SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 25-303
District Docket No. XIV-2020-0508E

In the Matter of Felix Nihamin
An Attorney at Law

Argued
March 19, 2026

Decided
May 27, 2026

Saleel V. Sabnis appeared on behalf of the
Office of Attorney Ethics.

Kim D. Ringler appeared on behalf of respondent.

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Introduction

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

This matter was before us on a disciplinary stipulation between the Office of Attorney Ethics (the OAE) and respondent. Respondent stipulated to having violated RPC 1.5(b) (failing to set forth, in writing, the basis or rate of the legal fee); RPC 1.8(a) (engaging in an improper business transaction with a client); RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6); and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

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

Ethics History

Respondent earned admission to the New Jersey bar in 1995 and to the New York bar in 1996.[1] At the relevant times, he maintained a practice of law in Manasquan, New Jersey. He has prior discipline in New Jersey.

[1] As detailed below, effective March 9, 2016, respondent resigned from the practice of law in New York, admitting his inability to defend against allegations that he had practiced law while suspended in that jurisdiction. In re Nihamin, 141 A.D.3d 142 (N.Y. App. Div. 1st Dept.).

Nihamin I

In 2010, respondent received an admonition for deficient recordkeeping practices; negligent misappropriation of escrow funds; failure to safeguard funds held on behalf of a third party; and commingling personal and client funds in his attorney trust account (ATA), violations of RPC 1.15(a) (failing to safeguard funds, negligently misappropriating client funds, and commingling funds) and RPC 1.15(d). In the Matter of Felix Nihamin, DRB 10-073 (June 14, 2010) (Nihamin I).

Nihamin II

On July 17, 2014, the Court suspended respondent for three months, following his June 29, 2012 conviction for misapplication of entrusted property, a third-degree crime, in violation of N.J.S.A. 2C:21-15. In re Nihamin, 217 N.J. 616 (2014) (Nihamin II). In that matter, over the course of a few years, in five or six New Jersey "sale-leaseback" transactions, respondent listed inaccurate deposit amounts on the HUD-1 settlement statements and, instead of disbursing the funds as required by the lenders' written instructions, disbursed the funds on the instruction of the entities that structured the transactions. In the Matter of Felix Nihamin, DRB 13-245 (December 18, 2013) at 3-5.

Effective January 23, 2015, the Court reinstated respondent to the practice of law. In re Nihamin, 220 N.J. 344 (2015).

Nihamin III

Effective October 8, 2018, on a motion for reciprocal discipline, the Court suspended respondent for one year, following his resignation from the practice of law in New York, for his violations of RPC 5.5(a) (engaging in the unauthorized practice of law), RPC 8.1(a) (knowingly making a false statement of material fact in a disciplinary matter), and RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice). In re Nihamin, 235 N.J. 144 (2018) (Nihamin III).

In that matter, after our Court issued its Order in Nihamin II, the Supreme Court of New York, Appellate Division, First Judicial Department (the New York Court) entered an order deeming respondent's misconduct in Nihamin II a "serious crime," and directing the Departmental Disciplinary Committee for the First Judicial Department of the Supreme Court of the State of New York (the Committee) to "conduct a hearing why a final order of censure, suspension or disbarment should not be made." In the Matter of Felix Nihamin, DRB 17-295 (February 8, 2018) at 3. On October 21, 2024, following a hearing, the New York Court accepted the hearing panel's recommendation and suspended

respondent for three months, effective November 20, 2014.[2] Ibid.

On February 24, 2015, respondent applied for reinstatement to the practice of law in New York. Ibid. On March 17, 2015, staff counsel to the Committee examined respondent, under oath, in connection with his motion for reinstatement. Ibid.

Initially, respondent denied having practiced law in New York while suspended. Id. at 4. However, when staff counsel confronted him with e-mails he had exchanged with three clients on November 20, 2014, the effective date of his suspension, respondent stated that he believed November 20, 2014, was the last day he was eligible to practice law. Id. at 5.

