

SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
Docket No. DRB 25-137  
District Docket No. XIV-2023-0271E

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In the Matter of Kevin Robert Gallagher  
An Attorney at Law

Argued  
July 16, 2025

Decided  
September 24, 2025

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

Respondent waived appearance for oral argument.

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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 June 23, 2023 order excluding respondent, on consent, from practicing<sup>1</sup> before the United States Patent and Trademark Office (the USPTO).<sup>2</sup>

The OAE asserted that, in the USPTO matter, respondent was determined to have violated the equivalents of New Jersey RPC 1.1(a) (committing gross neglect); RPC 1.3 (lacking diligence); RPC 5.4(c) (permitting a person who recommends, employs, or pays the attorney to render legal services for another to direct or regulate the attorney’s professional judgment in rendering legal services); RPC 5.5(a)(2) (assisting others in the unauthorized practice of law); RPC 8.4(c) (engaging in conduct involving dishonestly, fraud, deceit, or misrepresentation); and RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice).

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<sup>1</sup> Although respondent practiced before the USPTO in trademark matters, he was not registered or otherwise eligible to represent other persons before the USPTO in patent matters. He was considered a “practitioner” pursuant to 37 C.F.R. § 11.1, and was subject to the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101, et seq.

<sup>2</sup> Pursuant to 37 C.F. R. § 11.60(b), an excluded practitioner is eligible to apply for reinstatement no earlier than five years from the effective date of the exclusion.

For the reasons set forth below, we determine to grant the motion for reciprocal discipline and conclude that a censure is the appropriate quantum of discipline for respondent's misconduct.

### **Ethics History**

Respondent earned admission to the New Jersey bar in 1989, to the Pennsylvania bar in 1987, and to the District of Columbia bar in 1988. The record before us does not disclose respondent's employment during the relevant timeframe; however, he worked for insurance companies in nonlawyer positions for most of his professional career.

On January 12, 2024, the Supreme Court of Pennsylvania disbarred respondent in connection with his misconduct underlying this matter. In re Gallagher, 2024 Pa. LEXIS 65 (2024).

On February 1, 2024, the United States District Court for the District of New Jersey (the DNJ) issued an Order to Show Cause directing respondent to show cause, in writing, why reciprocal discipline should not be imposed in connection with his misconduct underlying this matter. On February 15, 2024, respondent submitted a letter to the DNJ, opposing the imposition of reciprocal discipline and asserting that he voluntarily had resigned from the USPTO, rather than consenting to discipline, because he did not agree with the USPTO's

findings of misconduct. Further, he requested that the DNJ suspend any decision pending resolution of the instant matter before us. To date, the DNJ has not disciplined respondent.

We now turn to the facts of this matter.

## **Facts**

On October 5, 2022, the USPTO's Office of Enrollment and Discipline (the OED) notified respondent that his name had been identified as the attorney of record in more than 300 trademark filings submitted between October 2021 and March 2022, and that he was a named signatory on most of those documents. The OED attached to its letter a list of those filings. As a result of irregularities with the trademark applications, including the use of a (1) signature method that suggested that respondent did not personally enter his electronic signature, and (2) USPTO.gov account that was not his own account, the OED issued a Request for Information and Evidence (RFI) and directed respondent to provide specific information pertaining to each of the filings.

The OED's letter also informed respondent of the USPTO's "U.S. Counsel Rule,"<sup>3</sup> which required all foreign-domiciled trademark applicants, registrants,

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<sup>3</sup> Notably, effective August 3, 2019, the USPTO implemented a rule change that required all foreign-domiciled trademark applicants, registrants, and parties to be represented by an attorney  
*(footnote continued on next page)*

and parties to trademark proceedings to be represented by an attorney licensed to practice law in the United States. This requirement was intended to reduce the risk of invalid or fraudulent trademark filings by pro se applicants. The letter further explained the importance of a practitioner’s certification when signing and filing documents with the USPTO. Finally, the OED’s letter emphasized that USPTO trademark regulations “require all electronic signatures to be personally entered by the named signatory and require that a proper person must sign the document.”

