SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 25-169
District Docket Nos. XIV-2018-0096E and VB-2020-0903E

In the Matter of Brian M. Chewcaskie
An Attorney at Law

Argued
September 18, 2025

Decided
December 17, 2025

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

Joseph P. Castiglia appeared on behalf of respondent.

Table of Contents

Introduction 1
Ethics History 2
Facts 2
Background 2
Oury's Unauthorized Legal Work for Respondent 4
Oury's Reinstatement Proceeding 8
The Watchung Hills Business Transaction 9
The Ethics Proceedings 12
The Ethics Hearing 12
The Parties' Summations To The Hearing Panel 13
The Hearing Panel's Findings 16
The Parties' Positions Before the Board 18
Analysis and Discipline 21
Violations of the Rules of Professional Conduct 21
Quantum of Discipline 29
Conclusion 35

Introduction

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

This matter originally was before us on a recommendation for an admonition filed by the District VB Ethics Committee (the DEC). We determined to treat the admonition as a recommendation for greater discipline, pursuant to R. 1:20-15(f)(4), and to bring the matter on for oral argument. The formal ethics complaint charged respondent with having violated RPC 1.8(a) (engaging in an improper business transaction with a client); 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).

[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").

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

Ethics History

Respondent earned admission to the New Jersey bar in 1984 and has no disciplinary history. During the relevant timeframe, he practiced law as a partner at a firm located in Fort Lee, New Jersey (the Firm).

Facts

Background

Between 1982 and 1984, prior to his graduation from law school, respondent was employed as a law clerk for the Township of North Bergen. During his employment, he met Dennis J. Oury, who was then a licensed New Jersey attorney whose law firm served as counsel for the Township. Thereafter, from 1984 through 1985, following his graduation from law school, respondent worked as an associate attorney for Oury's law firm. In 1985, respondent concluded his employment arrangement with Oury, following which he continued to have "professional dealings" with Oury "from time to time."

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).

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 the Firm, garnering at least $369,110.26 in earnings.

Oury's Unauthorized Legal Work for Respondent

In early 2014, more than four years after his November 2009 temporary suspension, Oury contacted respondent and inquired whether he could work as a law clerk for the Firm. During their discussion, Oury told respondent that he was "financially pressed" and "needed to earn some money to support his family." In reply, respondent informed Oury that he did not require his services at that time. Thereafter, in March 2014, following an additional inquiry by Oury, respondent hired him, on a per diem basis, to perform legal services for the Firm.

Although respondent knew that Oury remained temporarily suspended, he neither reviewed nor attempted to locate the Court's temporary suspension Order, which expressly required Oury to comply with R. 1:20-20 governing suspended attorneys. During the ethics hearing, respondent claimed that, prior to hiring Oury, he was unfamiliar with the strictures of R. 1:20-20. He also conceded that he had failed to conduct any independent research regarding the propriety of allowing a suspended attorney to perform legal services for the

Firm. Similarly, during his June 14, 2018 demand interview with the OAE, respondent admitted that he had failed to review the Rules of Professional Conduct prior to formalizing his business arrangement with Oury. Respondent also asserted that his decision to hire Oury was based, in part, on his desire "to help him out."

Between March 2014 and March 2015, Oury, while suspended, performed approximately 130 hours of legal work for respondent in connection with five client matters. For his work, respondent generally paid Oury a $90 hourly rate, resulting in $12,217.50 in total compensation for Oury.

Oury's work for respondent included (1) conducting legal research; (2) preparing and answering discovery demands; (3) drafting correspondence to adversaries for respondent's signature; (4) composing motion briefs and notices of motion, including multiple briefs in support of or opposing summary judgment motions; (5) drafting an answer to a complaint; (6) drafting appellate briefs; and (7) preparing memoranda of law. Oury performed the legal work for respondent remotely, from his Florida residence.

