SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 25-078
District Docket Nos. XIV-2018-0095E and VII-2020-0902E

In the Matter of Michael Heitmann
An Attorney at Law

Argued
May 21, 2025

Decided
September 2, 2025

HoeChin Kim appeared on behalf of the
Office of Attorney Ethics.

Fredric L. Shenkman appeared on behalf of respondent.

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Introduction

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

This matter was before us on a recommendation for a censure filed by the District VII Ethics Committee (the DEC). The formal ethics complaint charged respondent with having violated RPC 5.1(b) (failing to make reasonable efforts to ensure that a lawyer, over whom the attorney has direct supervisory authority, conforms to the Rules of Professional Conduct); RPC 5.5(a)(2) (assisting a non-member of the bar in the unauthorized practice of law);[1] RPC 8.4(a) (knowingly assisting another in violating the Rules of Professional Conduct); and RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice).

For the reasons set forth below, we determine that a censure is the appropriate quantum of discipline for respondent's misconduct.

[1] The formal ethics complaint charged respondent with having violated RPC 5.5(a)(1) (engaging in the unauthorized practice of law) by assisting a suspended New Jersey attorney in the unauthorized practice of law. However, throughout the disciplinary proceedings before the DEC, the parties repeatedly stated that the Office of Attorney Ethics (the OAE) had intended to charge respondent with having violated RPC 5.5(a)(2). Accordingly, we find that respondent had fair notice that he was charged with having violated RPC 5.5(a)(2). See R. 1:20-4(b) (entitled "Contents of Complaint" and requiring, among other notice pleading requirements, that a complaint "shall set forth sufficient facts to constitute fair notice of the nature of the alleged unethical conduct").

Ethics History

Respondent earned admission to the New Jersey bar in 2001 and to the New York bar in 2002. He has no disciplinary history. During the relevant timeframe, he maintained a practice of law in Staten Island, New York.

Facts

Background

In 2001, following his graduation from law school, respondent interviewed for a job with Dennis J. Oury, who was then a licensed New Jersey attorney in good standing.[2] Respondent did not receive an offer of employment from Oury and had no "other dealings" with him until thirteen years later, in 2014.

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

[2] As detailed below, in 2024, the Court disbarred Oury for practicing law while suspended for nearly eight years, between October 2010 and March 2018. In re Oury, 256 N.J. 613 (2024).

R. 1:20-20(a) prohibits an attorney authorized to practice law in New Jersey from, among other arrangements, employing or sharing office space with a suspended lawyer in connection with the practice of law. Similarly, that Rule prohibits a New Jersey attorney from permitting a suspended lawyer to perform services for the attorney connected to the practice of law.

Moreover, R. 1:20-20(b) prohibits a suspended or disbarred lawyer from, among other activities, (1) "practic[ing] law in any form either as a principal, agent, servant, clerk or employee of another;" (2) "occupy[ing], shar[ing] or us[ing] office space in which an attorney practices law;" (3) "furnish[ing] legal services, giv[ing] an opinion concerning the law or its application or any advice with relation thereto, or . . . draw[ing] any legal instrument;" or (4) "solicit[ing] or procur[ing] any legal business or retainers for [himself] or for any other attorney."

On July 27, 2010, Oury, through counsel, filed with the OAE his R. 1:20-20 affidavit of compliance certifying, among other things, that he had not practiced law "in any way" during his suspension. Despite Oury's sworn statement attesting to his total avoidance of the practice of law, between approximately October 2010 and March 2018, he performed a total of more than 1,900 hours of legal work, for five separate New Jersey law firms, including respondent's firm, garnering more than $369,110 in earnings.

Oury's Unauthorized Legal Work for Respondent

In March 2014, respondent's client, Paul Swibinski, noticed that respondent was "overwhelmed" by the volume of his work and recommended that he contact Oury, whom Swibinski said was "working for other law firms" and could assist respondent with his workload. Following his discussion with Swibinski, respondent spoke with Oury regarding his suspended law license. During their conversation, Oury assured respondent that he had discovered "some opinions" regarding suspended or disbarred attorneys working in law firms, and "that he was permitted to work for" respondent, despite his suspended status.[3]

During the ethics hearing, respondent claimed that, in connection with his discussion with Oury, he "immediately" reviewed the Rules of Professional Conduct and "tried to find . . . something that would tell me I can't do this. And I . . . honestly couldn't find it." In respondent's view, he did not "see any problem" with hiring a suspended attorney because Oury's work would remain

