SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 24-290
District Docket No. XIV-2023-0121E

In the Matter of Daniel Goldsmith Ruggiero
An Attorney at Law

Argued
March 20, 2025

Decided
June 2, 2025

Elizabeth A. Rice appeared on behalf of the
Office of Attorney Ethics.

Respondent appeared pro se.

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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 reciprocal discipline filed by the Office of Attorney Ethics (the OAE), pursuant to R. 1:20-14(a), following the issuance of a March 15, 2023 order of the Supreme Judicial Court of the Commonwealth of Massachusetts suspending respondent for one year and one day.

The OAE asserted that, in the Massachusetts matter, respondent was found to have violated the equivalents of New Jersey RPC 1.1(a) (engaging in gross neglect); RPC 1.4(b) (failing to keep a client reasonably informed about the status of a matter and to comply with reasonable requests for information); RPC 1.4(c) (failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions about the representation); RPC 1.5(a) (engaging in fee overreaching); RPC 5.3(b) (failing to supervise a nonlawyer assistant); RPC 5.3(c) (rendering a lawyer responsible for the conduct of a nonlawyer employee that would be a violation of the Rules of Professional Conduct if engaged in by the lawyer under certain circumstances); RPC 5.4(a) (fee sharing with a nonlawyer); RPC 7.1(a) (making a false or misleading communication about the lawyer or the lawyer's services); RPC 7.5(a) (using an

impermissible firm name or letterhead); RPC 7.5(d) (including, in the law firm name, an individual without responsibility and liability for the firm's performance of legal services); RPC 7.5(e) (utilizing an impermissible firm name or letterhead); RPC 8.4(a) (violating or attempting to violate the Rules of Professional Conduct); 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 reciprocal discipline and conclude that a three-month suspension is the appropriate quantum of discipline for respondent's misconduct.

Ethics History

Respondent earned admission to the New Jersey bar in 2007; to the Massachusetts bar in 2006; to the New York, Rhode Island, and Connecticut bars in 2007; to the Maine bar in 2008; and to the Pennsylvania bar in 2012. At all relevant times, he primarily lived and performed legal work in Florida and maintained "by appointment only" offices in Massachusetts, New York, and New Jersey.[1]

Respondent has no prior discipline in New Jersey.

[1] Respondent is not, and has never been, licensed to practice law in Florida.

Effective April 14, 2023, the Maine Supreme Judicial Court reciprocally suspended respondent for one year and one day in connection with his misconduct underlying this matter.

In addition, effective April 14, 2023, the Superior Court of the Judicial District of Hartford Connecticut suspended respondent for one year and one day in connection with his misconduct underlying this matter.

Effective June 14, 2023, the Supreme Court of Pennsylvania suspended respondent for one year and one day in connection with his misconduct underlying this matter. In re Ruggiero, 2023 Pa. LEXIS 816 (2023).

Additionally, effective October 11, 2024, the Supreme Court of New York suspended respondent for one year and one day in connection with his misconduct underlying this matter. Matter of Ruggiero, 232 A.D.3d 124 (2024).

We now turn to the facts of this matter.

Facts

From approximately 2012 through 2013, while employed in the position of a "Class B partner" for the Mortgage Law Group, LLC (Mortgage Law) and the Consumer First Legal Group, LLC (Consumer First), respondent reviewed mortgage loan modification submission packages, as well as the initial intake documents, to assess if an applicant was a suitable candidate for a loan

modification. Respondent reviewed hundreds of intakes and modification submission packages at a rate of $25 per intake and $40 or $50 per modification package.

In 2014, the Consumer Financial Protection Bureau (the CFPB) brought legal action against Mortgage Law, Consumer First, and other entities, pursuant to the Consumer Financial Protection Act and the Mortgage Assistance Relief Services (MARS), Regulation O, challenging those entities' mortgage loan modification services and the unlawful collection of advance fees.[2] In part, the CFPB alleged that the named defendants "attracted financially distressed

[2] By way of background, in 2009, in light of high consumer debt, increasing unemployment, and a stagnant housing market, the Federal Trade Commission (the FTC) drafted a rule to address unfair or deceptive acts or practices concerning mortgage loans. The FTC sought to regulate the activities of "for-profit companies who act as intermediaries between consumers and their lenders or servicers in obtaining mortgage assistance relief services – including loan modifications." The FTC noted that MARS entities typically promised results they were unable to achieve for the majority of their customers and charged fees for mortgage relief services before delivering results.

The FTC paid particular attention to the role of attorneys acting as fronts for MARS companies and the trend of national MARS providers to retain 'local counsel' to attempt to take advantage of attorney exemptions in state MARS laws. The rule was codified as Regulation O, 12 C.F.R. § 1015, and is under the auspices of the CFPB. 12 C.F.R. § 1015.7(a) exempts from most of its proscriptions attorneys who meet specific criteria: namely, they provide MARS as part of their practice of law; are licensed to practice in the state where the client or client's dwelling is located; and comply with applicable state laws and regulations.

The general exemption for compliant attorneys does not, however, automatically exempt them from the advance fee ban. Exemption from that ban, pursuant to 12 C.F.R. § 1015.7(b), depends on the satisfaction of more specific requirements. Specifically, exemption from the advance fee ban is available only to those attorneys who "(1) [m]eet all of the conditions required for the general exemption [i.e., are exempt under subsection (a)]; (2) deposit any advance fees they receive into a client trust account; and (3) comply with all state laws and regulations and licensing regulations governing the use of such accounts."

homeowners through various marketing methods, deceptively promising that they would assist homeowners in obtaining loan modifications and foreclosure relief in exchange for advanced fees." Although the legal action did not name respondent as a defendant, CFPB attorneys deposed him concerning advanced fee collection and work being performed by nonlawyers through Mortgage Law. In addition, respondent provided testimony on behalf of the CFPB in a case which resulted in a $39 million judgment against a law firm that the CFPB alleged had violated MARS.

In March 2015, respondent incorporated Pinnacle L. Group, also known as Pinnacle Law Group (Pinnacle), a Florida company, which he owns and operates as the president and sole shareholder.[3]

[3] The record does not clarify if respondent was principally engaged as a debt adjuster through Pinnacle or whether he qualified for the exemption provided by Section 322.7 of MARS, based on New Jersey's debt adjuster statute, N.J.S.A. 17:16G-1(c)(2), which states: "[t]he following persons shall not be deemed debt adjusters: (a) an attorney-at-law of the State who is not principally engaged as a debt adjuster . . ." (emphasis added). A debt adjuster is a person who acts or offers to act for consideration as an intermediary between a debtor and his creditors for the purposes of settling, compounding, or otherwise altering the terms of payment of any debts of the debtor. The New Jersey debt adjuster statute requires a license to conduct mortgage modifications. Acting without a debt adjuster license in New Jersey is a fourth-degree crime, in violation of N.J.S.A. 2C:21-1.

Respondent stated in his answer to the Massachusetts disciplinary authorities that he provided loan modification services "to customers located in states in which [he] was licensed to practice law, through his own law firm or through other law firms." He alleged that Pinnacle has never provided legal services directly to clients, but for tax reasons, "[he] occasionally direct[ed] that payments for legal services be made to Pinnacle." He further stated that he "provided legal services in connection with attempts to obtain mortgage loan modifications and debt relief for his clients" and "was knowledgeable concerning the rules and regulations governing the practice of law in these areas."

In 2020, the CFPB brought legal action against respondent and others, including GST Factoring (GST), for violating the Telemarketing and Consumer Fraud and Abuse Prevention Act and the Telemarketing Sales Rule. In that matter, the CFPB alleged, in part, that respondent "knew that [co-defendant] GST was receiving fees before consumers' debts were settled because he was receiving payments from GST for consumers whose debts had not been settled." The CFPB further alleged that respondent "set up a similar debt-relief company where lead generators used telemarketing to recruit consumers."

On August 17, 2020, respondent entered a Stipulated Final Judgment and Order, admitting that, from February 2018 through August 2020, he provided "substantial assistance or support to a seller or telemarketer when [he] knew or consciously avoided knowing that the seller or telemarketer had requested or received" advanced fees. As a result, a judgment in the amount of $125,000 was entered against him and he was restrained permanently from certain telemarketing activities.

The specific facts underlying this matter are as follows.

NVA Financial Services and ND Processing

In 2017, respondent became involved with NVA Financial Services (NVA) and ND Processing (ND). Both entities were owned by nonlawyers.

NVA worked with thirty-seven "affiliate" lawyers or law firms to handle matters involving clients who needed foreclosure defense or loan modification assistance in Massachusetts and Rhode Island. This arrangement allowed NVA to take advantage of the attorney exception to the advance fee ban.

Between 2017 and 2018, NVA assigned respondent fifteen loan modification clients residing in Massachusetts or Rhode Island, all of whom were in financial distress. In each case, NVA conducted the initial screening call and would transmit the fee agreement to the potential client. NVA provided customer service and support to the attorney and respondent signed the fee agreements with the clients. For its services, respondent paid NVA ninety percent of the gross amounts collected from the mortgage loan modification clients.[4]

The NVA Fee Agreement

The NVA fee agreement[5] required the client to enter an account servicing agreement with Reliant Account Management (RAM), which authorized RAM

[4] Respondent never signed a contract with NVA. In spring 2018, respondent verbally notified NVA that he wanted to reduce the split, with NVA receiving eighty percent.