Specifically, between March and December 2014, in connection with one matter involving respondent's representation of the Township of Mahwah as a defendant in a Superior Court action, Oury prepared (1) an answer to a complaint; (2) a motion to dismiss the complaint for failing to adequately answer

discovery; (3) a sur-reply letter in support of the motion to dismiss; (4) discovery demands; (5) answers to interrogatories and objections to the production of documents; and (6) two briefs in support of a summary judgment motion.

Moreover, in May and June 2014, in connection with another matter involving respondent's representation of the Township of Mahwah as a plaintiff, Oury prepared two briefs in opposition to the defendant's motions to vacate a default judgment and to file an answer out of time. Thereafter, in January and February 2015, Oury drafted an appellate brief in opposition to the defendant's appeal of the Superior Court's determination to issue a default judgment in favor of the Township.

Further, in July 2014, in a matter involving respondent's representation of the Township of Saddlebrook, Oury prepared a discovery demand and a sur-reply brief in support of the Township's summary judgment motion.

Meanwhile, between May and September 2014, Oury became involved in respondent's representation of a business before the zoning board of the Borough of Bergenfield, where Oury previously had acted as the Borough's attorney. In contrast to the usual $90 hourly rate, respondent paid Oury a $100 hourly rate for his work in the Bergenfield matter, which involved conducting legal research and drafting two briefs in support of a summary judgment motion.

Respondent increased Oury's hourly rate "because of the complexity of the matter and the need for brief writing."

In March 2015, respondent concluded his business relationship with Oury, given that the five client matters[2] for which Oury performed legal work were "close to conclusion," and the Firm no longer required his services.

According to the stipulation of facts, respondent conceded that he was responsible for supervising Oury and maintained that he "closely monitored" and edited Oury's work product. Further, respondent stressed that he never held Oury out as an attorney to any client of the Firm. In that vein, the Firm never charged any client for Oury's services and, thus, "absorbed Oury's fees as uncompensated overhead."

During the ethics hearing, respondent expressed his view that Oury performed mere "law clerk services" for the Firm. Similarly, respondent emphasized that Oury had no contact with any clients, courts, or adversaries, and never held himself out as affiliated with the Firm in any capacity. Rather, respondent characterized Oury's services as "internal" to the Firm, considering that Oury submitted his work product directly to respondent or to respondent's secretary, via e-mail.

[2] The record before us included specific details underlying only four of the five client matters for which Oury performed legal services for respondent.

Oury's Reinstatement Proceeding

On November 1, 2016, more than eighteen months after the conclusion of 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 the further 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 during an unspecified timeframe.[3] Nevertheless, 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

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

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.

Meanwhile, sometime in 2018, after receiving a letter from the OAE concerning its investigation of Oury's unauthorized practice of law, respondent maintained that, for the first time, he reviewed the strictures of R. 1:20-20.

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. In re Oury, 256 N.J. 613 (2024).

The Watchung Hills Business Transaction

Since the early 1990s, respondent has had an ongoing attorney-client relationship with Robert McNerney, a sophisticated real estate broker and developer. Specifically, respondent represented McNerney in multiple land use applications and real estate transactions.

In 2005, McNerney approached respondent and his law partner regarding an investment opportunity to acquire a fourteen-acre property that previously had operated as a religious-order sanatorium. Respondent and his law partner agreed to McNerney's proposal and, on July 15, 2005, created Watchung Hills at North Plainfield, LLC (Watchung Hills), in furtherance of their joint business venture. Additionally, in or around July 2005, respondent, at McNerney's direction, prepared an operating agreement reflecting that McNerney would serve as the managing member of Watchung Hills and that each of the members would hold a one-third ownership interest in that entity.

Prior to executing the operating agreement, respondent verbally advised McNerney to consult with independent counsel regarding their business venture. Consistent with respondent's advice, McNerney reviewed the proposed operating agreement with an independent attorney. In his March 3, 2020 certification to disciplinary authorities, McNerney stated that he had no "issues" with the operating agreement "or the management of" Watchung Hills.

