SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 23-141
District Docket No. XIV-2020-0316E

In the Matter of Jesse M. Cohen
An Attorney at Law

Argued
March 20, 2025

Decided
May 21, 2025

Darrell M. Felsenstein appeared on behalf of the
Office of Attorney Ethics.

David M. Birnbaum 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 motion for final discipline filed by the Office of Attorney Ethics (the OAE), pursuant to R. 1:20-13(c)(2), following respondent's guilty pleas and felony convictions, in the United States District Court for the Eastern District of Pennsylvania (the EDP), for mail fraud, in violation of 18 U.S.C. § 1341, and wire fraud, in violation of 18 U.S.C. § 1343. The OAE asserted that these offenses constitute violations of the principles of In re Siegel, 133 N.J. 162 (1993) (knowing misappropriation of law firm funds), RPC 8.4(b) (committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer), and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

For the reasons set forth below, we determine to grant the motion for final discipline and conclude that respondent knowingly misappropriated law firm funds. Consequently, we recommend to the Court that he be disbarred.

Ethics History

Respondent earned admission to the New Jersey and Pennsylvania bars in 2004. During the relevant timeframe, he was an associate at the Philadelphia law firm Sacks Weston Diamond, which is now Sacks Law, LLC.

On January 12, 2024, in connection with his criminal conduct, the Supreme Court of Pennsylvania suspended respondent for four years, on consent, retroactive to September 8, 2022.

Effective January 12, 2023, our Court temporarily suspended respondent in connection with his criminal convictions underlying this matter.

Facts

On July 21, 2022, in the EDP, before the Honorable Anita M. Brody, U.S.D.J., respondent entered guilty pleas to two counts of an information charging him with mail fraud and wire fraud, in violation of 18 U.S.C. §§ 1341 and 1343, respectively.

On March 22, 2023, Judge Brody sentenced respondent to a three-year term of probation on each charge, to run concurrently, with standard conditions. In sentencing respondent to a term of probation, Judge Brody considered the

Section 5K1.1 motion[1] filed by the government in connection with his cooperation in the criminal investigation against both himself and attorney co-defendant Scott Eric Diamond, which developed "substantial evidence." Judge Brody waived the imposition of any fine but imposed a mandatory $200 special assessment.

The facts underlying respondent's criminal conviction are as follows.

In 2016, respondent became an associate at Sacks Weston Diamond (the Firm), a Philadelphia law firm specializing in complex commercial litigation, personal injury, and insurance subrogation. He knew Diamond, one of three partners at the Firm; in fact, Diamond recruited him to join the Firm and directly supervised him thereafter. Respondent's salary was $65,000, and he additionally received a twenty-three percent share of legal fees generated by matters he opened on behalf of the Firm. As a partner, Diamond was entitled to a thirty-three percent share of the Firm's profits. (ExAp2). His ownership interest in the Firm flowed through Diamond Law, P.C., a corporate entity he had formed prior to committing any of the underlying misconduct with respondent.

Together, respondent and Diamond focused their practices on personal

[1] A Section 5K1.1 motion may be filed by the United States Government when a criminal defendant provides substantial assistance in the investigation or prosecution of another person – in this case, Diamond.

injury and insurance subrogation matters; respondent was the primary source for subrogation clients.

Beginning in June 2018 and continuing until July 2020, respondent and Diamond devised and implemented a scheme to "defraud [the Firm] of legal fees and reimbursement of costs in connection with legal matters that [respondent and Diamond] diverted from [the Firm]" to themselves, using bank accounts controlled by respondent; the scheme was meant to assist them with financial issues they were facing. Respondent and Diamond leveraged personal injury and insurance subrogation cases they personally handled in order to conceal their misconduct from the Firm. In the event a case was settling, respondent would advise Diamond so that the case could be utilized in their scheme. When possible, respondent and Diamond would instruct the payor of funds to issue the payment to Diamond Law, P.C., at that entity's Philadelphia Post Office box, rather than issuing the payment to the Firm. Otherwise, Diamond would intercept the physical checks at the Firm prior to the Firm's bookkeeper picking up the mail. Ibid. On one occasion, Diamond instructed a Minnesota law firm to send a check directly to his home address. Diamond deposited the funds generated by the scheme in either an attorney trust or attorney business account held by Diamond Law, P.C. Respondent and Diamond would then disburse the

