three years, retroactive to his November 17, 2009 temporary suspension, in connection with his criminal conduct underlying <u>Oury</u>

[2] Respondent sent Santo the proposed June 9, 2015 letter two months after his employment with Chewcaskie ended, in April 2015. Additionally, Santo and Carmine's representation of the towing company appears to be unrelated to the legal work respondent performed for Chewcaskie on behalf of the Township of Mahwah. The record is unclear, however, whether respondent disclosed to Santo or Carmine his prior professional relationship with Chewcaskie.

I. Like the Court's November 17, 2009 temporary suspension Order, the Court's November 1, 2016 Order imposing the three-year suspension required respondent to "comply with Rule 1:20-20 dealing with suspended attorneys."

Five months later, on April 25, 2017, respondent, at Carmine's suggestion, filed his petition for reinstatement to the practice of law. In his petition, respondent stated that, during his term of suspension, he "sporadically [had] been employed as a legal assistant/law clerk on an independent contractor basis." Respondent further stated that he had "performed such services" for (1) DeVito from "2014 [to] present;" (2) Heitman from approximately "2014 to present;" (3) Carmine from approximately "2014 through 2015;" (4) Cecere from approximately "2011 [to] 2013;" and (5) Chewcaskie.[3] Respondent, however, claimed, in his petition, that he had "not engage[d] in the practice of law during his suspension." Respondent did not include with his petition his July 27, 2010 R. 1:20-20 affidavit, filed with the OAE, in which he certified that he had not performed any legal services during his suspension.

On May 19, 2017, the OAE filed a letter with us, with a copy to respondent, objecting to his reinstatement based on his admission that he had been employed as a law clerk during his term of suspension. In its letter, the OAE noted that R. 1:20-20(b)(3) prohibits a suspended attorney from furnishing

[3] Respondent did not specify the timeframe during which he worked for Chewcaskie.

"legal services" or giving "an opinion concerning the law or its application or any advice with relation thereto." The OAE also noted that R. 1:20-20(a) prohibits a New Jersey attorney from employing a suspended attorney in connection with the practice of law. The OAE concluded that respondent "should not have agreed to legal work in any manner."

Respondent failed to inform DeVito, Heitmann, and Carmine and Santo Alampi, each of whom still employed respondent, of the OAE's May 19, 2017 letter objecting to his reinstatement for providing legal services and opinions during his suspension, in violation of R. 1:20-20(b). Rather, respondent told Carmine that his petition for reinstatement was "pending." During his January 23, 2018 demand interview, respondent claimed that he did not share the OAE's objection letter with those attorneys because the OAE's position "just [didn't] make sense to me."

Meanwhile, on May 24, 2017, the Office of Board Counsel (the OBC) discussed the OAE's objection with respondent, via telephone. During that telephone call, respondent advised the OBC that he planned to retain counsel to address the OAE's objection.

On June 11, 2018, having received no additional submissions from respondent in connection with his reinstatement petition, the OBC sent

respondent a letter noting that we would dismiss his petition, without prejudice, if he did not submit his reply to the OAE's objection by July 13, 2018.

On July 13, 2018, respondent filed with us a reply letter to the OAE's objection. In his letter, respondent claimed that "[i]t was always my understanding that as a suspended attorney I was obviously precluded from practicing law. It was further my understanding that the practice of law included the appearing in Court or before a governmental body and further, giving legal advice to clients." Respondent also emphasized that, during his suspension, he was living in Florida and not working "from any physical office in New Jersey." Respondent further stressed that the attorneys who had employed him during his suspension "reviewed and supervised" his work product. Finally, respondent urged us to adopt the holding of the Third Circuit Court of Appeals in In re Mitchell, 901 F.2d 1179 (1990), which permitted attorneys suspended by the bar of that court to perform a limited scope of work in that jurisdiction under the supervision of an attorney in good standing.

On October 5, 2018, we issued a decision recommending that the Court deny respondent's petition based on his admission that he had performed legal work for five separate law firms during his term of suspension, in violation of R. 1:20-20(b). In our decision, we found that respondent was on actual notice that R. 1:20-20 governed his conduct while suspended, in light of the Court's

November 2009 and 2016 suspension Orders. Additionally, we emphasized that respondent certified to the Court, in his July 2010 affidavit of compliance, that he would conform his conduct with R. 1:20-20.

We found that respondent had advanced no meritorious defense for his misconduct and, instead, requested that we follow the Third Circuit's holding in Mitchell, rather than the applicable Rule governing suspended New Jersey attorneys. In our view, respondent's violations of the very prohibitions he expressly certified to the Court that he would follow during his term of suspension demonstrated that he remained unfit to practice law.