Following his consultation with independent counsel, McNerney executed the operating agreement. Thereafter, Watchung Hills acquired the fourteen-acre property, obtained the relevant developmental permits, and, in or around 2019, sold the property.

Meanwhile, during his June 2018 demand interview concerning his conduct related to Oury, respondent disclosed his business transaction with McNerney in response to the OAE's inquiry regarding whether he had engaged in any business transactions with a client.

During the ethics hearing, respondent maintained that, in July 2005, he likely had advised McNerney, in writing, of the desirability of seeking independent counsel to review their business transaction. However, given the passage of time, respondent claimed that he could not locate such purported written advice. Nevertheless, respondent stipulated that, prior to formalizing the business arrangement, he failed to obtain a written conflict waiver from McNerney to the essential terms of the transaction, as RPC 1.8(a) expressly requires.

In his March 2020 certification, McNerney maintained that he had been a real estate investor since 1977 and, thus, "was well aware that independent counsel should review the transaction." Moreover, McNerney certified that, "[a]t no time during my relationship with [respondent], both professionally and as a member [of Watchung Hills], did I find that any actions were contrary to the interests of myself or [Watchung Hills]."

The Ethics Proceedings

The Ethics Hearing

During the ethics hearing, respondent testified that he primarily represents municipalities and other public entities and performs land use and development work. Additionally, between 2002 and 2006, he served as a volunteer member of the District II Ethics Committee. Similarly, he stated that, at some point, he had acted as a court-appointed proctor for an attorney who was struggling with recordkeeping obligations. Further, he represented that, in or around 2021, he began serving a three-year term on the Land Use Committee of the New Jersey State Bar Association. Finally, respondent claimed that he represents religious institutions on a pro bono or "reduced-fee basis."

Moreover, during the ethics hearing, respondent presented the testimony of two municipal officials, who attested to his honesty, trustworthiness, and good character in representing public entities. Respondent also presented the character testimony of a client for whom he performed land use work, a licensed architect with whom he formed a professional relationship, and a longtime colleague. In their view, respondent is an honest, professional attorney with a stellar reputation in the legal community.

The Parties' Summations to the Hearing Panel

In his summation brief to the hearing panel, respondent conceded that he "may have unintentionally violated" R. 1:20-20 by allowing Oury to perform "certain services" for the Firm. However, he denied having violated the charged Rules of Professional Conduct in connection with his business relationship with Oury, claiming that he did not intentionally "flout any order or subvert any rule." Specifically, although he knew that Oury remained suspended during the timeframe of their business arrangement, respondent purportedly was unaware that, by allowing Oury to perform legal services for the Firm, he was violating R. 1:20-20.

Respondent further argued that the RPC 5.1(b) charge did not govern his conduct because he did not fail to supervise Oury. Rather, he allowed Oury to perform legal services for the Firm while suspended. Respondent also expressed his view that violations of RPC 5.1(b) most commonly occur when a supervising attorney improperly delegates responsibilities to a subordinate lawyer.

Additionally, respondent urged the hearing panel to dismiss the RPC 5.5(a)(2) charge, arguing that he did not allow Oury to engage in the practice of law. Similarly, respondent contended that RPC 5.5(a)(2) prohibits attorneys from assisting non-members of the bar in the unauthorized practice of law. Because Oury remained a member of the bar, albeit a suspended lawyer,

respondent argued that RPC 5.5(a)(2) was inapplicable to his conduct as a matter of law.

Respondent also maintained that he could not have violated RPC 8.4(a) because he did not "knowingly" assist Oury in the unauthorized practice of law. Moreover, he contended that the RPC 8.4(a) charge was duplicative of his potential violations of the other charged RPCs.

Likewise, respondent denied having violated RPC 8.4(d) based on his view that his actions did not have the "cumulative effect of upsetting justice." In support of his position, he characterized his conduct as "at most a single error by a stalwart practitioner who acted in ignorance of the scope of [R. 1:20-20] and without any motivation for personal benefit."