[5] The record before us does not include respondent's fee agreement. NVA provided respondent with a template agreement that it used in other jurisdictions. Respondent reviewed and "made changes to the agreement," although the record does not include or identify the edits respondent provided. Respondent used the same fee agreement for all fifteen NVA clients.

to automatically debit fee payments from the client's personal checking account and charge the client $7 per month. The fee agreement also required the client to pay an initial retainer of $1,250 for "negotiating a loss mitigation solution." The modification process would not proceed until the client paid the initial retainer, in full. The fee agreement further required the client to make recurring monthly payments of $900 for "continued loss mitigation services," regardless of the actual amount of work performed on each matter.

The fee agreement provided that all fees received were nonrefundable, stating in pertinent part, the following:

> (e) The Client(s) expressly agree and authorize that in light of the fact that fees <u>are deemed to be earned upon receipt</u> as set forth in this agreement that the monies remitted to the Attorney can be deposited directly into the Attorneys (sic) operating account.
>
> [OAEb12; HR¶53 (emphasis added).][6]

The fee agreement further provided that

> [t]he Client(s) understand and acknowledge that it has been explained that the traditional or standard escrow agreement usually entails said retainer monies, legal fees, and cost monies to be deposited into the Attorney Trust Account and by granting this permission they may run the risk of paying for services which do not actually get rendered but having been so advised,

[6] "OAEb" refers to the OAE's brief in support of its motion for reciprocal discipline, dated December 4, 2024.
"HR" refers to the hearing report, dated May 17, 2022, and appended to the OAE's brief as Exhibit H.

> expressly authorize and grant permission for these monies to be retained [sic] by and deposited into the Attorney's operating or business account.[7]
>
> [HR¶53.]

The client further waived the right to "any return fee from Daniel Ruggiero, Esq. & Associates should any . . . information prove inaccurate or incomplete." An additional clause repeated the warning that a failure to cooperate, or the provision of false or inaccurate information, afforded the firm "the right to retain any amounts already paid . . . If [the client] cancel[ed] [the] services during the negotiation process, [the firm had] the right to retain any amount already paid towards services."[8]

Once the client paid the retainer in full, NVA would transmit the file to ND, which was responsible for organizing the loan modification package and conducting discussions with the lender. Pursuant to a separate unsigned agreement between ND and respondent, ND would process respondent's loan mitigation files, which included conducting the initial contact with the client; corresponding with the client; collecting financial documentation; compiling

[7] Respondent failed to deposit any of the charged and collected fees from his loan modification clients in an IOLTA account or a client trust account.

[8] A third of the fifteen clients never provided the paperwork necessary for a loan modification. Respondent did not recall giving any of these clients a refund and conceded that he likely did not issue any refunds. The record does not indicate the amount that each client paid or the total of respondent's share of the fees.

and submitting loss mitigation packages; submitting the documentation to the applicable lenders for mortgage loan modifications; reviewing the modification offer with the client; assessing any liens that may impede final modification; and working with the client to obtain subordination agreements or payoffs for liens that may impede final modification. NVA paid ND $75 for each month the application remained open for processing.

The fee agreement made numerous misrepresentations concerning respondent's involvement in the process. Specifically, the agreement stated that respondent would negotiate with the lender and emphasized that it was incumbent on the client to provide accurate information so that respondent had the "maximum amount of leverage" from which to negotiate. However, respondent did not negotiate with lenders in any of the fifteen NVA mortgage loan modification matters.[9]

The fee agreement further stated that respondent would provide all legal services, while "non-legal" services could be provided by "outside service Agents" compensated and supervised by Daniel Ruggiero, Esq. and Associates.

[9] NVA supplied the language concerning negotiation and, despite his claim that he carefully reviewed the fee agreement, respondent failed to remove it. In his Answer, respondent admitted that the fee agreement included, "in a long list of services to be provided, a reference to possible negotiations with a client's lender." However, he characterized the use of the word "negotiation" as "a poor word choice, because the loan modification process generally does not involve negotiation in the typical sense, but rather the continued submission of revised loan modification applications in an attempt to obtain agreeable terms for a modification."

Nevertheless, respondent did little work on any of the matters and delegated the bulk of the work to NVA and ND; in fact, NVA and ND engaged, compensated, and paid the "outside servicing Agents," not respondent. The fee agreement did not include respondent's law office address or telephone number, but rather, provided only the telephone number for NVA.

In addition, the fee agreement described respondent's law firm as "Daniel Ruggiero, Esq. & Associates," and respondent as the "Managing Attorney." However, respondent had no associates and was the only attorney in the firm.

The Lisa McConaghy Matter

On October 30, 2017, Lisa McConaghy called a toll-free telephone number of a company advertising mortgage loan modification services and connected with an NVA service agent. At the time, McConaghy, a third-grade teacher for twenty-two years, resided in Rhode Island and was in default on her mortgage.

McConaghy told the NVA agent that she had completed prior mortgage modifications, had limited financial resources, and did not want to apply if there was little hope of success. The NVA agent assured her that it could "definitely help" and McConaghy agreed to engage NVA's services. Jay Krueger, a nonlawyer "attorney liaison" with NVA, forwarded to McConaghy an "Attorney

New Client Notification," and NVA's internal records reflected that McConaghy's file status changed from "lead" to "retainer payment pending." NVA then assigned McConaghy's matter to respondent.

In October 2017, respondent and McConaghy executed the NVA fee agreement, which obligated McConaghy to pay the initial $1,250 retainer fee and the recurring $900 monthly fee. The fee agreement also authorized RAM to withdraw the fees directly from McConaghy's checking account.

McConaghy could not afford to pay the initial $1,250 retainer in full at the time she signed the fee agreement. Consequently, NVA allowed McConaghy to split the initial retainer into two payments of $625, to be paid on November 14 and November 28, 2017, and reminded her that no work would be done on her case until she paid the retainer in full.[10]

On November 13, 2017, RAM withdrew the first $625 payment and the $7 monthly fee from McConaghy's checking account. RAM subsequently disbursed ninety percent of fee payment to NVA and ten percent to respondent through Pinnacle.

On November 16, 2017, McConaghy contacted NVA and left a voicemail message, asserting that her lender continued to contact her. NVA representative

[10] Respondent claimed that he worked on McConaghy's file prior to payment of the initial retainer fee. However, he could not establish that he had performed any work on her case at that time.

Tanya Rivera left a return message for McConaghy stating that nothing could be done concerning the lender until the initial retainer fee was paid in full. On November 27, 2017, RAM withdrew the second $625 payment from McConaghy's checking account and disbursed ninety percent of the fee to NVA and ten percent to respondent.

On December 4, 2017, McConaghy contacted NVA again to complain that her lender continued to contact her and emphasized that she was anxious to move forward now that she had paid the retainer fee in full. NVA's internal records reflected that McConaghy's file status changed from "retainer payment pending" to "ready for processing." On December 5, 2017, NVA transmitted the McConaghy file to ND employee Jennifer Bonilla.[11]

On December 27, 2017, the day before her monthly payment of $900 was due, McConaghy contacted NVA and requested to delay the payment until January. Nevertheless, that same date, RAM withdrew $900 from McConaghy's account and distributed ninety percent of the fee payment to NVA and ten percent to respondent.

On December 28, 2017, Jackie Pulcano, of ND, forwarded an e-mail to Krueger, Rivera, and respondent, stating the following:

> Just a heads up, that I conducted the bank call and the account is coded as 'continuous default only option is

[11] ND's internal notes reflected that McConaghy was responsive to ND's requests for information.

reinstatement or liquidation[.]'

> The Investor is FNMA and the borrower has received perm mods in 8/2010, 7/2013, 10/2015 and 1/2017 and defaulted on all four. She was miraculously approved for another trial in October 2017 and also defaulted.
>
> I requested copies of all mods by email or fax but was denied due to too many pages. They are being mailed to us.
>
> The file is ready to move forward. Please let me know if that's what you would like me to do. Should we be denied, she can afford a [Chapter] 13 [bankruptcy]. Arrears are estimated at 11,000 without costs and fees.
>
> [OAEbp17.]

Pulcano's file notes indicated that foreclosure proceedings had begun, and a foreclosure attorney had been assigned, but no sale date was listed.

In response, Krueger directed Pulcano to submit the mortgage loan modification package "quickly" and "address matters after the denial is generated." Respondent did not reply to either Pulcano's or Kreuger's e-mail. Neither respondent, nor anyone else working on the file, informed McConaghy of the information contained in the e-mails or that her loan modification application was going to be denied. Respondent also did not recall reviewing the McConaghy loan modification package before ND submitted it.[12]

[12] The loan modification package consisted of documents gathered by McConaghy herself, to which ND added a cover page. The application contained an error listing McConaghy's monthly salary as $7,400.

On or about January 22, 2018, the lender denied McConaghy's loan modification "for all available programs," as anticipated. The file notes indicated that McConaghy owed approximately $12,000 in mortgage arrears and a sale was scheduled for March 9, 2018. That same date, Krueger called McConaghy to inform her that respondent would contact her to discuss "retention options." Later that day, Krueger sent respondent an e-mail, informing him that the modification application was unsuccessful and directing him to contact McConaghy to discuss the retention options and exit strategies.

After respondent contacted McConaghy, he informed Krueger that McConaghy was in "really bad shape" and needed to file for bankruptcy, which respondent could prepare for "about $400." He also asked Krueger if it would "make sense for us to credit her back and cover those costs so she could get it filed? She kinda [sic] indicated she wish [sic] she never paid us and used it to pay back the mortgage." Krueger stated that NVA had suspended the billing and would not issue a refund. He added that McConaghy's recurring $900 payment would have been due then, "so paying $400 should be easy for her." Respondent replied, "ok ty for clarifying ill talk with her [sic]" and he did not offer McConaghy a refund.