On December 3, 2018, the Court issued an Order denying respondent's petition for reinstatement and directing that the ethics proceedings underlying the instant matter proceed. In re Oury, __ N.J. __ (2018).

Meanwhile, during the OAE's investigation, it discovered that respondent had created a LinkedIn social media profile page prior to his 2009 suspension from the practice of law. During its investigation, the OAE accessed respondent's publicly viewable LinkedIn profile, which described respondent as an "attorney at law" at the "Law Office of Dennis J. Oury." Although respondent stipulated that he knew that R. 1:20-20(b)(8) required him to "promptly request" the removal of any website listing indicating that he "is a member of the New

Jersey bar in good standing," respondent failed to remove the false references to his good standing as a New Jersey attorney in his LinkedIn profile page.

In his second amended answer to the verified complaint, respondent claimed that his failure to modify his LinkedIn profile page was an unintentional "oversight" and that he since had made "every attempt to terminate any advertising [that] he had engaged in prior to [his] suspension."[4]

The Parties' Positions During the Proceedings Below

In his second amended verified answer to the formal ethics complaint, respondent denied having engaged in any unethical conduct in connection with his legal work for the attorneys during his term of suspension. Specifically, respondent denied that his work constituted the practice of law because he "was not representing . . . client[s] but merely performing ministerial tasks on behalf of the attorney[s]."

Similarly, during his January 23, 2018 demand interview with the OAE, respondent claimed that his work for the attorneys did not constitute the practice of law because, in his view, he was not "making appearances" but instead "doing what a[n] . . . experienced secretary or a law clerk would do." However, when confronted by the OAE with the fact that R. 1:20-20(a) expressly prohibits a

[4] As of the date of this decision, respondent continues to hold himself out as an "attorney" at the "Law Office of Dennis J. Oury" in his publicly viewable LinkedIn profile page.

New Jersey attorney from employing a suspended attorney in any capacity, respondent replied that he did not "know whether I agree with you."

In his December 7, 2022 brief to the special master, respondent argued that he "always" understood that a suspended attorney "was precluded from practicing law." However, in his view, respondent argued that the "practice of law" constitutes "appearances in Court or before a governmental body and further, giving legal advice to clients." Respondent alleged that he "ha[d] done none of those things."

In support of his claim that he did not engage in the practice of law while suspended, respondent relied on In re Opinion No. 24 of Comm. on Unauthorized Practice of Law, 128 N.J. 114 (1992), where the Court concluded that an attorney is directly accountable for the conduct of a paralegal, regardless of whether the attorney employs or retains the paralegal as an independent contractor. Respondent argued that, like a paralegal, he was a "non-lawyer" throughout his term of suspension, during which he performed services for licensed attorneys, who closely reviewed and supervised his work, and avoided working "directly for a client." Moreover, respondent claimed that, like a paralegal, his work should not be construed as the "unauthorized" practice of law because the public was protected by his conduct via "attorney supervision."

Additionally, respondent emphasized that he contacted clients only at the direction of his supervising attorneys and never provided any legal advice to clients. Moreover, respondent claimed that he never engaged in any "fee splitting" arrangements with the attorneys. Respondent also noted that he performed all his work remotely from his Florida residence and that, unlike other attorneys, he filed his R. 1:20-20 affidavit of compliance with the OAE. Finally, respondent observed that the Third Circuit Court of Appeals, in In re Mitchell, 901 F.2d 1179 (1990), had adopted the "concept of having a suspended attorney" perform work for a lawyer in good standing.

Respondent urged, as mitigation, (1) his admission to much of the facts set forth in the formal ethics complaint; (2) his cooperation with disciplinary authorities; (3) the lack of injury to any client; and (4) his view that he has maintained a good reputation in in the community, despite his federal conviction for conspiring to defraud the Borough of Bergenfield and for failing to file a federal income tax return. Respondent also expressed his view that he has had no "prior disciplinary actions," despite his three-year suspension in Oury I for engaging in criminal conduct.

In the OAE's February 3, 2023 brief to the special master, it urged the imposition of a long term of suspension or disbarment based on respondent's

decision to knowingly practice law, while suspended, for five separate attorneys during a span of nearly eight years.

The OAE emphasized that respondent had actual knowledge of his obligations as a suspended New Jersey attorney based not only on the Court's November 2009 and 2016 suspension Orders expressly requiring that he comply with R. 1:20-20, but also on his sworn statement in his R. 1:20-20 affidavit attesting to his compliance with that same Rule.

Additionally, the OAE argued that respondent's practice of law while suspended was far more egregious than that of the attorney in In re Phillips, 224 N.J. 274 (2016), who received a one-year suspension for practicing law while suspended, in connection with one client matter, while claiming that he had engaged only in "secretarial duties." The OAE observed that, unlike Phillips, respondent's conduct spanned many years, involved dozens of client matters, and "displayed greater legal advocacy."