Finally, respondent argued that his violation of RPC 1.8(a) was "technical in nature," given that McNerney consulted with independent counsel, at respondent's direction, concerning the Watchung Hills business transaction. In respondent's view, his failure to obtain a written conflict waiver from McNerney was de minimis and, thus, warranted no more than an admonition.

Respondent urged the hearing panel to weigh, in mitigation, that he did not profit from Oury's services and acted "without venality [or] desire for personal gain." Indeed, he did not require Oury's services to operate the Firm. Rather, he allowed Oury to work for the Firm because Oury was financially

struggling to support his family. Respondent also urged the hearing panel to consider (1) his otherwise unblemished forty-year career at the bar; (2) the testimony of his character witnesses attesting to his stellar reputation; (3) his earnest assertion that he did not knowingly violate R. 1:20-20; (4) his cooperation with disciplinary authorities; and (5) the limited timeframe in which he employed Oury.

In its summation brief to the hearing panel, the OAE stressed that the Court Rules expressly prohibited respondent from employing Oury in connection with the practice of law. Moreover, the OAE observed that the Court, in disbarring Oury, "conclusively" had 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, had "paid him to work for their law practices."

The OAE also argued that respondent violated RPC 1.8(a) by failing to obtain a written conflict waiver from McNerney and failing to advise him, in writing, of the desirability of seeking independent counsel regarding their business transaction.

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 compared respondent's conduct to that

of the censured attorney in In re Capece, 257 N.J. 31 (2024), who, as detailed below, failed to conduct any research to determine the propriety of retaining a legal services business run by a disbarred lawyer. The OAE argued that, despite respondent's lack of prior discipline and good reputation and character, 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

The hearing panel determined that respondent violated RPC 5.5(a)(2) by assisting Oury, who was then a suspended attorney, in the unauthorized practice of law. In the hearing panel's view, RPC 5.5(a)(2) applies when a lawyer assists both non-attorneys and suspended lawyers in connection with the unauthorized practice of law.

However, the hearing panel dismissed the charge that respondent violated RPC 5.1(b) by failing to ensure that Oury's conduct conformed to the Rules of Professional Conduct. In support of its determination, the hearing panel reasoned that RPC 5.1(b) applies only when an attorney fails to adequately supervise another lawyer, who is not disbarred or under a term of suspension. In the hearing panel's view, because Oury was not a "member of the bar" at the

time of his suspension, respondent could not have violated RPC 5.1(b) by failing to supervise him. Moreover, because respondent closely monitored Oury's work product, the hearing panel found that respondent did not fail to adequately supervise Oury.

Additionally, the hearing panel dismissed the allegation that respondent violated RPC 8.4(a) by knowingly assisting Oury in the unauthorized practice of law. Specifically, the hearing panel found credible respondent's "misguided" claim that he could employ a suspended attorney to perform "law clerk" related duties. The hearing panel also viewed the RPC 8.4(a) charge as "superfluous," in light of its finding that respondent violated RPC 5.5(a)(2).

Similarly, the hearing panel dismissed the charge that respondent violated RPC 8.4(d), finding that his "actions were not egregious" and did not prejudice the administration of justice.

Finally, the hearing panel found that respondent violated RPC 1.8(a) by failing to both obtain a written conflict waiver from McNerney and advise him, in writing, of the desirability of seeking independent counsel in connection with their business transaction. However, considering that McNerney acted upon respondent's verbal advice and consulted with independent counsel regarding their venture, the hearing panel recommended that respondent receive no discipline for his "negligible" violation of RPC 1.8(a).

In recommending the imposition of an admonition for assisting Oury in the unauthorized practice of law, the hearing panel weighed, in mitigation, respondent's unblemished career at the bar, spanning more than forty years. The hearing panel also expressed its view that respondent's actions resulted from a "misunderstanding of the rules, rather than an intentional violation." Finally, the hearing panel reasoned that the OAE's recommended sanction was "too harsh," considering that attorneys who knowingly practice law while administratively ineligible typically receive discipline less than a term of suspension.