Despite Krueger's claim that NVA ceased the billing, on January 26, 2018, NVA charged McConaghy another $900, a portion of which was disbursed

to respondent. The unauthorized withdrawal caused McConaghy's bank account to be overdrawn.

On January 29, 2018, McConaghy requested a refund of the unauthorized $900 fee, which NVA issued on February 7, 2018. The next day, McConaghy contacted Krueger to request a full refund, which he refused, stating that NVA already issued a partial refund of the two $900 payments.[13] Following the call with McConaghy, Krueger sent a summary of the conversation, by e-mail, to NVA's Steve Nahas and Rivera, without copying respondent.

In early May 2018, McConaghy filed an ethics complaint against respondent with the Massachusetts Office of Bar Counsel (bar counsel). On June 12, 2018, respondent forwarded an e-mail to Krueger stating that he was "beyond furious" about McConaghy's complaint to the Massachusetts bar counsel. In reply, Krueger stated:

> Dan, you were emailed on this file and told to discuss options with the client after the denial was generated. You were kept in the loop earlier on and the file notes reflect this. Please don't cast blame, especially when you do not know the details.
>
> [HR¶111.]

On or about June 20, 2018, respondent issued a refund of the $1,250 retainer to McConaghy.

[13] NVA refunded the $900 payments withdrawn on December 27, 2017 and January 26, 2018.

In the summer and fall of 2018, following the filing of the complaint, respondent sent multiple letters to bar counsel in reply to the complaint. Specifically, he wrote, on June 29, 2018, that he was "surprised" McConaghy had complained about a lack of communication with him because he "contact[ed] every client and each client [was] provided [his] personal cell number."

In his September 29, 2018 letter to bar counsel, respondent asserted that ND's intake "was supervised by a lawyer from Friedman Law," and that "there was an attorney specializing in loan modification working with the processing company in addition to [respondent]."

In a January 8, 2020 e-mail to bar counsel, respondent wrote that McConaghy had "overstated her income;" that his office was "unaware of all the additional modification attempts by her previously;" and that she "lied in her complaint" by stating that she had never spoken to him.

In his July 17, 2020 statement under oath to bar counsel, respondent agreed that a review of McConaghy's loan modification package should not have taken "much more than a few minutes," and should not have cost more than a "[c]ouple hundred dollars." He further admitted that someone could easily conclude he had not done $1,200 worth of work on the McConaghy matter.

The Massachusetts Disciplinary Proceedings

On March 4, 2021, the Board of Bar Overseers of the Supreme Judicial Court of the Commonwealth of Massachusetts (the BBO) filed a two count Petition for Discipline charging respondent with having violated the following Rules of Professional Conduct in Massachusetts and Rhode Island: Mass. RPC 1.5(a); Mass. RPC 5.3(b); Mass. RPC 5.3(c); Mass. RPC 5.4(a); Mass. RPC 5.4(b); Mass. RPC 7.1; Mass. RPC 7.5(a) and (d); Mass. RPC 8.4(a); Mass. RPC 8.4(c); Mass. RPC 8.4(h); R.I. RPC 1.1; R.I. RPC 1.4(a); R.I. RPC 1.4(b); R.I. RPC 1.5(a); R.I. RPC 5.3(b); R.I. RPC 5.3(c); R.I. RPC 5.4(a); R.I. RPC 7.1(a); R.I. RPC 7.5(a); R.I. RPC 7.5(d); R.I. RPC 8.4(a); and R.I. RPC 8.4(c).[14]

On November 30, 2021, the BBO commenced a five-day disciplinary

[14] R.I. RPC 1.1 is similar to NJ RPC 1.1(a) in that both Rules require competent representation.
R.I. RPC 1.4(a) is similar to NJ RPC 1.4(b) and (c).
R.I. RPC 1.4(b) is identical to NJ RPC 1.4(c).
Mass. RPC 1.5(a) is identical to NJ RPC 1.5(a).
Mass. RPC 5.3(b) is identical to NJ RPC 5.3(b).
Mass. RPC 5.3(c) is substantially similar to NJ RPC 5.3(c) (except that Mass. RPC 5.3(c) does not have an equivalent to NJ RPC 5.3(c)(3)).
Mass. RPC 5.4(a) is substantially similar to NJ RPC 5.4(a) (except that Mass. RPC 5.4(a) does not have an equivalent to NJ RPC 5.4(a)(2)).
Mass. RPC 7.1 is equivalent to NJ RPC 7.1(a)(1).
Mass. RPC 7.5 was repealed on July 13, 2022, effective October 1, 2022.
Mass. RPC 7.5(a) was substantially equivalent to NJ RPC 7.5(a).
Mass. RPC 7.5(d) was substantially equivalent to a combination of NJ RPC 7.5(d) and (e).
Mass. RPC 8.4(a) is identical to NJ RPC 8.4(a).
Mass. RPC 8.4(c) is identical to NJ RPC 8.4(c).
Mass. RPC 8.4(h) – New Jersey does not have an equivalent RPC to Massachusetts RPC 8.4(h). Therefore, that violation was not considered for reciprocal discipline in the instant matter.

hearing.[15] The hearing committee heard testimony from McConaghy and respondent.

Although the committee found inconsistencies in McConaghy's recitation of events and noted that some of her testimony was confusing and contradictory, the committee attributed her errors and inconsistencies to mistakes, rather than to deceit, finding her to be "generally credible." Specifically, the committee found credible her testimony that she was unaware that her home already was in foreclosure at the time she contacted NVA for a loan modification, was experiencing desperate financial circumstances, and did not want to spend money if there was a low likelihood of success. In addition, the committee found credible McConaghy's testimony that respondent failed to speak with her for months after she retained him, and the two only spoke after ND submitted her modification package, her application was denied, and her home was in foreclosure.

Although respondent testified that it was his standard practice to call each new client to discuss their "goals," the committee did not find that testimony to be credible. The committee inferred that respondent's failure to include his law firm's telephone number on the fee agreement prevented his NVA clients from

[15] The Massachusetts disciplinary hearing took place on November 30, December 7, December 9, December 10, and December 20, 2021.

easily contacting him and, instead, indicated that he did not routinely speak with them.

Respondent testified that he was "regularly reviewing" the notes ND made on his clients' files "as things were happening." However, the committee did not find that testimony to be credible. The committee determined that respondent did not perform regular or careful reviews of the modification applications to ensure that they were complete and error free when submitted and, had he truly been reviewing the contemporaneous file notes, he would have identified some of the errors and issues with McConaghy's file.

In addition, the committee found that McConaghy's loan documents, which were included as part of her modification package, reflected prior loan modifications from December 2016, September 2015, July 2013, and June 2010. The committee determined that respondent's statement that his office was unaware of McConaghy's prior modification attempts revealed that respondent never reviewed McConaghy's modification documents.

The committee found the issue of the prior modifications to be significant. Specifically, respondent admitted that "if someone had received a modification . . . plan very recently and they failed to pay on time during a trial, it could have an influence on whether they were approved or not for a [subsequent] modification," and would decrease their chances of approval. Respondent

testified that he knew that McConaghy had prior loan modifications before he accepted her as a client.

The committee also did not find respondent's vague testimony concerning the work he allegedly performed on his clients' files to be credible. The committee found that he was not regularly or significantly involved in his client matters, nor did he supervise the NVA or ND employees handling the matters. The committee determined that respondent missed many of the relevant and important notes in McConaghy's file and was not copied on the e-mail stating that her application had been denied. The committee determined that the NVA and ND employees did the "heavy lifting" and made many of the important decisions in the cases, including whether to file, and when.

The committee determined that respondent had no incentive to invest a significant amount of time or to do much work for the low fee he received per file. The committee drew an adverse inference from respondent's failure to produce a single document or note about any of his fifteen NVA clients. The committee concluded that respondent's role in the fifteen NVA client matters was "periodic and peripheral," and that he merely lent his name to NVA to aid the company in circumventing the statutory advance fee prohibition.

At the disciplinary hearing, respondent argued that his work with NVA constituted the practice of law because his fee agreement required him to provide

both foreclosure defense and loss mitigation services, and thus, he fell under the attorney exception to the advance fee prohibition.[16] The committee, however, found no evidence that respondent provided foreclosure defense services for any of the fifteen NVA clients under scrutiny. The evidence indicated that respondent provided legal services in only two of the NVA client matters. Specifically, in one NVA client matter, for "Client F," respondent successfully discharged a lien on the client's property, thus, enabling him to file bankruptcy and save his house. In another NVA client matter, for "Client P," respondent advised him not to retain respondent's services or to proceed with a loan modification, but rather, to consider bankruptcy. The client decided "to go in a different direction," whereupon respondent refunded his payment and closed his file.

The committee determined that, although respondent's actions on behalf of Client F and Client P did constitute the practice of law, those two matters

[16] Foreclosure defense would include consultation with the client, review of the complaint and preparation of an answer, communication with the court, and litigation-related activities, including court appearances.

The NVA fee agreement also appeared to promise "a loan modification offer, short sale, short refinance, suspension of a foreclosure sale date, deed in lieu of foreclosure, cash-for-keys, or loan forbearance offer." However, respondent distanced himself from these services in his September 29, 2018 letter to bar counsel, in which he explained that he did not "offer any type of cash for keys or short sale programs." The committee found that the presence of these options in a fee agreement – options which may be illusory considering respondent's later claim that he did not offer them – did not foreclose the committee's conclusion that respondent was not, with few exceptions, engaged in the practice of law with reference to the NVA clients.

were insufficient to prevent the committee from concluding that, in general, and certainly as to the remaining NVA clients, respondent's scant efforts on their behalf did not constitute the practice of law. The committee observed that most of the work respondent claimed to have done was delegated to ND under the terms of his contract, including advising clients, assembling loan packages, assessing liens, and working to pay off liens. Thus, the committee found that respondent did not fall within the attorney exception to the advance fee prohibition.