Moreover, the OAE stressed that respondent continued to provide legal services for approximately ten months despite receiving the OAE's May 19, 2017 objection letter to his petition for reinstatement. The OAE also emphasized that respondent had concealed the objection letter from DeVito, Heitmann, and Carmine and Santo Alampi, who, thus, continued to employ respondent.

Finally, the OAE urged the special master to reject respondent's argument that a suspended New Jersey attorney should be permitted to practice law under the supervision of an attorney in good standing, given that such a procedure would defy the express requirements of R. 1:20-20 governing suspended attorneys.

The Special Master's Findings

The special master found, by clear and convincing evidence, that respondent violated each of the charged RPCs by performing legal services for five separate law firms during a nearly eight-year period despite being suspended from the practice of law in New Jersey. The special master also determined that respondent knowingly violated R. 1:20-20 and ignored the terms of his suspension from the practice of law.

The special master rejected respondent's contention that his conduct did not constitute the practice of law and found that his "claim of ignorance and the case law [that] he based that upon to be merely convenient and contrived methods of deniability." Specifically, the special master determined that respondent's arguments were "not credible" and that his claim that he did not directly work for any client to be "a distinction without a difference." Similarly, the special master noted that respondent "attempted to create plausible

deniability by conflating the regulation of the use of independent paralegals by attorneys in good standing with the much more restrictive nature of the terms of his suspension under R. 1:20-20." Indeed, the special master found that respondent's reliance on In re Mitchell, 901 F.2d 1179 (1990), "reek[ed] of that same attempt to create plausible deniability," because respondent could not have held a "credible belief that a federal court disciplinary decision would abrogate the plain language of R. 1:20-20."

The special master also emphasized that, since respondent's conviction in Oury I for a crime of dishonesty, he has demonstrated "a pattern of dishonesty whenever it suits his needs." Indeed, the special master observed that, following his receipt of the OAE's May 2017 objection to his reinstatement, respondent failed to terminate his employment with the attorneys or to advise them of the OAE's objection. In the special master's view, such behavior "demonstrate[d] a continued dishonesty and willingness to knowingly violate the [Court Rules], the RPCs[,] and the laws of the State of New Jersey whenever he felt it necessary to achieve his end goal: personal financial gain."

The special master recommended the imposition of a three-year suspension but "question[ed]" the "effective[ness]" of such a sanction in light of respondent's "effortless proclivity to commit ethic[s] violations whenever it suits his current needs." In support of his recommendation, the special master

found that respondent "repeatedly thumbed his nose at the [disciplinary] system," ran "roughshod over the terms of his suspension[,] and demonstrated contempt for his ethical obligations." Stated differently, the special master found, by clear and convincing evidence, that respondent "is 'ethically bankrupt.'" Although the special master found, in mitigation, that respondent's conduct did not appear to result in any injury to clients, the special master gave "very little weight" to that factor because respondent misled the attorneys into believing that he was permitted to perform legal services.

The Parties' Positions Before Us

At oral argument and in its brief to us, the OAE urged us to adopt the special master's findings and determine that a "lengthy" term of suspension or a recommendation to the Court that respondent be disbarred serve as the appropriate quantum of discipline for his misconduct.

In support of its recommendation, the OAE stressed that respondent knowingly practiced law while suspended for several years as an employee of other New Jersey attorneys, who paid him nearly $370,000 in total compensation for his unauthorized legal services. The OAE also emphasized that respondent continued to practice law while suspended even after it had objected to his petition for reinstatement and notified him that it had commenced an investigation into his illicit behavior. Additionally, the OAE urged us to reject

respondent's defense that he had served as a mere paralegal, given that such an arrangement violated the clear restrictions imposed upon him, as a suspended attorney, pursuant to R. 1:20-20.

In respondent's brief to us, he claimed that the special master erroneously found that his conduct constituted "a pattern of dishonesty." Respondent also emphasized his cooperation with the OAE's prosecution of this matter. Moreover, respondent noted that, after the OAE had notified him that he could not perform legal services for attorneys while suspended, he "terminate[d] his employment with the other attorneys eventually." (Emphasis added). Nevertheless, he claimed that there remains "a good faith dispute" that his conduct was not unethical, and that he "should not be penalized for these good faith beliefs." Respondent further argued that he did not attempt to "game the system" because, in his view, he had disclosed to us and to the OAE, in connection with his petition for reinstatement, the fact that he was performing legal services for attorneys while suspended.

Finally, respondent argued that if we disagreed with his position that his conduct was not unethical, he should receive a three-year suspension, retroactive to March 2018, the month he stopped performing legal services for the last attorney who had employed him.