The Parties' Positions Before the Board

Respondent, through counsel, conceded that he violated R. 1:20-20 by allowing Oury to perform legal services for the Firm while suspended. Nevertheless, he argued that a legal issue remained regarding whether his admitted violation of that Rule ran afoul of RPC 5.5(a)(2). Respondent reasoned that, because Oury remained a member of the bar during the timeframe in which he allowed him to perform services for the Firm, he could not have violated RPC 5.5(a)(2), which prohibits attorneys from assisting non-members of the bar in the unauthorized practice of law. Respondent further argued that he could not simultaneously have violated both RPC 5.5(a)(2), by assisting a non-member of the bar in the unauthorized practice of law, and RPC 5.1(b), by failing to

supervise another attorney.

Additionally, respondent reiterated that he did not violate RPC 8.4(a) because he did not intentionally assist Oury in violating the Rules of Professional Conduct. Moreover, he contended that his behavior was more appropriately encapsulated by his potential violations of the other charged RPCs.

Respondent further argued that he did not violate RPC 8.4(d) based primarily on his assertion that he did not intend to violate any Court Rules in connection with his arrangement with Oury.

Finally, respondent reiterated his position that his violation of RPC 1.8(a) connected to his business transaction with McNerney was de minimis.

Respondent urged the imposition of a reprimand, at most, claiming that his actions stemmed from his ignorance of the relevant Court Rules. In support of his recommended sanction, he argued that his conduct was less serious than that of the attorney in In the Matter of Michael Heitmann, DRB 25-078 (September 2, 2025), for whom we recently recommended the imposition of a censure for assisting Oury in the unauthorized practice of law.[4] Respondent stressed that Heitman allowed Oury to perform unauthorized legal work for nearly four years, during which Heitmann permitted Oury to interact with clients

[4] Our decision in Heitmann is pending before the Court.

and negotiate with his law firm's vendors. By contrast, respondent stressed that "Oury's employment was strictly limited to in-house" legal services, without any client contact. Finally, respondent emphasized, in mitigation, his (1) cooperation with the OAE; (2) lengthy, unblemished legal career; (3) history of performing pro bono legal services; and (4) contention that his conduct will not recur, considering that he now understands the scope of R. 1:20-20.

The OAE urged us to sustain all the charges of unethical conduct and to recommend the imposition of a three-month suspension. Specifically, the OAE argued that RPC 5.5(a)(2) and RPC 5.1(b) can be sustained simultaneously when an attorney assists a suspended lawyer in the unauthorized practice of law.

Additionally, the OAE argued that respondent violated RPC 8.4(d) by providing an avenue for Oury to defy the Court's 2009 temporary suspension Order. Similarly, the OAE contended that it had established, by clear and convincing evidence, that respondent knowingly assisted Oury in the unauthorized practice of law, in violation of RPC 8.4(a). In the OAE's view, the RPC 8.4(a) charge was not duplicative of the other charges of unethical conduct.

In recommending the imposition of a three-month suspension, the OAE argued that, in Capece, we had determined that such a sanction was the baseline level of discipline for assisting another in the unauthorized practice of law. The OAE urged, in aggravation, respondent's prior membership on a District Ethics

Committee, which service should have alerted him to the impropriety of allowing a suspended lawyer to perform legal services for the Firm.

Analysis and Discipline

Violations of the Rules of Professional Conduct

Following our de novo review of the record, we determine to respectfully part company with the hearing panel's recommendations and conclude that respondent violated most, but not all, of the charges of unethical conduct by clear and convincing evidence.

Specifically, respondent knowingly assisted Oury in the unauthorized practice of law, in violation of RPC 8.4(a), the Court's 2009 temporary suspension Order, and, by extension, RPC 8.4(d). Respondent argued to the hearing panel that he did not permit Oury to engage in the practice of law, maintaining that Oury performed mere "law clerk" work for the Firm, under his close supervision, without any contact with clients, adversaries, or courts.