The committee found that by giving McConaghy – whether directly or through NVA and ND – incompetent, deceptive, and misleading information concerning the viability of her application for a mortgage loan modification; failing to sufficiently explain the matter to her; failing to communicate with her; and failing to inform her that foreclosure proceedings had commenced, respondent violated R.I. RPC 1.1; R.I. RPC 1.4(a) and (b); and R.I. RPC 8.4(a) and (c). The committee found that respondent's own testimony underscored that he knew, or should have known, that McConaghy had virtually no chance of getting another loan modification because her failure to pay an earlier modification on time decreased her chances of approval.

The committee further determined that, by entering into agreements for illegal, clearly excessive, and/or unreasonable fees; by charging and collecting

from clients illegal, clearly excessive, and/or unreasonable fees; and by entering into agreements for fees designated as non-refundable, respondent violated Mass. RPC 1.5(a); Mass. RPC 8.4(c) and (h); R.I. RPC 1.5(a); and R.I. RPC 8.4(a) and (c). The committee found that respondent did very little actual legal work and was paying ND to do much of the work he claimed to have done. The committee noted that, even if it believed that respondent did some work in advance of receiving the initial $1,250 retainer, he failed to explain what he did to earn the subsequent $900 payments that RAM automatically deducted each month a file was open. The committee determined that, in their totality, the fees charged to the fifteen NVA clients were clearly excessive considering the minimal legal work respondent performed.

Respondent admitted during his testimony, and the committee found, that he shared fees with nonlawyers, in violation of Mass. RPC 5.4(a) and R.I. RPC. 5.4(a).

Although he retracted his admission during his testimony at the hearing, respondent admitted in his Answer, and the committee found, that he failed to supervise the conduct of the nonlawyers involved in McConaghy's case, in violation of Mass. RPC 5.3(b) and R.I. RPC 5.3(b). In addition, the committee found that respondent violated Mass. RPC 5.3(c) and R.I. RPC 5.3(c) by permitting the NVA and ND nonlawyer employees to engage in misconduct,

including providing the clients with an "illegal, oppressive, inaccurate and fraudulent" fee agreement; charging at least one-third of the clients a nonrefundable fee despite never submitting an application on their behalf; submitting McConaghy's modification application, which by respondent's own analysis had virtually no chance of success, for the purpose of keeping the file open as long as possible to generate additional fees.

During his testimony, however, respondent refused to admit that he falsely identified himself as the "managing attorney" of "Daniel Ruggiero, Esq. & Associates." He stated that, "[w]ell, technically I was the managing attorney, but I was the only attorney." Nevertheless, he did acknowledge he should not have used that designation. Respondent further admitted that his letterhead violated both Mass. RPC 7.5(d) and R.I. RPC 7.5(d). The committee determined that, by making false or misleading communications about his firm, and by intentionally misleading clients as to the nature and scope of the services to be provided, respondent violated Mass. RPC 7.1; Mass. RPC 7.5(a) and (d); Mass. RPC 8.4(a), (c) and (h); R.I. RPC 7.1; R.I. RPC 7.5(a) and (d); and R.I. RPC 8.4(a) and (c).

In addition, the committee found that respondent, through NVA, made deliberate false statements concerning his firm by describing himself as the "Managing Attorney," despite not having any associates, and thus, created the

illusion of a substantial firm, which he repeatedly claimed would negotiate on his clients' behalf based on his "experience, resources and expertise." The committee found that respondent's fraudulent representations that he would "build a case," and his repeated promises that he intended on negotiating on their behalf, likely convinced desperate homeowners that it was worth it to pay for his services.

The committee did not find any mitigating factors. In aggravation, the committee found that respondent was an experienced attorney and had a heightened awareness of his obligations under the Rules of Professional Conduct due to his prior discipline.

The committee found that McConaghy was not vulnerable and determined her to be an educated professional who had, by herself, secured at least three prior mortgage loan modifications. Although she did have indisputable financial problems, the committee did not find her financial straits, alone, rendered her vulnerable in terms of aggravation. The committee noted that it could infer or surmise that the remaining fourteen NVA clients had financial problems; however, due to the lack of evidence concerning their financial status, the committee did not find that respondent took advantage of "vulnerable clients."

Nevertheless, the committee found that respondent caused harm to clients, including McConaghy. The committee concluded that the fee agreement, used

for all fifteen NVA clients, was onerous and oppressive, and that many clients paid for services that they never received, yet never received a refund.

The committee found, in further aggravation, that respondent lacked candor, noting that his testimony was often vague and non-responsive, and, at times, differed sharply from his statements under oath or via his Answer, including the extent of his familiarity with the prohibition against advance fees; how many clients he had; whether Pinnacle was a law firm; and whether he had failed to supervise nonlawyers.

Finally, the committee noted that, a few days before the hearing, respondent's counsel left a voice mail message for McConaghy, stating that she represented respondent and asking if they could speak before the disciplinary hearing. She related that she had "a piece of personal information about [respondent] that he wanted [her] to share with [McConaghy] before the hearing starts." McConaghy testified that she retrieved the message but did not call the attorney back. She further testified that when she first heard the voicemail message – which was after she had begun to testify – she "felt really bad" for respondent and was reluctant to testify.

The committee expressed concern that respondent's counsel, acting as his agent, may have intended to reveal information about him to garner sympathy from McConaghy and dissuade her from testifying. However, the committee

found no evidence as to what counsel would have said and observed that McConaghy did not get the message before testifying. The committee noted that, although it was troubled by what may have been an attempt to interfere with or influence testimony, even if those actions were imputed to respondent, they were not prejudicial to the administration of justice, in violation of Mass. RPC 8.4(d), and, as such, constituted uncharged misconduct.

Based on the foregoing facts, the committee recommended that respondent receive a one-year-and-one-day suspension.

On December 12, 2022, the BBO issued a decision, in which it adopted the finding of facts made by the committee and agreed that respondent "rarely attended to his client's matters, including McConaghy, instead leaving all of the labor to nonlawyers at ND."

The BBO agreed with the committee's conclusions that respondent violated Mass. RPC 1.5(a); R.I. RPC 1.5(a); Mass. RPC 5.3(b) and (c); Mass. RPC 5.4(a); Mass. RPC 7.5(a) and (d); and Mass. RPC 8.4(a), (c) and (h); R.I. RPC 1.1; R.I. RPC 1.4(a) and (b); R.I. RPC 5.3(b) and (c); R.I. RPC. 5.4(a); R.I. RPC 7.5(a) and (d); and R.I. RPC 8.4(a) and (c).

However, the BBO did not agree with the committee's determination that respondent's violation of Mass. RPC 7.5(d) also ran afoul of Mass. RPC 7.1(a). The BBO concurred with respondent's argument on appeal that RPC 7.1(a)

required that the misrepresentation be "material, in other words, that it, is so substantial and important as to influence [the] party to whom [it is] made." The BBO found that bar counsel failed to produce any evidence that the misrepresentations in the fee agreement caused any of the fifteen NVA clients to hire respondent.

The BBO agreed with the committee's findings concerning the aggravating factors, including respondent's lack of candor; his experience in the practice of law; the harm caused to clients; and the multiplicity of violations. In addition, the BBO agreed with the committee's finding that bar counsel presented insufficient evidence to establish that the fifteen NVA clients were "vulnerable" as the term is used in Massachusetts case law.

In recommending a suspension of one year and one day, the BBO noted that the matter originated from a high-volume practice that involved a business model dictated by ensuring minimal time was spent on each matter, for which nonlawyers handled critical legal decisions. The BBO emphasized that the attorney-client relationship with respondent in these matters was a "myth," perpetuated solely to create the illusion that the client was hiring a lawyer to represent them.

In addition, the BBO found that respondent utilized an unconscionable fee agreement to take advantage of homeowners at a vulnerable time in their lives,

charging and collecting "an ostensibly nonrefundable flat fee" and then performing no work on their behalf.

The BBO further found that, in addition to the excessive and dishonest billing, respondent failed to communicate with the clients and delegated his legal work to unsupervised nonlawyers, without ensuring that their actions complied with the ethical obligations applicable to lawyers.

Finally, the BBO found that the "pervasive and on-going" fee-sharing in this matter was "part and parcel" of the arrangement between respondent, NVA and ND.

On March 15, 2023, the Supreme Judicial Court of Massachusetts suspended respondent for one year and one day for his unethical conduct. On March 22, 2023, respondent reported his Massachusetts discipline to the OAE.

The Parties' Submissions to the Board

In its written submission to us, the OAE asserted that respondent's unethical conduct in Massachusetts equated to violations of RPC 1.1(a); RPC 1.4(b); RPC 1.4(c); RPC 1.5(a); RPC 5.3(b) and (c); RPC 5.4(a); RPC 7.1(a)(1); RPC 7.5(a), (d) and (e); RPC 8.4(a); and RPC 8.4(c).

Specifically, the OAE argued that respondent violated RPC 1.1(a) by failing to provide competent representation to McConaghy, permitting her to

proceed with a modification application that he knew had no prospect of success, despite her having stated to respondent's agents that she did not have the funds to pay for a modification application if it was unlikely to succeed.

