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September 23, 2025

Heather Joy Baker, Clerk
Supreme Court of New Jersey
P.O. Box 970
Trenton, New Jersey 08625-0962

Re: **In the Matter of Scott Howard Bernstein**
Docket No. DRB 25-145
District Docket No. VA-2023-0014E

Dear Ms. Baker:

The Disciplinary Review Board (the Board) has reviewed the motion for discipline by consent (reprimand or such lesser discipline as the Board deems appropriate) filed by the District VA Ethics Committee in the above matter, pursuant to R. 1:20-10(b). Following a review of the record, the Board granted the motion and determined that a reprimand is the appropriate quantum of discipline for respondent's violation of RPC 3.3(a)(1) (two instances – making a false statement of material fact to a tribunal), RPC 3.3(a)(5) (two instances – failing to disclose to the tribunal a material fact knowing that the omission is reasonably certain to mislead the tribunal), and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

The stipulated facts are as follows. In February 2017, Talking Capital LLC and Forefront Partners, LLC filed a lawsuit (the New York County Action)

against Rodney Omanoff¹ (Rodney) alleging that, as a member of Talking Capital, he had “breached his fiduciary duties to Talking Capital, misappropriated corporate opportunities[,] and engaged in self-dealing and dishonest behavior.” Although respondent did not represent Rodney in that action, that lawsuit gave rise to other lawsuits involving Rodney. Rodney’s father, Richard Omanoff (Richard), participated in telephone calls between respondent and Rodney, received e-mails concerning the case, and was involved in some of the decision making concerning the cases, but Rodney was respondent’s client.

Later, in January 2022, Rodney retained respondent to represent him in an adversary proceeding (the Adversary Proceeding) that was pending in the United States Bankruptcy Court for the Southern District of New York (the Bankruptcy Court). He also retained respondent as local counsel in a separate, but related, lawsuit he wanted to file in the Southern District of New York (the SDNY) (the RICO Action).

In the Adversary Proceeding, respondent contended that his prior employer, the Skolnick Legal Group, filed a lawsuit on Rodney’s behalf seeking a judgment “declaring that an automatic stay, which was triggered by the bankruptcy filing of one of Talking Capital’s members, enjoined the New York County [A]ction brought against [Rodney].” Respondent also filed a motion for a temporary restraining order seeking to restrain Talking Capital from prosecuting the New York County Action, which the Bankruptcy Court initially denied. However, after a second hearing, the judge reversed her decision and granted the restraining order. Later, on July 14, 2022, the Bankruptcy Court entered an order dismissing the Adversary Proceeding, which negated the effect of the restraining order.

In July 2022, the Bankruptcy Court dismissed Rodney’s Adversary Proceeding. He discussed with respondent whether to appeal the dismissal. Notwithstanding respondent’s advice, Rodney decided to pursue the appeal. Accordingly, on July 28, 2022, respondent filed a motion for reconsideration of the dismissal of the Adversary Proceeding. The motion was returnable on August 16, 2022.

¹ Because Rodney and Richard Omanoff share a last name, this letter will refer to the parties by their first names to avoid any confusion. No disrespect is intended by the informality.

On August 1, 2022, respondent provided Rodney with Invoice #87, for services rendered in the RICO Action, in the amount of \$4,237. Respondent and Rodney spoke about the invoice and, on August 5, 2022, respondent reduced the total amount due on Invoice #87 to \$1,864. Respondent's handwriting on the invoice reflected that he wrote off some of the fees he charged in connection with the RICO Action. The handwriting also reflected that Rodney still owed respondent \$14,287.71 for the services rendered in connection with the Adversary Proceeding.

On August 6, 2022, respondent provided Rodney with a revised invoice reflecting that he "eliminate[d] significant time expended at [Pasquale's] request with respect to the RICO lawsuit." Respondent did not alter the fees Rodney owed for the Adversary Proceeding, and sent him a revised invoice, Invoice #90, reflecting a \$14,287.71 balance.

On August 10, 2022, Rodney wired \$6,864.50 to respondent. Rodney believed \$5,000 of the funds were intended as partial payment of Invoice #90, and the remaining \$1,864.50 was intended to satisfy the balance of Invoice #87. Respondent did not dispute Rodney's allocation of fees.

Later that day, respondent sent an e-mail to Rodney informing him he was providing an additional fee deduction. He also documented their agreement to "write off \$3,380;" Rodney's \$5,000 payment that day; and that the remaining balance was \$5,907.91.

Subsequently, throughout August 2022, the attorney-client relationship between respondent and Rodney deteriorated.

On August 16, 2022, the Bankruptcy Court denied Rodney's motion for reconsideration of the dismissal of the Adversary Proceeding. The transcript reflects that opposing counsel appeared on the matter, but respondent did not. The court did not hear argument on the merits of the motion.

On September 1, 2022, Richard spoke with respondent on the telephone. Rodney did not participate in the telephone call. During the conversation, Richard directed respondent to file a notice of appeal of the dismissal of the Adversary Proceeding no later than September 2, 2022. The call between the two became contentious and respondent asserted that Richard ultimately terminated respondent's representation in all matters involving Rodney.