In our view, however, respondent's position fails to recognize that, as a New Jersey attorney in good standing, he was required to adhere to R. 1:20-20, which prohibits lawyers from employing a suspended attorney in any capacity in connection with the practice of law. Moreover, 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 one year, between March 2014 and March 2015, Oury performed approximately 130 hours of total legal work for respondent in connection with five client matters, garnering more than $12,000 in earnings. Respondent allowed Oury to (1) conduct legal research; (2) prepare and answer discovery demands; (3) draft correspondence to adversaries for respondent's signature; (4) compose multiple summary judgment motion briefs; (5) draft an answer to a complaint; (6) draft appellate briefs; and (7) prepare a memorandum of law.

Although respondent equated Oury's services to that of a mere law clerk, in our view, the scope of Oury's substantive legal work unquestionably demonstrates that he utilized his legal skills to assist respondent with his caseload. Indeed, respondent admittedly increased Oury's hourly compensation

rate in the client matter involving the Borough of Bergenfield, where Oury previously had acted as the Borough's attorney, because of the complexity of the case and the need for brief writing.

Respondent also argued that he did not knowingly assist Oury in the unauthorized practice of law because, until the OAE informed him of its disciplinary investigation, in 2018, he remained unaware of the strictures of R. 1:20-20. 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").

Alarmingly, 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 2009 temporary suspension Order, 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, prior to formalizing his illicit business relationship with Oury, he neither reviewed the Court Rules nor conducted any research regarding the propriety of allowing a suspended attorney to perform legal services for the Firm.

As an experienced attorney with a more than forty-year career at the bar, including a four-year term as a DEC member, respondent, at the very least, should have been immediately alerted to the potential ethics implications of hiring a suspended lawyer in connection with the practice of law. In our view, because respondent failed to perform even the most basic due diligence concerning his improper business arrangement, he remained willfully ignorant of the clear restrictions governing the employment of suspended attorneys in New Jersey. In attorney disciplinary matters, the Court has equated such "willful blindness" to knowledge:

> The concept arises in a situation where the party is aware of the highly probable existence of a material fact but does not satisfy himself that it does not in fact exist. "Such cases should be viewed as acting knowingly and not merely as recklessly. The proposition that willful blindness satisfies for a requirement of knowledge is established in our cases."
>
> [In re Skevin, 104 N.J. 476, 486 (1986) (citations omitted).]

Further, we reject respondent's contention that the RPC 8.4(a) charge was duplicative of the other charges of unethical conduct. We consistently have declined to sustain this charge "except where the attorney has, through the acts

of another, violated or attempted to violate the RPCs, or where the attorney himself has attempted, but failed, to violate the RPCs." In the Matter of Stuart R. Lundy, DRB 20-227 (April 28, 2021) at 10. However, unlike in Lundy, where 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).

Further, we find that respondent's violation of RPC 5.1(b), RPC 8.4(a), and RPC 8.4(d) by assisting Oury in the unauthorized practice of law is consistent with recent disciplinary precedent. See Heitmann, DRB 25-078 (determining that, despite the attorney's claimed ignorance of R. 1:20-20, he violated RPC 5.1(b), RPC 8.4(a), and RPC 8.4(d) by assisting Oury in the unauthorized practice of law).

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 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 is "Lawyers Not Admitted to the Bar of This State and the Lawful Practice of Law."

As we recently observed in Heitmann, the term "member of the bar," which is not defined either by the RPCs or our Court Rules, consists of both attorneys in good standing and suspended lawyers, until such lawyer is disbarred. DRB 25-078 at 26 (citing R. 1:20-10 which "'allow[s] '[a]n attorney against whom a grievance has been filed . . . [to] submit a consent to disbarment as a member of the bar'") (emphasis in original). Here, during the timeframe of respondent's misconduct, Oury was a "member of the bar," albeit one serving a term of suspension. Consequently, echoing our recent analysis in Heitmann, we determine that RPC 5.5(a)(2) is inapplicable to respondent's conduct and, thus, dismiss that charge as a matter of law.