Analysis and Discipline

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

R. 1:20-20 governs the conduct of attorneys suspended from the practice of law in New Jersey. Specifically, R. 1:20-20(b) prohibits a suspended attorney from, among other activities, (1) practicing law "in any form either as a principal, agent, servant, clerk or employee of another;" (2) occupying, sharing, or using "office space in which an attorney practices law; (3) furnishing "legal services" or giving "an opinion concerning the law or its application or any advice with relation thereto;" (4) drawing "any legal instrument;" (5) soliciting or procuring "any legal business or retainers for . . . any . . . attorney;" and (6) sharing "in any fee for legal services performed by any other attorney following the [suspended] attorney's prohibition from practice."

Similarly, R. 1:20-20(a) prohibits an attorney authorized to practice law in New Jersey from employing an attorney who is under suspension.

As we observed in our October 5, 2018 letter to the Court recommending the denial of respondent's petition for reinstatement, respondent had actual notice of the restrictions R. 1:20-20 imposed on him, as a suspended attorney, because both the Court's November 2009 temporary suspension Order and the

Court's November 2016 disciplinary suspension Order required him to "comply with R. 1:20-20 dealing with suspended attorneys." Indeed, in his July 27, 2010 affidavit filed with the OAE, respondent certified to the Court that he would comply with each of the provisions of R. 1:20-20.

Despite his sworn statements in his R. 1:20-20 affidavit of compliance purportedly attesting to his total abstinence from the practice of law, respondent violated RPC 5.5(a)(1) by intentionally practicing law while suspended, for nearly eight years, between October 2010 and March 2018, performing more than 1,900 hours of legal work for five separate New Jersey law firms. During that timeframe, respondent engaged in a variety of substantive legal work, including conducting legal research; drafting briefs, pleadings, memoranda, and dispositive motions; preparing correspondence and discovery demands and responses; and directly communicating with the clients of the attorneys.

Although respondent denied having given any legal advice to clients during his term of suspension, the record reflects that, in connection with his work for Cecere, respondent advised two of Cecere's New York clients, via e-mail, that they had a potential "cause of action" against an individual who had mismanaged an estate.

Moreover, in connection with his work for DeVito, respondent advised the petitioner of an expungement application, via e-mail, that he was "confident"

that they could convince "the prosecutor's office that you're entitled to an expungement—and if for some reason, they continue to object, then I'm confident that the Court will overrule their objection." Additionally, in connection with DeVito's representation of the seller of a commercial property encumbered by a mortgage, respondent advised the client, via e-mail, that "we're definitely underwater if you include the whole broker's commission, but that will not hold up at the closing."

Respondent argued that his conduct did not constitute the practice of law because, in his view, the practice of law includes "making appearances" or "giving legal advice to clients." Rather, respondent characterized his activities as the work of an "experienced secretary" or "law clerk" whose work was closely reviewed and supervised by a licensed attorney.

Respondent's argument, however, fails to recognize that, although the "'practice of law does not lend itself to [a] precise and all-inclusive definition,' it is clear that the 'practice of law' is not limited to litigation, 'but extends to legal activities in many non-litigious fields.'" State v. Rogers, 308 N.J. Super. 59, 66 (App. Div. 1998) (alteration in original) (quoting N.J. State Bar Ass'n v. Northern New Jersey Mortg. Assoc., 32 N.J. 430, 437 (1960)), certif. denied, 156 N.J. 385 (1998). In that vein, "[o]ne is engaged in the practice of law whenever legal knowledge, training, skill, and ability are required." In re

Jackman, 165 N.J. 580, 586 (2000).

Here, respondent unquestionably utilized his legal knowledge, experience, and skill in connection with his work for the five New Jersey law firms. Among other substantive work, respondent provided legal advice to clients of Cecere and DeVito, assisted a young lawyer employed by Heitmann in reviewing an answer to determine if defenses or counterclaims were available, and drafted for Santo Alampi two complaints and a brief in support of a towing company's application to compel a municipality to renew a certificate of occupancy. Far from the work of an experienced secretary or law clerk – as he argued – respondent's work required legal knowledge and skill possessed only by that of an attorney. The fact that respondent performed the legal work for the direct benefit of the lawyers who had employed him is irrelevant. Rule 1:20-20(b)(1) prohibited respondent from practicing law "in any form," regardless of whether he did so as a principal or as an employee of another.

Additionally, we reject respondent's position that In re Opinion No. 24 of Comm. on Unauthorized Practice of Law, 128 N.J. 114 (1992), governed his conduct during his suspension. In respondent's view, the Court's opinion in Opinion No. 24 concerning the regulation of paralegals serving as independent contractors was analogous to his conduct because, like a paralegal, he was a "non-attorney" whose work was supervised by a licensed attorney. Respondent's

argument, however, fails to recognize that he was not a "non-attorney" paralegal but rather a suspended attorney whose conduct was governed by the express requirements of R. 1:20-20, which are inapplicable to paralegals. (Emphasis added).