portion of funds owed to clients and, on occasion, would reimburse the Firm for costs incurred in the relevant matters. However, in some matters associated with the scheme, they did not reimburse the Firm for costs incurred. To further conceal the thefts, Diamond deleted files and other Firm records relating to the cases that he and respondent were leveraging to divert funds. Diamond also made false entries in the Firm's case management system, to make it appear there had been no settlement or other favorable resolution of a case.

Respondent admitted that his and Diamond's scheme generated more than $750,000 in gross proceeds; after disbursements to clients and the payment of costs, they equally divided approximately $319,931. However, Diamond also engaged in a separate scheme to divert funds from the Firm, without respondent's involvement, and he kept all the proceeds of that endeavor for himself.

As a factual basis for his guilty plea to mail fraud, respondent admitted that, on February 24, 2020, he and Diamond diverted $84,000 in legal fees and costs owed to the Firm in an insurance subrogation case to Diamond Law, P.C., via the United States Postal Service, an interstate carrier. In connection with the wire fraud, respondent admitted that, on June 2, 2020, he and Diamond diverted legal fees owed to the Firm in an insurance subrogation case to respondent's

home, via an e-mail sent to a law firm in Minnesota, transmitted in interstate commerce. Respondent and Diamond used the funds diverted on these occasions for their own pecuniary benefit.

During his sentencing, respondent addressed the District Court. In summary, he thanked the United States Attorney for treating him respectfully throughout the criminal proceedings, noted that his ongoing psychotherapy has helped him to understand why he engaged in the criminal behavior (greed and emotional emptiness), and took complete responsibility for his criminal conduct. Respondent also apologized to Mr. Weston, another partner with the Firm, who he genuinely respected. Respondent concluded by stating that he has "moved on physically, mentally moved on to a different place . . . to make sure something like this never occurs again."

The Parties' Positions Before the Board

Via its brief, the OAE sought the imposition of final discipline based on respondent's federal convictions. Moreover, the OAE asserted that the record clearly and convincingly establishes that respondent repeatedly and knowingly misappropriated law firm funds, in violation of Siegel. Citing relevant caselaw, the OAE acknowledged that the misappropriation of law firm funds is not always

met with disbarment, where the attorney can demonstrate an ongoing business dispute with their firm and a reasonable belief to entitlement to the funds.

The OAE argued that, in this case, respondent has made no assertion that he had a business dispute with the Firm and, thus, he was not able to demonstrate a reasonable belief to entitlement to the misappropriated law firm funds. Consequently, the OAE argued that respondent must be disbarred under the principles of Siegel.

The OAE further asserted that respondent's admitted crimes also supported a secondary basis for his disbarment, pursuant to New Jersey disciplinary precedent – specifically, the well-settled principles of In re Goldberg – discussed below.

In respondent's pro se brief to us, he argued that his misconduct warrants the identical discipline imposed in Pennsylvania – a four-year suspension. Citing In re Sigman, 220 N.J. 141 (2014), detailed further below, respondent emphasized that he knowingly misappropriated fees from the Firm, but did not steal client funds. Further comparing his misconduct to that of the attorney in Sigman, respondent noted his cooperation with disciplinary authorities, his acceptance of responsibility, and his remorse for his crimes. (Rb9). Accordingly,

he requested the imposition of identical discipline to that imposed in Pennsylvania, as the Court imposed in Sigman.

Notably, in his brief to us, respondent did not address the application of Goldberg or its progeny to his criminal conduct.

During oral argument before us, respondent, through counsel, did not dispute the underlying facts and confirmed that he was not asserting an underlying business dispute. Rather, he concededly made a "horrible decision" and is ready to take responsibility for it. In mitigation, respondent asserted that he had cooperated fully with the criminal prosecution, demonstrated genuine remorse, and the conduct is unlikely to recur. In further mitigation, respondent made full restitution. Although not minimizing the conduct or its impact on the Firm, respondent also emphasized that no client was harmed by his misconduct.

