SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 23-254
District Docket No. XIV-2023-0233E

In the Matter of Patrick Michael Megaro
An Attorney at Law

Argued
March 21, 2024

Decided
May 1, 2024

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

Respondent appeared pro se.

Table of Contents

Introduction

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

This matter was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (the OAE), pursuant to R. 1:20-14(a), following the issuance of an April 27, 2021 order by the Disciplinary Hearing Commission of the North Carolina State Bar (the DHC), suspending respondent for five years.

The OAE asserted that, in the North Carolina matter, respondent was determined to have violated the equivalents of New Jersey RPC 1.1(a) (engaging in gross neglect); RPC 1.3 (lacking diligence); RPC 1.5(a) (two instances – charging an unreasonable fee); RPC 1.7(a)(2) (engaging in a concurrent conflict of interest); RPC 1.8(a) (engaging in an improper business transaction with a client); RPC 1.8(e) (providing financial assistance to a client in connection with pending or contemplated litigation); RPC 1.15(a) and (c) (commingling); RPC 3.3(a)(1) (making a false statement of material fact to a tribunal); RPC 8.4(a) (violating the Rules of Professional Conduct); RPC 8.4(c) (four instances – engaging in conduct involving dishonestly, 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 grant the motion for reciprocal discipline and recommend to the Court that respondent be disbarred.

Respondent earned admission to the New Jersey and Florida bars in 2004; to the New York bar in 2003; to the North Carolina bar in 2013; to the Texas bar in 2014; and to the Washington bar in 2015. During the relevant timeframe, he maintained a practice of law in Orlando, Florida.

Respondent has no disciplinary history in New Jersey.

On November 4, 2015, the Grievance Committee of the North Carolina State Bar reprimanded respondent for assisting an out-of-state law firm in the unauthorized practice of law and for misleading his clients into believing that he could provide legal services in North Carolina via the out-of-state law firm, in violation of North Carolina RPC 5.5(f) (assisting another in the unauthorized practice of law) and North Carolina RPC 7.1(a) (engaging in false or misleading communications about the lawyer or the lawyer's services).

Effective September 22, 2022, the Supreme Court of Washington suspended respondent for five years in connection with his misconduct underlying this matter. In re Disciplinary Proceeding Against Megaro, 2022 Wash. LEXIS 499 (2022).

Effective April 12, 2023, the Supreme Court of New York, Appellate Division, Second Department disbarred respondent in connection with his

misconduct underlying this matter. In re Megaro, 215 A.D.3d 67 (2023).[1]

Effective August 25, 2023, the Supreme Court of Texas, Board of Disciplinary Appeals, suspended respondent for five years, on consent, in connection with his misconduct underlying this matter. In the Matter of Patrick Michael Megaro, State Bar Card No. 24091024, 86 Texas Bar Journal 737 (2023).

Finally, effective October 21, 2023, the Supreme Court of Florida imposed a "disciplinary revocation" of respondent's admission to the Florida bar in connection with his misconduct underlying this matter. In re Disciplinary Revocation of Megaro, 2023 Fla. LEXIS 1457 (2023).[2]

We now turn to the facts of this matter.

Facts

On March 1, 2015, stepbrothers Henry Lee McCollum and Leon Brown retained respondent in connection with their attempt to obtain compensation

[1] In New York, a disbarred attorney "may apply for reinstatement to practice after the expiration of seven years from the entry of the order of disbarment." 22 NYCRR § 1240.16(c)(1).

[2] In Florida, "disciplinary [revocation] is tantamount to disbarment." Florida Bar v. Hale, 2000 Fla. LEXIS 1290 (Fla. 2000). Pursuant to Fla. Bar Reg. R. 3:7.10, a disbarred attorney may seek readmission to the Florida bar "within [five] years after the date of disbarment or such longer period of time as the court might determine in the disbarment order." In respondent's matter, the Florida Supreme Court permitted him leave to seek readmission "after five years." Megaro, 2023 Fla. LEXIS 1457.

from the State of North Carolina for their wrongful convictions for first-degree rape and murder. McCollum and Brown spent nearly thirty-one years in prison before being exonerated by newly conducted DNA testing of evidence found at the crime scene. Based on that DNA testing, both men received pardons of innocence from the governor of North Carolina. The facts leading up to respondent's representation of the stepbrothers are material to his misconduct underlying this matter.

Background and Post-Conviction Proceedings

On October 25, 1984, McCollum and Brown were convicted, following a jury trial, of raping and murdering an eleven-year-old girl; consequently, they were sentenced to death by the Superior Court of Robeson County, North Carolina (the Robeson County Superior Court).[3] McCollum and Brown, who were nineteen and fifteen years old, respectively, at the time of the crime and ensuing investigation, were coerced into confessing to these crimes, which they did not commit. Based almost entirely on their coerced confessions, the stepbrothers were convicted and spent more than thirty years in prison, including

[3] The DHC's April 2021 order states that McCollum and Brown were convicted in 1983. However, they were tried during the October 8, 1984 criminal session of the Robeson County Superior Court, and the jury returned its verdict on October 25, 1984. State v. McCollum, 364 S.E.2d 112 (N.C. 1988).

decades on death row.

In 1988, the Supreme Court of North Carolina granted McCollum and Brown new trials based on the trial judge's failure to advise the jury of its obligation to consider each defendant's guilt or innocence separately. State v. McCollum, 364 S.E.2d 112, 115 (N.C. 1988).

In 1991, McCollum was retried in the Superior Court of Cumberland County, North Carolina (the Cumberland County Superior Court), following which he was convicted of first-degree rape and murder and again sentenced to death. During the penalty phase, McCollum's lawyers presented evidence that he had an intellectual disability and was unable to appreciate the consequences of his actions. Following his lawyers' presentation, the jury found, in mitigation, that McCollum was "under the influence of a mental or emotional disturbance;" "mentally retarded;"[4] "easily influenced by others;" and had "difficulty thinking clearly when under stress." State v. McCollum, 433 S.E.2d 144, 161 (N.C. 1993). Nevertheless, the jury determined to recommend that McCollum be sentenced to death, and the Cumberland County Superior Court sentenced McCollum in accordance with the jury's recommendation. McCollum, 433

[4] In 2010, New Jersey eliminated the outdated references to "mental retardation" and "mentally retarded" in all future state statutes and legislation and replaced them with "intellectual disability," "intellectually disabled," and "developmental disability" N.J.S.A. 30:4-25.1. Thus, references to mental retardation throughout our decision are taken directly from the North Carolina disciplinary record.

S.E.2d at 148. On July 30, 1993, the North Carolina Supreme Court affirmed McCollum's convictions and death sentence. Id. at 164. One year later, on June 30, 1994, the Supreme Court of the United States denied McCollum's petition for a writ of certiorari. McCollum v. N.C., 512 U.S. 1254 (1994).

Meanwhile, in 1992, Brown was retried in the Superior Court of Bladen County, North Carolina (the Bladen County Superior Court), and convicted of first-degree rape and sentenced to life in prison. The Bladen County Superior Court's judgment recommended that Brown receive psychological treatment in prison. On November 2, 1993, the Court of Appeals of North Carolina affirmed Brown's conviction and sentence. State v. Brown, 436 S.E.2d 163 (N.C. App. 1993). In its opinion, the Court of Appeals acknowledged the evidence of Brown's sub-average intelligence but concluded that the trial court's findings of fact supported its determination that Brown had voluntarily, knowingly, and intelligently waived his Miranda rights. Id. at 167-168. On February 10, 1995, the North Carolina Supreme Court affirmed the decision of the Court of Appeals. State v. Brown, 453 S.E.2d 165 (N.C. 1995).

For many years during his wrongful imprisonment, McCollum was represented, pro bono, by Ken Rose, Esq., and Vernatta Alston, Esq., attorneys with the Center for Death Penalty Litigation, along with other attorneys from the Wilmer Hale law firm, who, likewise, never charged McCollum legal fees.

During the North Carolina ethics hearing, Rose testified that he had known McCollum for more than twenty years, having visited him many times on death row. During those visits, Rose spoke with McCollum about his unwavering claim of innocence and was aware of his long-standing history of intellectual disabilities. Rose testified that McCollum suffered from severe anxiety, given that he twice had been convicted of murder and sentenced to death. Further, while serving time on death row, many inmates with whom McCollum had developed close relationships had been executed. Alston similarly testified that she met with McCollum many times throughout her representation and, after her first meeting with him, it was apparent that he suffered from mental deficiencies.

On April 3, 1995, Rose filed, in the Robeson County Superior Court, a motion for appropriate relief (MAR)[5] on McCollum's behalf. In support of the MAR, Rose argued that McCollum's confession was unreliable due to his intellectual disabilities. The MAR was supported by the opinions of three psychologists and one neuropsychologist who concluded, among other things, that McCollum was "mentally retarded;" had poor reading and listening comprehension; was highly suggestible and incapable of understanding the consequences of his actions; and demonstrated weakness in his ability to plan

[5] Similar to a New Jersey motion for post-conviction relief, a North Carolina MAR is an application made after judgment to correct errors that occurred before, during, or after a criminal trial or proceeding. N.C. Gen. Stat. § 15A-1420.

and carry out complex activities. The MAR, however, was never scheduled for a hearing.

Seven years later, in January 2002, Rose filed an amended MAR in the Robeson County Superior Court, seeking relief, pursuant to N.C. Gen. Stat. § 15A-2005,[6] based on McCollum's "subaverage intellectual functioning and significant limitations in adaptive functioning." In support of the amended MAR, Rose submitted updated affidavits from the neuropsychologist and one of the psychologists who had submitted opinions in connection with the 1995 MAR.

In the neuropsychologist's affidavit, she noted that her 1995 testing of McCollum had revealed "significant subaverage intellectual functioning that placed him in the lowest [two to three] percent of the population in overall functioning." Additionally, the neuropsychologist stated that McCollum scored "in the lowest one-half of one percent of the population" in connection with his "verbal processing" abilities and "in the lowest 0.6 percent of the population on the reading and arithmetic portions of the test." The neuropsychologist concluded that McCollum suffered "substantial defects in two or more areas of adaptive functioning including academics and communication skills."

[6] N.C. Gen. Stat. § 15A-2005(b) prohibits a defendant with an intellectual disability from being sentenced to death.

In the psychologist's affidavit, he stated that McCollum "had a history of subaverage scores on intellectual testing" and suffered from "adaptive functioning deficits."

During the North Carolina ethics hearing, Rose claimed that no hearing was conducted in connection with his 2002 amended MAR.

On August 26, 2014, Rose and Alston filed another MAR in the Robeson County Superior Court, this time asserting that McCollum was innocent based, in part, on DNA testing of a cigarette butt found at the crime scene. The DNA discovered on the cigarette butt was consistent with that of another inmate serving a life sentence for murdering a woman in the same vicinity that the child victim had been killed, and just one month thereafter. Based on the DNA test results, Brown filed a similar MAR. The Robeson County District Attorney did not oppose the motions and, in fact, months prior to respondent's representation of McCollum and Brown, had sent a letter encouraging the North Carolina Governor to pardon the stepbrothers.

On September 2, 2014, the Robeson County Superior Court granted the MARs and vacated McCollum's and Brown's convictions. After serving nearly thirty-one years in prison for crimes they did not commit, both men were released from incarceration and went to live with their sister, Geraldine Brown Ransom.

