

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 24-135
District Docket No. XIV-2017-0112E

In the Matter of Jeffrey Alan Glazer
An Attorney at Law

Argued
September 19, 2024

Decided
December 2, 2024

Kimberly Roman appeared on behalf of
the Office of Attorney Ethics.

John D. Haggerty appeared on behalf of respondent.

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Introduction

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

This matter was before us on a disciplinary stipulation between the Office of Attorney Ethics (the OAE) and respondent. Respondent stipulated to having violated RPC 8.4(b) (committing a criminal act that reflects adversely on a lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects) and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation), following his guilty plea and convictions, in the United States District Court for the Eastern District of Pennsylvania, of two counts of conspiracy to unreasonably restrain trade or competition, in violation of the Sherman Antitrust Act, 15 U.S.C. § 1.

For the reasons set forth below, we determine that a three-year suspension, retroactive to respondent's January 24, 2017 temporary suspension, is the appropriate quantum of discipline for his misconduct.

Ethics History

Respondent earned admission to the New Jersey bar in 1998. The record before us does not disclose whether he maintained a practice of law during the relevant time.

On July 12, 2017, the Court temporarily suspended respondent from the practice of law, effective January 24, 2017, based on his criminal conduct underlying this matter. In re Glazer, 229 N.J. 582 (2017). To date, he remains temporarily suspended on this basis.

According to public records available through the United States Patent and Trademark Office (the USPTO) website, on March 4, 2020, in a default disciplinary matter, the USPTO imposed the sanction of exclusion on respondent, prohibiting him from practicing before the USPTO in patent, trademark, and other non-patent matters.¹

Facts

Respondent and the OAE entered into a disciplinary stipulation, dated June 19, 2024, which sets forth the following facts in support of respondent's admitted ethics violations.

During the relevant period, respondent was a patent attorney registered to practice before the USPTO, as well as the founder, Chief Executive Officer, and Chairman of Heritage Pharmaceuticals (Heritage), an entity organized and existing under the laws of Delaware with its principal place of business in

¹ An excluded practitioner is eligible to apply for reinstatement no earlier than five years from the effective date of the exclusion. 37 C.F.R. § 11.60(b).

Eatontown, New Jersey. At the time, Heritage was a subsidiary of Emcure Pharma, Ltd. (Emcure), and conducted the U.S. commercial operations of Emcure, a generic pharmaceutical company headquartered in India. Specifically, Heritage engaged in the acquisition; licensing; production; marketing; sale; and distribution of generic pharmaceutical products, including doxycycline hyclate and glyburide, and was engaged in the sale of those drugs in the United States.²

From April 2013 until December 2015, respondent led a conspiracy with at least five other people, as well as other entities involved in the production and sale of generic pharmaceutical products, to suppress and eliminate competition in the market for doxycycline hyclate and glyburide sold in the United States.

Specifically, in furtherance of the conspiracy, respondent and his co-conspirators, including individuals he supervised at Heritage, engaged in discussions and attended meetings with co-conspirators involved in the production and sale of doxycycline hyclate and glyburide. During such discussions and meetings, agreements were reached to allocate customers, rig bids, and fix and maintain prices of both drugs sold in the United States.

The business activities of Heritage and the co-conspirators in connection with the production and sale of doxycycline hyclate and glyburide were within

² Doxycycline hyclate is a generic antibiotic used to treat bacterial infections. Glyburide is a generic drug used in the treatment of diabetes.

the flow, and substantially affected, interstate and foreign trade and commerce. During the relevant period, the affected volume of commerce based on the sales of doxycycline hyclate and glyburide totaled approximately \$1.6 million.

On December 12, 2016, the United States Department of Justice, Antitrust Division, along with the United States Attorney's Office in the Eastern District of Pennsylvania, filed a two-count information against respondent charging him with conspiracy to unreasonably restrain trade or commerce, in violation of the Sherman Antitrust Act, 15 U.S.C. § 1.

On January 9, 2017, respondent pled guilty to both counts of the information, in accordance with the plea agreement he had executed on December 9, 2016.

On January 24, 2017, respondent, through counsel, notified the OAE of the criminal charges, as well as his guilty plea, and further stated that he agreed to a temporary suspension of his license to practice law pending the final resolution of the criminal matter.

On April 2, 2024, the Honorable R. Barclay Surrick, U.S.D.J., sentenced respondent to a one-year term of probation for each count of the information, to run concurrently, and imposed a \$20,000 fine, as well as a \$200 special assessment. In terms of victim impact stemming from respondent's conduct, the government noted that there were so many victims it would be impracticable to

individually identify them all without unduly complicating or prolonging the criminal proceedings.