Additionally, the OAE asserted that respondent violated RPC 1.4(b) by failing to notify McConaghy that her bank had initiated foreclosure proceedings against her or that the bank had coded her account as "continuous default only option is reinstatement or liquidation." Respondent also failed to notify McConaghy that his agent, Pulcano, had reasonably concluded that McConaghy could "afford a 13" bankruptcy filing or that arrears were estimated, at that time, to be $11,000.00 before costs and fees.

The OAE maintained that respondent violated RPC 1.4(c) by failing to discuss the information obtained by his agent, Pulcano, with McConaghy, thereby hindering her ability to make informed decisions concerning the representation, in general, and most importantly, whether to apply for a fifth loan modification.

Regarding respondent's alleged violation of RPC 1.5(a), the OAE argued that he violated this Rule by charging his clients illegal and excessive fees, including recurring monthly fees. The OAE argued that respondent's fee was unreasonable considering that he performed virtually no legal work on the client files, delegated work that was done to nonlawyer staff who were insufficiently

supervised, and permitted $900 monthly recurrent payments to be automatically debited from clients even when no work was done on their files. Specifically, in the McConaghy matter, respondent never spoke to McConaghy until after her loan modification had been rejected, and he failed to review her application, thereby permitting an obvious error in her reported gross monthly wages. Moreover, the OAE asserted that respondent's fee violated the federal prohibition against collecting advance fees for MARS.

The OAE further alleged that respondent violated RPC 5.3(b) by failing to supervise his agent's review of the client files. The OAE noted that respondent had failed to provide any evidence to establish that he reviewed the files or provided instruction to the nonlawyer employees working on the fifteen NVA client files involved in this matter.

Similarly, the OAE alleged that respondent violated RPC 5.3(c) by permitting and ratifying the fee agreement, which was drafted by nonlegal staff at NVA and ND, and permitted NVA and ND to collect nonrefundable retainers, in violation of MARS regulations.

The OAE argued that respondent admitted to sharing the legal fees with nonlawyers, in clear violation of RPC 5.4(a).

The OAE further alleged that respondent violated RPC 7.1(a) by making deliberately false or misleading statements about his firm, identifying himself

as a managing partner to create the illusion of a multi-lawyer firm when he was, in fact, a solo practitioner. The OAE claimed respondent further violated this Rule by falsely asserting that he would negotiate on his clients' behalf when he had no intention of doing so. In addition, the OAE alleged that respondent's use of letterhead and a fee agreement that included an improper firm name and designation also violated RPC 7.5(a), (d) and (e).

Moreover, the OAE argued that respondent's violation of the Rules of Professional Conduct, and his inducement of others to violate the Rules as well, violated RPC 8.4(a). The OAE alleged respondent violated this Rule by inducing the ND employees to violate the RPCs. The OAE noted that RPC 8.4(a) is a "catch-all" provision and conceded that respondent's violation of this Rule would not result in additional, independent discipline.

Finally, the OAE asserted that respondent violated RPC 8.4(c) by making misrepresentations to McConaghy concerning her likelihood of success in securing a fifth loan modification. The OAE further alleged that the fee agreement misrepresented that respondent, as McConaghy's attorney, would be "negotiating" with her lender, that respondent would be building a compelling case, and that respondent had legal associates.

With respect to the appropriate quantum of discipline, the OAE maintained that New Jersey disciplinary precedent warranted less severe

discipline than the one-year-and-one-day suspension imposed in Massachusetts. Specifically, the OAE argued that respondent's misconduct warranted the imposition of a three-month suspension.

In its brief to us, the OAE relied on multiple cases to support its recommendation for a shorter term of suspension, focusing on disciplinary precedent, discussed in detail below, involving violations of MARS regulations. Specifically, the OAE analogized respondent's misconduct to that of the attorneys in In re Schlissel, 239 N.J. 4 (2019), and In re Velahos, 225 N.J. 165 (2016) (Velahos II), who each received a six-month suspension.

The OAE, however, asserted that respondent's misconduct did not rise to the level in Schlissel and Velahos II. The OAE argued that Schlissel, herself, solicited mortgage modification clients, then employed nonlawyer "recruiters" whom she compensated based on the number of clients they signed up for her law firm's services. The OAE added that Schlissel failed to properly supervise her nonlawyer recruiters, who made false promises concerning, among other things, the length of the modification process and the chances of successful modifications. Moreover, although Schlissel agreed to hold unearned retainer fees in trust, she used those fees to pay her overhead and payroll expenses.

The OAE emphasized that, unlike Schlissel, respondent did not own the entities advertising or recruiting clients for the modifications. Rather, he

"affiliated" himself with NVA for marketing and intake, and assisted NVA in evading the MARS prohibition on the acceptance of advance fees for mortgage modification services.

The OAE further argued that respondent's misconduct was not as egregious as that of Velahos, who received advance fees totaling more than $200,000 from 117 mortgage modification clients. Accordingly, the OAE argued that the magnitude of client harm in Velahos II was much greater than the instant matter, which involved fifteen clients.

The OAE noted that both Schlissel and Velahos had prior discipline in New Jersey, with Velahos receiving prior discipline for substantially similar misconduct.

The OAE further asserted that, based on disciplinary precedent, discussed below, attorneys who utilize misleading communications or letterhead concerning the firm's name or services receive admonitions. However, the OAE argued that this additional misconduct did not warrant an increase of the quantum of discipline beyond a three-month suspension.

In mitigation, the OAE considered that respondent had no prior discipline in seventeen years at the bar and had reported his Massachusetts discipline to New Jersey disciplinary authorities. The OAE considered, in aggravation, respondent's lack of candor, his years of experience, the harm to his clients, and

the number of RPCs he violated.

Accordingly, the OAE recommended the imposition of a three-month suspension.

In his brief to us, and during oral argument, respondent acknowledged that he "made mistakes" and should be disciplined for "some" of his actions. He further stated that the three-month suspension that the OAE recommended was "reasonable."

Respondent argued that any discipline imposed by New Jersey should be retroactive to March 14, 2023, the effective date of the suspension imposed in Massachusetts. Respondent emphasized that he immediately reported the Massachusetts discipline to the OAE and voluntarily took immediate action to shutter his law practice. He asserted that, although he anticipated reciprocal discipline in other jurisdictions, he did not anticipate the multiple year delay in the New Jersey disciplinary matter. He argued that imposing a prospective term of suspension following the multiple year delay would serve to lengthen the discipline well beyond the three-month suspension the OAE was recommending. He added that he would not have sought a retroactive term of suspension absent the long and voluntary shuttering of his practice.

Respondent contended that, since 2020, he has made changes to his practice, endured serious medical issues, and suffered significant financial

issues, including a foreclosure. He stated that he finally found work providing "critical legal services to many New Jersey residents," including defending clients struggling with credit card debt, and assisting them to resolve the debt and avoid bankruptcy. Respondent submitted that this is an important area of law in need of attorneys, and that imposing a prospective suspension would not only harm his clients but would have a devastating impact on his efforts to rebuild his life.

To that end, respondent emphatically argued that a retroactive suspension was appropriate in this matter. In support of his position, he argued that the Court had permitted retroactive suspensions in In re Campbell, Jr., 257 N.J. 31(2024) (on a motion for final discipline; the Court imposed a one-year suspension, retroactive to the date of the attorney's temporary suspension in connection with his criminal conduct that underpinned the disciplinary matter), In re Pinkas, 253 N.J. 227 (2023) (on a motion for reciprocal discipline, the Court imposed a six-month suspension, retroactive to the date of the attorney's New York suspension), and In re Autry, 235 N.J. 219 (2018) (in a default matter, the Court imposed a one-year suspension, retroactive to the date of the attorney's temporary suspension in connection with his failure to cooperate with the disciplinary authorities).

Respondent further argued that the primary basis for the imposition of a

one-year-and-one-day suspension was his alleged violation of the federal statute concerning the collection of legal fees despite having failed to successfully complete a loan modification. He asserted that the Seventh Circuit Court of Appeals held, in Consumer Financial Protection Bureau v. Consumer First Legal Group, LLC, et. al., 2021 U.S. App. LEXIS 21907 (2021), that the particular portion of the federal statute that he is alleged to have violated was unconstitutional. He maintained that New Jersey attorneys regularly accept monthly defense retainers for foreclosure actions and assist clients in submitting loan modification requests. Respondent argued that imposing similar discipline against him would result in "a chilling effect" on other attorneys who wish to take on foreclosure defense matters and who otherwise would rely on the Consumer First decision.

In addition, respondent asserted that, although the Massachusetts disciplinary authorities found that he lacked candor, the BBO failed to account for or acknowledge that he provided his testimony a short time after undergoing chemotherapy and, at the time, he suffered from significant post-chemotherapy memory issues, commonly referred to as "chemo-brain."[17] He maintained that

[17] Respondent defined "chemotherapy brain fog (chemo brain)" as happening "when coping with cancer or cancer treatment affects your ability to remember and act on information." He asserted that chemotherapy brain fog is "a short-term issue, but some people may have symptoms for months after they have completed treatment." Respondent alleged that there is not a cure for chemotherapy brain fog, but claimed that medication, therapy, and activities may help.

the condition "severely impacted" his memory resulting in his inability to recall conversations or the details surrounding "one of [his] hundreds of clients." Respondent claimed that, despite having informed the BBO of his alleged chemotherapy-related memory issues, the BBO portrayed him as being dishonest.

Analysis and Discipline

Following our review of the record, we determine to grant the OAE's motion for reciprocal discipline and recommend the imposition of discipline for some, but not all, of the Rules of Professional Conduct charged by the OAE.