Consequently, on July 21, 2015, the New York Court directed that a panel conduct a hearing to determine whether respondent had complied fully with the order of suspension and possessed the requisite character and general fitness to resume the practice of law in New York. Ibid. Before the hearing commenced, the Committee informed respondent that it had obtained records of communications, including e-mails and text messages, that respondent had exchanged with his firm's staff and others during his period of suspension, in addition to records of payments made from the firm's operating account for respondent's personal benefit. Ibid.

[2] In re Nihamin, 123 A.D.3d 193 (N.Y. App. 1st Dept. 2014).

On March 7, 2016, respondent submitted an affidavit of resignation from the New York bar, acknowledging that he falsely had testified, under oath, that, during his suspension, he "was not personally or directly involved in the firm's practice of law in the State of New York." Id. at 6. He also acknowledged that, if the Committee had initiated disciplinary proceedings against him, he "could not successfully defend [him]self on the merits against such allegations." Ibid.

Accordingly, on June 21, 2016, the New York Court accepted respondent's resignation and struck his name from the roll of attorneys, nunc pro tunc to March 9, 2016. Ibid.

As previously noted, effective October 8, 2018, our Court imposed reciprocal discipline and suspended respondent for one year. Nihamin, 235 N.J. 144.

Effective November 12, 2019, the Court reinstated respondent to the practice of law. In re Nihamin, 240 N.J. 126 (2019).

Facts

Respondent and the OAE entered into a disciplinary stipulation, dated November 24, 2025, which sets forth the following facts in support of respondent's admitted ethics violations.

Beginning in 2015, respondent began representing Christopher

Rogovich's company, Piermont Golf Associates, LLC (Piermont) in connection with various real estate matters. Christopher held an 80% ownership interest in Piermont and his brother, Steven Rogovich, held a 20% ownership interest.[3] Respondent represented Piermont through February 2020.

Also beginning in 2015, respondent became affiliated with Frank Ferrari, the owner of Atlantic Property Development LLC (Atlantic). Atlantic's business model was to purchase shorefront properties in New Jersey and New York that were damaged during Superstorm Sandy, renovate or rebuild the properties, and sell them for a profit. Attorneys affiliated with Atlantic handled transactional; corporate; zoning; acquisitions; and other legal work. Initially, respondent's role with Atlantic was limited to generating leads with potential investors and developing banking relationships. However, Ferrari then approached respondent to ask whether he could handle Atlantic's real estate closings, and respondent agreed to become in-house counsel and director of business development.

On November 19, 2015, using his law firm e-mail address, respondent sent an e-mail to Christopher, introducing him to Atlantic and its business model. Respondent wrote that Atlantic was a "new venture that [he was] personally involved with." He explained that Atlantic was in the process of acquiring two

[3] Because Christopher and Steven share a last name, we refer to them by their first names or, together, as the Rogovich brothers, to avoid any confusion. No disrespect is intended by the informality.

new properties and provided information about the projects. Respondent attached an informational brochure to his e-mail that introduced Atlantic, listed its members, and explained how it structured real estate deals.

The brochure explained that Atlantic rebuilds properties damaged by Superstorm Sandy "in a cost effective and timely manner by utilizing modular construction to maximize the return on investment." Furthermore, the brochure emphasized that an investor's funds were "secured by ownership in the property." Indeed, in its brochure, Atlantic offered potential investors two investment options: Option A provided a "7% preferred return on equity invested along with 10% of the net profits," and Option B provided a "guaranteed 15% return on equity invested." Notwithstanding the two options described in the brochure, Atlantic offered Christopher and Steven a third option – a 20% return on their investments.

Additionally, the brochure identified respondent as "general counsel" and "director of business development." His biography noted that:

> as an attorney, Felix Nihamin brings more than 20 years of specialized real estate and legal experience to Atlantic Property Development. In his role of General Counsel, Felix serves as Atlantic's in house attorney, who handles transactions from inception to closing, performs due diligence, generates all contracts with investors/partners and ensures a smooth transaction for all involved. In this role, Felix performs and oversees all facets of the transaction while protecting the assets and interests of Atlantic Property Development as well

as its investors and partners.

[Ex.7.][4]

The brochure also described respondent as the founder and managing partner of the CASE Law Firm, a "boutique real estate group that specializes in all aspects of the commercial and residential transaction, property development, real estate investments, and the legal analysis that is required of the foregoing."