Finally, we determine that respondent violated RPC 1.8(a) by failing to

secure the required written conflict waiver from McNerney, with whom he has had an ongoing attorney-client relationship since the early 1990s, in connection with their Watchung Hills business transaction.

In relevant part, RPC 1.8(a) prohibits a lawyer from entering into a business transaction with a client unless:

> (1) the transaction . . . [is] fair and reasonable to the client and [is] fully disclosed and transmitted in writing to the client in a manner that can be understood by the client;
>
> (2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel of the client's choice concerning the transaction; and
>
> (3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

Here, respondent admittedly failed to secure McNerney's informed, written consent to the essential terms of their business transaction, as RPC 1.8(a)(3) expressly requires. Nevertheless, the record before us contains no evidence that respondent failed to fully disclose the terms of the transaction in writing to McNerney, who was the managing member of Watchung Hills and the architect of the venture.

Likewise, the OAE conceded that respondent verbally advised McNerney to consult with independent counsel in connection with their transaction. Indeed, based, in part, on respondent's verbal advice, McNerney reviewed the Watchung Hills operating agreement with an independent attorney prior to formalizing the business arrangement.

Moreover, during the ethics hearing, respondent testified that he likely had advised McNerney, in writing, of the desirability of consulting with independent counsel. However, given the significant passage of time since the parties executed the Watchung Hills operating agreement, in 2005, respondent was unable to locate such purported written advice when he disclosed the transaction to the OAE, in 2018. Considering the lack of clear and convincing evidence that respondent had failed to advise McNerney, in writing, to consult with independent counsel concerning their business venture, we conclude that respondent clearly and convincingly violated RPC 1.8(a) only by admittedly failing to secure the required written conflict waiver from McNerney.

In sum, we find that respondent violated RPC 1.8(a); 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 engaged in improper business transactions with a client have received discipline ranging from an admonition to a term of suspension, depending on the number of transactions, the resulting harm to the client, and the presence of additional ethics infractions or aggravating factors. See, e.g., In the Matter of John F. O'Donnell, DRB 21-081 (September 28, 2021) (admonition); In re Asterita, 254 N.J. 51 (2023) (reprimand); In re Schefers, 254 N.J. 370 (2023) (censure); In re Kim, 227 N.J. 455 (2017) (three-month suspension); In re Greenblum, 258 N.J. 522 (2024) (indeterminate suspension).

However, twenty years have elapsed since respondent failed to secure the required written conflict waiver from McNerney – a sophisticated real estate developer who both proposed the venture and consulted with independent counsel in connection with the transaction. Moreover, the business arrangement did not appear to result in any harm to the members of Watchung Hills. Indeed, the transaction only came to light after respondent disclosed it during the 2018 demand interview, in response to the OAE's general questions concerning his law practice. On these unique facts, we echo the hearing panel's finding that respondent's violation of RPC 1.8(a) was "negligible" and, thus, decline to recommend the imposition of discipline for that conduct.

The crux of respondent's misconduct was his assistance of Oury – a

suspended attorney – in the unauthorized practice of law. 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); In re Tran,

246 N.J. 155 (2021) (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 not to 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, hired 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).

Recently, in Heitmann, we determined that a censure was the appropriate sanction for an attorney who, for nearly four years, between May 2014 and February 2018, allowed Oury to perform at least 295 hours of unauthorized legal work while suspended for a minimum of eighteen clients. DRB 25-078 at 29-31.

In that matter, Oury not only prepared legal documents for Heitmann, but also conducted legal research, negotiated with Heitmann's law firm vendors, and communicated with Heitmann's clients. Id. at 20. Other than consulting with a retired New York Supreme Court Justice who had no familiarity with New Jersey law, Heitmann failed to take reasonable steps to ascertain the propriety of his actions. Id. at 23-24. In February 2018, Heitmann concluded his business relationship with Oury, after receiving a letter from the OAE concerning its investigation of Oury's unauthorized practice of law. Id. at 9-10.