Analysis and Discipline

Violations of the Rules of Professional Conduct

Following a review of the record, we determine to grant the OAE's motion for final discipline. Final discipline proceedings in New Jersey are governed by R. 1:20-13(c). Under that Rule, a criminal conviction is conclusive evidence of

guilt in a disciplinary proceeding. R. 1:20-13(c)(1). See also In re Magid, 139 N.J. 449, 451 (1995); In re Principato, 139 N.J. 456, 460 (1995).

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. Moreover, pursuant to RPC 8.4(c), it is misconduct for an attorney to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. Thus, respondent's guilty plea and convictions for felony mail fraud and wire fraud, in violation of 18 U.S.C. § 1341 and 18 U.S.C. § 1343, respectively, clearly and convincingly establish his violation of RPC 8.4(b) and (c) via his criminal conduct – mail and wire fraud. Hence, the sole issue remaining for our determination is the proper quantum of discipline for his/her misconduct. R. 1:20-13(c)(2); Magid, 139 N.J. at 451-52; Principato, 139 N.J. at 460.

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 the 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).

The Court has noted that, although it does not conduct "an independent examination of the underlying facts to ascertain guilt," it will "consider them relevant to the nature and extent of discipline to be imposed." Magid, 139 N.J. at 452. In motions for final discipline, it is acceptable to "examine the totality of the circumstances, including the details of the offense, the background of respondent, and the pre-sentence report" before reaching a decision as to the sanction to be imposed. In re Spina, 121 N.J. 378, 389 (1990). The "appropriate decision" should provide "due consideration to the interests of the attorney involved and to the protection of the public." Ibid.

Here, respondent, along with Diamond, engaged in a prolonged scheme to misappropriate Firm funds solely for their joint pecuniary benefit. Accordingly, pursuant to New Jersey disciplinary precedent, respondent's misconduct mandates his disbarment unless he establishes a recognized defense. See R. 1:20-6(c)(2)(B) and (C), and In re Gifis, 156 N.J. 323, 359 n. 8 (1998) (holding

that respondent has the "burden of going forward regarding defenses . . . to charges of unethical conduct").

In Sigman, the Court explained that it had "construed the 'Wilson rule, as described in Siegel,' to mandate the disbarment of lawyers found to have misappropriated firm funds '[i]n the absence of compelling mitigating factors justifying a lesser sanction, which will occur quite rarely.'" Sigman, 220 N.J. at 157 (alteration in original) (quoting In re Greenberg, 155 N.J. 138, 153 (1998)).

By way of background, in Siegel, the Court addressed, for the first time, the question of whether the knowing misappropriation of law firm funds should result in disbarment. Siegel, 133 N.J. at 168. During a three-year period, the attorney, a partner at his firm, converted more than $25,000 in funds from his firm by submitting false disbursement requests to the firm's bookkeeper. Id. at 165. Although the disbursement requests listed ostensibly legitimate purposes, they represented the attorney's personal, luxury expenses, including tennis club fees, theater tickets, and sports memorabilia. Ibid. The payees were not fictitious; however, the stated purposes of the expenses were. Ibid.

Although we did not recommend the attorney's disbarment, the Court agreed with our dissenting public Members, who "saw no ethical distinction between the prolonged, surreptitious misappropriation of firm funds and the

misappropriation of client funds." Id. at 166-67. The Court concluded that knowing misappropriation from one's partners is just as wrong as knowing misappropriation from one's clients, and that disbarment was the appropriate discipline. Id. at 170.

In Greenberg, the Court refined the principle announced in Siegel. The attorney in Greenberg also was disbarred after misappropriating $34,000 from his law firm partners, over a sixteen-month period, and using the ill-gotten proceeds for personal expenses, including mortgage payments and country club dues. Greenberg, 155 N.J. at 158. He improperly converted the funds by endorsing two insurance settlement checks to a client, rather than depositing the checks in his firm's trust account. Id. a 141. Per the attorney's instructions, the client then issued checks for legal fees directly payable to the attorney. Ibid. Additionally, the attorney falsified disbursement requests and used those proceeds to pay for personal expenses. Id. at 141-42.