We further reject respondent's claimed reliance on In re Mitchell, 901 F.2d 1179 (1990), wherein the Third Circuit Court of Appeals held that attorneys suspended by the bar of that court could perform a limited scope of work in that jurisdiction under the supervision of an attorney in good standing. As the special master correctly observed, respondent could not have held a "credible belief" that a disciplinary decision governing the ethics rules of a federal court could supersede the strictures of R. 1:20-20 governing suspended attorneys in New Jersey. Indeed, as the Third Circuit itself expressly recognized in Mitchell, although some jurisdictions allow "suspended attorneys to work as clerks," other jurisdictions, such as "Illinois and New Jersey," prohibit "a suspended attorney [from working] as a law clerk." Id. at 1185-86.

Moreover, respondent violated RPC 8.4(b) by practicing law while suspended, conduct which, in New Jersey, constitutes a criminal offense. Specifically, N.J.S.A. 2C:21-22(b) states, in relevant part, that "[a] person is guilty of a crime of the third degree if the person knowingly engages in the unauthorized practice of law and . . . [d]erives a benefit."

Here, respondent engaged in the third-degree unauthorized practice of law by continuing to practice law, for nearly eight years, while under a term of suspension, resulting in a $369,110.26 pecuniary benefit. During that timeframe, respondent was on actual notice that R. 1:20-20 prohibited him from engaging in the practice of law in any form. Indeed, respondent received such notice not only from the Court's November 2009 and 2016 suspension Orders expressly requiring that he comply with R. 1:20-20, but also from the OAE's May 19, 2017 letter objecting to his petition for reinstatement based on his continued practice of law while suspended. Despite such notice, respondent knowingly continued to engage in the unauthorized practice of law until March 2018, approximately ten months after the OAE had filed its objection letter.

The fact that respondent was not formally convicted of any crime is irrelevant to our finding that respondent engaged in criminal conduct. See In re Gallo, 178 N.J. 115, 121 (2003) (the scope of disciplinary review is not restricted, even though the attorney was neither charged with nor convicted of a crime). See also In re McEnroe, 172 N.J. 324 (2002) (attorney found to have violated RPC 8.4(b), despite not having been charged with or found guilty of a criminal offense), and In re Nazmiyal, 235 N.J. 222 (2018) (although an attorney was not charged with, or convicted of, violating New Jersey law surrounding the practice of debt adjustment, the attorney was found to have violated RPC

8.4(b)).

Respondent also violated RPC 8.4(d) by defying the Court's November 2009 and 2016 Orders suspending him from the practice of law and requiring that he comply with R. 1:20-20.

Respondent violated R. 1:20-20 by not only engaging in the practice of law while suspended for nearly eight years, but also by procuring legal business and sharing in legal fees with the attorneys, as R. 1:20-20(b)(6) and (13), respectively, prohibit.

Specifically, in connection with his work for Cecere, respondent stipulated that Cecere would have testified that respondent had encouraged him to represent Elizabeth Lee in connection with her intent to appeal a Superior Court Order to the Appellate Division. Following Cecere and Lee's execution of a retainer agreement, respondent further stipulated that Cecere would have testified that he and respondent had agreed to "split" Lee's "funds evenly."

In connection with his work for DeVito, respondent referred his former client, Anthony Fortino, who had been named as a defendant in a lawsuit, to DeVito for representation. Although DeVito did not provide respondent with a "flat" referral fee, he paid respondent an elevated $150 hourly rate for his work on the matter.

Additionally, respondent violated R. 1:20-20(b)(8) by failing to modify his publicly viewable LinkedIn profile page in which he continued to hold himself out as an "attorney at law" at the "Law Office of Dennis J. Oury." Indeed, respondent failed to remove the false reference to his good standing as a New Jersey attorney even after the OAE had alerted him to the deceptive listing, during his November 2018 demand interview. To date, that profile remains active.

Finally, respondent violated RPC 8.4(c) by misrepresenting to Heitmann and Cecere that he was permitted to perform legal work while suspended.

Specifically, at the outset of his employment with Heitmann, respondent advised Heitmann that he had discovered case law regarding suspended or disbarred attorneys working for law firms. On October 16, 2014, Heitmann sent respondent an e-mail requesting that he provide the relevant case law. Later that same day, respondent provided Heitmann with a copy of the Court's opinion in In re Opinion No. 24, which, as previously discussed, concerns the regulation of independent contractor paralegals. In contrast to his representations to Heitmann, Opinion No. 24 in no way governs the conduct of suspended attorneys, who are instead subject to the strictures of R. 1:20-20. As respondent stipulated, Heitmann would have testified that respondent had "misrepresented" that he discovered "case law" standing for the proposition "that it was acceptable

for a disbarred attorney to work in a law firm."