On October 31, 2022, respondent submitted his written response to the OED’s RFI. In his response, and as he elaborated in his subsequently filed Affidavit of Resignation, he explained that, in October 2021, his friend and former colleague, Tony Chung Hom, Esq., had informed respondent that he had

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who was in good standing and licensed to practice law in the United States. 37 C.F.R. § 2.11(a). According to the USPTO, this rule, commonly referred to the “U.S. Counsel Rule,” was necessitated by an increase in the unauthorized practice of law by foreign parties who were not authorized to represent trademark applicants before the USPTO. The USPTO frequently encountered inaccurate and potentially fraudulent submissions by foreign-domiciled trademark applicants that did not comply with governing U.S. trademark law or rules. Thus, by requiring that all trademark submissions of foreign-domiciled applicants be filed by an attorney licensed in the United States, the USPTO believed it would reduce the instances of the unauthorized practice of law (UPL) and misconduct and allow its OED to “more effectively pursue those who are engaged in the UPL and/or misconduct” Further, by filing a trademark application, an attorney certifies, among other things, that, “[t]o the best of the [practitioner’s] knowledge, information and belief, formed after an inquiry reasonable under the circumstances,” the allegations and representations in the application have evidentiary support. 37 C.F.R. § 11.18(b)(2). Trademark applications also contain declarations that are signed under penalty of perjury, upon which the USPTO relies in the course of conducting its examination of the trademark application.

a significant amount of trademark work and needed assistance.<sup>4</sup> Hom also informed respondent that his clients were from China and required licensed attorneys in the United States to file trademark applications on their behalf. Respondent, who had not previously practiced before the USPTO, agreed to affiliate with Hom and to represent the foreign domiciled trademark applicants.

Relevant to the instant matter, in August 2021, the USPTO issued a complaint against Hom for his unethical conduct involving the Wuzhou Puhua IP Group (Wuzhou Puhua), a Chinese Intellectual Property firm that was not authorized to practice before the USPTO in trademark matters. The USPTO's rules of practice required trademark applicants not domiciled in the United States to be represented by an attorney in good standing in the United States. Hom was charged with violating the USPTO signature rules, making false statements in USPTO filings, allowing others – including Wuzhou Puhua representatives – to enter his signature on trademark documents, and engaging in both conduct involving dishonesty, fraud, deceit, or misrepresentation, and conduct prejudicial to the administration of justice.

Two months after the USPTO issued its ethics complaint against Hom, in

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<sup>4</sup> As discussed in greater detail herein, Hom was censured in 2023, on a motion for reciprocal discipline, for filing thousands of trademark documents that had been prepared by his foreign-domiciled clients, and permitting foreign-domiciled nonlawyer intermediaries to provide legal advice to his clients regarding the statutory requirements for a specimen. In re Hom, 255 N.J. 358 (2023).

October 2021, Hom enlisted respondent's assistance with his trademark practice and helped him open a USPTO.gov account to use in connection with the filing of trademark documents. Respondent was listed as the user for that account. Respondent also was aware that Hom had created a secondary, alternate account in respondent's name, with a different e-mail address, which was used by Hom and a representative of Hangzhou Wuzhou Trademark Services Company, Ltd. in connection with trademark filings. According to respondent, an employee at Wuzhou Puhua also would access the alternate e-mail account and pass on any office action requests<sup>5</sup> to the trademark applicant.

In his Affidavit of Resignation, respondent conceded that he did not understand his responsibilities regarding the USPTO subscriber agreements or the USPTO.gov accounts used in his trademark practice. He also conceded that Hom had provided him some training on trademark law, but that he had not trained respondent on the USPTO trademark signature rules, the U.S. Counsel Rule, or the obligation, pursuant to 37 C.F.R. § 11.18, to conduct an inquiry reasonable under the circumstances prior to presenting trademark documents to the USPTO. Respondent conceded that, although he was representing trademark applicants before the USPTO, he did not adequately understand governing

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<sup>5</sup> An office action is a letter sent by the USPTO listing any legal problems with the chosen trademark or other elements of the application.

trademark laws or regulations, the signature rules, or the U.S. Counsel Rule. By way of example, respondent stated that he “filed at least one Request to Make Special, but he did not know what was a ‘Request to Make Special.’”<sup>6</sup>

Beginning in October 2021, respondent filed trademark applications for foreign-domiciled applicants that were referred to him by Wuzhou Puhua and was the named signatory on over 640 separate trademark documents filed between mid-October 2021 and September 2022. Prior to filing any documents with the USPTO, respondent did not communicate directly with the applicant-clients. Instead, because he does not speak Chinese, he communicated with a translator at Wuzhou Puhua, who acted as an intermediary. He explained that, with respect to each initial trademark filing and response to office actions, he would receive an application file from Wuzhou Puhua who translated the application to English, which he reviewed and modified, if necessary. He then filed the application with the USPTO and paid the required fee. He relied on Wuzhou Puhua to make any inquiries to the trademark applicants for certain information required for the application. He conceded, in his Affidavit of Resignation, that he took no action to confirm, corroborate, or verify whether

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<sup>6</sup> A Petition to Make Special is a request that the USPTO expedite its initial examination of an application when special circumstances exist, and the applicant is at risk of losing substantial trademark rights. See Filing a Trademark Petition Form, United States Patent and Trademark Office, <https://www.uspto.gov/trademarks/apply/filing-petition-form> (last visited September 15, 2025).

the information provided to him was accurate. Indeed, he “spent only a short amount of time reviewing filings prior to signing and filing” them.