[3] On October 16, 2014, in reply to respondent's request that he disclose the relevant case law, Oury provided respondent a copy of the Court's Opinion in In re Opinion No. 24 of Comm. on Unauthorized Practice of Law, 128 N.J. 114 (1992). In Opinion No. 24, the Court declined to impose "a categorical ban on all independent paralegals" and emphasized that, "regardless of whether the paralegal is employed by the attorney or retained by the attorney," the attorney "is ultimately accountable" for their supervision and conduct, pursuant to RPC 5.3 (requiring a lawyer to ensure that the conduct of a non-lawyer assistant is compatible with the professional obligations of the lawyer). 128 N.J. at 116, 127, 134-35. However, Opinion No. 24 made no reference to disbarred or suspended attorneys working for a law firm, as R. 1:20-20 expressly prohibits.

under his "purview" and supervision. However, during respondent's August 10, 2018 demand interview with the OAE, he conceded that he "did not go past the Rules of Professional Conduct in reviewing whether [he] could hire [Oury]." Similarly, he admitted that he neither reviewed nor attempted to locate the Court's 2009 temporary suspension Order, which expressly required Oury to comply with R. 1:20-20 governing suspended attorneys. Nevertheless, he asserted that he had "reviewed" the New Jersey RPCs "in the context of New Jersey [and] New York law" before hiring Oury and that he "made it a point" to "maintain control and supervisory authority over" Oury's work product.

Moreover, respondent testified that, prior to hiring Oury, he had consulted with a retired New York Supreme Court Justice, who was a member of the New York State Bar Association Committee on Professional Ethics.[4] Based on his discussions with the retired New York Justice, respondent purportedly concluded that there were "no issues with" allowing a suspended attorney to work at his law practice, provided he "was able to directly supervise [Oury]" and "keep . . . space between [Oury] . . . and the practice of law." Respondent, however, conceded that the retired Justice had no familiarity with

[4] The Justice previously had conducted respondent's interview for admission to the New York bar and, according to respondent, had "offered assistance" regarding any potential ethics "questions." The Justice did not testify during the ethics hearing.

New Jersey Rules or law. Further, he admitted that he did not consult with the OAE and, instead, merely relied on his research and his discussion with the retired Justice concerning his business arrangement with Oury.

Between May 2014 and February 2018, Oury, while suspended, performed at least 295 hours of legal work for respondent, for a minimum of eighteen clients, all who were aware that Oury was working on their cases.[5] For his work, respondent generally paid Oury a $125 hourly rate, resulting in at least $60,931.25 in total compensation for Oury.[6] During his demand interview, respondent claimed that he had assigned Oury "a lot of New York" client matters, despite knowing that Oury was not licensed to practice law in that jurisdiction and was suspended in New Jersey. Respondent further represented that, during the timeframe of his business relationship with Oury, approximately five to ten percent of his legal practice consisted of New Jersey client matters.

Oury's work for respondent included (1) conducting legal research; (2) "negotiating" with respondent's "vendors;" (3) "interfacing" with respondent's clients; (4) preparing discovery demands; (5) drafting correspondence to adversaries and courts for respondent's signature; (6) preparing a proposed order

[5] It is not clear from the record before us whether respondent's clients were aware of Oury's suspended status.

[6] During his demand interview, respondent informed the OAE that, at times, Oury's hourly rate fluctuated, depending on the complexity of the work.

compelling discovery; (7) conducting document and discovery review; (8) drafting a complaint; (9) drafting a motion to dismiss based on an adversary's failure to comply with discovery obligations; and (10) preparing a "strategy" memorandum for respondent. Oury performed the legal work for respondent remotely, from his Florida residence.

In respondent's view, Oury performed mere "paralegal work" and neither held himself out as an attorney nor had signatory authority over respondent's attorney accounts. Moreover, during the ethics hearing, respondent testified that he extensively reviewed and edited Oury's work product. Similarly, he claimed that Oury's contact with clients was limited to gathering documents and information.

Nevertheless, respondent considered Oury a "well-respected attorney" and "mentor" whom he could turn to for advice and to "discuss strategy." Indeed, on at least one occasion, Oury offered his legal opinion to respondent concerning a client's "entitle[ment] to a deficiency hearing" in a New York state court and, on another occasion, offered detailed strategic advice to respondent and his associate attorney regarding an adverse order issued against a separate client. During the ethics hearing, respondent testified that "[t]he good part about [Oury] was that he had . . . several decades of experience . . . more so than I did. So he was . . . capable of [doing] a lot of things."

As we previously observed in our decision recommending Oury's disbarment, he utilized his skills as an attorney in preparing legal documents for respondent and his associate. In the Matter of Dennis J. Oury, DRB 23-105 (October 27, 2023) at 17 (the Oury decision). Specifically, in one matter in which Oury assisted respondent in drafting interrogatories, Oury sent respondent an October 12, 2014 e-mail, stating that, "in order to formulate good interrogatory questions[,] I will need to speak to the client and get the specifics."