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 Massachusetts, unlike in New Jersey, the standard of proof in attorney disciplinary proceedings is a preponderance of the evidence. Matter of Budnitz, 681 N.E.2d 813 (1997) (citing Matter of Mayberry, 3 N.E.2d 248 (1936)).

Nevertheless, we determine that respondent's misconduct, as detailed below, is established by clear and convincing evidence.

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 disciplinary 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 jurisdiction. Specifically, pursuant to disciplinary precedent, respondent's violations of the Rules of Professional Conduct warrant the imposition of a three-month

suspension, and not the one-year-and-one-day suspension imposed in connection with the Massachusetts proceeding.

Violations of the Rules of Professional Conduct

Turning to the charged violations, we determine that the record contains clear and convincing evidence that respondent violated RPC 1.1(a); RPC 1.4(b); RPC 1.4(c); RPC 5.3(b); RPC 5.3(c); RPC 5.4(a); RPC 7.1(a)(1); RPC 7.5(a); RPC 7.5(e); and RPC 8.4(c). For the reasons set forth below, we determine to dismiss, however, the charged violations of RPC 1.5(a), RPC 7.5(d), and RPC 8.4(a).

RPC 1.1(a) forbids lawyers from handling matters entrusted to them in a manner that constitutes gross neglect. This Rule was designed to address "deviations from professional standards which are so far below the common understanding of those standards as to leave no question of inadequacy." In the Matter of Dorothy L. Wright, DRB 22-100 (November 7, 2022) at 17, so ordered, 254 N.J. 118 (2023). Here, respondent violated RPC 1.1(a) by accepting fees from McConaghy and the other fourteen NVA clients and failing to take any significant action on their behalf, including negotiating with the lenders.

With respect to respondent's failure to communicate with McConaghy, the record amply supports the finding that he violated RPC 1.4(b), which

requires attorneys to keep their clients "reasonably informed about the status of a matter," and RPC 1.4(c), which requires that attorneys "explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." Respondent violated both Rules by failing to notify McConaghy of the information obtained from ND, including that her bank had initiated a foreclosure action against her and, further, by failing to discuss the feasibility of a fifth mortgage modification with McConaghy to enable her to make an informed decision concerning whether it was advisable to proceed.

RPC 5.3(b) and (c) provide that: "with respect to a nonlawyer employed or retained by or associated with a lawyer:

> (b) A lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and
>
> (c) A lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
>
> > (1) The lawyer orders or ratifies the conduct involved;
> >
> > (2) The lawyer has direct supervisory authority over the person and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action; or
> >
> > (3) The lawyer has failed to make reasonable investigation of circumstances that would disclose past instances of conduct by the nonlawyer

> incompatible with the professional obligations of a lawyer, which evidence a propensity for such conduct.

Respondent violated both Rules by admittedly failing to make reasonable efforts to supervise the ND staff handling the fifteen client matters. The evidence clearly established that he wholly abdicated a multitude of his responsibilities without making any reasonable efforts to ensure that ND employees were acting in a manner compatible with his own professional obligations.

In New Jersey, loan modification services constitute the practice of law. See Joint Opinion No. 716 of the Advisory Committee on Professional Ethics (ACPE), and Opinion No. 45 of the Committee on the Unauthorized Practice of Law, 197 N.J.L.J. 59 (July 6, 2009). In Joint Opinion No. 716, the ACPE found that a New Jersey attorney may not provide legal advice to customers of a for-profit loan modification company, whether the attorney be considered in-house counsel to the company, formally affiliated or in a partnership with the company, or separately retained by the company.

Respondent violated RPC 5.4(a), which prohibits an attorney from sharing a fee with a nonlawyer, by sharing with NVA the fees charged to the homeowners for loan modification services. The Joint Opinion also makes clear that, when an attorney shares, with a for-profit loan modification company, a fee charged to a homeowner for loan modification services, as respondent did here,

the attorney violates RPC 5.4(b) (entering into a prohibited partnership with nonlawyer). That RPC prohibits a lawyer from forming a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law. Respondent's affiliation with NVA was an impermissible partnership with a non-legal business or a nonlawyer, in violation of RPC 5.4(b). By extension, he assisted a non-legal business or nonlawyer in the unauthorized practice of law, in violation of RPC 5.5(a)(2) (assisting another in the unauthorized practice of law).[18]

The Joint Opinion explicitly prohibits the payment of monies to a loan modification company that refers or recommends clients to an attorney. Further, the acceptance of legal fees, as here, where respondent divided the fee paid by a homeowner between the company and the attorney, is impermissible fee-sharing. New Jersey does not permit a lawyer to give a referral fee or "anything of value" to a person to recommend or secure the lawyer's employment by a client or as a reward for having made the recommendation. Having done so, respondent violated RPC 7.3(d) (prohibiting a lawyer from compensating or giving anything of value to a person or organization for recommending or

[18] Respondent's prohibited partnership with NVA and his assisting NVA with the unauthorized practice of law could constitute violations of RPC 5.4(b) and RPC 5.5(a)(2). However, respondent was not charged with having violated those Rules. We can consider uncharged misconduct in aggravation. See In re Steiert, 201 N.J. 119 (2014) (evidence of unethical conduct contained in the record can be considered in aggravation, even though such unethical conduct was not charged in the formal ethics complaint).

securing the lawyer's services). This RPC violation also was uncharged and, therefore, only can be considered by us in aggravation.

RPC 7.1(a) prohibits a lawyer from making false or misleading communications about the lawyer, the lawyer's services, or any matter in which the lawyer has or seeks professional involvement. Pursuant to the Rule, a communication is false or misleading if it "contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading." The record amply supports a finding that respondent violated this Rule by making deliberately misleading statements concerning the legal services he would be providing to the fifteen NVA clients, including the claims that his legal services included "building a case" and "negotiating" on his clients' behalf, despite him having no intention of engaging in any negotiations on behalf of the NVA clients.

The OAE alleged that respondent further violated RPC 7.1(a), as well as RPC 7.5(a), which prohibits a lawyer from using a law firm name, letterhead, or other professional designation that violates RPC 7.1(a), by designating his firm as "Daniel Ruggiero, Esq. & Associates," and creating the illusion that he practiced law in a multi-lawyer firm.

Similarly, RPC 7.5(e), governing trade names, permits a law firm to include additional identifying language in its name, such as "& Associates," but

"only when such language is accurate and descriptive of the firm." Further, RPC 7.5(e) requires that the trade name not be "misleading, comparative, or suggestive of the ability to obtain results."[19] The term "& Associates" necessarily conveys more than one attorney. Thus, respondent's identification of his law firm as having associates, while he was the firm's only practicing attorney, had the capacity to mislead others into believing the firm was staffed by more than one attorney. In In re Elfar, 246 N.J. 56 (2021), we found an attorney's improper designation of her law firm as "Elfar & Associates, P.C.," despite not having employed an associate in more than three years, violated RPC 7.1(a)(1) and RPC 7.5(e). Thus, the record establishes by clear and convincing evidence that respondent violated RPC 7.1(a), as well as RPC 7.5(a) and (e), by identifying his law firm as the "Daniel Ruggiero, Esq. & Associates," despite his status as a solo practitioner.

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) requires intent. See In the Matter of Ty Hyderally, DRB 11-016 (July 12, 2011). Here, respondent, through his agents, lied to McConaghy, and

[19] Effective September 9, 2020, RPC 7.5(e) was amended to remove a prior requirement that any trade name include the name of the lawyer in the firm. The amended Rule also removed language that expressly required that the trade name use terms that "are accurate, descriptive, and informative." Importantly, however, the Rule still requires "accurate and descriptive" language, and language that is "not misleading, comparative, or suggestive of the ability to obtain results." Cf. RPC 7.5(e) (2019).

the other clients, about the likelihood their mortgage modification applications would be successful. Respondent's fee agreement offered false promises about his experience and resources, even though he and NVA knew that few loan modifications were approved, and that respondent had no intention of using his experience and resources to improve their chances of success. The fee agreement included repeated false promises of "negotiation" and "building a case" for the clients when respondent, in fact, had no intention of negotiating on their behalf. The fee agreement also falsely described respondent's practice as a law firm, rather than a solo practitioner. The record, thus, contains ample evidence to support the conclusion that respondent violated RPC 8.4(c).

We determine, however, to dismiss the charged violation of RPC 1.5(a), which prohibits an attorney from charging an unreasonable fee and contains eight factors that aid in establishing the reasonableness of an attorney's fee. The record before us contains no analysis of the reasonableness of respondent's fee against those eight factors. See In the Matters of Christopher Michael Manganello, DRB 20-199 and 20-235 (April 6, 2021) (dismissing the RPC 1.5(a) charge because the formal ethics complaint did not analyze the attorney's fees under the eight factors of RPC 1.5(a) and, thus, we could not determine that, had the attorney performed the work for which he had been retained, the fee charged would have been unreasonable).

Additionally, although respondent grossly mishandled his representation of McConaghy and the other fourteen NVA clients, the fact that he may not have earned his legal fees does not, by itself, render the fees unreasonable. See In the Matter of Thomas J. Whitney, DRB 19-296 (May 12, 2020) (we dismissed the RPC 1.5(a) charge because, although the attorney did little to no work in connection with the client matters at issue, "the fact that he may not have earned his fee [did] not render his fee unreasonable;" we also observed that his failure to return unearned fees was captured by his violation of RPC 1.16(d)). We, therefore, cannot determine, on this record, that, had respondent performed the work for which he had been retained, the fee charged would have been unreasonable. Accordingly, we determine to dismiss the RPC 1.5(a) charge.