Respondent admitted that, from October through December 2021, while he was learning to use the USPTO portal, he had authorized Hom to enter his signature on thirty-nine USPTO submissions that were filed under his name. Respondent explained that he had known Hom since 1999 when they worked together at an insurance company. He also explained that, despite being licensed to practice law for over thirty years, he had worked in nonlawyer positions most of his career. According to respondent, he permitted Hom to sign his name during the period of training due to scheduling conflicts or when he had become ill.

In December 2021, the USPTO suspended Hom from practicing before that body. That same month, respondent took over Hom’s cases that were associated with Wuzhou Puhua. Thereafter, he received trademark work directly from Wuzhou Puhua pursuant to an “International Trademark Agency Cooperation Agreement” that he had entered with Hangzhou Wuzhou Trademark Services Company, Ltd. Pursuant to that agreement, respondent received minimal compensation for the USPTO filings. According to his Affidavit of Resignation, he estimated that he earned \$3,986 in 2021 and \$6,228 in 2022 in connection with this work.

In his October 2022 reply to the OED's RFI, respondent estimated that, from October 2021 to October 2022, Wuzhou Puhua had referred 608 trademark applications to him. In fact, however, he took over the representation of approximately 3,500 pending trademark matters involving Wuzhou Puhua's clients.<sup>7</sup>

During his March 3, 2023 interview with the USPTO OED, respondent admitted that he was aware of thirty-nine USPTO filings made in October 2021 in which Hom impermissibly had entered respondent's electronic signature. Initially, in his October 31, 2022 written response to the OED's RFI, he represented that he had first become aware of those filings when he reviewed the USPTO's October 5, 2022 RFI. However, in his April 19, 2023 response to the OED's March 15, 2023 supplemental RFI, he stated that he had allowed Hom to enter his electronic signature because he was just learning the process and did not know how to execute certain filings. He also claimed that, at the time of the improper filings, he was unaware of the USPTO's investigation of Hom.

During his March 3, 2023 interview with the OED, respondent also admitted that, with respect to one trademark application in which he was the

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<sup>7</sup> In his September 30, 2023 written submission to the Pennsylvania Supreme Court in connection with reciprocal disciplinary proceedings in that jurisdiction, respondent stated that, unbeknownst to him, there were over 3,500 trademark applications transferred over to him following Hom's suspension from the USPTO.

attorney of record, a filing likely was signed and filed by someone at Wuzhou Puhua on his behalf. He conceded that he should have uploaded files to the USPTO portal himself rather than having anyone act on his behalf.

Finally, in his Affidavit of Resignation, respondent admitted that he was the attorney of record in at least six USPTO Trademark Trial and Appeal Board (TTAB) opposition proceedings, initiated between January 2022 and August 2022, that alleged the applicant had engaged in fraud on the USPTO by submitting an altered specimen and fraudulently asserting use of the mark in commerce. One of the opposition proceedings concerned a trademark application filed by Hom and taken over by respondent in November 2022. Respondent was not familiar with the TTAB and did not communicate with Wuzhou about any TTAB matters.

On June 16, 2023, prior to the USPTO formally charging him with violations of its Rules of Professional Conduct, respondent executed an Affidavit of Resignation, pursuant to 37 C.F.R. § 11.27(a).<sup>8</sup>

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<sup>8</sup> Pursuant to 37 C.F.R. § 11.27(a), a practitioner who is the subject of an investigation or pending disciplinary proceeding, and who desires to resign, may do so by consent to exclusion by delivering to the OED Director an affidavit declaring their consent to exclusion and stating that (1) the practitioner's consent is freely and voluntarily rendered, (2) the practitioner is aware of the pending investigation involving allegations of misconduct, the nature of which must be specifically set forth in the affidavit to the satisfaction of the OED, and (3) the practitioner acknowledges that, if and when they apply for reinstatement, the OED will presume conclusively, for the limited purpose of determining the application for reinstatement, that (i) the facts upon which the investigation or complaint is based are true, and (ii) the practitioner could not have successfully defended against the allegations.