In another matter in which Oury assisted respondent's associate in preparing an answer to a complaint, Oury sent the associate an October 16, 2014 e-mail, noting that he did not have "specific facts to determine if other defenses are available or if a counterclaim is appropriate. Was there a purchase money mortgage for the commercial building?" Further, Oury offered edits to the associate's draft discovery demands.[7]

Oury's Reinstatement Proceeding

On November 1, 2016, during Oury's business relationship with respondent, the Court issued an Order suspending Oury for three years, retroactive to his November 17, 2009 temporary suspension, "and until further

[7] Oury's October 12 and 16, 2014 e-mails were admitted into evidence both in this matter, without objection, and in Oury's related disciplinary matter resulting in his disbarment.

Order of the Court," in connection with his criminal convictions which had resulted in his temporary suspension. In re Oury, 227 N.J. 47 (2016).

Five months later, on April 25, 2017, Oury filed a petition for reinstatement to the practice of law. In his petition, Oury stated that, during his term of suspension, he "sporadically [had] been employed as a legal assistant/law clerk on an independent contractor basis." Oury further stated that he had "performed such services" for respondent from approximately "2014 to present."[8] Oury claimed, in his petition, that he had "not engage[d] in the practice of law during his suspension."

On May 19, 2017, the OAE objected to Oury's reinstatement based on his admission that he had been employed as a law clerk during his suspension. In support of its objection, the OAE noted that R. 1:20-20(b)(3) prohibits a suspended attorney from furnishing "legal services" or giving "an opinion concerning the law or its application or any advice with relation thereto." The OAE also noted that R. 1:20-20(a) prohibits a New Jersey attorney from employing a suspended lawyer in connection with the practice of law. Oury failed to inform respondent of the OAE's objection to his reinstatement.

Meanwhile, in February 2018, after receiving a letter from the OAE

[8] Oury's petition listed four other New Jersey attorneys for whom he had performed legal services at various intervals throughout his suspension.

concerning its investigation of Oury's unauthorized practice of law, respondent "immediately" ended his business relationship with Oury. During his demand interview, respondent maintained that, upon reviewing the OAE's letter, he first became "aware of" R. 1:20-20 prohibiting New Jersey attorneys from employing suspended lawyers in any capacity.

On October 5, 2018, we issued a decision recommending that the Court deny Oury's reinstatement petition for admittedly performing legal work during his suspension, in violation of R. 1:20-20(b). Two months later, on December 3, 2018, the Court denied Oury's petition and directed that the ethics proceedings against Oury continue. On April 2, 2024, following the conclusion of Oury's ethics matter, the Court disbarred him for his extensive practice of law while suspended. Oury, 256 N.J. 613.

The Ethics Proceedings

Pre-Hearing Motion Practice

On November 2, 2020, respondent, through counsel, filed with the hearing panel chair a pre-hearing motion to dismiss the charge that he violated RPC 5.5(a)(2) by assisting Oury in the unauthorized practice of law. In support of his application, respondent conceded that Oury's "work as a paralegal . . . constitute[d] the practice of law." However, relying on In re Opinion No. 24,

128 N.J. 114, he argued that, because he had supervised Oury's legal work, he could not have assisted Oury in the unauthorized practice of law.

The OAE opposed respondent's motion and argued that, pursuant to R. 1:20-5(d)(1) governing motions to dismiss in attorney disciplinary matters, it had established a legally sufficient cause of action that respondent assisted Oury in the unauthorized practice of law. The OAE emphasized that New Jersey Court Rules expressly prohibit suspended attorneys from furnishing legal services in any capacity and, thus, respondent's reliance on In re Opinion No. 24 concerning the regulation of independent contractor paralegals was misplaced.

On December 8, 2020, the panel chair issued an order denying respondent's motion in its entirety. In the opinion accompanying the order, the panel chair reasoned that, regardless of how respondent characterized Oury's activities, the OAE had established a legally sufficient cause of action that he assisted Oury in the unauthorized practice of law, in violation of the charged Rules of Professional Conduct. Consequently, the panel chair directed that the matter proceed to an ethics hearing.

On August 5, 2024, following the ethics hearing,[9] respondent filed a motion with the panel chair, seeking to exclude Oury's January 23 and

[9] Between approximately January 2021 and April 2024, the OAE placed respondent's disciplinary matter on untriable status pending the outcome of Oury's related disciplinary matter.

November 7, 2018 demand interview transcripts from evidence, asserting that they were inadmissible hearsay. Respondent additionally requested that the hearing panel limit its consideration of the Oury decision. Specifically, because respondent was not a party to Oury's disciplinary proceeding, he argued that our findings in the Oury decision were not "binding" in respect of his disciplinary matter.

In opposing respondent's application, the OAE argued that Oury's demand interview transcripts were not only relevant to respondent's disciplinary matter, but also admissible, despite the hearsay statements contained therein, pursuant to the residuum rule.[10] The OAE further contended that the hearing panel could take judicial notice of the Oury decision.