Additionally, at the outset of his employment with Cecere, respondent misrepresented to Cecere that, although he had "voluntarily surrendered his law license," he still could "clerk" for him by performing "back room work." R. 1:20-20(b)(1) prohibited respondent from practicing law as an employee or "clerk" of another attorney. Respondent, however, failed to advise Cecere of that Rule and, instead, attempted to assure Cecere by disclosing that he was "clerking" for other firms.

Respondent further violated RPC 8.4(c) by failing to advise DeVito, Heitmann, and Carmine and Santo Alampi of the OAE's May 19, 2017 letter objecting to his petition for reinstatement for providing legal services during his suspension. Although DeVito, Heitmann, and Carmine and Santo Alampi continued to employ respondent following the OAE's May 2017 objection letter, respondent claimed, during his January 2018 demand interview, that he did not share the OAE's objection letter with those attorneys because, in his view, the OAE's objection "just [didn't] make sense to me." Rather than advise the attorneys that the OAE had objected to his reinstatement based on his continued practice of law while suspended, respondent advised Carmine Alampi only that his petition for reinstatement was "pending."

We determine to dismiss the remaining RPC charges.

Specifically, the OAE alleged that respondent violated RPC 1.16(a) by representing multiple clients during his term of suspension. Generally, RPC 1.16(a) prohibits a lawyer from representing a client if the representation will result in a violation of the RPCs or other law.

Here, although respondent performed a variety of legal services during his term of suspension for the attorneys who had employed him, there is no clear and convincing evidence that respondent had engaged in the exclusive and direct representation of a client. Specifically, it is unclear whether respondent and any of the clients of the attorneys had entered into an aware, consensual relationship in which they viewed respondent as their attorney. See In re Palmieri, 76 N.J. 51, 58, 60 (1978) (noting that an attorney-client relationship must be "an aware, consensual relationship" wherein "there must be some act, some word, some identifiable manifestation that the reliance on the attorney is in his professional capacity"). Given the lack of clear and convincing evidence that respondent entered into any attorney-client relationships, we determine to dismiss the RPC 1.16(a) charge as a matter of law.

The OAE also alleged that respondent violated RPC 8.1(b) by willfully failing to comply with the obligations imposed upon him, as a suspended attorney, pursuant to R. 1:20-20, which, in the OAE's view, constitutes a per se violation of RPC 8.1(b).

R. 1:20-20(c) provides that the "[f]ailure to comply fully and timely with the obligations of this Rule and file the affidavit of compliance required by paragraph (b)(15) within the 30-day period . . . . shall . . . constitute a violation of RPC 8.1(b) . . . and RPC 8.4(d)."

Based on the plain language of R. 1:20-20(c), a per se violation of RPC 8.1(b) occurs only when an attorney violates the provisions of R. 1:20-20 and fails to file the required affidavit of compliance required by R. 1:20-20(b)(15). (Emphasis added). Here, because the OAE did not charge respondent with failing to timely file his R. 1:20-20 affidavit of compliance, we determine to dismiss RPC 8.1(b) charge as a matter of law. Moreover, respondent's prolonged practice of law while suspended, in defiance of R. 1:20-20 and the Court's suspension Orders, is more appropriately addressed by the RPC 5.5(a)(1), RPC 8.4(b), and RPC 8.4(d) charges.

In sum, we find that respondent violated RPC 5.5(a)(1); RPC 8.4(b); RPC 8.4(c); and RPC 8.4(d). We dismiss, as a matter of law, the charges that respondent violated RPC 1.16(a) and RPC 8.1(b). The sole issue left for our determination is the appropriate quantum of discipline for the totality of respondent's misconduct.

The crux of respondent's misconduct is his extensive practice of law while suspended, which spanned nearly eight years, during which he performed legal services for five separate law firms in connection with dozens of client matters.