Petitions for Pardons of Innocence

On September 11, 2014, following McCollum and Brown's release from prison, Rose and Alston filed pro bono petitions for pardons of innocence on their behalf with the North Carolina Governor. The Robeson County District Attorney publicly supported the petitions. Meanwhile, McCollum and Brown's wrongful convictions caught the attention of the media, and the stepbrothers began receiving charitable donations from various sources.

In January 2015, while the pardon petitions remained pending, Kim Weekes and Deborah Pointer – non-lawyers who referred to themselves as "consultant advisors" – contacted Ransom, claiming that they could help McCollum and Brown. Ransom, who was not the stepbrothers' legal guardian, agreed to allow Weekes and Pointer to assist the stepbrothers with the pardon process and to serve as their "activist/advocate consultants." On February 2, 2015, Weekes and Pointer sent Rose a letter notifying him that they were authorized to represent McCollum and Brown "in all and any of the Civil/Litigation of the Pardon/Fundraising of NC matters."

Respondent's Retention

In February 2015, nearly six months after the men were released from prison, Weekes and Pointer contacted respondent regarding his potential representation of McCollum and Brown.[7] In his discussions with Pointer, respondent explained how he would handle the representation, emphasizing that the pardons of innocence were the initial priority, followed by a petition with the North Carolina Industrial Commission (the NCIC)[8] and the filing of a civil lawsuit. Following their discussions, Pointer scheduled a meeting between respondent and McCollum and Brown.

In preparation for the meeting, respondent reviewed media coverage surrounding McCollum and Brown's wrongful convictions and the publicly available transcripts of the MAR hearings. The DHC found that even "minimal research" would have revealed McCollum's and Brown's "significant intellectual disabilities." Indeed, the transcript of the September 2, 2014 MAR

[7] Previously, in September 2014, three other attorneys (Mike Lewis, Esq., Mark Rabil, Esq., and Tom Howlett, Esq.) had agreed to represent McCollum and Brown, on a contingent basis, in connection with civil litigation arising from the alleged misconduct of law enforcement in prosecuting McCollum and Brown. The record before us, however, does not reflect whether that representation was ever memorialized before respondent assumed McCollum and Brown's representation. Nevertheless, during the North Carolina ethics hearing, Alston testified that, for approximately one year, she had worked with Howlett by providing him with records. In early 2015, however, Howlett informed Alston that he had been removed from the case and that he did not "know what was happening."

[8] Individuals erroneously convicted of felonies may apply to the NCIC for compensation. See N.C. Gen. Stat. § 148-82.

hearing revealed that both men were unable to understand their coerced confessions.

On February 28, 2015, prior to his meeting with McCollum and Brown, Pointer provided the following "warn[ing]" to respondent:

> Please make sure you do not discuss monetary amounts in front of the brothers as per their sister. [McCollum] believes he understands monetary things which he does not. He has a local girlfriend now and is promising her all kinds of things. [Ransom] will give her brothers a monthly stipend. In fact [Weekes] and I are recommending a monthly stipend to the family after we have them moved, settled, etc. from cash advance. Let's talk before you meet tmw.
>
> [Ex.I¶27.][9]

During the North Carolina ethics hearing, respondent testified that, when he met the stepbrothers on March 1, 2015, he was "disturbed" by their living conditions based on his observation that they were not "fit for human habitation." Further, respondent stated the stepbrothers were in "dire straits," struggling with "serious financial problems," and unable to pay their bills. During the meeting, respondent stated that McCollum was cooperative, able to answer his questions, and "presented to me as no different than any other client I have represented in the past 20 years." Similarly, "Brown presented to me as

[9] "Ex." refers to the exhibits appended to the OAE's November 21, 2023 brief in support of its motion for reciprocal discipline.

no different than any other client who had mental illness issues and was medicated."

At the conclusion of their March 1, 2015 meeting, respondent, knowing that McCollum and Brown suffered from serious intellectual disabilities, entered into a written contingent fee agreement (the Fee Agreement) with the stepbrothers. Respondent claimed that he reviewed the Fee Agreement with the stepbrothers "paragraph by paragraph" and "br[oke] it down . . . in the simplest language possible." In respondent's view, McCollum and Brown understood the scope of the Fee Agreement.[10]

The Fee Agreement entitled respondent to a graduated contingency fee ranging from twenty-seven to thirty-three percent of any recovery arising out of the stepbrothers' claims against "Robeson County, the Red Springs Police Department, and the State of North Carolina." Although the pardon and the NCIC petitions were not specifically referenced, respondent testified that the Fee Agreement encompassed all the stepbrothers' efforts to obtain "recovery due to their wrongful incarceration," including "the pardon petition[s], the NCIC award, and a lawsuit that was contemplated."

[10] Ransom also signed the Fee Agreement, claiming that she had power of attorney to act for the stepbrothers in connection with their civil claims. During the North Carolina ethics hearing, respondent maintained that Ransom held power of attorney for McCollum and Brown. However, he conceded that he never received copies of those documents.

The Fee Agreement further stated that McCollum and Brown conveyed to respondent "an irrevocable interest in the net proceeds" of their potential recovery. In that vein, the Fee Agreement provided that, if McCollum and Brown terminated the relationship, "it would not terminate [respondent's] contingency interest in the outcome" and that, "under no circumstances [would respondent be] required to relinquish any part of the contingency fee provided [t]herein in order to accommodate new counsel." Based on that provision, the DHC determined that the Fee Agreement created a "nonrefundable fee."

During the North Carolina ethics hearing, respondent testified that he never had intended for the Fee Agreement to create a nonrefundable "charging lien." Rather, he claimed that, in generating the Fee Agreement, he utilized a "form" agreement that he had discovered "on a Texas website" and "simply changed the names."

At the time he executed the Fee Agreement, respondent knew that Rose and Alston already had filed pardon petitions on McCollum and Brown's behalf. However, he maintained that McCollum and Brown were "extremely unhappy" with how long the pardon process was taking.

On March 2, 2015, one day after his retention, the DHC found that respondent contacted Multi Funding, Inc. (MFI) to obtain immediate litigation funding, via loans, for McCollum and Brown. Respondent told MFI that "[t]his

case reads almost like the script to The Green Mile. [Brown] and [McCollum] moved to Red Springs, NC from NJ with their mother and sister. Both have IQs in the 50s/60s."[11] Meanwhile, on March 2, respondent gave McCollum and Brown a total of $1,000 in cash. Two days later, on March 4, 2015, MFI provided McCollum and Brown each a $100,000 loan, at a nineteen percent interest rate, compounded every six months.[12] Respondent also arranged for Weekes and Pointer to receive their $10,000 fee from the loan proceeds.

Respondent signed at least two pages of the loan documents in which he agreed, "at the close of this case," to fully repay both loans to MFI before McCollum and Brown could receive any distributions. Respondent also signed a document acknowledging that he had explained the terms of the loans to McCollum and Brown, who would not have qualified for their loans had respondent not signed the acknowledgment form.

On March 16, 2015, respondent sent letters to Rose and Howlett, warning both attorneys to never contact McCollum or Brown again and stating that doing so would violate the "rules of ethics" and be "actionable as tortious interference of contract."

---

[11] During the North Carolina ethics hearing, respondent denied having contacted MFI and claimed that Pointer or Weekes contacted MFI to arrange for the loans.

[12] As a result of the MFI loans, McCollum and Brown were able to move to a different home by pre-paying an entire year of rent.

On June 4, 2015, three months after McCollum and Brown had retained respondent, the stepbrothers received their gubernatorial pardons of innocence. Prior to the issuance of the pardons, respondent had engaged in a public relations and social media campaign in support thereof. Specifically, respondent arranged for media outlets to publish information about the stepbrothers, and he coordinated a rally to pressure the Governor's office to issue the pardons. Before the rally, he received notice of an interview with the Governor's counsel's office and, shortly after the interview, the Governor made a televised announcement that he would issue the pardons.

The NCIC Joint Petition for Statutory Damages

On July 10, 2015, one month after the issuance of the pardons, respondent filed a joint petition with the NCIC, seeking compensation for McCollum and Brown, pursuant to N.C. Gen. Stat. § 148-84.[13] Having been pardoned, the stepbrothers were each statutorily entitled to the maximum $750,000 award for their wrongful incarcerations. In support to the joint petition, respondent stated:

[13] N.C. Gen. Stat. § 148-84 allows individuals who have been wrongfully convicted of felonies to apply for compensation from the State of North Carolina. Specifically, following a hearing," the NCIC "shall" issue a monetary award to the claimant if it determines, in relevant part, that the "claimant received a . . . pardon of innocence for the reason that the crime was not committed by the claimant." Such a monetary award must equal $50,000 "for each year . . . of the imprisonment actually served, including any time spent awaiting trial." The monetary award, however, cannot exceed $750,000.

> [a]t all times hereinafter mentioned, both men had and still have limited mental abilities. Mr. McCollum's . . . IQ has been scored at 56, while [Mr.] Brown's IQ has been scored at 54. Both of these IQ scores are within the intellectually disabled range, classified by some as mild retardation.
>
> [Ex.I¶47.]

Respondent performed minimal work in support of the joint petition. In fact, the DHC found that the "attachments to the petition were almost exclusively the work product" of Rose and Alston. During the North Carolina ethics hearing, respondent maintained that his preparation of the petition consisted of "review[ing] the file;" "assembl[ing]" exhibits; "synthesiz[ing]" facts; and "download[ing]" forms. Respondent conducted no discovery or depositions in connection with the petition.

Also, during the North Carolina ethics hearing, Special Deputy Attorney General Marc Sneed testified regarding his extensive experience representing the State before the NCIC, including his involvement with McCollum and Brown's joint petition. Specifically, Sneed observed that the stepbrothers' unopposed petition was "very simple" based upon their prior pardons of innocence.

On September 2, 2015, the NCIC conducted a hearing on McCollum and Brown's petition for statutory compensation. The hearing was brief[14] because McCollum and Brown each were entitled to the maximum $750,000 statutory award and, given their pardons of innocence, there was no dispute concerning the payout. Indeed, the State of North Carolina supported the petition.

In October 2015, the NCIC granted the petition and awarded $750,000 each to McCollum and Brown, totaling $1.5 million. Despite having performed minimal work in furtherance of the unopposed NCIC petition, respondent collected $500,000 in legal fees, representing one-third of the total recovery.

Of the remaining $1 million, respondent repaid each of the stepbrothers' outstanding $110,000 MFI loans (totaling $220,000). Additionally, respondent charged the stepbrothers $21,173.88 in costs that he claimed were associated with the NCIC "process," including costs related to the "pardon process" and Brown's "[]competency proceeding."[15] Respondent also utilized $25,972.14 of the NCIC award to reimburse himself for the various payments he had made to McCollum and Brown between March and September 2015. Some of those payments constituted cash advances for McCollum and Brown's living expenses, including hotel deposits at a resort; a "car travel expense;" a

[14] The hearing transcript consisted of seven pages.

[15] Brown's competency proceeding is detailed below.

"videographer;" and an expense for "Majestic Bus Leasing," which allowed them to visit the Walt Disney World Resort.