In mitigation, the attorney asserted that a psychiatric condition, which he attributed to childhood development issues and depression, rendered him unable to form the requisite intent to misappropriate his firm's funds. Id. at 155-157. Additionally, he submitted more than 120 letters from peers and community members, attesting to his reputation for honesty and integrity. Id. at 161.

Determining that the attorney appreciated the difference between right and wrong, and had "carried out a carefully constructed scheme," the Court rejected his mitigation and disbarred him. Greenberg, 155 N.J. at 158.

In In re Staropoli, 185 N.J. 401 (2005), an associate attorney received a one-year suspension in Pennsylvania and Delaware, but was disbarred in New Jersey, for retaining a $3,000 legal fee, two-thirds of which belonged to his firm. The associate attorney was aware that contingent fees were to be divided in certain percentages between the firm and its associates, if the associates originated the cases. In the Matter of Charles C. Staropoli, DRB 04-319 (March 2, 2005) at 2. In May 2000, the associate attorney settled a personal injury case he had originated, earning a contingent fee. Id. at 2. The insurance company issued a check payable to both the attorney and the client. Ibid. The attorney, however, did not tell the firm of his receipt of the check and deposited it in his personal bank account, rather than the firm's account. Ibid. He then distributed $6,000 to the client and kept the $3,000 fee for himself. Ibid.

We issued a divided decision. Four Members found that the attorney's single aberrational act should not require "the death penalty on [his] New Jersey law career." Id. at 22. Those Members were convinced that his character was not permanently flawed. Staropoli, DRB 04-319 at 23.

The four Members who voted for disbarment found that the attorney did not have a reasonable belief of entitlement to the funds that he withheld from the firm, and that he had advanced no other valid reason for his misappropriation of law firm funds. Id. at 20. The Court agreed and disbarred the attorney. Staropoli, 185 N.J. at 401.

In a more recent default matter, In re Nicholson, 235 N.J. 331 (2018), the Court disbarred an associate attorney who knowingly misappropriated her law firm's funds in connection with her attempts to assist the firm in collecting outstanding client fees. In the Matter of Christie-Lynn Nicholson, DRB 18-037 (July 30, 2018) at 4. Per the associate attorney's instructions, twelve law firm clients directly paid her a total of $19,161, toward outstanding legal fees, which the associate attorney deposited in her personal bank account. Id. at 4-5. The client payments represented both legal fees owed to the firm for completed legal services and legal fees advanced for future legal services. Id. at 5. The associate attorney did not remit the client payments to the firm, despite the fact that she was neither authorized to settle outstanding fees nor entitled to retain any legal fees paid to the firm. Ibid.

To conceal her misconduct, the associate attorney removed pages from the firm's receipts book; intercepted monthly billing invoices, so that clients would

not learn that their payments were not properly credited to their outstanding balances; instructed clients to lie to the firm's managing partner about making cash payments to the associate attorney after the firm's normal business hours; and maintained secret notes concerning potential new clients, some of whom retained the associate attorney to perform work outside the scope of her employment with the firm. Id. at 5, 13. Although the associate attorney collected fees from those potential new clients, she never performed the legal services. Id. at 5.

After discovering the associate attorney's misconduct, the managing partner terminated her employment and filed a criminal complaint, charging her with multiple counts of indictable-level theft. Nicholson, DRB 18-037 at 18. The associate attorney, however, improperly threatened the managing partner that, unless he withdrew the criminal charges and the information he had given to the New Jersey Department of Labor, the associate would report the managing partner to the relevant authorities for purported "'counter allegations' of fraud and crimes." Id. at 18-19.

In recommending the associate attorney's disbarment, we found no evidence that she took the firm's funds in connection with a colorable business dispute, as in Sigman. Id. at 31. Rather, we found that her protracted scheme of

dishonesty and theft from the law firm compelled her disbarment, as in Siegel, Greenberg, and Staropoli. Id. at 31-32.