In determining that a censure was the appropriate quantum of discipline, we found that the frequency in which Heitmann utilized the legal services of a suspended attorney mirrored that of the censured attorney in Capece. Id. at 29. We also considered that, in contrast to the suspended attorney in Tran, Heitmann promptly terminated his affiliation with Oury after the OAE informed him of the impropriety of his actions. Id. at 29-30. Additionally, unlike the suspended

attorney in Pinkas, we observed that neither Heitmann nor Oury misrepresented the status of Oury's law license to clients. Id. at 30.

We weighed, in mitigation, both Heitmann's lack of prior discipline and his 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. Ibid. As previously stated, our decision in Heitmann is pending before the Court.

Here, like the attorney in Heitmann, respondent allowed Oury to perform unauthorized legal services for the Firm while he was suspended, without taking even the most basic steps to ascertain the propriety of such an arrangement. However, whereas Heitmann viewed Oury as an experienced mentor who assisted him when he was "overwhelmed" by the volume of his work, respondent permitted Oury to perform improper legal work for the Firm solely because of his sympathy for Oury's status as a suspended attorney.

Nevertheless, unlike Heitmann, who allowed Oury to perform at least 295 hours of illicit legal work for nearly four years (from May 2014 to February 2018), respondent allowed Oury to perform far less legal work for a much shorter duration – approximately 130 hours of legal work for just one year (from March 2014 to March 2015). Further, in contrast to Heitmann, who permitted Oury to negotiate with his law firm's vendors and to communicate with his

clients, respondent did not authorize Oury to interact with clients or vendors on the Firm's behalf. In that vein, respondent restricted the scope of Oury's services to drafting legal documents and conducting research solely for respondent's use.

Moreover, whereas the attorney in Pinkas, who received a six-month suspension, derived a significant financial benefit from his improper employment arrangement with a suspended lawyer, respondent did not bill his clients for Oury's unauthorized legal work. Rather, the Firm simply "absorbed" Oury's fees as "uncompensated overhead."

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 discontinued his improper arrangement with Oury in March 2015 – approximately three years before the OAE's involvement – because the Firm no longer had legal work to assign to Oury. Since the conclusion of his business relationship with Oury more than ten years ago, respondent has had no additional discipline. See In re Alum, 162 N.J. 313 (2000) (after passage of eleven years with no further ethics infractions, discipline was tempered based on "considerations of remoteness").

Moreover, like Heitmann, respondent has had no prior discipline in his more than forty-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). Indeed, the record before us demonstrates that respondent has (1) developed an exemplary reputation in the legal community representing public entities, (2) performed pro bono work for religious institutions, and (3) served as a court-appointed proctor for an attorney struggling with his recordkeeping obligations.

Finally, based on past precedent, we view respondent's past service as a DEC member in both mitigation and aggravation. See In the Matter of Mahesh Rajan, DRB 19-003 (March 26, 2019) at 3 (viewing DEC membership as both a voluntary service to the bar and an experience which should have put the attorney on notice of the dangers of engaging in improper business transactions with clients). Specifically, despite respondent's voluntary service to the bar, as a former DEC member and court-appointed proctor, he should have been keenly aware of the impropriety of allowing a suspended attorney to perform legal services for the Firm, as the Court Rules clearly prohibit.

Conclusion

In conclusion, we determine that respondent's conduct, though remarkably similar, is less egregious than that of the attorney in Heitmann, for whom we recommended the imposition of a censure. Significantly, unlike respondent, Heitmann allowed Oury to interact with clients and vendors on

behalf of his law firm. Moreover, Heitmann permitted Oury to perform far more unauthorized legal work for a much longer duration than respondent. Thus, on balance, we determine that a reprimand is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

Member Menaker was recused.

Member Rodriguez was 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 Brian M. Chewcaskie
Docket No. DRB 25-169

Argued: September 18, 2025

Decided: December 17, 2025

Disposition: Reprimand

Members	Reprimand	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