On October 21, 2015, respondent disbursed $358,363.28 to McCollum as his net proceeds from the NCIC award.[16] Respondent, however, failed to take any steps to ensure that McCollum could manage the funds, the entirety of which he spent within seven months.[17]

In May 2016, after McCollum had depleted his entire NCIC award, respondent arranged for him to obtain a second MFI loan, this time for $50,000, at an eighteen-percent interest rate compounded every six months. Five months later, in October 2016, respondent assisted McCollum in obtaining a third MFI loan, for $15,000, at the same interest rate.

In connection with both loans, respondent signed attorney acknowledgment forms claiming that he had explained the terms of the loan agreements to McCollum. Additionally, like the $100,000 MFI loans that McCollum and Brown each had received in March 2015, respondent signed two pages of loan documents in which he agreed, "at the close of this case," to fully repay the loans to MFI before McCollum could receive any distributions. The

[16] The DHC determined that, if Rose, Alston, and Howlett had handled the NCIC matter, McCollum would have received the full $750,000 award.

[17] The record before us does not reveal how much of the remaining NCIC award respondent had disbursed to Brown. However, based on the disbursements described by the DHC, it appears that Brown received no more than $372,490.70.

loan contracts further provided that, if McCollum retained new counsel but did not require that attorney to execute a lien on any recovery in favor of MFI, McCollum would be subject to a lawsuit for damages, costs, and legal fees. Had respondent not executed the attorney acknowledgement forms, McCollum would have been ineligible to receive the loans.

On February 1, 2017, respondent's friend, Derrick Hamilton, disbursed, via wire transfer, $30,000 to respondent's attorney trust account (ATA). Of the $30,000, respondent retained $10,000 as a personal loan to himself and disbursed the remaining $20,000 to McCollum as a loan from Hamilton. Respondent, however, failed to transfer the $10,000 in loan proceeds from his ATA to himself and, thus, commingled personal funds with client funds.

During the North Carolina ethics hearing, respondent claimed that, in drafting the $20,000 loan document for McCollum, he "took the exact same language" from the MFI loan agreements by providing Hamilton an "[i]rrevocable lien" on the outcome of McCollum's civil litigation. The only difference between Hamilton's and MFI's loan agreements was that the interest rate on Hamilton's loan was eight percent, compounded every six months.

Ransom Appointed Guardian of Brown

In August 2015, Brown was hospitalized for a mental breakdown and, seven months later, placed in a group home. As a result of Brown's breakdown, on August 17, 2015, respondent filed a petition in the Cumberland County Superior Court seeking to declare Brown incompetent.

In support of the petition, respondent described his personal experience and training on recognizing clients with mental health issues. Respondent also emphasized that Brown's medical records from the North Carolina Department of Corrections demonstrated a clear progression of his mental illness, beginning in 1984 and continuing in severity until his release from incarceration. Respondent also noted that Brown lacked the most "basic life skills necessary to take care of himself." Respondent further explained that, upon his release, Brown had stopped taking medication for his mental illness, was involuntarily committed, and had other admissions to mental health facilities stemming from his inability to make rational decisions concerning his medical care. Moreover, in support of the petition, respondent asserted that:

> Both brothers need assistance with budgeting their monthly allowance because they are unable to understand the concept of paying utility bills and making purchases. One thing is clear: neither Leon Brown nor Henry McCollum have a concept of budgeting or spending limits, nor do they have any experience in managing money, let alone large sums of money.

[Ex.I¶54.]

Respondent recommended that Ransom be appointed guardian, despite her lack of experience and her own financial hardships.

In or around September 2015, the Cumberland County Superior Court appointed Ransom as Brown's guardian. Approximately five months later, in February 2016, the Cumberland County Superior Court removed her as Brown's guardian for mismanaging his money and, on February 26, 2016, appointed J. Duane Gilliam as Brown's new guardian.

Sometime in 2016, following her removal as Brown's guardian, respondent assisted Ramson in obtaining a $25,000 MFI loan, purportedly to pay for Brown's rent. As a consequence of the loan, MFI secured a $25,000 lien against any of Brown's "future recovery." The DHC found that, because Ransom was no longer Brown's guardian, "any rent payments" that she had received from the $25,000 loan "were not for Brown's benefit." During the North Carolina ethics hearing, respondent claimed that he was unaware of Ransom's removal as guardian at the time he procured the loan. The DHC, however, determined that, prior to the loan's procurement, Ranson had informed respondent that she no longer served as Brown's guardian.

Civil Litigation Filed on Behalf of McCollum and Brown

On August 31, 2015, respondent filed a lawsuit, on McCollum and Brown's behalf, in the United States District Court for the Eastern District of North Carolina (the EDNC), pursuant to 42 U.S.C. § 1983. The lawsuit sought damages against the various parties responsible for McCollum and Brown's wrongful convictions, including the Town of Red Springs. In support of their civil claims, respondent retained Dr. Thomas Harbin, a neuropsychologist, to assess McCollum's psychological and behavioral functioning. In his July 28, 2016 report, Dr. Harbin opined that McCollum (1) continued to suffer from post-traumatic stress disorder (PTSD) and intellectual disabilities; (2) remained "anxious, hypervigilant, paranoid, and unable to make everyday decisions;" (3) and exhibited "a profile suggesting that he [would] be overly dependent upon others for decision making" and "be easily influenced and manipulated by others."

During a December 2016 mediation session with the Town of Red Springs, respondent presented a slideshow detailing McCollum's and Brown's intellectual disabilities, including thirty pages of evidence that McCollum was "mentally retarded." Following respondent's presentation, counsel for the Town of Red Springs questioned McCollum's competence to enter into a settlement agreement. Consequently, respondent directed Dr. Harbin to evaluate

McCollum's competency to settle his claims.

On March 8, 2017, Dr. Harbin issued another report, this time concluding, contrary to his earlier opinion, that McCollum was able to manage his own financial and legal affairs and make important decisions concerning himself and his finances.

On April 11, 2017, respondent filed a motion requesting that the EDNC approve a settlement agreement to resolve the stepbrothers' claims against the Town of Red Springs for $1 million ($500,000 each). Respondent also requested that the EDNC approve his thirty-three-percent contingent fee. In support of his application, respondent provided the EDNC with Dr. Harbin's March 8, 2017 report and claimed that (1) McCollum was competent to enter into both the Fee Agreement and the settlement agreement; (2) McCollum had agreed to the settlement; and (3) Brown's new guardian, J. Duane Gilliam, had approved it.

The settlement agreement also provided that the liens securing the MFI loans would be paid out of the settlement proceeds. Thus, after all disbursements, McCollum would have received $178,035.58 in settlement funds, and respondent would have received $403,493.96 in combined fees and costs ($191,578.34 from Brown's $500,000 recovery and $211,915.62 from McCollum's $500,000 recovery). Brown, through his guardian, would have received approximately $300,000.

To justify his entitlement to $403,493.96 in legal fees and costs, respondent represented to the EDNC that he had performed the following work:

> [(i)] counsel represented both [McCollum and Brown] in their successful petitions to the Governor of North Carolina for Pardons of Innocence, which included several meetings with [the] Governor . . . and/or his staff, submission of documents and information to the Governor's Office, and several meetings with [McCollum and Brown]; (ii) counsel represented both [McCollum and Brown] in their successful petitions for statutory compensation for wrongful imprisonment [before the NCIC], which included preparation of the petition, appearance [before] the [NCIC], and presentation of evidence at the hearing; (iii) counsel petitioned the Cumberland County Superior Court for a guardian for Leon Brown and appeared in that court at a hearing and presented evidence.
>
> [Ex.I¶98.]

Respondent, however, already had been compensated for such services by virtue of his $500,000 contingent fee that he had received from McCollum and Brown's combined $1.5 million NCIC award. In fact, respondent's motion to approve the settlement made no mention of his prior $500,000 contingent fee. Similarly, respondent failed to inform the EDNC that prior counsel had completed and filed the stepbrothers' pardon petitions.

On May 5, 2017, the Honorable Terrance Boyle, U.S.D.J., conducted a hearing regarding the proposed settlement, given his concern regarding McCollum's and Brown's competency to enter into the agreement. During the

hearing, Judge Boyle referenced Justice Harry Blackmun's 1994 dissenting opinion from the United States Supreme Court's determination to deny McCollum's petition for a writ of certiorari. Specifically, Judge Boyle referenced Justice Blackmun's observation that McCollum was "mentally retarded," had "the mental age of a 9-year-old," and read at a "second-grade level." See McCollum, 512 U.S. at 1255. Judge Boyle also rejected Dr. Harbin's March 8, 2017 evaluation of McCollum as "unpersuasive."

On May 10, 2017, Judge Boyle denied respondent's motion to approve the settlement, without prejudice, and appointed Raymond Tarlton, Esq., as McCollum's guardian ad litem. During the North Carolina ethics hearing, Tarlton stated that, within minutes of meeting McCollum, he had determined that a guardianship was necessary, considering McCollum's "impuls[ivity]" and the fact that "he was out of money, living in a small house, [and] apparently had bought cars but never had a driver's license." Tarlton also noted that McCollum could not "live without the assistance of [his] fiancée and . . . uncle."

Two months later, on July 26, 2017, Tarlton filed a motion requesting that the EDNC determine (1) the validity of the Fee Agreement, in view of McCollum's mental incapacity; (2) the propriety of respondent's decision to include, in the Fee Agreement, an irrevocable contingency interest in any settlement or payout, even if McCollum had terminated the relationship or

retained new counsel; and (3) the validity of the liens created by the various MFI loans.

During the North Carolina ethics hearing, Tarlton testified that he had grown "concern[ed]" with the fact that the stepbrothers were taking out loans, despite only recently having received their NCIC awards. Consequently, at some point, Tarlton petitioned to have a "general guardian" appointed to represent McCollum. The general guardian created a special needs trust on McCollum's behalf and had the authority to demand a full accounting, which enabled Tarlton to determine how the NCIC award had been disbursed. Upon learning that McCollum had expended his entire net $358,363.28 NCIC award within seven months, Tarlton "strongly suspected" that respondent had taken "a clearly excessive fee" from the NCIC award, based on his view that respondent had performed only "ministerial" work in furtherance of the NCIC joint petition. In support of his assertion, Tarlton noted that, by the time respondent had begun representing the stepbrothers, the pardon petitions already had been filed by prior counsel and, thus, respondent could not have been "the procuring cause of the pardons."

On August 10, 2017, Judge Boyle conducted a hearing regarding McCollum's competency to make decisions and enter into legally binding obligations. During the hearing, respondent introduced the testimony of Dr.

Harbin, who noted that his recent evaluation of McCollum was limited to "the narrow issue of his competence to accept or reject the [Town of Red Springs's] settlement offer." Dr. Harbin, however, conceded that he had concerns regarding McCollum's history of "blowing money." Despite acknowledging that McCollum's "lack of mental capacity" was a pivotal component of his civil lawsuit, respondent represented to the EDNC that McCollum was competent to enter into the settlement agreement that, notably, provided him with a substantial contingent legal fee.

Following the August 10, 2017 hearing, Judge Boyle directed the parties to submit recommendations of mental health experts to evaluate McCollum's competency.

On August 12, 2017, respondent notified Dr. Harbin that Tarlton had recommended George Patrick Corvin, M.D., a forensic psychiatrist, to conduct McCollum's evaluation. In response, on August 14, 2017, Dr. Harbin sent respondent the following e-mail:

> [Respondent], I don't mean to tell you your business and you may have already thought of this, but I would recommend that you have some rehearsal with [McCollum] and make sure he knows where his bank accounts are, how much is in them, how to write a check, what his income and bills are, etc.