Attorneys who practice law while suspended have received discipline ranging from a lengthy term of suspension to disbarment, depending on the presence of other misconduct, the attorney's disciplinary history, and aggravating or mitigating factors. See, e.g., In re Phillips, 224 N.J. 274 (2016) (one-year suspension for attorney who stipulated that, while suspended, he had secured consent to an adjournment of a matrimonial motion that was to be heard during the term of suspension, and assisted the client in the matter; the attorney claimed that he had engaged only in "secretarial duties," including (1) securing consent to the adjournment, (2) typing the letter requesting the adjournment for the pro se adversary's signature, which the adversary then transmitted to the court, at the attorney's direction, (3) delivering "paperwork" to his client at the courthouse prior to the hearing, (4) preparing his client's cross-motion, and (5) drafting a certification to the court wherein he acknowledged assisting his client with the adjournment and her cross-motion; we observed that, regardless of the attorney's characterizations of the tasks he performed, he clearly practice law while suspended; in aggravation, we weighed the attorney's contempt for his ethics obligations and his extensive prior discipline, including an admonition for

the unauthorized practice of law in Nevada, two censures, in default matters, for lack of diligence, failure to communicate with clients, and failure to cooperate with disciplinary authorities, and a three-month suspension, in two consolidated default matters, for practicing law while suspended); In re Choi, 249 N.J. 18 (2021) (two-year suspension for attorney who, following his indefinite suspension, in New York, for federal criminal convictions for money laundering and submitting false statements to federal authorities, represented a client, in New York state court, where he falsely certified that he was admitted to practice in New York; the attorney also maintained a law firm website that improperly claimed that he was admitted to practice in New York; finally, the attorney failed to comply with New York's affidavit of compliance rule for suspended or disbarred attorneys); In re Boyman, 236 N.J. 98 (2018) (three-year suspension for attorney, in a default matter, who, for more than four years following his temporary suspension, represented borrowers in nineteen predominately commercial real estate transactions involving the same title company; when the title company discovered the attorney's suspended status, the attorney misrepresented to the title company that he had been restored to practice; additionally, despite the OAE's numerous attempts, spanning almost nine months, seeking the attorney's written reply to the ethics grievance, the attorney failed to respond, despite acknowledging receipt of the OAE's letters in a

telephone conversation; in aggravation, we weighed the attorney's 2010 and 2014 censures, in default matters, in which he also failed to cooperate with disciplinary authorities; we also weighed the fact that the attorney's misconduct had continued, unabated, for four years, in numerous high-value matters); In re Kim, __ N.J. __ (2022), 2022 N.J. LEXIS 1068 (attorney disbarred, in a default matter, for practicing while suspended for almost three-and-a-half years following his temporary suspension, in connection with sixteen small business loan closings before the United States Small Business Administration (the SBA); during each loan closing, the attorney falsely certified that he maintained an active New Jersey law license; the SBA discovered the attorney's suspension and determined that it would no longer guarantee the client's loans until it had completed an internal review of the attorney's illicit behavior; the attorney also ignored the OAE's communications, spanning several months, which required him to reply to the SBA's ethics grievance; in recommending the attorney's disbarment, we weighed, in aggravation, the fact that the attorney's conduct jeopardized his client's standing before the SBA and imperiled the closing of two pending small business loans; we also weighed, in aggravation, the attorney's prior three-year suspension, in 2020, also for practicing law while suspended, and his contempt for the attorney disciplinary system by refusing to

answer the allegations made against him and by continuing, for years, to practice law while suspended).

Here, like the disbarred attorney in Kim, respondent knowingly practiced law while suspended, for nearly eight years, in connection with dozens of client matters. During that timeframe, respondent misrepresented to at least two of the attorneys who had employed him that he was permitted to perform legal services for their law firms. However, as respondent certified to the Court in his July 2010 R. 1:20-20 affidavit of compliance, he knew, based on the Court's November 2009 temporary suspension Order, that he was prohibited from practicing law in any form, regardless of whether he did so as a principle or as an employee of another.

Rather than abide by his sworn statements to the Court in his R. 1:20-20 affidavit, respondent defied the terms of his suspension by performing more than 1,900 hours of legal work, for five separate New Jersey law firms, resulting in almost $370,000 in total earnings. Respondent utilized his skills and experiences as an attorney in performing the legal work, which included counseling clients of the attorneys; drafting briefs, motions, and memoranda of law; assisting a young attorney in preparing pleadings; and preparing and responding to discovery.

Moreover, respondent profited from his illicit behavior by increasing his hourly billing rate, under questionable circumstances, in connection with at least two client matters. Specifically, respondent increased his hourly billing rate by $25 in connection with his work on Anthony Fortino's matter, a former client whom respondent improperly had referred to DeVito for representation, in violation of R. 1:20-20(b)(6). Respondent also increased his hourly billing rate by $10 in connection with his work for one of Chewcaskie's clients who was appearing before the Borough of Bergenfield zoning board. As respondent stipulated, Chewcaskie would have testified that respondent had increased his billing rate based on his prior experience serving as the Borough's attorney, a municipality which respondent previously had criminally conspired to defraud, in Oury I.

In defense of his misconduct, respondent has consistently claimed that his work did not constitute the practice of law based solely on his personal view that the practice of law is confined to appearing in courts and providing legal advice to clients. Additionally, relying on inapplicable state and federal case law regarding the regulation of independent paralegals and attorneys suspended by the Third Circuit Court of Appeals, respondent argued that he was permitted to work as a "non-lawyer" paralegal.