On September 10, 2024, the panel chair issued an order excluding Oury's demand interview transcripts from evidence as "unnecessary and cumulative" of the largely undisputed facts of this matter, pursuant to N.J.R.E. 403 (allowing courts to exclude relevant evidence if its probative value is substantially outweighed by the risk of presenting needlessly cumulative evidence). The panel chair further observed that the Oury decision contained either "cumulative" facts

[10] R. 1:20-7(b) provides that the Rules of Evidence "may be relaxed in all disciplinary proceedings, but the residuum evidence rule shall apply." Generally, the residuum rule provides that "hearsay evidence shall be admissible in the trial of contested cases." N.J.A.C. 1:1-15.5(a). "Notwithstanding the admissibility of hearsay evidence, some legally competent evidence must exist to support each ultimate finding of fact to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness." N.J.A.C. 1:1-15.5(b).

or information that, potentially, went "beyond what [was] in the record" before the hearing panel in the instant matter, "without the necessary residuum for those additional facts." Nevertheless, the panel chair did not exclude the Oury decision from the evidentiary record.

The Parties' Written Summations to the Hearing Panel

In his summation brief to the hearing panel, respondent denied having assisted Oury in the unauthorized practice of law, in violation of RPC 5.1(b), RPC 5.5(a)(2), and RPC 8.4(a). Citing the Court's decision in In re Opinion No. 24, respondent argued that Oury acted as a mere "paralegal," whose work did "not constitute the practice of law" because of respondent's "close" supervision.

Respondent also emphasized that, prior to hiring Oury, he had consulted with the retired New York Supreme Court Justice regarding the propriety of his potential business arrangement with Oury. Based on the Justice's purported advice, he "understood" that he was permitted to hire Oury "as long as [Oury's] activities were supervised." Stated differently, respondent maintained that, because he "diligently sought to clarify what . . . Oury was permitted to do, and acted in accordance therewith, he could not have 'knowingly' assisted" Oury in violating the Rules of Professional Conduct. Consequently, although he admittedly "utilize[d] the services of a suspended lawyer," he reasonably

believed that he could do so.

Nevertheless, respondent conceded that he violated RPC 8.4(d) by hiring a suspended attorney in connection with his practice of law, as R. 1:20-20(a) expressly prohibits. For that conduct, respondent urged the hearing panel to recommend the imposition of "less than a censure," arguing that his conduct was similar, though less serious, than that of the censured attorney in In re Capece, 257 N.J. 31 (2024). Respondent contended that, unlike Capece, who, as detailed below, failed to conduct any research to determine if she could retain a legal services business run by a disbarred lawyer, he engaged "in independent research, although, admittedly, the research was not accurate as to New Jersey law."

In its summation brief to the hearing panel, the OAE stressed that the Court Rules expressly prohibited respondent from employing Oury in any capacity in connection with the practice of law. Moreover, the OAE observed that the Court, in disbarring Oury, "conclusively" determined that Oury had engaged in the unauthorized practice of law. Indeed, Oury was able to engage in the unauthorized practice of law because New Jersey attorneys, like respondent, "paid him to work for their law practices."

The OAE urged the hearing panel to sustain the charges of unethical conduct and to recommend the imposition of a three-month suspension. In

support of its recommendation, the OAE argued that, despite respondent's lack of prior discipline and the OAE's view that respondent's conduct is unlikely to recur, the compelling mitigating factors existing in Capece were not present here – specifically, Capece's remorse, admission of wrongdoing, and the fact that she stipulated to her misconduct, thereby conserving disciplinary resources.

The Hearing Panel's Findings

As a threshold issue, the hearing panel determined that respondent violated R. 1:20-20(a) by employing Oury as a suspended attorney in connection with his law practice. Similarly, the hearing panel found that respondent violated RPC 8.4(d) by violating the Court's temporary and disciplinary suspension Orders in respect of his business arrangement with Oury. Although respondent was not a party to Oury's disciplinary proceeding resulting in his suspension, the hearing panel observed that respondent, "nonetheless violated a court order," thereby engaging in conduct prejudicial to the administration of justice.

Additionally, the hearing panel determined that respondent violated RPC 5.1(b) by failing to make reasonable efforts to ensure that Oury, whom respondent directly supervised, conformed his conduct to the Rules of Professional Conduct – specifically, by not practicing law while suspended. The hearing panel noted that "[r]easonable efforts would have included reviewing"

both the suspension Orders and R. 1:20-20. Respondent, however, admittedly failed to review those materials and, thus, failed to make reasonable efforts to ensure that Oury's conduct conformed to the Rules of Professional Conduct.