[Ex.I¶113].[18]

In reply, respondent stated "Point well taken, thank you."

The next day, on August 15, 2017, respondent moved to discharge Tarlton as McCollum's guardian and to discontinue any further evaluation of McCollum. In support of his motion, respondent asserted that "there is no credible evidence that . . . McCollum is mentally retarded."

On August 16, 2017, Judge Boyle issued an order directing Dr. Corvin to evaluate McCollum and assess whether he had the "practical ability to manage his own affairs."

On September 15, 2017, Dr. Corvin issued his evaluation report concluding that McCollum "clearly suffer[ed] from psychological and intellectual limitations impairing his ability to manage his own affairs and make/communicate important decisions regarding his life without the assistance of others."

During the North Carolina ethics hearing, Dr. Corvin explained that, in preparing his evaluation report, he (1) reviewed McCollum's medical records; (2) met with McCollum, who described his traumatic experiences on death row; and (3) conducted "collateral interviews" of Rose and at least one forensic

[18] During the North Carolina ethics hearing, Dr. Corvin, whom the DHC qualified as an expert in forensic psychiatry, testified that Dr. Harbin had "unethical[ly] recommend[ed]" that respondent engage in "witness coaching" in order to "steer the results of an examination."

psychologist who had evaluated McCollum. Based on his evaluation, Dr. Corvin concluded that McCollum lacked the capacity to manage his own affairs, given his long-standing intellectual incapacity, as exacerbated by his decades on death row.

On October 23, 2017, Judge Boyle issued an order (1) finding McCollum incompetent to manage his own affairs, (2) denying respondent's request to remove Tarlton as McCollum's guardian ad litem, and (3) declaring the Fee Agreement between respondent and McCollum invalid in light of McCollum's incompetency. In declaring the Fee Agreement invalid, Judge Boyle stated that respondent "was plainly on notice that his potential clients had intellectual disabilities and that their abilities to proceed without a guardian were at issue." Judge Boyle also emphasized that, despite respondent's knowledge of McCollum's and Brown's disabilities, he never "sought to have the [Fee [A]greement ratified by any duly appointed guardian for either plaintiff."

On December 14, 2017, Judge Boyle approved the settlement with the Town of Red Springs but declined to rule on the validity of respondent's fee. Judge Boyle, however, permitted respondent to temporarily remain as counsel of record.

Four months later, on April 13, 2018, McCollum, through Tarlton, terminated respondent's representation. Thereafter, respondent's law partner

filed a motion with the EDNC challenging Tarlton's authority to terminate respondent as counsel. However, on May 18, 2018, the EDNC removed respondent from the case "for good cause shown."

Approximately three years later, on January 29, 2021, Dr. Corvin again evaluated McCollum to determine whether he was competent to enter into the Fee Agreement with respondent or the various loan agreements with MFI. In finding that McCollum "met the [North Carolina] statutory definition of [an]'incompetent adult'"[19] at the time he had entered into the Fee Agreement and the loan agreements, Dr. Corvin emphasized that McCollum remained "unable to make and communicate important decisions regarding his person and his property without the regular assistance of others." Further, Dr. Corvin noted that McCollum continued to make "impulsive" decisions without understanding the "complexities" of his actions. Indeed, Dr. Corvin noted that McCollum had agreed to sign the Fee Agreement because, as McCollum stated, respondent "gave us money [and] found me a better place." McCollum, however, told Dr. Corvin that he "didn't know that [respondent] was taking that much money. I had no idea how much he was supposed to take." Finally, Dr. Corvin explained

[19] In North Carolina, an incompetent adult is one who "lacks sufficient capacity to manage [his] own affairs or to make or communicate important decisions concerning [his] person, family, or property[,] whether the lack of capacity is due to mental illness, intellectual disability . . . or similar cause or condition." N.C. Gen. Stat. § 35A-1101(7).

that McCollum's intellectual disorders are "static in nature, meaning there is no known treatment to reverse the cognitive limitations inherent in such conditions."

During the North Carolina ethics hearing, Dr. Corvin expressed his professional opinion that, based on his years of observation of McCollum, who had suffered from repeated head injuries, PTSD, and neurocognitive disorders, his competency to enter into contractual agreements was not even "a close call."

As of April 27, 2021, the date of the DHC's Order of Discipline, Tarlton had remained guardian ad litem for McCollum, who, in addition, has had a "conservator" to help manage his financial affairs. Additionally, Brown has had a guardian of his estate since September 2015.

According to publicly available EDNC records, on May 14, 2021, a jury awarded McCollum and Brown a total of $75 million in compensatory and punitive damages against the remaining defendants. On November 5, 2021, the EDNC awarded McCollum and Brown's attorneys more than $6 million in fees and costs. Based on publicly available records, it does not appear that respondent received any counsel fee award in connection with his representation of McCollum and Brown before the EDNC.

The North Carolina Disciplinary Proceedings

On September 20, 2018, the North Carolina State Bar commenced a disciplinary action against respondent in connection with his conduct underlying his representation of McCollum and Brown. Specifically, the North Carolina State Bar alleged that respondent engaged in multiple, serious misrepresentations to the EDNC in connection with his attempt to obtain a substantial contingent fee arising out of McCollum and Brown's civil litigation. Additionally, among other misconduct, the North Carolina State Bar alleged that respondent took advantage of his vulnerable clients by (1) allowing them to enter into the improper Fee Agreement and MFI loan agreements, which his clients did not have the capacity to understand; (2) charging them a grossly excessive $500,000 fee in connection with their NCIC petition; (3) having McCollum agree to a settlement with the Town of Red Springs that he could not understand; and (4) providing his clients improper financial assistance.

During the North Carolina ethics hearing, respondent called, as a character witness, Maria Antoinette Pedraza, Esq., who testified that she had known respondent for twenty-two years, since law school. Thereafter, from 2002 until at least 2004, when respondent and Pedraza worked together at the Legal Aid Society in New York, Pedraza stated that respondent was "always prepared, always willing to sit down and talk to colleagues," and "always a great sounding

board." Pedraza testified that she considered respondent a friend and had ample opportunity to observe his character:

> I can say without hesitation that I look up to him as an attorney. I think that he has been able to accomplish many things on behalf of clients that most attorneys only dream of doing. I have represented thousands of people in three different states in state and federal court, and I can hope to one day achieve some of the things that he's been able to achieve.
>
> [Ex.Hp.1125.]

Additionally, Pedraza expressed her view that respondent's reputation and character is shared among other members of the profession:

> I've seen other attorneys go to him for advice, I've seen other attorneys, as I said, consult with him to get ideas and he's receptive in kind as well. So he absolutely is held in high regard and is somebody that other attorneys will turn to for assistance without hesitation. I have heard of attorneys seeking him out to cover cases for [them].
>
> [Ex.Hp.1127.]

Respondent also presented the character testimony of his former client, Corvain Cooper, who had been sentenced to life in prison, without parole, following his third federal drug conviction. Specifically, respondent represented Cooper, pro bono, at his 2013 sentencing hearing and throughout the appellate process. Thereafter, respondent aggressively pursued a presidential pardon on Cooper's behalf and, in January 2021, Cooper received an executive grant of

clemency, resulting in his release from incarceration. In Cooper's view, respondent "gave me my life back" and "never gave up on me."

The Disciplinary Hearing Commission's Findings

As a threshold matter, the DHC determined that respondent knew that McCollum and Brown lacked the capacity to enter into both the Fee Agreement and the MFI loan contracts. Similarly, the DHC found that respondent was well aware that McCollum lacked the capacity to agree to the proposed settlement with the Town of Red Springs.

Next, the DHC determined that respondent committed numerous violations of the North Carolina RPCs. Specifically, respondent failed to represent Brown with competence (NC RPC 1.1) or diligence (NC RPC 1.3) by assisting Ransom in obtaining a $25,000 MFI loan against any of Brown's future recovery. The DHC noted that respondent arranged for the loan proceeds to be sent directly to Ransom, purportedly to pay for Brown's rent. However, at the time of the loan, Ransom was no longer Brown's guardian and, thus, the DHC found that respondent had "misused [Brown's] entrusted funds," in violation of NC RPC 1.15-2(g).

The DHC also found that respondent violated NC RPC 1.5(a) and NC RPC 8.4(c) by claiming an irrevocable interest in McCollum and Brown's potential

recovery from the State of North Carolina. Similarly, the DHC determined that respondent further violated NC RPC 1.5(a) by collecting an excessive fee from the stepbrothers' NCIC award, despite having performed minimal, "pro forma" work in connection with that matter.

Moreover, the DHC found that respondent engaged in a conflict of interest, in violation of NC RPC 1.7(a)(2), by entering into the Fee Agreement with McCollum, who was mentally incompetent, and then arguing to the EDNC that McCollum was competent to settle his claims against the Town of Red Springs, in order to protect his fee. Respondent's argument that McCollum was competent to enter into the Fee Agreement and the settlement agreement conflicted with his remaining civil claims against Robeson County, the Red Springs Police Department, and the State of North Carolina.

Further, the DHC noted that respondent had engaged in an improper business transaction with McCollum and Brown by lending them money, "both directly and/or through . . . Hamilton," in violation of NC RPC 1.8(a) and (e). Similarly, respondent violated NC RPC 1.8(e) by advancing money to the stepbrothers for their living expenses.

Additionally, the DHC found that respondent failed to promptly disburse his $10,000 personal loan from Hamilton from his ATA, in violation of NC RPC 1.15-2(a) and NC RPC 1.15-2(g).

The DHC also found that respondent made a false statement to the EDNC, in violation of NC RPC 3.3(a)(1), by representing to the court that McCollum was competent to understand the proposed settlement agreement with the Town of Red Springs, despite knowing that McCollum lacked such capacity. The DHC determined that respondent again violated NC RPC 3.3(a)(1) by requesting that the EDNC approve his legal fee for work for which he already had been compensated, via the NCIC award. The DHC observed that respondent's violations of NC RPC 3.3(a)(1) also constituted violations of NC RPC 8.4(c) and NC RPC 8.4(d).

The DHC found that respondent also violated NC RPC 8.4(c) and (d) by entering into the Fee Agreement with McCollum and Brown knowing that they did not possess the capacity to understand the agreement. Finally, the DHC noted that respondent again violated NC RPC 8.4(c) by repeatedly misrepresenting to MFI, via the loan documents, that he had explained the loan terms to his clients, who were unable to understand their loan agreements.

In determining the appropriate quantum of discipline, the DHC emphasized that "McCollum and Brown were exceptionally vulnerable to the type of manipulation, deception, and exploitation perpetrated by [respondent]." Indeed, the DHC noted that "evaluating clinicians repeatedly described them as susceptible to manipulation and undue influence." Rather than protect his

clients, the DHC found that respondent "capitalized on their naivete and inability to understand." Specifically, the DHC observed that:

> by charging and collecting clearly excessive amounts of McCollum and Brown's [NCIC] awards based on a fee agreement he knew the clients could not understand, and in a proceeding where his actual work was de minimis and there was little or no risk that his clients would not receive the maximum allowed by statute, [respondent] financially exploited McCollum and Brown causing significant harm to his clients. Likewise, by arguing that McCollum was mentally competent in an effort to preserve his fee in the civil case, respondent acted for his own financial benefit to the detriment of his client's legal interests.
>
> [Ex.Ip.18¶5.]