On March 22, 2022, the Court imposed a permanent bar on an attorney's ability to apply for future pro hac vice or plenary admission in New Jersey, following the attorney's guilty plea and conviction to one count of mail fraud, in violation of 18 U.S.C. § 1341. In re Mittin, 250 N.J. 182 (2022). In that matter, the attorney admitted that he had engaged in an illegal, decade-long scheme to defraud his law firm of its entitled fees by referring the firm's cases to outside lawyers, who resolved the cases and shared the proceeds with the attorney. In the Matter of Neil I. Mittin, DRB 20-334 (August 5, 2021) at 3-4.

Although the attorney was an associate, who was not permitted to remove a client's matter from the firm or to refer a client to an outside attorney, he enjoyed a position of trust from the partners and, thus, was not subject to significant supervision in his daily work. Ibid. Nevertheless, the attorney abused that trust by referring client matters, without the firm's knowledge, to outside lawyers as if he, not the firm, was entitled to a share of the financial recoveries in those matters. Id. at 5. Thereafter, the attorney would systematically close the corresponding files at the firm, which made it appear in the firm's records as if there was no settlement or resolution, effectively concealing from the firm that

the matters were, indeed, viable, and that he had fraudulently referred the matters to the outside attorneys. Ibid. Following the resolution of the client matters, the outside attorneys would pay the attorney a referral fee and reimburse him for the costs incurred by the firm before he had referred the cases. Id. at 6.

In recommending the attorney's permanent bar from future plenary or pro hac vice admissions, we found that the attorney's knowing misappropriation of law firm funds did not arise out of a business dispute over fees, as in Sigman. Rather, the attorney embarked on a criminal scheme to steal nearly $4 million in fees to which the firm was entitled. Mittin, DRB 20-334 at 16.

As noted above, the misappropriation of law firm funds is not always met with disbarment. Lesser sanctions have been imposed where attorneys have been engaged in business disputes with their law firms. See, e.g., In re Nelson, 181 N.J. 323 (2004); In re Glick, 172 N.J. 319 (2002); In re Paragano, 157 N.J. 628 (1999); and In re Bromberg, 152 N.J. 382 (1998) (wherein the Court imposed discipline short of disbarment when each attorneys' misappropriation of law firm funds occurred in the context of legitimate business disputes with their firms).

Similarly, in Sigman, the Court, in a reciprocal discipline matter, suspended an associate attorney for thirty months – the same discipline he

received in Pennsylvania – for his misappropriation of law firm funds that had arisen during a genuine business dispute with his firm. 220 N.J. at 162. In that matter, Sigman kept legal and referral fees, over a four-year period, repeatedly violating the terms of his employment contract. Id. at 145. Sigman knew he was prohibited from handling client matters and referrals independent of the firm, but did so anyway, and instructed clients to issue checks for fees directly to him. Id. at 147-48. In total, he withheld $25,468 from the firm. Id. at 145.

After the firm terminated Sigman's employment, but prior to the imposition of discipline in Pennsylvania, he successfully sued his prior employer, resulting in the award of $123,942.93 in legal and referral fees that the firm wrongfully had withheld from him. Id. at 151. During the disciplinary proceedings, however, Sigman did not cite the fee dispute with his firm as justification for his misappropriation. Id. at 162. For his violations of RPC 1.15(a) and (b), RPC 3.4(a), and RPC 8.4(c), the Pennsylvania Supreme Court, citing substantial mitigation, suspended him for thirty months. Ibid.

In New Jersey, the Court imposed a reciprocal thirty-month suspension, noting the presence of compelling mitigating factors, including (1) Sigman's lack of prior discipline in Pennsylvania or New Jersey; (2) his character references demonstrating his significant contributions to the bar and to

underserved communities; (3) his admission of wrongdoing and cooperation with disciplinary authorities; (4) the fact that he did not steal funds belonging to a client; (5) the fact that his misappropriation occurred in the context of fee payment disputes and a deteriorating relationship with his firm, where he ultimately was vindicated; and (6) the fact that his misconduct was reported only after the conflict over fees had escalated. Id. at 161.