In his Affidavit of Resignation, respondent did not admit to violating any provisions of the USPTO Rules of Professional Conduct. However, he acknowledged that, if and when he applies for reinstatement to practice before USPTO, the OED Director will conclusively presume the facts regarding his misconduct were true. Further, he acknowledged that, based on those facts, he could not successfully defend himself against the allegations that he violated the following USPTO Rules of Professional Conduct:<sup>9</sup>

- 37 C.F.R. § 11.101 (failing to provide competent representation) by representing trademark applicants before the USPTO when he did not have substantive knowledge or experience in USPTO trademark law, rules, or regulations; did know or understand his obligation to conduct inquiries reasonable under the circumstances to support the factual contentions contained in declarations attached to applications bearing his signature; did not know or understand trademark signature rules; and did not know or understand the U.S. Counsel Rule;
- 37 C.F.R. § 11.103 (lacking diligence) by failing to take reasonable steps to ensure that his clients' trademark filings were properly prepared, reviewed, and signed and filed in accordance with governing laws, rules, and

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<sup>9</sup> According to the OAE, respondent's USPTO violations correspond to the equivalent New Jersey Rule of Professional Conduct, as follows:

37 C.F.R. § 11.101 is functionally equivalent to RPC 1.1(a);  
37 C.F.R. § 11.103 is equivalent to RPC 1.3;  
37 C.F.R. § 11.504(c) is equivalent to RPC 5.4(c);  
37 C.F.R. § 11.505 is equivalent to RPC 5.5(a)(2);  
37 C.F.R. § 11.804(c) is equivalent to RPC 8.4(c);  
37 C.F.R. § 11.804(d) is equivalent to RPC 8.4(d); and  
37 C.F.R. § 11.804(i) has no RPC equivalent in New Jersey.

regulations;

- 37 C.F.R. § 11.504(c) (permitting a person who recommends, employs, or pays the practitioner to render legal services for another to direct or regulate the practitioner's professional judgment in rendering such legal services) by signing and filing trademark documents prepared by Wuzhou Puhua without verifying or properly reviewing the information contained therein; by not knowing or understanding governing rules and regulations; and by not verifying the information provided and, instead, spending only a short amount of time reviewing the documents prior to signing and filing them;
- 37 C.F.R. § 11.505 (assisting others in the unauthorized practice before the USPTO in trademark matters) by authorizing non-practitioners at Wuzhou Puhua to communicate with and to provide advice to his clients about their trademark applications; and by signing and filing trademark documents with the USPTO that were prepared by Wuzhou Puhua without verifying the accuracy or reliability of the information provided;
- 37 C.F.R. § 11.804(c) (engaging in deceit, dishonesty, and misrepresentation) by authorizing another person to impermissibly sign his name to trademark applications and appurtenant declarations filed with the USPTO and by signing certifications without conducting inquiries reasonable under the circumstances to support the factual contentions in declarations attached to applications bearing his signature;
- 37 C.F.R. § 11.804(d) (conduct prejudicial to the integrity of the U.S. trademark registration system) by exhibiting the conduct outlined in the aforementioned violations; and

- 37 C.F.R. § 11.804(i) (engaging in conduct that adversely reflects on the petitioner’s fitness to practice before the USPTO) by representing other persons before the USPTO in light of his unreasonable lack of knowledge of USPTO rules and obligations, and his lack of awareness that his conduct violated agency trademark signature rules and the U.S. Counsel Rule.

On June 23, 2023, the USPTO Director filed a final order approving respondent’s Affidavit of Resignation and excluding him from the practice of law before the USPTO, in all matters, effective immediately. He is eligible for reinstatement no earlier than five years from the effective date of the exclusion.

On June 26, 2023, respondent, through counsel, notified the OAE of his exclusion from practice before the USPTO, as R. 1:20-14(a)(1) requires. On April 5, 2024, the OAE docketed this matter.

### **The Parties’ Submissions to the Board**

In its written submission to us, the OAE asserted that respondent violated RPC 1.1(a) by practicing before the USPTO without knowing or understanding its rules and regulations, and RPC 1.3 by failing to take reasonable steps to ensure that his clients’ trademark filings were properly prepared and reviewed. Next, respondent violated RPC 5.4(c) by impermissibly signing off on documents prepared by Wuzhou Puhua without verifying or reviewing the accuracy of the information contained therein. The OAE alleged that respondent

violated RPC 5.5(a)(2) by authorizing nonlawyers at Wuzhou Puhua to communicate and provide advice to his clients, and RPC 8.4(c) by permitting Hom to access his account and file at least thirty-nine trademark applications using respondent's electronic signature. Finally, the OAE asserted that respondent violated RPC 8.4(d) by engaging in conduct prejudicial to the proper administration of USPTO's trademark registration system.