Stated differently, the DHC found that respondent utilized his attorney-client relationship to "obtain[] money he had not earned from clients who lacked the knowledge and sophistication to question his actions or suspect his selfish motive." In that vein, respondent "elevat[ed] his own interests above" those of his clients, causing them "significant harm."

The DHC emphasized that respondent's misconduct had received significant media coverage and, thus, had debased the legal profession and demeaned the justice system in the eyes of the public. Moreover, the DHC observed that respondent's "conduct caused significant harm to the profession," not only by "reinforcing the negative stereotype that lawyers are greedy, selfish, and dishonest," but also "by diminishing the public's expectation that attorneys

can be trusted to protect vulnerable clients."

Although the DHC acknowledged respondent's cooperation with the disciplinary process, it found that respondent's testimony reflected "a pervasive tendency to blame others for his misconduct." Further, the DHC noted that respondent, with minor exceptions, did not acknowledge violating North Carolina's Rules of Professional Conduct, had not expressed remorse, and had not refunded any of the excessive fees he had collected from McCollum and Brown. Rather, the DHC stressed that respondent insisted that he was entitled to the full $500,000 for his participation in the "pro forma" NCIC proceedings.

In imposing a five-year suspension, the DHC heavily weighed the vulnerability of the clients:

> [Respondent's] course of misconduct involving the manipulation and exploitation of vulnerable clients reflects that [he] is either unwilling or unable to confirm his behavior to the requirements of the Rules of Professional Conduct. [Respondent] has refused to acknowledge the wrongfulness of his conduct and there is no evidence suggesting that he intends to modify his behavior. Accordingly, if [respondent] were permitted to continue practicing law, he would pose a significant and unacceptable risk of continued harm to clients, the profession, the public, and the administration of justice.
>
> [Ex.Ip.21¶6.]

In its order imposing a five-year suspension, the DHC provided that, after serving three years of his suspension, respondent may apply for a stay of the

remaining term of the suspension by demonstrating, by clear and convincing evidence, that he has: (1) timely paid all administrative fees and costs associated with the prosecution of his disciplinary matter; (2) reimbursed McCollum and Brown $250,000 ($125,000 each), payable to their respective guardians;[20] (3) completed ten hours of continuing legal education on topics related to ethics and professionalism; and (4) obtained an approved monitor to oversee his practice of law for two years.

On May 10, 2021, respondent reported his North Carolina discipline to the OAE, as R. 1:20-14(a)(1) requires.

Respondent's Appeals of the DHC's Determination

On November 1, 2022, following respondent's appeal of the DHC's decision, the Court of Appeals of North Carolina issued an opinion affirming the DHC's determination in its entirety.

In its opinion, the Court of Appeals rejected respondent's argument that the DHC erroneously had found that McCollum and Brown "had been

[20] The DHC required that respondent should, at a minimum, refund McCollum and Brown $250,000 of the $500,000 fee he had received from the NCIC award, "because he did not earn it." The DHC acknowledged, however, that the North Carolina disciplinary proceeding was neither designed nor intended "to calculate the precise value of the legal services" respondent had provided. Accordingly, the DHC noted that its "finding . . . regarding the amount of fees that were unearned should not be interpreted as a conclusive valuation of services rendered by [respondent]. It is merely a determination that – at a minimum – half of the fees [respondent] collected from the [NCIC] award were unearned and should be refunded."

consistently diagnosed as mentally retarded . . . and were unable to understand their confessions." Specifically, "based on the whole record," including multiple mental health professionals establishing McCollum's and Brown's intellectual disabilities, the Court of Appeals found no basis to disturb the DHC's factual finding regarding the stepbrothers' incapacity.

Moreover, the Court of Appeals upheld the DHC's finding that respondent knew that McCollum and Brown lacked the capacity to understand the Fee Agreement. In that vein, the Court of Appeals noted that the factual record supported the DHC's conclusions that it was: (1) "dishonest" for respondent to enter into the Fee Agreement with McCollum and Brown; (2) prejudicial to the administration of justice and dishonest for respondent to represent to the EDNC that McCollum had agreed to the settlement with the Town of Red Springs; and (3) dishonest for respondent to advise MFI that he had explained the loan terms to his clients.

Additionally, in affirming the DHC's determination to require respondent to pay $250,000 in restitution to the stepbrothers, the Court of Appeals noted that respondent's NCIC petition consisted of "almost exclusively Rose and Alston's work product." The Court of Appeals also emphasized that the State did not oppose the petition and that the transcript of the NCIC hearing consisted of only seven pages. Consequently, the Court of Appeals found that a contingent

fee for the representation before the NCIC "was improper because McCollum and Brown were entitled to the maximum compensation" under North Carolina law. Indeed, the Court of Appeals observed that the $250,000 restitution payment was "a generous assessment of the value of [respondent's] services in the [NCIC] proceeding."

Further, the Court of Appeals rejected, as meritless, respondent's argument that the additional level of detail present in the DHC's written determination conflicted with the DHC's less detailed oral "announcement" of its decision. Finally, the Court of Appeals declined to address, as improperly preserved, respondent's constitutional argument that the North Carolina Rules of Professional Conduct were "selectively enforced against [him]."

On June 14, 2023, the North Carolina Supreme Court issued an order denying respondent's petition for "discretionary review" of the opinion of the Court of Appeals, pursuant to N.C.G.S. 7A-31.

The Parties' Positions Before the Board

At oral argument and in its written submission to us, the OAE asserted that respondent's unethical conduct in North Carolina constituted violations of RPC 1.1(a); RPC 1.3; RPC 1.5(a); RPC 1.7(a)(2); RPC 1.8(a); RPC 1.8(e); RPC 1.15(a); RPC 1.15(c); RPC 3.3(a); RPC 8.4(a); RPC 8.4(c); and RPC 8.4(d).

First, the OAE alleged that respondent violated RPC 1.1(a) by assisting Ransom in obtaining a $25,000 MFI loan against Brown's future litigation recovery. Specifically, because Ransom was no longer Brown's guardian at the time she received the $25,000 loan, the OAE argued that respondent grossly mishandled his representation of Brown, injuring his interests.

Second, the OAE maintained that respondent violated RPC 1.3 by failing to explain the MFI loan terms to McCollum and Brown in a manner "that they could comprehend." Rather, the OAE argued that respondent obtained the MFI loans without his clients' informed consent.

Third, the OAE asserted that respondent violated RPC 1.5(a) and RPC 8.4(c) by claiming an irrevocable interest in McCollum and Brown's recovery, an arrangement which "lock[ed] the brothers into [the] representation that they may not have understood." The OAE also argued that respondent engaged in fee overreaching, in violation of RPC 1.5(a), by receiving a $500,000 contingent fee from McCollum and Brown's $1.5 million NCIC award, despite having performed only minimal work in support of that unopposed application.

Fourth, the OAE contended that respondent violated RPC 1.7(a)(2), given that his representation of McCollum and Brown was materially limited by his personal interest in defending his unreasonable fee. Specifically, the OAE emphasized that respondent entered into the invalid Fee Agreement with

McCollum, who lacked the capacity to understand that agreement. Despite his client's incapacity, respondent argued to the EDNC that McCollum was competent to settle his claims against the Town of Red Springs, even though such arguments jeopardized the strength of McCollum's claims against the remaining defendants.

Fifth, the OAE argued that respondent violated RPC 1.8(a) by loaning $20,000 to McCollum, via his friend Hamilton, without complying with the safeguards of that Rule. The OAE also noted that McCollum's intellectual disabilities rendered him unable to consent to Hamilton's loan.

Sixth, the OAE asserted that respondent violated RPC 1.8(e) by providing financial assistance to McCollum and Brown in connection with their living expenses.

Seventh, the OAE alleged that respondent violated RPC 1.15(a) and (c) by commingling his $10,000 personal loan from Hamilton in his ATA.

Eighth, the OAE argued that respondent violated RPC 3.3(a) and RPC 8.4(c) by misrepresenting to the EDNC that McCollum had the capacity to enter into the settlement agreement with the Town of Red Springs, despite knowing that McCollum clearly lacked such capacity. Moreover, respondent compounded his deception by requesting that the EDNC approve his substantial contingent fee for services for which he already had been compensated. Further, the OAE

argued that respondent's misrepresentations resulted in a waste of judicial resources, in violation of RPC 8.4(d), by forcing Judge Boyle to not only appoint a guardian ad litem to protect McCollum's interests, but also take judicial action to remove respondent from the case, for good cause.

Ninth, the OAE contended that respondent further violated RPC 8.4(c) by allowing McCollum to agree to a settlement with the Town of Red Springs that he did not understand. Further, respondent mispresented to MFI that McCollum and Brown had understood the terms of their loans.

Finally, the OAE alleged that respondent violated RPC 8.4(a) by violating the foregoing Rules of Professional Conduct. However, the OAE conceded that respondent's violation of RPC 8.4(a) would not "result in independent additional discipline."

Regarding the appropriate quantum of discipline, the OAE argued that respondent "took advantage of two intellectually disabled clients in order to maximize his own legal fees at the expense of their ultimate financial recovery." Relying upon disciplinary precedent for attorneys who have been disciplined for preying upon vulnerable clients, the OAE asserted that respondent arranged for the stepbrothers to receive "predatory," high-interest MFI loans. Moreover, respondent executed the "manifestly [un]fair" Fee Agreement with the stepbrothers, who were incapable of understanding the consequences of

providing respondent an irrevocable interest in the outcome of their case.

The OAE argued that, like the disbarred attorney in In re Legome, 226 N.J. 590 (2016), who, as detailed below, enriched himself at the expense of a mentally impaired client, respondent shamelessly exploited McCollum's and Brown's incompetency as a means to line his own pockets. The OAE also acknowledged that respondent's conduct was similar to that of the disbarred attorneys in In re Ort, 134 N.J. 146 (1992), and In re Ledingham, 240 N.J. 115 (2019), who engaged in egregious fee overreaching and, in Ledingham's case, victimized a vulnerable client.

Although the OAE conceded that respondent's conduct placed him upon "the precipice of disbarment," the OAE recommended a three-year suspension based on his (1) lack of prior New Jersey discipline; (2) cooperation with New Jersey and North Carolina disciplinary authorities; and (3) recent interactions with the OAE, demonstrating, in its view, his genuine remorse and contrition. The OAE also argued that a three-year suspension in New Jersey is functionally equivalent to respondent's five-year suspension in North Carolina, given that the DHC allowed respondent to apply for a stay of his five-year suspension in that jurisdiction, after three years, if he satisfied certain conditions, including paying $250,000 in restitution to the stepbrothers. The OAE, however, urged, as aggravation, the fact that, to date, respondent has failed to satisfy the restitution

award.