Recently, in In re Kelly, 260 N.J. 123 (2025), the Court imposed a two-year suspension on a salaried partner found to have misappropriated law firm funds by directly billing several clients for legal services. In the Matter of William C. Kelly, DRB 24-140 (December 11, 2024) at 27. Although Kelly had no business dispute with his firm, we concluded that compelling mitigation warranted discipline short of disbarment, including (1) the lack of evidence that his misconduct had a negative effect on either his known clients or his clients for whom he performed outside legal services; (2) the fact that his firm did not seek to recover any funds from him; (3) his status as a non-equity partner in which he did not share in his firm's profits; (4) the lack of evidence that he took existing clients from the firm or that the firm would have taken the clients for whom he performed outside legal work; (5) his remorse, contrition, and cooperation with disciplinary authorities; and (6) his lack of prior discipline in

his lengthy career at the bar. Id. at 33. We recommended the imposition of a three-year suspension. Id. at 38. However, the Court, citing Sigman, imposed a two-year suspension, noting that "knowing misappropriation of law firm funds may warrant disbarment," though mitigating factors may justify a lesser sanction.

In the absence of compelling mitigation or a legitimate business dispute over fees, the Court invariably has disbarred attorneys for knowing misappropriation of law firm funds.

Here, we determine that, unlike in Sigman, respondent's misappropriation of law firm funds did not arise out of a business dispute over fees. Moreover, unlike in Kelly, respondent has presented no compelling mitigating factors to justify a sanction short of disbarment.

There remains for our consideration a second basis for disbarment in this matter, especially given respondent's cooperation with Diamond in the criminal scheme. As noted above, in addition to asserting that disbarment was appropriate for respondent's knowing misappropriation of law firm funds, the OAE further charged that, pursuant to In re Goldberg, respondent's crimes of mail and wire fraud warrant his disbarment. 142 N.J. 557 (1995) (disbarment for an attorney who pleaded guilty, in separate jurisdictions, to three counts of mail fraud, in

violation of 18 U.S.C. §§ 2, 1341 and 1343; and conspiracy to defraud the United States, in violation of 18 U.S.C. § 371).

Given our determination to recommend respondent's disbarment pursuant to the principles of Siegel, we only briefly will address respondent's crimes under Goldberg and its progeny.

In its 1995 Goldberg Opinion, the Court enumerated the aggravating factors that normally lead to the disbarment of attorneys convicted of crimes:

> Criminal convictions for conspiracy to commit a variety of crimes, such as bribery and official misconduct, as well as an assortment of crimes related to **theft by deception and fraud**, ordinarily result in disbarment. We have emphasized that when a criminal conspiracy evidences 'continuing and prolonged rather than episodic, involvement in crime,' is 'motivated by personal greed,' and **involved the use of the lawyer's skills 'to assist in the engineering of the criminal scheme,' the offense merits disbarment**. (citations omitted).
>
> [Goldberg, 142 N.J. at 567 (emphasis added).]

Indeed, the Court has found that attorneys who commit crimes that are serious or that evidence a total lack of "moral fiber" must be disbarred to protect the public, the integrity of the bar, and the confidence of the public in the legal profession. See, e.g., In re Quatrella, 237 N.J. 402 (2019) (the attorney was convicted of conspiracy to commit wire fraud after taking part in a scheme to

defraud life insurance providers via three stranger-originated life insurance policies; the victims affected by the crimes lost $2.7 million and the intended loss to the insurance providers would have been more than $14 million); In re Klein, 231 N.J. 123 (2017) (the attorney was convicted of wire fraud for engaging in an advanced fee scheme that lasted eight years and defrauded twenty-one victims of more than $819,000; the attorney and his co-conspirator used bogus companies to dupe clients into paying thousands of dollars in advanced fees, in exchange for a promise of collateral that could be used to borrow much larger sums of money from well-known financial institutions; the clients, however, never received legitimate financial instruments that were acceptable to banks as collateral for financing; the attorney leveraged his status as a lawyer to provide a "veneer of respectability and legality" to the criminal scheme, including the use of his attorney escrow account); In re Bultmeyer, 224 N.J. 145 (2016) (the attorney knowingly and intentionally participated in a fraud that resulted in a loss of more than $7 million to 179 victims; the attorney and a co-conspirator owned Ameripay, LLC, a payroll company that handled payroll and tax withholding services for numerous public and private entities; the attorney and his co-conspirator also owned Sherbourne Capital Management, Ltd., which purported to be an investment company, and Sherbourne Financial,