Moreover, the hearing panel found that respondent violated RPC 8.4(a) by assisting Oury in the unauthorized practice of law.

However, the hearing panel dismissed, as a matter of law, the charge that respondent violated RPC 5.5(a)(2) by assisting "a person who is not a member of the bar" in the unauthorized practice of law. The hearing panel observed that the term "member of the bar" is not defined by the Rules of Professional Conduct or the Court Rules. Nevertheless, citing R. 1:20-10(a)(1), which permits an attorney to "consent to disbarment as a member of the bar," the hearing panel reasoned that "a lawyer is a member of the bar unless or until the lawyer is disbarred." In the hearing panel's view, a "suspended lawyer is a member of the bar because the lawyer has not been disbarred." Because Oury was a member of the bar during the timeframe of his improper business arrangement with respondent, the hearing panel determined that respondent's conduct did not implicate RPC 5.5.(a)(2) as a matter of law.

In recommending the imposition of a censure, the hearing panel identified no aggravating factors but weighed, in mitigation, respondent's purported lack of "conscious knowledge that he was violating the RPCs." Moreover, the

hearing panel underscored how, "when the issue was brought to his attention," respondent "immediately terminated" Oury's employment.

The hearing panel also noted that there was neither any evidence of client harm stemming from respondent's misconduct nor any indication that respondent or Oury made misrepresentations to clients, adversaries, or courts regarding the status of Oury's law license. The hearing panel further considered that Oury had "no access" to respondent's attorney accounts.

In addition, the hearing panel weighed, in mitigation, the fact that respondent, who primarily practices law in New York, sought counsel regarding the propriety of his actions in that jurisdiction. Finally, the hearing panel expressed its view that respondent negligently failed to research New Jersey law or to review Oury's temporary suspension Order prior to formalizing his illicit business arrangement with Oury.

The Parties' Positions Before the Board

At oral argument and in his submission to us, respondent, through counsel, conceded that he violated RPC 5.1(b) by failing to ensure that Oury, as a suspended attorney whom he directly supervised, conformed his conduct to the Rules of Professional Conduct.

However, respondent urged us to adopt the hearing panel's conclusion that

he did not violate RPC 5.5(a)(2), as a matter of law, because Oury remained a "member of the bar," albeit a suspended lawyer, during the timeframe in which he worked for respondent. Moreover, respondent argued that he did not violate RPC 8.4(a) because he "did not know that . . . hiring . . . Oury would be violative of a [New Jersey] RPC." Citing to 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), respondent also contended that the RPC 8.4(a) and RPC 8.4(d) charges were duplicative of his admitted violation of RPC 5.1(b).

In recommending the imposition of discipline less than a term of suspension, respondent analogized his conduct to that of the censured attorney in Capece and emphasized that he "understood that . . . Oury was allowed to work in a law office in New York, if supervised." However, respondent admitted that he did not adequately review New Jersey law prior to formalizing his improper business arrangement with Oury. Further, respondent argued that his conduct did "not involve moral turpitude" and was less egregious than that of the attorney in In re Tran, 246 N.J. 155 (2021), who, as detailed below, received a three-month suspension for assisting a suspended lawyer in the unauthorized practice of law. Finally, respondent emphasized his lack of prior discipline and his position that his conduct is unlikely to recur.

The OAE urged us to find, contrary to the hearing panel's conclusion, that respondent violated RPC 5.5(a)(2). Specifically, the OAE contended that respondent violated that Rule by assisting Oury, a suspended attorney, in the unauthorized practice of law, despite the prohibition on Oury performing legal services in any capacity. The OAE urged us to impose a three-month suspension based on its view that, in Capece, we had determined that a three-month suspension was the baseline level of sanction for assisting another in the unauthorized practice of law.

Analysis and Discipline

As a threshold matter, we decline to disturb the hearing panel chair's respective orders (1) denying respondent's pre-hearing motion to partially dismiss the formal ethics complaint, and (2) excluding Oury's demand interview transcripts from the evidentiary record in this matter. Specifically, we determine that the panel chair properly allowed this matter to proceed to an ethics hearing and appropriately exercised his discretion in excluding Oury's demand interview transcripts as "unnecessary and cumulative" when viewed against the largely undisputed facts of this matter.

Violations of the Rules of Professional Conduct

Turning to our de novo review of the record, we determine that the hearing panel's finding that respondent's conduct was unethical is fully supported by clear and convincing evidence in connection with the charges that he violated RPC 5.1(b), RPC 8.4(a), and RPC 8.4(d). Similarly, based on the well-reasoned findings of the hearing panel, we dismiss the charge that he violated RPC 5.5(a)(2).