At oral argument before us, respondent urged the imposition of a sanction less than disbarment to allow him to one day return to the practice of law in New Jersey. In support of his argument, respondent maintained that, following his retention as McCollum and Brown's counsel, he embarked upon a public relations campaign in support of their pardon petitions. In respondent's view, that campaign was instrumental in pressuring the Governor of North Carolina to grant the pardon petitions. Additionally, despite acknowledging the DHC's and the North Carolina Court of Appeals' determinations that he had known that McCollum and Brown lacked the capacity to understand the Fee Agreement, respondent argued that McCollum's competency was not an "issue" until 2017, more than one year after he had filed the civil lawsuit with the EDNC. Respondent also argued that he had performed a substantial amount of work for his clients, including reviewing numerous boxes of materials comprising his clients' criminal trial and post-conviction files.

Respondent highlighted, in mitigation, his lack of prior New Jersey discipline and the loss of his good reputation in multiple jurisdictions, where he was suspended or disbarred from the practice of law as a result of his misconduct underlying this matter. Similarly, because of his limited financial resources, respondent noted that he has been unable to pay the $250,000 restitution award

to McCollum and Brown. Finally, should he be permitted to return to the practice of law, respondent expressed his commitment to (1) using appropriate retainer agreements, (2) ensuring that clients who appear cognitively impaired are properly evaluated, and (3) refraining from entangling himself in his clients' financial transactions.

Analysis and Discipline

Following a review of the record, we determine to grant the OAE's motion for reciprocal discipline. Pursuant to R. 1:20-14(a)(5), "a final adjudication in another court, agency, or tribunal, that an attorney admitted to practice in this state . . . is guilty of unethical conduct in another jurisdiction . . . shall establish conclusively the facts on which it rests for purposes of a disciplinary proceeding in this state." Thus, with respect to motions for reciprocal discipline, "[t]he sole issue to be determined . . . shall be the extent of final discipline to be imposed." R. 1:20-14(b)(3).

In North Carolina, as in New Jersey, the State Bar must establish an attorney's misconduct by clear and convincing evidence. In re Palmer, 252 S.E.2d 784 (N.C. 1979). Specifically, "the [North Carolina] State Bar shall have the burden of proving by clear, cogent, and convincing evidence that the

[attorney] violated the Rules of Professional Conduct." 27 N.C. Admin. Code § 1B.0116(c).

Reciprocal discipline proceedings in New Jersey are governed by R. 1:20-14(a)(4), which provides in pertinent part:

> The Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record on which the discipline in another jurisdiction was predicated that it clearly appears that:
>
> (A) the disciplinary or disability order of the foreign jurisdiction was not entered;
>
> (B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;
>
> (C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;
>
> (D) the procedure followed in the foreign matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
>
> (E) the unethical conduct established warrants substantially different discipline.

We conclude that subsection (E) applies in this matter because the unethical conduct warrants substantially different discipline. In our view, based on New Jersey's disciplinary precedent, respondent's financial exploitation of his intellectually impaired clients, as exacerbated by his brazen acts of deception towards the EDNC, warrants his disbarment in New Jersey.

Violations of the Rules of Professional Conduct

The record before us contains overwhelming evidence that respondent took shameless advantage of his clients' intellectual impairments with the clear motive to line his own pockets at the expense of their financial recovery in connection with their wrongful convictions and decades-long incarceration.

The Improper Fee Agreement and Excessive Fee

Respondent's misconduct commenced in March 2015, when, six months after his clients' release from more than thirty years of incarceration, he entered into the Fee Agreement with McCollum and Brown, who both lacked the mental capacity to enter such a contract. In New Jersey, "[a]n attorney's professional and fiduciary obligations require scrupulous fairness and transparency in dealing with clients – requirements different from the typical norms that regulate arm's-length commercial transactions between vendors and customers." Delaney v. Dickey, 244 N.J. 466, 471 (2020). Consistent with those principles, an attorney's "freedom to contract with a client is subject to the constraints of ethical considerations and [the Court's] supervision." Alpert, Goldberg, Butler, Norton & Weiss, P.C. v. Quinn, 410 N.J. Super. 510, 529-30 (App. Div. 2009) (quoting Cohen v. Radio-Electronics Officers Union, 146 N.J. 140, 155 (1996)). Unlike the parties in a commercial transaction, an attorney "stands in a fiduciary

relationship with a prospective client and must act within the ethical constraints commanded by professional standards of responsibility." Balducci v. Cige, 240 N.J. 574, 580 (2020). Consequently, "[a] retainer agreement must be fair and understandable, and the fee arrangement must be reasonable." Ibid. "Maximizing fees charged to clients should not be an attorney's primary aim." Balducci v. Cige, 456 N.J. Super. 219, 238 (App. Div. 2018), aff'd, 240 N.J. 574.

Here, respondent unquestionably failed to ensure that his clients could understand the Fee Agreement, much less consent to it, given his knowledge of their longstanding intellectual disabilities. Rather than secure a guardian to protect their interests at the outset of the representation,[21] respondent entered into the predatory Fee Agreement with his clients, ensuring that he would receive a substantial contingent fee in connection with the NCIC award and the civil litigation, even in the event of his termination. Moreover, within two weeks of commencing the representation, respondent sent letters to McCollum and Brown's longstanding pro bono attorneys, warning them that any attempt to

[21] RPC 1.14(b) provides that, when a lawyer reasonably believes that a client has diminished capacity, the lawyer "may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator, or guardian." North Carolina RPC 1.14(b) is substantially identical to New Jersey RPC 1.14(b).

contact his clients would, in his view, constitute an ethics infraction and be "actionable as tortious interference of contract."

Our Court has held that "[a] retainer agreement may not prevent a client from discharging a lawyer. Neither directly nor indirectly may the agreement restrict a client's right to representation by a lawyer of the client's choice." Cohen, 146 N.J. at 157. "With a sophisticated client, however, a retainer agreement may provide that the client agrees to compensate the lawyer if the client terminates the relationship, so long as [the] provision does not chill the client's right of termination." Ibid.

By claiming an irrevocable, substantial contingent fee on the stepbrothers' potential monetary award, respondent leveraged his clients' intellectual impairments to his advantage by locking them into the representation, in violation of RPC 1.5(a). Moreover, given the stepbrothers' inability to understand the significance of respondent's irrevocable contingent fee, coupled with respondent's attempts to prevent McCollum and Brown's prior pro bono attorneys from contacting their former clients, respondent knowingly impeded his clients' ability to participate in the representation fairly and transparently, in violation of RPC 8.4(c).

Respondent violated RPC 1.5(a) a second time by paying himself a grossly unreasonable one-third contingency fee from McCollum and Brown's $1.5

million NCIC award. It is well-settled that the reasonableness requirement of RPC 1.5(a) applies to contingent fee agreements. See R. 1:21-7(e) ("in all cases[,] contingent fees charged or collected must conform to RPC 1.5(a)").

Here, although respondent filed the stepbrothers' joint petition, he performed only minimal work in support of that application, nearly all of which consisted of the work product of prior pro bono counsel, who were largely responsible for the stepbrothers' gubernatorial pardons. Moreover, the gubernatorial pardons guaranteed that each stepbrother would receive the maximum $750,000 statutory award based upon their decades of wrongful incarceration. Unsurprisingly, respondent's unopposed petition required only a brief hearing before the NCIC, spanning a mere seven transcript pages; moreover, given the facts of the wrongful convictions, the State of North Carolina supported the petition.

Rather than disburse all, or most of, the $1.5 million award to his clients, respondent took $500,000 of that award for himself, as his legal fee. However, respondent's contingent fee clearly was unjustifiable and grossly excessive, considering the simple, risk-free process of representing McCollum and Brown before the NCIC. See RPC 1.5(a) (assessing the reasonableness of the fee based, in part, upon the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly).

As a result of respondent's excessive fee, his reimbursement of costs and personal cash advances to his clients, and the repayment of the $100,000 MFI loans, McCollum and Brown each recovered significantly less than the substantial award to which they were entitled to, by law.

The MFI Loans

In 2016, after McCollum had depleted his entire $358,363.28 NCIC award, and despite McCollum's inability to manage his financial affairs, respondent procured for McCollum two additional MFI loans, for $50,000 and $15,000, which were secured against his future civil litigation recovery. Like the $100,000 MFI loans that respondent had procured for McCollum and Brown in 2015, the $50,000 and $15,000 loans featured high interest rates and required that MFI be fully repaid before McCollum could receive any distributions. Each time respondent procured the loans, he misrepresented to MFI that he had explained the loan conditions to his clients, despite their demonstrated inability to understand the contractual terms. By contracting for high-interest litigation loans on behalf of clients whom he knew lacked the competency to understand complex financial decisions, respondent unquestionably engaged in dishonest behavior towards both his clients and MFI, in violation of RPC 8.4(c). Similarly, respondent exhibited a lack of diligence in representing McCollum and Brown,

in violation of RPC 1.3, by failing to take reasonable steps, such as securing the appointment of a guardian to protect the stepbrothers' interests in connection with their high-interest litigation loans. Indeed, had respondent secured the appointment of a guardian prior to the procurement of the loans, that independent advocate would have been able to determine whether those instruments served the best interests of the stepbrothers, who otherwise lacked the capacity to make such complex judgments.

Finally, respondent violated RPC 1.1(a) by assisting Ransom in obtaining the $25,000 MFI loan, secured against Brown's civil litigation recovery, despite knowing that, prior to the procurement of the loan, Ransom had been removed as Brown's guardian for mismanaging his funds. As the DHC determined, because Ransom no longer served as Brown's guardian, respondent knew that Ransom's loan proceeds could not have been used for Brown's benefit. Respondent's decision to assist Ransom in securing a loan against Brown's future recovery, despite her removal as guardian for mismanaging his funds, constituted a gross lack of competence in his representation of Brown.

The Misrepresentations to the EDNC and the Settlement with the Town of Red Springs

In July 2016, in support of McCollum and Brown's civil litigation before the EDNC, respondent obtained a neuropsychologist's report concluding that

McCollum continued to suffer from PTSD; intellectual disabilities; anxiety; hypervigilance; paranoia; and an inability to make everyday decisions. The neuropsychologist also found that McCollum exhibited "a profile suggesting that he [would] be overly dependent upon others for decision making" and "be easily influenced and manipulated by others." Notably, these findings were consistent with the historical opinions of numerous medical experts who had evaluated McCollum's mental capacity throughout his incarceration.

In April 2017, respondent requested that the EDNC approve a proposed settlement with the Town of Red Springs to resolve the stepbrothers' claims against that entity for a total of $1 million. From that $1 million settlement, respondent sought $408,403.96 in contingent legal fees and costs. In support of his application to approve the settlement, respondent represented to the EDNC that McCollum was competent to enter into the Fee Agreement and the settlement, as demonstrated by the same neuropsychologist's March 2017 report concluding, contrary to his July 2016 assessment, that McCollum was capable of managing his own financial and legal affairs. Respondent, however, violated RPC 3.3(a) and RPC 8.4(c) by misrepresenting to the EDNC that McCollum had consented to the settlement agreement which he clearly lacked the capacity to understand. Moreover, as the OAE noted, respondent further violated RPC 8.4(c) by having McCollum, who suffered from serious intellectual disabilities,

agree to the settlement in the first place, without first seeking a court-appointed guardian to protect his interests.

Respondent compounded his deception by misrepresenting to the EDNC that he was entitled to $408,403.96 in fees and costs based on his (1) filing of the NCIC petition; (2) procurement of the pardons for the stepbrothers; and (3) successful petition to obtain a guardian for Brown. Respondent, however, concealed from the EDNC the fact that he already had been excessively compensated for such services by virtue of his $500,000 contingent fee from the stepbrothers' NCIC award. Indeed, respondent's submissions to the EDNC made no mention of his prior $500,000 fee.