Citing New Jersey disciplinary precedent, discussed below, the OAE asserted that the baseline discipline for respondent's misconduct is a three-month suspension.

In aggravation, the OAE emphasized that, after learning that Hom was suspended from practicing before the USPTO and knowing that Hom had made at least thirty-nine trademark filings using respondent's electronic signature, respondent failed to report Hom's misconduct, as RPC 8.3(a) requires.

In mitigation, the OAE noted respondent's cooperation in connection with the USPTO investigation and, ultimately, his voluntary execution of the Affidavit of Resignation, thereby conserving judicial resources. Also in mitigation, the OAE pointed to respondent's unblemished career in over thirty-four years at the bar. Additionally, despite being licensed for more than thirty years at the time he committed the misconduct, he had little or no experience practicing law.

In view of the considerable mitigating evidence, the OAE concluded that a downward departure from the baseline discipline was warranted and, thus, recommended a censure.

In his June 11, 2025 written submission to us, respondent, through counsel, stated that he agreed with the OAE's recommendation of a censure. Further, respondent's counsel stated that she had communicated with the OAE to express a willingness to enter into a motion for discipline by consent. However, because the motion for reciprocal discipline was pending before us, counsel was advised to inform us of respondent's concurrence with the relief sought.

### **Analysis and Discipline**

Following a review of the record, we determine to grant the OAE's motion for reciprocal discipline. 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).

Like the Court, the USPTO has the “exclusive authority to establish qualifications for admitting persons to practice before it, and to suspend or exclude them from practicing before it.” Kroll v. Finnerty, 242 F.3d 1359, 1364 (Fed. Cir. 2001). Also like New Jersey, the USPTO applies the clear and convincing standard of proof to disciplinary proceedings before it. 37 C.F.R. § 11.49. Notably, pursuant to the terms of his Affidavit of Resignation, respondent admitted that he had no defense to the charges brought by the USPTO.

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 established by the record warrants substantially different discipline in our jurisdiction. Specifically, based on New Jersey’s disciplinary precedent, respondent’s violations of the Rules of Professional Conduct warrant the imposition of a censure and not a five-year exclusion, as imposed by the USPTO.

*Violations of the Rules of Professional Conduct*

Turning to the application of New Jersey’s Rules of Professional Conduct in the context of a motion for reciprocal discipline, the Court’s review “involves ‘a limited inquiry, substantially derived from and reliant on the foreign jurisdiction’s disciplinary proceedings.’” In re Barrett, 238 N.J. 517, 522 (2019) (quoting In re Sigman, 220 N.J. 141, 153 (2014)). However, we previously have noted that the OAE’s motion and supporting brief serve as the charging documents in a motion for reciprocal discipline. See In the Matter of Edan E. Pinkas, DRB 22-001 (June 23, 2022) at 29, so ordered, 253 N.J. 227 (2023). Nevertheless, clear and convincing evidence must support each of our findings that respondent violated the New Jersey Rules. See Barrett, 238 N.J. at 521; In re Pena, 164 N.J. 222 (2000).

Consistent with that body of law, we have, on occasion, declined to find RPCs charged by the OAE in motions for reciprocal discipline. See In the Matter of Robert Captain Leite, DRB 22-164 (February 24, 2023) (granting the OAE’s motion for reciprocal discipline but declining to find violations of RPC 1.2(d); RPC 3.3(a)(1); RPC 8.4(a); RPC 8.4(b); and RPC 8.4(d), where the underlying facts did not support the charges), so ordered, 254 N.J. 275 (2023), and In the Matter of Richard C. Gordon, DRB 20-209 (April 1, 2021) at 19-20 (granting the OAE’s motion for reciprocal discipline but declining to find a violation of RPC 8.4(d) where underlying facts did not support the charge), so ordered, 249 N.J. 15 (2021).

Here, we determine that the record contains clear and convincing evidence that respondent violated RPC 1.1(a); RPC 1.3; RPC 5.4(c); RPC 5.5(a)(2); and RPC 8.4(d). However, we determine to dismiss, for lack of clear and convincing evidence, the charge that respondent violated RPC 8.4(c).

Specifically, RPC 1.1(a) prohibits a lawyer from handling a client matter in a way that constitutes gross neglect. Likewise, RPC 1.3 requires a lawyer to “act with reasonable diligence and promptness in representing a client.” Respondent violated both Rules by representing trademark clients before the USPTO when he admittedly did not adequately understand the USPTO trademark law, rules, or regulations. He was unaware of his obligation to

conduct inquiries reasonable under the circumstances to support the factual contentions contained in declarations attached to applications bearing his signature. Further, he did not know or understand the importance of trademark signature rules or the U.S. Counsel Rule.