Specifically, respondent knowingly assisted Oury in the unauthorized practice of law, in violation of RPC 8.4(a), the Court's suspension Orders, and, by extension, RPC 8.4(d). Respondent argued to the hearing panel that, because Oury performed mere "paralegal" work under his close supervision, he did not permit Oury to engage in unauthorized legal work, pursuant to his interpretation of the Court's decision in In re Opinion No. 24, 128 N.J. 114.

In our view, however, respondent's position fails to recognize that In re Opinion No. 24 concerns the regulation of independent contract paralegals and in no way governs the conduct of suspended attorneys, who are instead subject to the strictures of R. 1:20-20. Indeed, respondent, as a New Jersey attorney, was required to adhere to R. 1:20-20 prohibiting lawyers from employing a suspended attorney in any capacity in connection with the practice of law.

Respondent's argument also fails to recognize that, although the

"'practice of law does not lend itself to [a] precise and all-inclusive definition,' it is clear that the 'practice of law' is not limited to litigation, 'but extends to legal activities in many non-litigious fields.'" State v. Rogers, 308 N.J. Super. 59, 66 (App. Div. 1998) (alteration in original) (quoting N.J. State Bar Ass'n v. Northern New Jersey Mortg. Assoc., 32 N.J. 430, 437 (1960)), certif. denied, 156 N.J. 385 (1998). In that vein, "[o]ne is engaged in the practice of law whenever legal knowledge, training, skill, and ability are required." In re Jackman, 165 N.J. 580, 586 (2000).

Applying those principles, respondent unquestionably allowed Oury to engage in the practice of law while suspended. Specifically, for nearly four years, between May 2014 and February 2018, Oury performed at least 295 hours of legal work for respondent in connection with a minimum of eighteen client matters, garnering more than $60,000 in earnings. Respondent allowed Oury to (1) conduct legal research; (2) negotiate with his firm's vendors; (3) communicate with clients; (4) prepare discovery demands; (5) draft correspondence to adversaries and courts for respondent's signature; (6) prepare a draft discovery order; (7) conduct document and discovery review; (8) draft a complaint and a motion; and (9) prepare a "strategy" memorandum for respondent.

Additionally, we determine, as set forth in the Oury decision, that Oury utilized his legal skills in connection with his business arrangement with respondent. Specifically, Oury (1) assisted respondent in drafting interrogatories; (2) assisted respondent's associate in determining the availability of defenses or counterclaims; (3) offered his legal opinion to respondent concerning a client's entitlement to a "deficiency hearing" in a New York state court; and (4) provided detailed strategic advice to respondent and his associate regarding an adverse order, despite R. 1:20-20(b)(3) prohibiting suspended attorneys from "giv[ing] an opinion concerning the law or its application or any advice with relation thereto." Unsurprisingly, during his demand interview, respondent admitted that he considered Oury a "well-respected attorney" and "mentor" whom he could turn to for advice and "discuss strategy." Further, during the ethics hearing, respondent conceded that "[t]he good part about [Oury] was that he had . . . several decades of experience . . . more so than I did. So he was . . . capable of [doing] a lot of things."

Respondent also represented that he "diligently" attempted to research the propriety of his business arrangement before hiring Oury. Based on his purported efforts, respondent contended that he reasonably, though mistakenly, believed that he could "utilize the services of a suspended lawyer."

Despite respondent's claimed ignorance of his ethical obligations, the

Court consistently has held that ignorance of the law is no excuse for an attorney's failure to abide by the RPCs. See In re Berkowitz, 136 N.J. 134, 147 (1994) ("Lawyers are expected to be fully versed in the ethics rules that regulate their conduct. Ignorance or gross misunderstanding of these rules does not excuse misconduct"), and In re Goldstein, 116 N.J. 1, 5 (1989) (observing that "[i]gnorance of ethics rules and case law does not diminish responsibility for an ethics violation").

Indeed, respondent altogether failed to make any reasonable effort to ensure that Oury – a suspended attorney under his direct supervision – complied with the RPCs, in violation of RPC 5.1(b). Specifically, respondent admittedly failed to review the Court's suspension Orders, which would have provided him with actual notice that Oury was required to comply with R. 1:20-20 in connection with his suspension. Additionally, respondent conceded that he failed to review the Court Rules and, purportedly, only reviewed the RPCs "in the context of New Jersey [and] New York law before" he formalized his business relationship with Oury. However, even a cursory review of RPC 5.1, RPC 5.5, and RPC 8.4(a), when viewed together, should have alerted respondent to the impropriety of his conduct.

Moreover, despite the bulk of respondent's practice consisting of New York client matters, respondent knew that Oury was never licensed to practice

law in that jurisdiction and was suspended in New Jersey. Nevertheless, prior to hiring Oury, he consulted only with a retired New York Supreme Court Justice, whom he conceded had no familiarity with New Jersey law. By his actions, respondent, arguably, remained willfully ignorant of the clear restrictions governing the employment of suspended attorneys in New Jersey, where five to ten percent of his firm's client matters originated.