In determining to sentence respondent to an aggregate one-year term of probation, a significant downward departure from the sentencing guidelines, Judge Surrick attributed considerable weight to respondent's acceptance of responsibility for his criminal conduct and the cooperation he had provided the government in the investigation and prosecution of the matter. Judge Surrick also considered his lack of criminal history.³

Based on the forgoing facts, respondent stipulated to having violated RPC 8.4(b) and RPC 8.4(c) by engaging in a conspiracy to restrain trade or commerce, in violation of the Sherman Antitrust Act.

The Parties' Positions Before the Board

The OAE recommended the imposition of a three-year suspension, retroactive to the effective date of his temporary suspension, for respondent's fraudulent scheme to allocate customers, to rig bids, and to fix and maintain the prices of doxycycline hyclate and glyburide sold in the United States. In support of its recommendation, the OAE cited disciplinary precedent, discussed below, in which attorneys who violated the Sherman Antitrust Act, or were found guilty

³ Judge Surrick reduced respondent's offense level by at least seven levels.

of fraud, received either lengthy terms of suspension or were disbarred.

In aggravation, the OAE emphasized respondent's leadership role in the fraudulent scheme, which he engaged in solely for his personal financial gain. In further aggravation, the OAE noted that the extent of victim harm was incalculable because, as the federal government had noted during the criminal proceedings, there were many potential victims of his criminal conduct.

In mitigation, the OAE noted respondent's lack of prior discipline in his twenty-six years at the bar. Further, respondent readily admitted his wrongdoing by entering into a plea agreement in the underlying criminal matter and, subsequently, the disciplinary stipulation currently before us, thereby accepting full responsibility for his misconduct. Further, the OAE emphasized his cooperation with the federal government in the investigation and prosecution of the case, resulting in a significant downward departure for sentencing.

During oral argument and in his brief to us, respondent, through counsel, expressed his agreement with the OAE's recommended quantum of discipline. He emphasized that the underlying criminal conduct occurred approximately ten years ago, between 2013 and 2015. He further emphasized that, for more than seven years, he had provided "substantial and extensive" assistance to (1) the federal government with a federal antitrust investigation involving generic pharmaceuticals, (2) a parallel investigation by a group of state Attorneys

General, and (3) civil actions filed by private plaintiffs. He stated that his extensive cooperation resulted in the government seeking a downward departure from the applicable sentencing guidelines and imposing a probationary sentence.

Respondent noted that, although his criminal conduct did not involve the practice of law, he accepted and understood that he had violated the Rules of Professional Conduct. He immediately notified the OAE of his guilty plea and willingly accepted a temporary suspension of his license to practice law. He further noted that, following his guilty plea and sentence, he quickly entered the disciplinary stipulation and accepted the OAE's recommendation of a three-year retroactive suspension. Respondent asserted that his unequivocal willingness to accept responsibility, coupled with his sincere remorse, demonstrated that he was unlikely to be involved in any future criminal proceedings or ethics matters. He further asserted that he "learned his lesson;" sought to rectify his actions; was committed to rehabilitating himself; and seeks to continue to rebuild his life, both professionally and personally.

Based on his lack of prior discipline; his remorse; the length of time since the criminal conduct occurred; the lack of any prior, or subsequent, criminal conduct; and his complete cooperation with the criminal and disciplinary matters, respondent urged the imposition of no more than a three-year retroactive suspension.

Analysis and Discipline

Violations of the Rules of Professional Conduct

Following a review of the record, we conclude that the facts contained in the stipulation clearly and convincingly support the finding that respondent committed all the charged unethical conduct.⁴

Specifically, pursuant to RPC 8.4(b), it is misconduct for an attorney to “commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer.” In addition, RPC 8.4(c) prohibits an attorney from engaging “in conduct involving dishonesty, fraud, deceit or misrepresentation.” It is well-settled that a violation of RPC 8.4(c) also requires intent. See In the Matter of Ty Hyderally, DRB 11-016 (July 12, 2011). Here, respondent’s guilty plea and conviction for engaging in a conspiracy to unreasonable restrain trade or commerce, in violation of the Sherman Antitrust Act, 15 U.S.C. § 1 (two counts), establishes his violation of RPC 8.4(b) and RPC 8.4(c).

In sum, we find that respondent violated RPC 8.4(b) and RPC 8.4(c). The sole issue left for our determination is the appropriate quantum of discipline for

⁴ Pursuant to R. 1:20-13(c)(1), a criminal conviction is conclusive evidence of guilt in a disciplinary proceeding. In re Magid, 139 N.J. 449, 451 (1995); In re Principato, 139 N.J. 456, 460 (1995). However, the OAE elected to proceed with this matter by way of disciplinary stipulation rather than a motion for final discipline to allow for a plenary review of the underlying facts to ascertain guilt. R. 1:20-13(c)(2); Magid, 139 N.J. at 451-52; Principato, 139 N.J. at 460.

respondent's misconduct.