Nevertheless, despite his admitted lack of understanding and knowledge, respondent filed more than 600 trademark applications and related filings, prepared by nonlawyers on behalf of foreign-domiciled trademark applicants. He did so without first reviewing the applications to confirm compliance with governing trademark law or the USPTO rules and requirements. Further, respondent allowed Hom to apply his electronic signature to at least thirty-nine trademark documents, as well as at least one nonlawyer, who he allowed to apply his electronic signature to at least one trademark document, in violation of the governing USPTO's trademark signature regulations, thereby jeopardizing the integrity of the filings.

As counsel of record, respondent blindly filed documents on his clients' behalf, without conferring with his clients or verifying the accuracy or integrity of the application. He admittedly filed at least one "Request to Make Special," despite having no knowledge of what such a filing even represented. Respondent's failure to take reasonable steps to ensure that his clients' trademark filings were prepared, reviewed, signed, and filed in compliance with

the U.S. Counsel Rule, the USPTO rules and regulations, and the USPTO trademark signature rules constituted gross neglect and a lack of diligence.

Next, respondent violated RPC 5.4(c), which prohibits a lawyer from permitting “a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer’s professional judgment.” Respondent violated this Rule by filing trademark documents at the direction of Wuzhou Puhua, which paid for his legal services, without conferring with his clients or verifying the accuracy of the trademark filings. Rather, he blindly filed more than 600 documents with the USPTO without having conducted any meaningful review or due diligence.

Respondent also admitted that he repeatedly violated RPC 5.5(a)(2), which prohibits an attorney from assisting a nonlawyer in the unauthorized practice of law. Respondent interacted with nonlawyers at Wuzhou Puhua as intermediaries between himself and his foreign-domiciled clients. He allowed those individuals to prepare trademark documents for filing with the USPTO. Further, respondent permitted the foreign-domiciled nonlawyer intermediaries to communicate with and provide legal advice to his clients regarding their applications.

Last, respondent engaged in conduct prejudicial to the administration of justice, in violation of RPC 8.4(d), through his repeated failure to comply with

the U.S. Counsel Rule, the USPTO trademark signature rules, and the reasonable inquiry requirement prior to filing trademark documents with the USPTO, with knowledge that the USPTO would rely upon such trademark documents in examining the applications.

However, we determine to dismiss the charge that respondent violated RPC 8.4(c), which prohibits a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. The OAE asserted that respondent violated this Rule by permitting Hom to access respondent's USPTO.gov account and to file at least thirty-nine trademark applications using respondent's electronic signature. Although respondent conceded, in his Affidavit of Resignation, that he "impermissibly allowed" Hom to affix respondent's electronic signature to thirty-nine USPTO filings, during his two-month period of training, the record lacks any evidence to support a finding that he engaged in such conduct with dishonest intent. Rather, he consistently claimed it occurred during his training period and was necessitated by scheduling conflicts and when he was ill. It is well-settled that a violation of RPC 8.4(c) requires such intent. See In the Matter of Ty Hyderally, DRB 11-016 (July 12, 2011) (case dismissed for lack of clear and convincing evidence that the attorney had knowingly violated R. 1:39-6(b), which prohibits the improper use of the New Jersey Board of Attorney Certification emblem; the

attorney's website, which was created by a nonlawyer who wanted it to look "attractive and appealing," contained the emblem, even though the attorney was not a certified civil trial lawyer; the attorney was unaware of the emblem's placement on the website and, upon being told of its presence, immediately removed it; the emblem was not on his letterhead or business cards, and he did not tell anyone that he was a certified civil trial attorney).

In sum, we grant the motion for reciprocal discipline and find that respondent violated RPC 1.1(a); RPC 1.3; RPC 5.4(c); RPC 5.5(a)(2); and RPC 8.4(d). We determine to dismiss, for lack of clear and convincing evidence, the charge that respondent violated RPC 8.4(c). The sole issue left for our determination is the appropriate quantum of discipline for respondent's misconduct.