Respondent, however, failed to recognize that, during his term of suspension, he was not a "non-lawyer" but rather a suspended attorney prohibited from practicing law in any form. As the special master correctly observed, respondent's arguments amounted to nothing more than an attempt to create "convenient and contrived methods of deniability." Specifically, respondent conflated a federal court's disciplinary decision and our Court's regulation of independent paralegals "with the much more restrictive nature of" R. 1:20-20, which, as respondent knew, based on multiple suspension Orders and his own affidavit of compliance, solely governed his conduct during his suspension.

Indeed, the Third Circuit itself recognized, in Mitchell, that a suspended New Jersey attorney is expressly prohibited from working "as a law clerk." Mitchell, 901 F.2d at 1185-85. We also have rejected the "mere paralegal" defense based on the plain language of R. 1:20-20(b)(1). See In the Matter of Edan E. Pinkas, DRB 22-001 (June 23, 2022) at 32-33 (noting, based on R. 1:20-20(b)(1), that the Court "has expressed its disapproval of using suspended and disbarred attorneys as law firm staff"), so ordered, 253 N.J. 227 (2023). Regardless of how respondent characterized his conduct, his behavior occurred in derogation of multiple suspension Orders, placed the public at risk, and

minimized the severity of his criminal acts that led to his term of suspension in Oury I.

Moreover, as the special master emphasized, since his criminal convictions in Oury I for conspiring to defraud the Borough of Bergenfield and for failing to file a federal income tax return, respondent's penchant for dishonesty has continued, unbated, "whenever it suits his needs." Specifically, following his receipt of the OAE's May 19, 2017 letter objecting to his reinstatement for providing legal services during his suspension, respondent failed to terminate his employment with the attorneys or to advise them of the OAE's objection. Rather than reassess his employment arrangements with the attorneys, respondent rejected the OAE's reliance on R. 1:20-20, continued to practice law while suspended, for an additional ten months, and refused to disclose the OAE's letter to the attorneys based on his unfounded personal opinion that the OAE's objection "just [didn't] make sense to me."

Worse still, during his January 2018 demand interview, when the OAE confronted respondent with the fact that R. 1:20-20(a) expressly prohibits a New Jersey attorney from employing a suspended attorney in any capacity, respondent dismissed the OAE's position and replied that he did not "know whether I agree with you." Following his January 2018 demand interview,

respondent failed to end his business relationship with DeVito, until March 2018.

As the special master found, respondent's crime of dishonesty in Oury I followed by his prolonged practice of law while suspended in the instant matter demonstrates his "effortless proclivity" to violate the Rules of Professional Conduct for his own personal financial gain. Although respondent knew that R. 1:20-20 governed his conduct while suspended, respondent instead chose to defy the Court's suspension Orders, thumb his nose at the OAE's warnings regarding his conduct, and concoct his own theories regarding the definition of the practice of law and the jurisprudence that governed his conduct to attempt to avoid accountability.

"[A]ttorneys who are privileged to practice law in the State of New Jersey must be of good character and demonstrate respect for the authority of courts and attorney disciplinary systems." In the Matter of Rhashea Lynn Harmon, DRB 21-288 (March 29, 2022) at 35, so ordered, __ N.J. __ (2022), 2022 N.J. LEXIS 658. In our view, based on respondent's prolonged practice of law while suspended, his complete indifference to his ethical obligations, and his demonstrated contempt for the terms of his suspension and the disciplinary system designed to protect the public and preserve confidence in the bar, we find that respondent represents a danger to the public and, thus, is "[in]capable of

meeting the standards that must guide all members of the profession." In re Cammarano, 219 N.J. 415, 421 (2014) (citing In re Harris, 182 N.J. 594, 609 (2005)). Because the imposition of a three-year term of suspension has not deterred him from committing further misconduct, we determine to recommend that respondent be disbarred in order to effectively protect the public and to preserve confidence in the bar.

Vice-Chair Boyer and Members Joseph and Rodriguez voted to recommend the imposition of an indeterminate suspension.

Member Menaker was recused.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Hon. Maurice J. Gallipoli, A.J.S.C. (Ret.),
Chair

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

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Dennis J. Oury
Docket No. DRB 23-105

Argued: June 21, 2023

Decided: October 27, 2023

Disposition: Disbar

Members	Disbar	Indeterminate Suspension	Recused
Gallipoli	X		
Boyer		X	
Campelo	X		
Hoberman	X		
Joseph		X	
Menaker			X
Petrou	X		
Rivera	X		
Rodriquez		X	
Total:	5	3	1

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