Respondent also contended that Richard informed him that Rodney would not pay the outstanding balance for the legal services he already had provided.

Later that day, respondent memorialized his conversation with Richard in an e-mail to Rodney. Rodney replied to respondent's e-mail and disputed that Richard terminated respondent's representation, indicating that his father described a different conversation. Further, Rodney instructed respondent to file the notice of appeal of the dismissal no later than September 2, 2022.

On September 2, 2022, respondent filed the notice of appeal in order to preserve Rodney's rights. However, respondent also filed motions to withdraw as counsel in both the RICO Action and the Adversary Proceeding. In his two separate motions, respondent advised the SDNY and Bankruptcy Court, respectively, that his attorney-client relationship with Rodney deteriorated after the Bankruptcy Court dismissed the Adversary Proceeding and that Rodney had terminated his representation.

Specifically, in his September 8, 2022 motion to withdraw as counsel in the Adversary Proceeding, respondent stated that Richard informed him that Rodney terminated his representation in all legal matters and had retained another firm to represent him in his legal matters.

Additionally, respondent informed the Bankruptcy Court that Rodney owed \$15,143 in legal fees and that Richard informed him Rodney refused to pay his outstanding balance. He did not explain how he calculated Rodney's outstanding balance and did not append any invoices to his motion. Moreover, at the time respondent filed the motion to withdraw, Rodney's outstanding balance was \$5,907.

In his September 19, 2022 motion to withdraw as counsel in the RICO Action, respondent asserted many of the same facts as he did in his motion to withdraw as counsel in the Adversary Proceeding. Additionally, he asserted that Rodney owed him \$4,237 in legal fees, even though he received a payment from Rodney on August 10, 2022. Based on his assertion that Rodney owed him \$4,237 in legal fees, respondent requested that the SDNY impose a lien on Rodney for the legal fees he owed. To support his assertion, respondent appended the original Invoice #87. He failed to provide the court with the revised invoices reflecting the deductions he provided to Rodney, demonstrating that he was owed only \$1,864.

In both motions, although respondent correctly identified that it was the result of his conversation with Richard that he believed Rodney terminated the representation, he informed both courts that Rodney “did not dispute” the termination “in a subsequent email.” Moreover, in his motions, respondent asserted that, in addition to Rodney terminating the representation, the attorney-client relationship deteriorated and he could no longer represent Rodney.

On September 19, 2022, Rodney provided the Bankruptcy Court with a letter to “set the record straight.” Specifically, he informed the judge that it was “untrue” that Richard terminated the representation. Rodney also disputed that his father told respondent he retained another firm because the firm did not practice bankruptcy law and was conflicted out due to being a creditor in the bankruptcy at issue. Finally, Rodney also contended it was not true that he failed to pay respondent’s legal fees or that he would not do so in the future. Rather, Rodney submitted a chart indicating that he customarily paid his invoices no later than nine days after receiving them.

After Rodney retained new counsel in the RICO Action, respondent agreed to withdraw his motion to be relieved as counsel. Consequently, neither the Bankruptcy Court nor the SDNY adjudicated respondent’s motions to withdraw as counsel. Additionally, at the request of Rodney’s new counsel, respondent also agreed to file a notice of voluntary dismissal of the RICO Action.

On June 20, 2023, Rodney filed an ethics grievance against respondent. In his January 29, 2024 reply to Rodney’s grievance, respondent informed the DEC that Rodney sent him a letter, in June 2023, threatening that, if he did not pay \$144,646.94, Rodney would file an ethics grievance against him. Respondent reportedly provided the letter to his professional liability carrier, which made no settlement offer to Rodney “because there is no merit to his claims.”

Indeed, respondent asserted that after the attorney-client relationship deteriorated, he went to “great lengths to protect [Rodney’s] rights” until Rodney retained substitute counsel. Respondent denied making any misrepresentations to Rodney “or anyone else.”

Even after the attorney-client relationship soured, respondent recognized that the deadline to appeal the dismissal of the Adversary Proceeding was

approaching and recognized that “[Rodney] was disputing that his father had terminated my services, [so I] timely filed a Notice of Appeal in the Adversary Proceeding to preserve [Rodney’s] appellate rights.”

Similar to the Adversary Proceeding, after the attorney-client relationship deteriorated and Rodney retained substitute counsel, respondent filed a notice of voluntary dismissal of the RICO Action and withdrew his motion to be relieved as counsel. According to respondent, because the court dismissed the RICO Action without prejudice, Rodney was able to pursue the action in the future if he chose to do so.

In respect to Rodney’s allegation that respondent misrepresented in his two motions to withdraw as counsel the amount of legal fees he owed, respondent asserted that he was “owed \$15,143.21. That number was accurate.” According to respondent’s calculation of his fee, on August 1, 2022, he provided Rodney with an invoice of \$4,237 for services in the RICO Action and an invoice of \$14,287.71 for services in the Adversary Proceeding, totaling \$18,524.71. Thereafter, during an August 5, 2022 conversation with Rodney, respondent agreed to accept a discounted fee total of \$16,152.21, provided the “discounted amount was paid in full and that the discount in the amount of \$2,372.50 would be applied to the invoice for the RICO action.”