### Quantum of Discipline

Based on New Jersey disciplinary precedent, respondent's most egregious conduct was his pervasive assistance of foreign-domiciled nonlawyers in the practice of law. A New Jersey attorney who assists nonlawyers in the practice of law, fails to supervise nonlawyers, or allows a person who pays the attorney to direct their professional judgment, typically receives discipline ranging from a reprimand to a term of suspension, depending on the severity of the conduct

and the presence of other violations or aggravating factors. See, e.g., In re Kingett, 247 N.J. 241 (2021) (reprimand for an attorney who violated RPC 5.3(a) (failing to supervise nonlawyer staff), RPC 5.4(c), RPC 1.4(c) (failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation), and RPC 1.7(a) (engaging in a conflict of interest); the attorney represented approximately 200 clients who were referred to him by a corporation formed to provide estate planning; that corporation gathered information from clients, which it provided to respondent when the clients were referred; the clients signed a retainer agreement with a limited scope of representation; the attorney drafted the pleadings, but admittedly had limited discussions with the clients; the attorney did not witness the clients' execution of the prepared documents; no prior discipline); In re Inocencio, 231 N.J. 233 (2017) (censure for an attorney who violated RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6), RPC 5.5(a)(2), and RPC 8.4(c); the attorney permitted a nonlawyer to operate her escrow account, which “masqueraded” as her trust account; the attorney also permitted the nonlawyer to perform attorney tasks, including the preparation and filing of a deed; no prior discipline; in aggravation, we considered that the misconduct took place over a prolonged period of time); In re DeSantiago-Keene, 250 N.J. 185 (2022) (three-month suspension for an attorney who

permitted his client to establish his eCourts account, which granted her complete control over it; the client was able to illegally practice law by signing and filing documents under the attorney's name, in violation of RPC 5.5(a)(2); the attorney also engaged in conduct prejudicial to the administration of justice and committed recordkeeping deficiencies; prior censure); In re Frank, 232 N.J. 325 (2018) (one-year suspension, in a default matter, for an attorney who formed a partnership with a nonlawyer and assisted the nonlawyer in the unauthorized practice of law; the nonlawyer performed functions of an attorney in bankruptcy and loan modifications; specifically, the nonlawyer interviewed clients, prepared and signed letters and pleadings in the attorney's name, explained legal issues to clients, and negotiated with lenders; the attorney also violated RPC 1.1(a), RPC 1.5(b) (failing to memorialize, in writing, the basis or rate of the fee), RPC 1.15(d), RPC 7.1(a)(2) (making a false or misleading communication about the lawyer or the lawyer's services), RPC 7.5(a) and (c) (misleading firm letterhead), RPC 8.1(b) (failing to cooperate with disciplinary authorities), and RPC 8.4(a) (violating or attempting to violate the RPCs); discipline was enhanced, in part, based upon the attorney's failure to cooperate with the OAE).

Conduct involving gross neglect and lack of diligence ordinarily results in an admonition or a reprimand, depending on the number of client matters involved; the gravity of the offenses; the harm to the clients; the presence of

additional violations; and the attorney's disciplinary history. See In the Matter of James E. Gelman, DRB 24-004 (February 20, 2024) (admonition for a pro bono attorney assigned 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; violations of RPC 1.1(a), RPC 1.3, RPC 1.4(b) (failing to communicate), and RPC 1.16(d) (failing to protect a client's interests upon termination of the representation); no prior discipline in more than forty years at the bar), and In re Lueddeke, \_\_\_ N.J. \_\_\_ (2022), 2022 N.J. LEXIS 460 (reprimand for an attorney who, eight months after agreeing to pursue a breach of contract claim on behalf of a client, filed a letter request with a court for a proof hearing; the court, however, rejected the attorney's letter and directed him to file a motion for a proof hearing; the attorney failed to file the motion and, nearly five months later, the court dismissed the matter for lack of prosecution; the attorney failed to inform his client of the dismissal of his matter or to reply to his inquiries regarding the status of his case; more than a year later, the client independently discovered that his case had been dismissed, following which the attorney, at the client's behest, successfully reinstated the matter and

secured a judgment on the client's behalf; violations of RPC 1.3 and RPC 1.4(b); prior 2015 admonition for similar misconduct, which gave the attorney a heightened awareness of his obligation to diligently pursue client matters).

Respondent's needless consumption of judicial resources, in violation of RPC 8.4(d), in conjunction with his other misconduct, necessitates a censure. See In the Matter of Philip J. Morin, III, DRB 21-020 (September 9, 2021), at 42 (we recognized that the attorney's violation of RPC 8.4(d), absent the more serious charges, could have been met with a censure), so ordered, 250 N.J. 184 (2022), and In re D'Arienzo, 207 N.J. 31 (2011) (censure for an attorney who failed to appear in municipal court for a scheduled criminal trial and, thereafter, failed to appear at two orders to show cause stemming from his failure to appear at the trial; by scheduling more than one matter for the trial date, the attorney inconvenienced the court, the prosecutor, the complaining witness, and two defendants; in addition, the failure to provide the court with advance notice of his conflicting calendar prevented the judge from scheduling other cases for that date; in aggravation, prior discipline included a three-month suspension and two admonitions; the attorney's failure to learn from past mistakes warranted a censure).