Ltd.; the attorney and his co-conspirator misappropriated monies entrusted to them by Ameripay's clients, as well as by Sherbourne investors, to conceal the shortfalls in Ameripay's payroll and tax withholding accounts; the attorney and his co-conspirator agreed to divert millions of dollars to satisfy the payroll obligations of other payroll clients or to make unrelated tax payments on behalf of other clients); In re Marino, 217 N.J. 351 (2014) (the attorney participated in a fraud that resulted in a loss of more than $309 million to 288 investors; the attorney assisted his brother and another co-conspirator in the fraud, which involved the creation of a false financial history for a failing hedge fund used to persuade contributions from potential investors; the attorney also administered a fraudulent accounting firm that concealed the fund's true financial information; the attorney further prepared a phony purchase and sale agreement for the non-existent accounting firm).

Not every attorney found guilty of egregious fraud has been disbarred, however. In In re Campos, 241 N.J. 544 (2020), the Court imposed a three-year prospective suspension for such misconduct. The attorney in Campos was tried and convicted of wire fraud, bank fraud, and conspiracy to commit wire and bank fraud, in connection with a scheme involving the use of straw purchasers to illegally purchase new vehicles for a livery taxi business. In the Matter of

Christopher Campos, DRB 19-262 (March 3, 2020) at 1-2. He had no ethics history. Ibid. His conviction and sentence, thirty months in prison plus $533,669.12 in restitution, were affirmed on appeal. Id. at 12. Campos's role was to solicit straw buyers, and his misconduct involved false statements used to defraud banks, his friends, and his family. Id. at 6, 26. In total, the loss amount was between $250,000 and $550,000, and more than ten victims were impacted. Id. at 12. Moreover, Campos perjured himself at trial, lacked remorse, and failed to accept responsibility for his crimes. Id. at 11-12, 26. We concluded that, considering the Goldberg factors, disbarment was the appropriate quantum of discipline. Id. at 27. The Court disagreed, however, and determined that a three-year prospective suspension was the appropriate quantum of discipline.

Here, respondent's misconduct is akin to that of the attorneys the Court has disbarred for their extensive involvement in crime, whereby they used their legal skills in furtherance of the criminal enterprise, for their pecuniary gain. His commission of fraud and theft to benefit himself and Diamond was part of a prolonged scheme. He and Diamond deleted and fabricated Firm records to conceal their diversion of the Firm's profits.

Although we acknowledge respondent's lack of prior discipline and his expression of remorse and contrition during the sentencing hearing, that

mitigation, in light of these facts, cannot salvage his law license in New Jersey. As the Court has stated, "[s]ome criminal conduct is so utterly incompatible with the standard of honesty and integrity that we require of attorneys that the most severe discipline is justified by the seriousness of the offense alone." In re Hasbrouck, 152 N.J. 366, 371-72 (1997).

Consequently, we additionally determine that disbarment – for respondent's federal convictions alone – is required to protect the public and to preserve confidence in the bar.

Conclusion

In conclusion, given respondent's admitted knowing misappropriation of law firm funds and the absence of any mitigating defense, disbarment is the only appropriate sanction, pursuant to the principles of Siegel, as applied by subsequent disciplinary precedent. Moreover, disbarment– for respondent's federal convictions alone – is required to protect the public and to preserve confidence in the bar.

We, thus, recommend to the Court that respondent be disbarred.

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. Mary Catherine Cuff, P.J.A.D. (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 Jesse M. Cohen
Docket No. DRB 23-141

Argued: March 20, 2025

Decided: May 21, 2025

Disposition: Disbar

Members	Disbar
Cuff	X
Boyer	X
Campelo	X
Hoberman	X
Menaker	X
Modu	X
Petrou	X
Rodriguez	X
Spencer	X
Total:	9

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