Quantum of Discipline

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

That an attorney's misconduct did not involve the practice of law or arise from a client relationship will not excuse an ethics transgression or lessen the degree of sanction. In re Musto, 152 N.J. 165, 173 (1997). Offenses that evidence ethics shortcomings, although not committed in an attorney's professional capacity, may nevertheless warrant discipline. In re Hasbrouck, 140 N.J. 162, 167 (1995). The obligation of an attorney to maintain the high standard of conduct required by a member of the bar applies even to activities that may not directly involve the practice of law or affect his or her clients. In re Schaffer, 140 N.J. 148, 156 (1995).

As the OAE observed, attorneys convicted of engaging in a conspiracy to unreasonably restrain trade or commerce, in violation of the Sherman Antitrust Act, have received three-year terms of suspension. See, e.g., In re Rothman, 235 N.J. 93 (2018); In re May, 230 N.J. 56 (2017); In re Stein, 230 N.J. 57 (2017) (in these companion cases arising from the same criminal conspiracy, the attorneys each received a three-year retroactive suspension following their guilty pleas for having violated Section 1 of the Sherman Antitrust Act by engaging in an approximately six-year-long conspiracy to rig the bidding process in municipal tax liens; the attorneys engaged in the conspiracy to suppress and eliminate competition in the bidding process by submitting noncompetitive and collusive bids at public auctions for tax liens in various municipalities, resulting in unreasonable restraint of interstate trade and commerce, in violation of 15 U.S.C. § 1; each attorney was sentenced to a one-year term of probation, a \$20,000 fine, and a \$100 special assessment; we found, in mitigation, that the attorneys substantially cooperated with the government, expressed remorse; and repaid the victims; Stein and Rothman had no prior discipline, while May had received a one-year suspension for misconduct that took place twenty years prior).⁵

⁵ The additional cases cited by the OAE are in accord. See In re Mueller, 218 N.J. 3 (2014) (three-year retroactive suspension for an attorney convicted of conspiracy to commit wire fraud, in violation of U.S.C § 1349; the attorney conspired to defraud real estate investors by falsely

Here, like the attorneys in Rothman, May, and Stein, respondent engaged in anti-competitive conduct, in violation of the Sherman Antitrust Act, by participating in a two-year conspiracy to allocate customers, to rig bids, and to fix and maintain pricing of two generic drugs. Also like the attorneys in those matters, respondent cooperated with the government and was sentenced to a one-year term of probation, a significant downward departure from the sentencing guidelines. Further, like Rothman and Stein, respondent has no prior discipline in a lengthy career at the bar.

Thus, based upon the foregoing precedent, we conclude that the baseline discipline for respondent's misconduct is a three-year suspension. To craft the appropriate discipline, we also consider mitigating and aggravating factors.

In mitigation, respondent has no prior discipline in his twenty-six years at the bar. In re Convery, 166 N.J. 298, 308 (2001). Further, he cooperated fully with the authorities in both his criminal and disciplinary matters; admitted his wrongdoing; immediately notified the OAE of his guilty plea; and entered into a disciplinary stipulation.

In aggravation, respondent's scheme to rig bids and fix prices undoubtedly

promising large returns on their million-dollar investment, while he had wired the funds to co-conspirators who depleted the funds for their personal expenses), and In re Abrams, 186 N.J. 588 (2006) (three-year retroactive suspension for an attorney who pleaded guilty to two counts of wire fraud; the attorney overstated the value of the accounts receivable of a company of which he was part owner, whose assets were bought by another company, and then fraudulently paid debts of the sold company with assets of the buying company, resulting in a \$200,000 loss).

harmed countless individuals who needed the medications to treat diabetes or to combat infection. As the government emphasized in the criminal proceeding, the impact of the price fixing is incalculable when considering the potential extent of the use of the drugs across the country. Moreover, many Americans rely on generic pharmaceuticals to be priced lower than the brand name versions as a means of maintaining access to the medications.

Conclusion

On balance, we find that the mitigating and aggravating factors are in equipoise and determine that a three-year suspension is the appropriate quantum of discipline necessary to protect the public and to preserve confidence in the bar.

Because respondent was temporarily suspended in connection with his misconduct underlying this matter, we also recommend that his three-year suspension be imposed retroactive to January 24, 2017, the effective date of his temporary suspension. See In re Dutt, 250 N.J. 181 (2022), and In re Walker, 234 N.J. 164 (2018) (the attorneys' respective terms of suspension were imposed retroactive to the effective dates of their temporary suspensions in connection with their criminal conduct).

Chair Cuff was recused.

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
Peter J. Boyer, Esq., Vice-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 Jeffrey Alan Glazer
Docket No. DRB 24-135

Argued: September 19, 2024

Decided: December 2, 2024

Disposition: Three-Year Suspension

<i>Members</i>	Three-Year Suspension	Recused	Absent
Cuff		X	
Boyer	X		
Campelo			X
Hoberman	X		
Menaker	X		
Petrou	X		
Rivera	X		
Rodriguez	X		
Spencer	X		
Total:	7	1	1

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