As the OAE observed, and for reasons apparent in this record, respondent's misconduct is remarkably similar to that of the attorney in Hom,

who was censured. Hom, 255 N.J. 358. Like respondent, Hom was before us on a motion for reciprocal discipline following his two-year suspension from the USPTO. Unlike respondent, however, who was a practitioner before the USPTO with no prior trademark experience, Hom was a registered patent attorney before the USPTO and routinely had practiced before it in patent and trademark matters. In the Matter of Tony Chung-Min Hom, DRB 22-210 (May 3, 2023) at 3. Like respondent, Hom admittedly filed trademark applications on behalf of foreign-based applicants, based on instructions he received from intermediaries and associates located in China, and not directly from the clients themselves. However, unlike respondent, who filed approximately 640 applications and other documents with the USPTO over the course of approximately one year, Hom was the attorney of record in more than 7,000 trademark documents filed with the USPTO in 2020 alone. In this respect, we conclude that Hom's misconduct was far more pervasive than that of respondent. Id. at 6. Like respondent, Hom failed to conduct an inquiry reasonable under the circumstances to determine whether the specimens he was submitting to the USPTO depicted the mark as used in commerce. Id. at 7. Further, Hom failed to personally enter his electronic signature on many of the more than 7,000 trademark documents he filed with the USPTO, where he represented to be the

signatory and attorney of record, instead permitting it to be affixed by the nonlawyer intermediaries, a fact not present in the instant matter. Id. at 8.

In determining the appropriate quantum of discipline for Hom’s violations of RPC 1.1(a), RPC 1.3, RPC 1.4(b) and (c); RPC 5.3(a) and (b); RPC 5.5(a)(2); and RPC 8.4(d), we analogized his rampant practice of assisting foreign-domiciled nonlawyers in the practice of law to that of the attorney in Inocencio, who was censured for essentially handing over “the keys” to her client trust account to a nonlawyer associate who sold “transitional mortgage refinancing.” Inocencio also permitted the nonlawyer associate to perform attorney tasks, such as drafting deeds, without supervision. We determined that Hom’s misconduct – which impacted thousands of filings before the USPTO and jeopardized the integrity of the U.S. trademark registration system – was more egregious than Inocencio’s and, thus, could be met with a short term of suspension. Id. at 24. Considering the compelling mitigation, however, which included Hom’s acceptance of responsibility, his contrition and cooperation with the USPTO’s investigation and his consent to discipline, we concluded that a downward departure from the baseline discipline was warranted and determined that a censure was the appropriate quantum of discipline for Hom’s misconduct.

Based on the foregoing disciplinary precedent, Hom in particular, we conclude that the baseline discipline for respondent’s misconduct is a censure

and not the three-month suspension baseline we set in Hom. In our view, respondent's misconduct was not nearly as pervasive as Hom's, and respondent was not a seasoned USPTO practitioner. To craft the appropriate discipline in this, however, we also consider aggravating and mitigating factors.

There are no aggravating factors for our consideration. Although the OAE argued, in aggravation, that respondent failed to report Hom's use of his electronic signature to disciplinary authorities, in violation of RPC 8.3(a), the OAE acknowledged that there is no evidence that respondent allowed Hom to use his credentials after Hom's December 2021 suspension from the USPTO. Further, in his October 31, 2022 reply to the OED's RFI, respondent disclosed that, in October 2021, he permitted Hom to use his credentials while he was being trained and when scheduling conflicts arose due to illness.

In mitigation, respondent has an unblemished career in more than thirty-four years at the bar, a factor we ordinarily accord significant weight. However, because respondent admittedly did not practice law for the majority of his professional career, we accord this factor minimal weight. In further mitigation, respondent voluntarily executed an Affidavit of Resignation for the purpose of being excluded from practicing before the USPTO, thereby conserving judicial resources.

## **Conclusion**

On balance, we determine that the mitigation in this case does not warrant a downward departure from the baseline discipline and, thus, conclude that a censure remains the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

Vice-Chair Boyer and Members Hoberman and Petrou were absent.

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

Disciplinary Review Board  
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 Kevin Robert Gallagher  
Docket No. DRB 25-137

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Argued: July 16, 2025

Decided: September 24, 2025

Disposition: Censure

<i>Members</i>	Censure	Absent
Cuff	X	
Boyer		X
Campelo	X	
Hoberman		X
Menaker	X	
Modu	X	
Petrou		X
Rodriguez	X	
Spencer	X	
Total:	6	3

*/s/ Timothy M. Ellis* \_\_\_\_\_

Timothy M. Ellis  
Chief Counsel