Additionally, although we cannot determine the propriety of respondent's behavior pursuant to New York Rules of Professional Conduct, it is far from clear that his conduct in that jurisdiction was proper. See In re Bruce D. Friedberg, 194 A.D.3d. 126, 129 (N.Y. App. Div. 1st Dept. 2021) ("Activities like preparing memoranda and documents to be filed in court – even if subscribed to by an admitted attorney . . . are forbidden to a suspended or disbarred lawyer . . . Thus, the act of providing 'paralegal or clerical services' to members of a law firm is fraught with peril and risks running afoul of the prohibition against the unauthorized practice of law").[11] Given respondent's woefully inadequate efforts to research the propriety of his illicit business arrangement, we conclude that he knowingly permitted a suspended attorney to

[11] In New York, attorneys have been disciplined for assisting in the unauthorized practice of law. See Matter of Hancock, 55 A.D.3d. 216 (N.Y. App. Div. 2d. Dept. 2008) (attorney disbarred for permitting a disbarred lawyer to advertise himself as his paralegal), and Matter of Raskin, 217 A.D.2d. 187 (N.Y. App. Div. 2d. Dept. 1995) (attorney suspended for allowing a disbarred lawyer to engage in the unauthorized practice of law by performing services as a "law clerk").

engage in the unauthorized practice of law, for nearly four years, for the benefit of his law firm.

Further, we reject respondent's reliance on Lundy in support of his contention that the RPC 8.4(a) and RPC 8.4(d) charges were "duplicative" of his RPC 5.1(b) violation. Unlike in Lundy, wherein we dismissed an RPC 8.4(a) charge based on an attorney's mere violation of other, more specific RPCs, respondent's RPC 8.4(a) violation was based on his decision to knowingly assist Oury in the unauthorized practice of law and, thus, is consistent with applicable disciplinary precedent. See In the Matter of Barry O. Bohmueller, DRB 16-428 (July 12, 2017) (sustaining an RPC 8.4(a) charge, in part, because the attorney assisted another lawyer in aiding nonlawyers in the unauthorized practice of law). Finally, we find that respondent's violation of RPC 8.4(d) was not duplicative of the RPC 5.1(b) charge but, rather, properly encapsulated his decision to assist a suspended attorney in the unauthorized practice of law, in contravention of the Court's suspension Orders.

However, we dismiss the related charge that respondent violated RPC 5.5(a)(2) by assisting a "person who is not a member of the bar" in the unauthorized practice of law. Violations of RPC 5.5(a)(2) typically are found when attorneys assist either nonlawyers or attorneys who are not licensed to practice law in New Jersey in the unauthorized practice of law. See In re Al-

Misri, 240 N.J. 179 (2019) (three-month suspension for an attorney who, among other misconduct, allowed a Pennsylvania attorney who was not licensed to practice law in New Jersey to handle a New Jersey client matter, in violation of RPC 5.5(a)(2)), and In re Inocencio, 231 N.J. 233 (2017) (censure for an attorney who assisted a non-lawyer in the unauthorized practice of law, in violation of RPC 5.5(a)(2), by allowing the non-lawyer to operate an attorney escrow account and to perform attorney tasks). Indeed, the title of RPC 5.5(a) is "Lawyers Not Admitted to the Bar of This State and the Lawful Practice of Law."

As the hearing panel correctly observed, the term "member of the bar," which is not defined by the RPCs or our Court Rules, consists of both attorneys in good standing and suspended lawyers, until such lawyer is disbarred. Cf. R. 1:20-10 (allowing "[a]n attorney against whom a grievance has been filed . . . [to] submit a consent to disbarment as a member of the bar") (emphasis added). Here, during the timeframe of respondent's misconduct, Oury was a "member of the bar," albeit one serving a term of suspension. Consequently, we determine that RPC 5.5(a)(2) prohibiting attorneys from assisting non-members of the bar in the unauthorized practice of law is inapplicable to respondent's conduct and, thus, dismiss that charge as a matter of law.

In sum, we find that respondent violated RPC 5.1(b), RPC 8.4(a), and RPC 8.4(d). For the reasons set forth above, we dismiss the charge that respondent violated RPC 5.5(a)(2). The sole issue left for our determination is the appropriate quantum of discipline for respondent's misconduct.