In addition, we determine to dismiss the charged violation of RPC 7.5(d), which provides that "[l]awyers may state or imply that they practice in a partnership only if the persons designated in the law firm name and the principal members of the firm share in the responsibility and liability for the firm's performance of legal services." The primary focus of subsection (d) is on situations in which attorneys have implied the existence of a partnership by practicing under a combination of their names in a form such as "A & B" or "A, B & C," to convey the message, by the firm name, that the persons designated are engaged in the general practice of law as partners. See In re Weiss Healey

& Rea, 109 N.J. 246, 252 (1988). See also Michels and Hockenjos, New Jersey Attorney Ethics (GANN, 2025) at § 6:3-1 at 61. Here, respondent did not designate his firm as a partnership. Rather, he represented himself as having associates despite being a sole practitioner. That misconduct is more appropriately addressed by the charged violations of RPC 7.1(a), as well as RPC 7.5(a) and (e), discussed above.

Last, we determine to dismiss the charge that respondent violated RPC 8.4(a), which prohibits an attorney from violating the RPCs. The OAE correctly noted that, although respondent violated RPC 8.4(a) based on his violation of the RPCs discussed above, his RPC 8.4(a) violation cannot result in additional, independent discipline. We have consistently 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) (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 solely upon respondent's violation of other RPCs, we determine to dismiss it as a matter of law.

In sum, we find that respondent violated RPC 1.1(a); RPC 1.4(b); RPC 1.4(c); RPC 5.3(b); RPC 5.3(c); RPC 5.4(a); RPC 7.1(a)(1); RPC 7.5(a); RPC 7.5(e); and RPC 8.4(c). We dismiss the charges that respondent violated RPC 1.5(a), RPC 7.5(d), and RPC 8.4(a). The sole issue left for our determination is the appropriate quantum of discipline for respondent's misconduct.

Quantum of Discipline

The use of false or misleading communications about the lawyer, including the use of misleading letterhead, ordinarily results in an admonition. See In re Elfar, 246 N.J. 56 (2021) (admonition for an attorney who identified her law firm as "Elfar & Associates, P.C.," despite not having employed an associate in more than three years; the attorney also practiced law while ineligible and committed recordkeeping violations; significant mitigation, including lack of prior discipline and the correction of her firm's name), and In the Matter of Raymond A. Oliver, DRB 09-368 (May 24, 2010) (admonition for an attorney who used letterhead that identified three attorneys as "of counsel," despite his having had no professional relationship with them, a violation of RPC 7.1(a) and RPC 7.5(a); the attorney also violated RPC 8.4(d) because two of those attorneys were sitting judges, which easily could have created a

perception that he had improper influence with the judiciary; we noted other improprieties).

Absent serious aggravating factors, such as harm to the client, conduct involving gross neglect, lack of diligence (not present here), and failure adequately to communicate ordinarily results in an admonition, even when accompanied by other non-serious ethics infractions, such as a violation of RPC 1.16(d). See In the Matter of James E. Gelman, DRB 24-004 (February 20, 2024) (a pro bono program assigned the attorney, on a volunteer basis, to represent a veteran in connection with his service-related disability claim; for ten months, the attorney took very little action to advance his client's case; thereafter, the attorney took no further action on behalf of his client, incorrectly assuming that the pro bono program had replaced him as counsel due to his lack of experience; moreover, the attorney failed to advise his client that he was no longer pursuing his case; the attorney's conduct violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), and RPC 1.16(d); no prior discipline in more than forty years at the bar), and In the Matter of Hayes R. Young, DRB 23-215 (November 22, 2023) (the attorney filed a medical malpractice lawsuit on behalf of a client without having obtained the required affidavit of merit; seven months later, the Superior Court dismissed the lawsuit for lack of prosecution; the attorney, however, failed to notify his client that he had filed her lawsuit or that it had been dismissed due to his inaction;

meanwhile, during the span of several months, the attorney failed to reply to several of his client's e-mail messages inquiring about the status of her case; no prior discipline in thirty-eight years at the bar; finally, during the timeframe of the misconduct, the attorney experienced extenuating circumstances underlying his wife's illness and death).

Attorneys who fail to supervise their nonlawyer staff – including in cases where entrusted funds are stolen – typically receive an admonition or a reprimand, depending on the presence of other violations, prior discipline, or aggravating and mitigating factors. See In the Matter of Vincent S. Verdiramo, DRB 19-255 (January 21, 2020) (admonition; as a result of the attorney's abdication of his recordkeeping obligations, his nonlawyer assistant was able to steal more than $149,000 from his trust account; the attorney also violated RPC 1.15(a) (failing to safeguard funds, negligent misappropriation, and commingling) and RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6); mitigating factors included the attorney's prompt actions to report the theft to affected clients, law enforcement, and disciplinary authorities; his deposit of $55,000 in personal funds to replenish the account; his extensive remedial actions; his acceptance of responsibility for his misconduct; and his unblemished, thirty-three-year career), and In re Deitch, 209 N.J. 423 (2012) (reprimand; as a result of the attorney's failure to supervise

his paralegal-wife and his poor recordkeeping practices, $14,000 in client or third-party funds were invaded; the paralegal-wife stole the funds by negotiating thirty-eight checks issued to her by forging the attorney's signature or using a signature stamp; no prior discipline).

Standing alone, misrepresentations to clients require the imposition of a reprimand. In re Kasdan, 115 N.J. 472, 488 (1989). A reprimand still may be imposed even if the misrepresentation is accompanied by other, non-serious ethics infractions. See In re Rudnick, __ N.J. __ (2022), 2022 N.J. LEXIS 258 (reprimand for an attorney who allowed his client's lawsuit to be dismissed for his failure to respond to interrogatories; thereafter, the attorney failed to attempt to reinstate his client's matter; the attorney also failed to reply to his client's inquiries regarding the case and misrepresented to his client that the entire case had been dismissed for reasons other than the attorney's failure to respond to interrogatories; the attorney's misconduct occurred during a one-year timeframe; in mitigation, the attorney had no prior discipline, accepted responsibility for his misconduct, and fully refunded the client's fee, on his own accord), and In re Ruffolo, 220 N.J. 353 (2015) (reprimand for an attorney who, despite knowing that the complaint had been dismissed, assured the client that his matter was proceeding apace, and that he should expect a monetary award in the near future; both statements were false, in violation of RPC 8.4(c); the

attorney also exhibited gross neglect and a lack of diligence by allowing his client's case to be dismissed, not working on it after filing the initial claim, and failing to take any steps to prevent its dismissal or ensure its reinstatement thereafter, violations of RPC 1.1(a) and RPC 1.3; the attorney also violated RPC 1.4(b) by failing to promptly reply to the client's requests for status updates).

The appropriate measure of discipline in fee-sharing cases is determined on a case-by-case basis and ranges from an admonition to a lengthy term of suspension, depending on the severity of the lawyer's conduct, the presence of other serious violations, and the lawyer's ethics history. See, e.g., In the Matter of Paul R. Melletz, DRB 12-224 (November 16, 2012) (admonition for an attorney who hired a paralegal for immigration matters as an independent contractor and, for a few years, evenly divided the flat fee charged to immigration clients); In re Burger, 201 N.J. 120 (2010) (reprimand for an attorney who paid a paralegal employee fifty percent of the legal fees generated by immigration cases that the paralegal referred to the attorney; we determined that the employee's earnings, both from the fee shares and her weekly salary, were not excessive for the position a paralegal/secretary); In re Macaluso, 197 N.J. 427 (2009) (censure for an attorney, who, as a nominal partner, participated in a prohibited compensation arrangement with an employee and failed to report the controlling partner's misconduct); In re Fusco, 197 N.J. 428 (2009)

(companion case to In re Macaluso, 197 N.J. 477 (2009)) (the attorney was suspended for three months for paying a nonlawyer claims manager both a salary and a percentage of the firm's net fee recovered in personal injury matters that were resolved with the manager's "substantial involvement;" the claims manager received a larger percentage of the firm's fees in cases that he had referred to the firm; other infractions included failure to supervise nonlawyer employees and failure to report another lawyer's violation of the RPCs); In re Carracino, 156 N.J. 477 (1998) (six-month suspension for an attorney who agreed to share fees with a nonlawyer, entered into a law partnership agreement with a nonlawyer, engaged in a conflict of interest, displayed gross neglect, failed to communicate with a client, engaged in conduct involving misrepresentation, and failed to cooperate with disciplinary authorities); In re Berglas, 190 N.J. 357 (2007) (one-year suspension for an attorney who shared legal fees with a nonlawyer and improperly paid third parties for referring legal cases to him; the conduct took place over three years and involved two hundred immigration and personal injury matters.

Moreover, matters that involve violations of MARS consistently have resulted in terms of suspension. In In re Munier, 246 N.J. 459 (2021), a consent matter, an attorney was suspended for three-months for collecting illegal advance fees from mortgage modification clients, totaling $13,250, despite

having been put on notice during a prior disciplinary investigation that his conduct violated MARS. In the Matter of William J. Munier, DRB 20-320 (April 22, 2021). In addition, Munier acted as an unlicensed debt adjuster and shared the legals fees with a for-profit loan modification company run by nonlawyers. Id. 6-7. Munier also failed to apply for the loan modification on the clients' behalf or to inform them of a motion for summary judgment. Id. at 4.