Respondent's misrepresentations to the EDNC resulted in a substantial waste of judicial resources, in violation of RPC 8.4(d), given that Judge Boyle was forced to conduct multiple hearings concerning McCollum's level of competency that could have been avoided had respondent simply told the truth regarding his client's intellectual limitations. Rather, respondent engaged in baseless attempts to discharge Tarlton as McCollum's guardian ad litem and to avoid an independent evaluation of McCollum, in an attempt to secure a quick settlement and, thus, preserve his improper fee at the expense of his vulnerable client.

Finally, respondent violated RPC 1.7(a)(2) by misrepresenting to the EDNC that McCollum was competent to settle his civil claims against the Town of Red Springs, a position which jeopardized the strength of his client's claims against the remaining defendants. By attempting to secure his contingent fee through lies concerning his client's competency and the quick approval of a settlement that his client could not understand, respondent shamelessly elevated his own financial interests above those of his client.

Financial Assistance to Clients; Commingling; the Loan from Hamilton; and the RPC 8.4(a) Charge

RPC 1.8(e) prohibits a lawyer from providing financial assistance to a client in connection with pending or contemplated litigation. However, RPC 1.8(e) allows "a lawyer representing an indigent client [to] pay court costs and expenses of litigation on behalf of the client." Here, respondent violated that Rule by providing the stepbrothers significant financial assistance unrelated to the litigation, including hotel deposits at a resort; transportation expenses to visit a resort; a videographer; and various living expenses. Although the precise value of respondent's improper financial assistance is unclear based on the record before us, it appears that, between March and September 2015, respondent paid the stepbrothers $25,972.14 in cash advances, at least "some" of which the DHC determined were for the stepbrothers' "living expenses."

Additionally, respondent violated RPC 1.15(a) by commingling his $10,000 personal loan from his friend, Hamilton, with entrusted client funds. Specifically, in February 2017, respondent arranged for Hamilton to deposit $30,000 in his ATA, $20,000 of which represented a loan to McCollum while the remaining $10,000 constituted a personal loan to himself. Respondent, however, failed to promptly remove his $10,000 in personal funds from his ATA and, thus, engaged in commingling.

We determine to dismiss the remaining charges of unethical conduct.

RPC 1.15(c) requires an attorney to segregate property in which both the lawyer and another claim an interest. The OAE alleged that respondent violated this Rule by commingling his $10,000 personal loan in his ATA. However, because the RPC 1.15(a) charge more appropriately encapsulates respondent's commingling and no third parties claimed an interest in respondent's $10,000 personal loan, we determine to dismiss the RPC 1.15(c) charge as a matter of law.

In relevant part, RPC 1.8(a) prohibits a lawyer from entering into a business transaction with a client unless extensive disclosures and writings are provided to the client to ensure that the transaction is knowing, informed, and consensual. The OAE maintained that respondent violated this Rule by loaning

$20,000 to McCollum, via Hamilton, without complying with the required safeguards of the Rule.

However, based on the record before us, there is no clear and convincing evidence that respondent himself provided any loans to his clients. Although respondent prepared the loan agreement between Hamilton and McCollum, raising the specter of an additional conflict of interest, given his apparent representation of both sides in the loan transaction, respondent was not charged with having violated RPC 1.7(a)(2) in that regard and, thus, we cannot independently sustain that potential infraction. Because McCollum appeared to have entered into a loan arrangement only with Hamilton, the allegation that respondent entered into a business transaction with his client is not supported by clear and convincing evidence and, thus, we determine to dismiss the RPC 1.8(a) allegation.

Finally, in relevant part, RPC 8.4(a) prohibits an attorney from violating the RPCs. The OAE noted that, although respondent violated RPC 8.4(a) based on his violations of the RPCs discussed above, his RPC 8.4(a) violation cannot result in additional, independent discipline.

We consistently have declined to sustain this charge "except where the attorney has, through the acts of another, violated or attempted to violate the RPCs, or where the attorney himself has attempted, but failed, to violate the

RPCs." In the Matter of Stuart L. Lundy, DRB 20-227 (April 28, 2021) at 11 (dismissing an RPC 8.4(a) charge as superfluous based on the attorney's mere violation of other, more specific RPCs). See also In the Matter of Nancy Martellio, DRB 20-280 (June 29, 2021) (dismissing an RPC 8.4(a) charge premised upon the attorney's violation of other RPCs).

Here, given that the RPC 8.4(a) charge is premised upon respondent's violation of other RPCs, we determine to dismiss the allegation as a matter of law.

In sum, we find that respondent violated RPC 1.1(a); RPC 1.3; RPC 1.5(a) (two instances); RPC 1.7(a)(2); RPC 1.8(e); RPC 1.15(a); RPC 3.3(a); RPC 8.4(c) (four instances); and RPC 8.4(d). We dismiss, for lack of clear and convincing evidence, the allegation that respondent violated RPC 1.8(a). We also dismiss, as a matter of law, the allegations that respondent violated RPC 1.15(c) and RPC 8.4(a). The sole issue left for our determination is the proper quantum of discipline for the totality of respondent's misconduct.

Quantum of Discipline

Respondent repeatedly exploited his attorney-client relationship with his significantly mentally impaired clients, both of whom had suffered grave injustices at the hands of the government, to line his own pockets at their

expense. Sadly, this is not the first time we have had to address such egregious circumstances. It is well-settled that the Court gives no quarter to those who prey on the vulnerable, be they frail and elderly or of limited cognitive ability or competency. In the Matter of Anthony J. La Russo, DRB 18-373 (July 15, 2019), at 26, so ordered, 240 N.J. 40 (2019). In fact, in In re Torre, 223 N.J. 538, 549 (2015), the Court declared that "serious consequences" would result from predatory behavior towards a vulnerable class – in that case, the elderly.

In that matter, Torre borrowed $89,250 from his elderly, unsophisticated client, whom he had known for many years. Id. at 539. The loan amounted to approximately seventy percent of the client's life savings. Ibid. Torre drafted a promissory note to reflect the loan's "sparse and unfair terms," including the fact that the loan was unsecured. Id. at 540-41. Torre, however, failed to comply with the safeguards of RPC 1.8(a) by advising his client, in writing, of the desirability of seeking independent counsel to review the transaction. Id. at 541. Moreover, the client did not provide Torre informed consent, in writing, to the essential terms of the transaction. Id. at 545. Torre repaid only a small fraction of the loan during the client's lifetime. Id. at 542.

In finding that Torre violated RPC 1.8(a), the Court reiterated that "[l]awyers are 'required to maintain the highest professional and ethical standards' in their dealings with clients." Id. at 544 (quoting In re Smyzer, 108

N.J. 47, 57 (1987)). In that vein, "an attorney's duty of loyalty is to the client, and not the lawyer's personal financial interests." Ibid.

In determining the appropriate quantum of discipline, the Court observed that the loan transaction caused not only serious financial harm to the client, but also "emotional turmoil," given her "distress[] when she realized that she had wrongly placed her trust in a long-time counselor." Id. at 546. The Court also emphasized that Torre "victimized a vulnerable, elderly client," who "had lost most of her eyesight and was increasingly dependent on others," including Torre, who paid her bills and had assisted her with other matters. Id. at 547. Moreover, although the client was "mentally alert, she was unsophisticated about her finances." Ibid.

In imposing a one-year suspension, the Court noted that, at that time, "few disciplinary cases ha[d] involved harm to vulnerable, elderly clients. As with all matters, each case of this type must be decided on its own merits. Some may call for less discipline; others will justify an even longer suspension or disbarment." Id. at 549. The Court, however, announced that the one-year suspension it imposed was "meant to provide notice to attorneys that serious consequences will result from this form of misconduct." Ibid.

Following the Court's opinion in Torre, we were confronted with a matter in which an attorney, without any disciplinary history, financially exploited a

cognitively impaired client for his own pecuniary benefit. In the Matter of Harris C. Legome, DRB 15-394 (May 20, 2016).

In that matter, Legome represented a client in connection with his severe head injury sustained during an automobile accident. Id. at 2-3. Even before the accident, and at the time Legome undertook the representation, the client had significant developmental and cognitive disabilities that rendered him vulnerable to exploitation. Id. at 3, 52. During the representation, the client developed a trusted and familiar relationship with Legome, often referring to him as "dad." Id. at 52-53. Indeed, the client considered Legome's office staff to be his family. Id. at 53. The client was so devoted to Legome that he would, by his own words, give Legome anything. Ibid. Given his devotion and "love" for Legome, the client gifted him nearly $485,000. Id. at 58. Legome accepted the gifts and prepared gift letters memorializing the transactions months before the $3.5 million settlement of his client's personal injury claim. Id. at 57.

In addition to the gifts from his client, Legome paid himself a forty-percent contingent fee from the gross settlement, an amount wholly inconsistent with R. 1:21-7(c)(6), which limits contingent fees in New Jersey tort cases to twenty-five percent of the net settlement if the client is mentally incapacitated and the case settles prior to empanelment of a jury. Id. at 53. Legome also failed to request Superior Court approval of his fee and, thus, he received hundreds of

thousands of dollars in excess of his lawful fee. Id. at 54. We found that Legome's failure to apply for court approval of his fee "smack[ed] of concealment," given that he knew that the court would not approve either his fee or his client's gifts. Id. at 55. Legome compounded his deception by ensuring that the settlement documents concealed the fact that he had gifted $485,000 of the net settlement to himself. Id. at 59. In recommending his disbarment, we found most condemning:

> that [Legome] engaged in affirmative deception to further cloak the existence of the gifts by issuing [ATA] checks payable to [his client] for the $484,500. Proceeding in this fashion, [Legome] rendered the gifts all the more difficult to detect, by creating the appearance, on the surface, that settlement distributions in the amount of $484,500 were made to [his client], in the ordinary course of legal representation. One would have to obtain access to the cancelled checks, as [Legome's law partner] eventually did when he happened upon them, in order to view the endorsements, and to discover that, in reality, a total of $484,500 was gifted to [Legome].
>
> [Id. at 59.]

But for Legome's acceptance of these gifts, the $484,500 would have gone to his client's special needs trust. Ibid. Further, Legome knew that the settlement proceeds his client received (less than $2 million) were woefully insufficient to fund the very life plan Legome had commissioned for his client. Id. at 60. We

underscored how Legome had abused his client's unconditional trust to financially exploit him:

> The endgame of [Legome's] misconduct is clear. When [his client's lawsuit] settled for $3.5 million, [Legome] took an improper contingent legal fee in the amount of $1,400,000, plus $484,500 in gifts, totaling $1,885,500. He additionally took his firm's costs. In the end, [Legome] received more money from the . . . settlement than did [his client], who clearly needed the funds to live any kind of protected life. And, as if he hadn't already received such a lofty and unauthorized fee, we note that [Legome] had the audacity to subsequently bill an additional $18,000 in legal fees to the trust for representing [his client] in criminal matters.
>
> [Legome's] unyielding attempts to place himself completely above reproach, despite admitting the impropriety of the contingent legal fee he took from [his client's] settlement, his continuing acceptance of gifts from [his client], and his astonishing admission that he would likely accept financial gifts from future clients, under similar circumstances, albeit with "better protection" for himself, gives us no confidence that [Legome] is capable of ever appreciating his responsibility to conduct himself in an honest, forthright, and fair manner. We are, indeed, perplexed by [Legome's] failure to grasp the gravity of his misconduct.
>
> [Id. at 77-78.]