Respondent asserted that, as of September 6, 2022, when he filed his motion to withdraw as counsel in the Adversary Proceeding, he had unbilled time in the amount of \$5,590 and \$298 in expenses. Respondent asserted he repeatedly advised Rodney about the unbilled total.

The Board determined that respondent misrepresented to the Bankruptcy Court and the SDNY that Rodney had terminated the representation, in violation of RPC 3.3(a)(1). Even if respondent believed that Rodney terminated the representation through Richard, when he sent an e-mail to Rodney indicating his belief he had been terminated, Rodney – the actual client – informed him he was mistaken. Likewise, respondent’s omission to the court that Rodney disputed the termination violated RPC 3.3(a)(5).

Furthermore, respondent misrepresented to both courts the legal fees Rodney owed him, in violation of RPC 3.3(a)(1). Similarly, he omitted to the courts and to Rodney that he used unbilled time to calculate the legal fees, using the original Invoice #87 instead of the revised invoice, a violation of RPC

3.3(a)(5). Worse, respondent relied on his misrepresentations and omissions to request that the court impose a lien against Rodney for legal fees respondent knew had been paid.

Finally, respondent's misrepresentations and omissions to the Bankruptcy Court and the SDNY concerning Rodney's termination of the representation and the amount of legal fees he owed further violated RPC 8.4(c).

The discipline imposed on attorneys who make misrepresentations to a court or exhibit a lack of candor toward a tribunal, or both, ranges from an admonition to a significant term of suspension. See, e.g., In the Matter of George P. Helfrich, Jr., DRB 15-410 (February 24, 2016) (admonition for attorney who failed to notify his client and witnesses of a pending trial date; thereafter, he appeared at two trial dates, but failed to inform the trial judge and his adversary that he had not informed his client or the witnesses of the trial date; significant mitigation); In re Vaccaro, 245 N.J. 492 (2021) (reprimand for attorney, in a reciprocal discipline matter, who lied to a judge, during a juvenile delinquency hearing, claiming that he had no knowledge of his client's other lawyer or his client's counseling; violations of RPC 3.3(a)(1) and RPC 8.4(c)); In re Chase, ___ N.J. ___ (2025), 2025 N.J. LEXIS 582 (censure for an attorney who, without his client's knowledge or consent, signed and filed with the court a stipulation that misrepresented that he had the client's authorization to stipulate to the dismissal when, in fact, he did not; the attorney also failed to abide by the client's decisions concerning a pending motion for summary judgment and failed to communicate with his client); In re Gonzalez, 256 N.J. 509 (2024) (three-month suspension for attorney who intentionally misrepresented to the DEC, OAE, and the Board that he terminated his wife's employment at his law firm after blaming her for his firm's recordkeeping irregularities, knowing his omission would mislead disciplinary authorities; the attorney had prior discipline).

For conduct involving dishonesty, fraud, deceit, or misrepresentation, the discipline typically ranges from a reprimand to a term of suspension, depending on the gravity of the offense, the presence of other unethical conduct, and aggravating or mitigating factors. See In re Mehta, 227 N.J. 53 (2016) (reprimand for an attorney who fabricated a letter to a former client and submitted it to disciplinary authorities, in violation of RPC 8.1(a) and RPC 8.4(c); in mitigation, the letter did not harm the client, the attorney had no prior discipline, and he readily admitted to misconduct by consenting to discipline),

and In re Allen, 250 N.J. 113 (2022) (three-month suspension for an attorney who falsely represented to the OAE and to the Board that he had procured a settlement with a client, knowing he had not, in violation of RPC 3.3(a)(1) and RPC 8.4(c); the attorney also committed recordkeeping violations, failed to maintain required professional liability insurance, and failed to produce a number of records the OAE requested during its investigation, violations of RPC 1.15(d), RPC 5.5(a)(1), and RPC 8.1(b); prior admonition and censure).

There were no aggravating factors for the Board's consideration. In mitigation, respondent has no disciplinary history in more than twenty-three-years at the bar and has shown contrition for his misconduct by entering into a stipulation. Furthermore, there is no evidence that Rodney suffered actual harm as a result of respondent's misconduct.

On balance, the Board determined that a reprimand is the appropriate quantum of discipline to protect the public and preserve confidence in the bar.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated May 9, 2025.
2. Stipulation of discipline by consent, dated May 7, 2025.
3. Affidavit of consent, dated April 22, 2025.
4. Ethics history, dated September 23, 2025.

Very truly yours,

/s/ Timothy M. Ellis

Timothy M. Ellis
Chief Counsel

TME/knd
Enclosures

c: (w/o enclosures)
Hon. Mary Catherine Cuff, P.J.A.D. (Ret.), Chair
Disciplinary Review Board (e-mail)
Johanna Barba Jones, Director
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Ryan J. Moriarty, Statewide Ethics Coordinator
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