We considered that Munier not only committed the same misconduct for which he had received a one-year suspension, but he also had been warned to bring his practices into compliance with state and federal law and failed to do so. Id. at 7. Worse, he continued his affiliation with the loan modification company for another two years beyond his prior interview with the OAE. He was more than aware of his misconduct but proceeded anyway. Id. We found that this brazen misconduct justified a significant enhancement of discipline. In mitigation, we considered the prolonged illness, and death of his wife, as well as his pro bono legal work. Id.

In Schlissel, 239 N.J. 4, a reciprocal discipline matter based on conduct occurring in Nevada, the attorney was suspended for six months for creating two legal entities to assist multistate clients in obtaining mortgage modifications and employing nonlawyer "recruiters" who were compensated based on the number of individuals they engaged for loan modification services. In the Matter of

Aileen Merrill Schlissel, DRB 18-266 (January 15, 2019) at 5. The recruiters often made false promises about the length of the modification process, the amounts of the resulting monthly mortgage payments, the interest rates at the end of the process, and some recruiters even advised clients to stop paying their mortgages and, instead, to use their funds to pay the firm's fees. Id. Although Schlissel had agreed to hold unearned client funds in trust, she used those funds to pay her overhead costs and payroll. Id.

In determining to grant the OAE's motion for reciprocal discipline in that matter, we determined that a three-month suspension was the baseline discipline for the totality of Schlissel's misconduct. Id. at 33. However, in light of her temporary suspension for failing to cooperate with an OAE investigation, and a then pending three-month suspension imposed in a separate disciplinary matter involving recordkeeping violations and the unauthorized practice of law, we recommended a six-month suspension, to run consecutively to the three-month suspension that the Court imposed. Id. The Court agreed with our determination. In re Schlissel, 239 N.J. 4 (2019).

In In re Ehrlich, 235 N.J. 321 (2018), on a motion for reciprocal discipline, an attorney was suspended for three months for making interstate solicitations for loan modification work provided by nonlawyers acting on behalf of his firm, charging illegal fees, failing to act diligently on the loan modifications, failing

to supervise his nonlawyer employees, and practicing law in a state where he was not admitted. The nonlawyers solicited clients, some of whom resided in Maryland, and charged "upfront retainer fees," which was deemed improper because Ehrlich was not licensed to practice in that state. Ehrlich admitted that he never met with or talked to the twenty-six grievants, and that nonlawyers, for the most part, communicated with the clients. In the Matter of Richard Eugene Ehrlich, DRB 17-347 (April 4, 2018).

In determining to impose a three-month suspension, we considered that, once Ehrlich learned that a grievance had been filed against him, and he realized that he had been involved in unethical conduct, he fired his "recruiter," took steps to "unwind that part of his practice," and refunded fees to the grievants. Id. at 26-27. We also considered that Ehrlich had received a three-month suspension in Florida and that he had no ethics history in his thirty years of practice. The Court agreed with our determination.

In Velahos II, 225 N.J. 165, a consent matter, an attorney was suspended for six months for fraudulently collecting illegal advance fees from 117 clients, totaling $216,946.92, in mortgage modification matters, in violation of MARS. Id. at 5. Velahos was the principal of three companies subject to MARS regulations and represented numerous out-of-state clients in jurisdictions in which he was not licensed as an attorney. Id. at 2-4. In addition, Velahos acted

as an unlicensed debt adjuster and engaged in a pattern of misrepresentation to his clients and the public through his advertising and agreements, which we determined were in violation of multiple Rules. Id. To make matters worse, he also made misrepresentations to the OAE during the investigation and practiced law while ineligible, in addition to recordkeeping violations and the failure to supervise nonlawyer employees. In the Matter of Efthemois D. Velahos, DRB 15-409 (March 23, 2016).

We determined that, standing alone, Velahos' misconduct generally would result in a reprimand or a censure. Id. at 8. However, we found aggravating factors, including his prior censure for similar misconduct five years prior,[20] his unauthorized practice of law in multiple jurisdictions, his pattern of misrepresentations to his clients and the public, and his misrepresentations to the OAE. Id. at 8-9. We also noted, however, the substantial mitigation Velahos offered. Most significant was the fact that he suffered from both a mental health condition and alcohol dependency, exacerbated by the tragic death of his child. Id. at 9. Nonetheless, because of the

[20] In In the Matter of Efthemois D. Velahos, DRB 14-055 (May 15, 2014). (Velahos I), a consent matter, we recommended a censure for Velahos who, with his wife, a nonlawyer, provided loan modification services to at least four clients, required upfront payments to begin the process, in violation of MARS and state law, assisted his wife's companies in the unauthorized practice of law and misrepresented his role with them, and failed to maintain malpractice insurance. In addition, Velahos allowed his wife to use his law firm's name and address in her communications with clients. Id. at 8. The Court agreed with our determination. In re Velahos, 220 N.J. 108 (2014).

overwhelming volume of violations committed, the repetitive and knowing nature of those violations, and the failure to learn from prior discipline for similar violations, we determined that the appropriate quantum of discipline for Velahos' misconduct was a six-month suspension. The Court agreed with our determination.

Here, in accordance with Velahos II, a censure is the appropriate starting point for respondent's misconduct, which, in this regard, extended to fifteen clients and involved the collection of illegal advance fees.

Nevertheless, respondent engaged in additional, serious misconduct. Specifically, he participated in an improper fee-sharing scheme with nonlawyers, engaging in the for-profit loan modification industry. He neglected his clients, made numerous misrepresentations concerning his involvement in the application process, and took advance fees for mortgage modification services that he did not perform. He also failed to communicate with the clients and delegated his legal work to unsupervised nonlawyers without ensuring that their actions complied with the ethical obligations applicable to lawyers.

Further, respondent took advantage of homeowners at a vulnerable time in their lives by charging fees and then performing no work on their behalf. It is well-settled that harm to the client constitutes an aggravating factor. In the Matter of Brian Le Bon Calpin, DRB 13-152 (October 23, 2013), so ordered,

217 N.J. 617 (2014). Here, respondent admitted that he was aware McConaghy had prior loan modifications before he accepted her as a client. He also admitted that the circumstances surrounding McConaghy's prior failed modifications made it highly unlikely that she would qualify for another. That failure led McConaghy to needlessly expend her limited financial resources to pursue a fruitless application.

Moreover, although the record does not specify how much respondent collected in advance fees from the other fourteen NVA clients, it is clear from the record that the clients sought respondent's assistance because they hoped to save their homes through a mortgage modification and respondent took advantage of their desperation, misled them with the illusion that they were hiring a lawyer to represent them, and then charged advance fees for legal services that they never received.

We find, however, that respondent offered compelling mitigation, including his lack of prior discipline in eighteen years at the bar, his immediate reporting of the Massachusetts discipline to the OAE, the serious medical and financial issues he endured, and his significant efforts to rebuild his life, both personally and professionally.

Unfortunately, this case involves misconduct that we perceive as increasingly common and another disturbing example of disciplinary matters

involving advance fees for mortgage modification services in violation of MARS. Generally, as a matter of stare decisis, a three-month suspension is the quantum of discipline for this type of misconduct, absent other serious violations, such as the unauthorized practice of law. In our view, given the facts of Velahos II, Schlissel and Munier, a three-month suspension may very well be too lenient.

Respondent's misconduct, although dissimilar in scope and dollar amount to that of the attorney in Velahos II, albeit without many of the aggravating factors present in that case, is no less disturbing and could warrant discipline greater than a three-month suspension. However, based on the compelling mitigation offered by respondent, we determine that a three-month suspension is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

Because current precedent neither supports nor provides adequate notice to the practicing bar of the potential for harsher discipline, we recommend that the Court consider anew the disciplinary approach to the type of misconduct presented by this case and determine that, in the future, attorneys who engage in the practice of collecting advance fees in violation of the MARS regulations, may be subject to a higher quantum of discipline.

Conclusion

On balance, when weighing respondent's misconduct in this matter against the compelling mitigating factors, we determine to grant the motion for reciprocal discipline and conclude that a three-month suspension is the appropriate quantum of discipline necessary to protect the public and to preserve the integrity of the bar.

We deny, however, respondent's request that the suspension be imposed retroactive to March 14, 2023, the effective date of the suspension imposed in Massachusetts. Respondent's claim that he voluntarily shuttered his law practice does not provide a basis to impose his suspension retroactively. We consistently have found, and the Court has agreed, that a "voluntary withdrawal" from the practice of law provides no "basis to impose [a] suspension retroactively, and to do so would amount to no meaningful sanction." In the Matter of Brian J. Smith, DRB 20-318 (July 28, 2021) at 22- 23, so ordered, 250 N.J. 44 (2022). See also In re Asbell, 135 N.J. 446, 459 (1994) (noting that an attorney's voluntary suspension was not pursuant to Court Order, and, thus, would not be considered a mitigating factor in the disciplinary proceeding) (citing In re Farr, 115 N.J. 231, 238 (1989) (noting that, if an attorney seeks to assert, as a mitigating factor, that he has been serving a suspension, the suspension must have been imposed by Court Order, and not through the voluntary action of an attorney, because in

cases of a voluntary suspension, the Court is unable to assess and supervise the suspension)).

Member Petrou voted to impose a one-year suspension.

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 Daniel Goldsmith Ruggiero
Docket No. DRB 24-290

Argued: March 20, 2025

Decided: June 2, 2025

Disposition: Three-Month Suspension

Members	Three-Month Suspension	One-Year Suspension
Cuff	X	
Boyer	X	
Campelo	X	
Hoberman	X	
Menaker	X	
Modu	X	
Petrou		X
Rodriguez	X	
Spencer	X	
Total:	8	1

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