Quantum of Discipline

Attorneys who have assisted suspended or disbarred lawyers in the unauthorized practice of law have received discipline ranging from a reprimand to a short term of suspension, depending on the length of the misconduct and the presence of aggravating or mitigating factors. See, e.g., In re Ezon, 172 N.J. 235 (2002) (reprimand for an attorney who allowed his disbarred father to present himself as a New Jersey attorney for a common client; specifically, although the attorney executed a stipulation to extend time to answer a civil lawsuit on behalf of the client, the caption of the stipulation improperly listed both him and his father as counsel; the disbarred father also signed a cover letter to the stipulation falsely identifying himself as a lawyer; in mitigation, the attorney's conduct was limited to one matter in which he assisted a family member; no prior discipline); Capece, 257 N.J. 31 (censure for an attorney who, for nearly a decade, sporadically utilized a legal services business run by a disbarred lawyer, who conducted legal research and writing, drafted pleadings and other legal forms,

and organized discovery for the attorney; the disbarred lawyer also provided legal advice to the attorney, which she considered "valuable" based on his extensive experience; the attorney admittedly failed to conduct any independent research to determine the propriety of her conduct; in mitigation, the attorney had no prior discipline, stipulated to her misconduct, and retired from the practice of law); Tran, 246 N.J. 155 (on a motion for reciprocal discipline, three-month suspension for an attorney who, for approximately one month, assisted her former employer, a suspended lawyer, in the unauthorized practice of law; the attorney conferred with the suspended lawyer and included him in settlement communications and other transactions, even after New York disciplinary authorities warned the attorney to not do so; the attorney described that time as chaotic and stressful, as she recently had learned of the lawyer's suspension, was the only attorney in good standing remaining at her firm, and wanted to ensure that the firm's clients did not suffer; no prior discipline); In re Pinkas, 253 N.J. 227 (2023) (on a motion for reciprocal discipline, six-month suspension for an attorney who, for nearly two-and-a-half years, employed a suspended lawyer to work as a paralegal in his law firm; the attorney benefited from the suspended lawyer's legal advice concerning firm matters, permitted him to tailor legal documents, allowed him to communicate with outside parties regarding firm matters, and permitted his continued use of an e-mail address that falsely

represented to clients that he was a lawyer with his own firm; the attorney and his firm derived a financial benefit through the introduction of approximately 100 to 120 clients, yielding seven percent of the firm's revenue; we rejected the attorney's position that he did not believe the suspended lawyer was engaging in the practice of law because "all decisions and documents flowed through" the attorney; no prior discipline).

Here, unlike the reprimanded attorney in Ezon, who allowed his disbarred father to present himself as an attorney in connection with a single court filing, respondent, for almost four years, allowed Oury to perform at least 295 hours of unauthorized legal work, while suspended, for a minimum of eighteen clients, in clear violation of the Court's suspension Orders and R. 1:20-20 governing suspended attorneys. Compounding his misconduct, during that timeframe, respondent – like the censured attorney in Capece – altogether failed to take the basic steps to ascertain the propriety of allowing a suspended New Jersey attorney to perform unauthorized legal services for his firm. However, like Capece, who sporadically allowed a disbarred attorney to perform unauthorized legal work for her firm for nearly a decade, respondent appeared to have intermittently utilized Oury's illicit legal services during the four-year timespan.

Additionally, in Tran, the attorney received a three-month suspension, in part, because she continued to assist a suspended lawyer in the unauthorized

practice of law, even after New York disciplinary authorities warned her not to do so. By contrast, respondent immediately ceased his improper arrangement with Oury upon receiving a letter from the OAE concerning its investigation of Oury's conduct. Moreover, unlike the attorney in Pinkas, who received a six-month suspension for, among other misconduct, allowing the suspended lawyer to falsely represent the status of his license to clients, the record before us contains no evidence that either respondent or Oury misrepresented the status of Oury's law license to clients.

Based on the foregoing disciplinary precedent, Capece in particular, we conclude that respondent's misconduct could be met with a censure. To craft the appropriate discipline in this case, however, we also consider aggravating and mitigating factors.

There are no aggravating factors to consider.

In mitigation, like the attorney in Capece, respondent has had no prior discipline in his twenty-four-year career at the bar, a factor that we and the Court consistently have accorded considerable weight. See In re Convery, 166 N.J. 298, 308 (2001).

In further mitigation, we accord some weight to respondent's contention that he viewed Oury as an experienced mentor who began assisting him with his law practice when he was "overwhelmed" by the volume of his work.

Conclusion

In conclusion, based on disciplinary precedent – Capece in particular – the circumstances of which bear many similarities to respondent's conduct, we determine that a censure is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

Member Campelo was absent.

Member Menaker was recused.

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

Disciplinary Review Board
Hon. 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 Michael Heitmann
Docket No. DRB 25-078

Argued: May 21, 2025

Decided: September 2, 2025

Disposition: Censure

Members	Censure	Absent	Recused
Cuff	X		
Boyer	X		
Campelo		X	
Hoberman	X		
Menaker			X
Modu	X		
Petrou	X		
Rodriguez	X		
Spencer	X		
Total:	7	1	1

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