The Court agreed with our recommendation and disbarred Legome. In re Legome, 226 N.J. 590 (2016).

Here, like Legome, respondent leveraged his clients' intellectual disabilities for his own financial advantage. At the outset of the representation,

respondent provided his clients substantial sums of money, not only in the form of improper personal cash advances, which he would recoup from the stepbrothers' net NCIC award, but also in the form of high-interest litigation loans. The effect of respondent's actions appeared to have caused the stepbrothers to trust respondent. Indeed, as McCollum had advised Dr. Corvin, he had agreed to sign the Fee Agreement because respondent "gave us money[,]" which allowed the stepbrothers to "move into a better place" and travel to a resort. At the same time respondent facilitated the high-interest litigation loans for his clients, he baselessly warned their longstanding pro bono attorneys that any contact with his clients would violate the "rules of ethics." In effect, respondent attempted to alienate and isolate the very pro bono attorneys who, after years of dedicated work, had secured their clients' release from prison and had performed the bulk of the work in connection with the pardon process. Respondent's attempts to separate his vulnerable clients from their trusted counselors after he had executed the improper Fee Agreement and had procured questionable, high-interest litigation loans on their behalf smacks of the same pre-meditated exploitation and dishonesty present in Legome.

Moreover, like Legome, who took a grossly excessive contingent fee from his client's gross settlement without court approval, respondent took a $500,000 contingent fee from the stepbrothers' $1.5 million NCIC award, despite having

performed minimal work in support of that otherwise simple, unopposed, and risk-free proceeding in which his clients were statutorily guaranteed to each receive $750,000.

Extreme cases of fee overreaching have resulted in disbarment, particularly when the client is a member of a vulnerable population. See In re Ledingham, 240 N.J. 115 (2019) (the attorney charged an utterly excessive $120,275.25 fee for work in an estate matter; the customary charge in the same county for a similar estate ranged between $10,000 and $12,000; the elderly, vulnerable client retained subsequent counsel, who completed the estate for less than $10,000, with an additional $3,500 billed by local counsel in another state; therefore, the attorney's total fee should not have exceeded $15,500; the attorney, thus, charged the estate almost eight times the amount of the fee considered reasonable for such a matter; further, the attorney failed to establish that he had obtained any specific results on behalf of the estate from the excessive time he had billed; we found the attorney's fees were so excessive as to constitute an inference of deception; prior three-month suspension for similar misconduct); In re Ort, 134 N.J. 146 (1993) (the attorney charged an estate valued at approximately $300,000 more than $32,000 in grossly excessive legal fees based on exaggerated time sheet entries that were clearly disproportionate to the services described, creating a justifiable inference of deception; the

attorney also acted contrary to the wishes of the client/administrator by obtaining a home equity loan on behalf of the estate from which he paid his legal fees; the attorney took unfair advantage of his client for his own financial benefit; in imposing disbarment, the Court described the attorney's "entire course of conduct in respect of his compensation for services" as "blatantly improper and unethical").

Like Ledingham and Ort, whose legal work was clearly disproportionate to their grossly exaggerated billing entries, respondent performed minimal work in furtherance of the pardon petitions, which pro bono counsel had prepared and filed months before respondent's retention. Further, following the issuance of the gubernatorial pardons, the NCIC petition became a straightforward application that guaranteed his clients a total of $1.5 million for their wrongful imprisonment. Respondent, however, failed to submit any evidence to justify his $500,000 contingent fee in connection with that risk-free process. As an experienced attorney with bar admissions in six jurisdictions, respondent knew that his decision to unilaterally take a one-third contingent fee from the $1.5 million NCIC award was in no way proportional to the services he had rendered, considering the minimal work required for that application. Nevertheless, knowing that his clients lacked the ability to comprehend his overreach, respondent seized upon that opportunity to enrich himself at their expense.

We find respondent's decision to take a contingency fee from that award unquestionably dishonest, demonstrating that he placed his own pecuniary gain above the welfare of his clients. Indeed, both McCollum and Brown appeared to have received less than half of the $750,000 award to which they were each entitled, despite needing those funds to rebuild their lives after decades of wrongful incarceration.

Respondent's misconduct, however, did not end there. In May and October 2016, following the depletion of McCollum's entire NCIC award, respondent arranged for McCollum to receive two additional high-interest litigation loans, totaling $65,000. Although McCollum could not comprehend the consequences of the loans, respondent continued to misrepresent to MFI that he had explained the loan terms to his client.

Thereafter, during a December 2016 mediation session in connection with the stepbrother's civil litigation before the EDNC, respondent conducted a detailed presentation describing McCollum's serious intellectual disabilities, following which the Town of Red Springs questioned McCollum's competence to enter into a settlement. To salvage his ability to secure a quick settlement and a substantial legal fee, respondent requested a new evaluation of McCollum by the same neuropsychologist who previously had concluded that McCollum lacked the capacity to make everyday decisions. However, this time, the

neuropsychologist concluded that McCollum was competent to manage his own affairs.

Following the neuropsychologist's assessment, respondent requested that the EDNC approve a $1 million settlement to resolve the stepbrothers' claims against the Town of Red Springs, in addition to his $403,493.96 in alleged fees and costs. In support of his application, respondent misrepresented to the EDNC that McCollum was competent to enter into both the Fee Agreement and the settlement. Moreover, respondent maintained that his significant fee was justified based on his procurement of the pardons for the stepbrothers, his successful NCIC petition, and his appointment of a guardian for Brown. Respondent, however, concealed from the EDNC the fact that he already had received $500,000 in grossly excessive compensation for such services, much of which were substantially reliant on the work product of the stepbrothers' prior, pro bono counsel.

One month later, in May 2017, the EDNC denied respondent's request, finding the neuropsychologist's recent assessment "unpersuasive" and appointing Tarlton as McCollum's guardian ad litem. During the August 2017 hearing before the EDNC concerning McCollum's competency, respondent again insisted that his client had the capacity to settle his claims, despite acknowledging that McCollum's "lack of mental capacity" was a crucial

component of his civil claims. Thereafter, when the EDNC directed the parties to submit recommendations of new mental health experts to evaluate McCollum, respondent expressed his receptiveness to the neuropsychologist's suggestion that he "have some rehearsal with" McCollum regarding the basic aspects of his finances. The very next day, respondent moved to discharge Tarlton as McCollum's guardian and to discontinue any further evaluations of his client, falsely asserting that there was no credible evidence that his client was intellectually impaired.

Subsequently, following a forensic psychiatrist's determination that McCollum clearly lacked the capacity to manage his own affairs, the EDNC declared the Fee Agreement invalid and denied respondent's request to terminate Tarlton as guardian, emphasizing that respondent "was plainly on notice that his potential clients had intellectual disabilities and that their abilities to proceed without a guardian were at issue." Although the EDNC approved the proposed settlement with the Town of Red Springs, it declined to award respondent any legal fees and, at Tarlton's request, it removed respondent from the representation for good cause.

We view respondent's attempt to obtain a swift settlement and a substantial payout in his favor as a disturbing course of deception towards his adversary and a federal court. At first, respondent meticulously detailed

McCollum's serious intellectual disabilities to his adversary during settlement negotiations. However, when his adversary and the EDNC questioned whether McCollum's intellectual limitations precluded him from participating in the settlement without a guardian, respondent abruptly changed his position to salvage his substantial legal fee. Specifically, he arranged for the neuropsychologist to issue a new opinion, in which he concluded, contrary to his earlier assessment and the opinions of numerous medical professionals who had evaluated McCollum, that his client was capable of settling his claims. When that tactic failed, respondent attempted to terminate any additional medical evaluations of McCollum along with his court-appointed guardian, demonstrating a total disregard for the interests of his vulnerable client, who clearly required such protections. Further, in anticipation of an independent evaluation of his client, respondent openly expressed his willingness to have "some rehearsal" with McCollum regarding his financial affairs.

Respondent's brazen acts of deception towards a federal court, coupled with his shameless financial exploitation of his vulnerable, intellectually impaired clients, clearly support a recommendation for his disbarment. "Lawyering is a profession of 'great traditions and high standards.'" In re Jackman, 165 N.J. 580, 584 (2000) (quoting Speech by Chief Justice Robert N. Wilentz, Commencement Address-Rutgers University School of Law, Newark,

New Jersey (June 2, 1991), 49 Rutgers L. Rev. 1061, 1062 (1997)). Attorneys are expected to hold themselves in the highest regard and must "possess a certain set of traits -- honesty and truthfulness, trustworthiness and reliability, and a professional commitment to the judicial process and the administration of justice." In re Application of Matthews, 94 N.J. 59, 77 (1983).

The Court has explained, when considering the character of a Bar applicant, that:

> [t]hese personal characteristics are required to ensure that lawyers will serve both their clients and the administration of justice honorably and responsibly. We also believe that applicants must demonstrate through the possession of such qualities of character the ability to adhere to the Disciplinary Rules governing the conduct of attorneys. These Rules embody basic ethical and professional precepts; they are fundamental norms that control the professional and personal behavior of those who as attorneys undertake to be officers of the court. These Rules reflect decades of tradition, experience and continuous careful consideration of the essential and indispensable ingredients that constitute the professional responsibility of attorneys.
>
> [In re Application of Matthews, 94 N.J. at 77-78.]

Adherence to these basic ethical and professional precepts are demanded of all attorneys, from the newly admitted to the most seasoned practitioners. Respondent's conduct, however, demonstrated that he has abandoned the

trustworthiness, honesty, and professional commitment to the administration of justice required of all New Jersey attorneys.

Conclusion

In conclusion, like the attorney in Legome, the endgame of respondent's misconduct was clear. Respondent knew that his clients' tragic experiences entitled them to significant compensation from both the NCIC and, in all likelihood, the civil litigation against the entities responsible for their wrongful imprisonment. Instead of acting as counsel to his vulnerable clients, he became a predator who, after earning his clients' trust with improper financial assistance, engaged in egregious fee overreaching in connection with their statutorily prescribed monetary award. Thereafter, he engaged in a protracted course of dishonesty towards a federal court in an attempt to secure even more fees for work he already had received excessive compensation. Through his actions, respondent willingly cast aside his good reputation by financially exploiting his vulnerable clients, who had just been afforded a new lease on life after having been wrongly incarcerated for decades.

Consistent with disciplinary precedent, we recommend to the Court that respondent be disbarred in order to preserve the integrity of the bar and to protect the public from attorneys, like respondent, who have demonstrated an inability

to resist opportunities for self-dealing and dishonesty at the expense of vulnerable clients.

Vice-Chair Boyer and Members Petrou and Rodriguez voted to impose a three-year suspension.

Member Campelo was absent.

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

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

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

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Patrick Michael Megaro
Docket No. DRB 23-254

Decided: May 1, 2024

Disposition: Disbar

Members	Disbar	Three-Year Suspension	Absent
Gallipoli	X		
Boyer		X	
Campelo			X
Hoberman	X		
Joseph	X		
Menaker	X		
Petrou		X	
Rivera	X		
Rodriguez		X	
Total:	5	3	1

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