In April 2016, respondent approached Christopher about investing in three properties in Lavallette, New Jersey: one property on Ocean Bay Boulevard (Ocean Bay) and two properties on Kingfisher Way (Kingfisher). Based on respondent's representations and explanation regarding how their Atlantic investments would operate, Christopher and Steven each invested $100,000 in the Ocean Bay property and invested $55,000 in one of the Kingfisher properties. Steven also invested $60,000 in the second Kingfisher property. Respondent prepared the nearly identical Ocean Bay and Kingfisher operating agreements.

Among other terms included in the operating agreements, Atlantic was identified as the managing member and Christopher and Steven were identified as investors. Pursuant to paragraph 6.3(b) of the operating agreements, the managing member was not granted authority to lease property, sell assets

[4] "Ex." refers to the exhibits attached to the disciplinary stipulation.

(including real estate), or to make distributions to the members without investor approval.

Additionally, pursuant to the "Miscellaneous" section of the operating agreement, located on page sixteen, paragraph 14.3, titled "Preparation and Review of Agreement," provided that:

> This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted. Each party acknowledges and agrees that this Agreement was subject to negotiation and that each party had an opportunity to seek to obtain, and did obtain, independent counsel prior to executing and delivering this Agreement.
>
> [Ex.10,p16.]

Christopher told the OAE that, after they met in 2015, respondent became his "attorney for all business matters, including my investments with Atlantic." Respondent never prepared a retainer agreement for the legal services he provided to Christopher. Respondent also never sent Christopher an invoice for the legal work he performed. However, Christopher told the OAE that respondent was his counsel and that he:

> didn't think that since my attorney drew up the contract that I or my brother needed someone else to review it. He was my attorney and we spoke many times about the contract. He explained the details and stated numerous times that the investments were protected by the asset and that the agreement was a standard agreement for the investment.

[Ex.20.]

Respondent, however, maintained that he was not representing Christopher, Steven, or their companies in respect to the Atlantic investments. Rather, he asserted that his role was limited to business development for Atlantic. Respondent further emphasized that he was not a partner in Atlantic and worked as an independent contractor.

On June 21, 2016, respondent provided the Ocean Bay operating agreement to Christopher, instructing him to "Pls take a look and let me know of any questions or comments you have. While I understand the agreement is lengthy, it is comprehensive and errs on the caution of protecting the investor." After receiving the operating agreement, Christopher contacted respondent to ask whether he needed to send it to someone to review. Respondent told him not to waste his money because his investment was protected by the property and that it was a good investment. Respondent estimated that it would take Atlantic nine to fifteen months to renovate and sell the properties.

Although the operating agreements respondent prepared contained a paragraph about the parties having an opportunity to seek independent counsel, respondent did not provide Christopher with information regarding respondent's role; the terms of the transaction; the scope of any representation; or a waiver of conflict.

Accordingly, on July 6, 2016, Christopher executed the Ocean Bay operating agreement as the sole shareholder of Vineyard Investment Corp. (Vineyard), and Steven executed the Ocean Bay operating agreement as the sole shareholder of Prudential Investments Inc. (Prudential). Neither Christopher nor Steven retained outside counsel to review the operating agreement before signing it. Also on July 5, 2016, respondent sent an e-mail to Christopher and Steven, advising that he needed them to wire $100,000 to his ATA for the Ocean Bay closing.

On July 13, 2016, using his law firm e-mail address, respondent sent an e-mail to Christopher and Steven concerning another property located on Kingfisher Way that Atlantic was interested in purchasing. In the e-mail, respondent told Christopher and Steven that Atlantic required their "committed $100k a few days prior to closing."

On December 14, 2016, Vineyard and Prudential entered into an operating agreement as the sole shareholders for a new venture involving property located on Kingfisher Way, investing a total of $110,000. Neither Christopher nor Steven retained outside counsel to review the operating agreement before signing it.

In March 2017, Steven, as the sole shareholder of Prospect Investment Group, Inc., entered into a third operating agreement with Atlantic for the

purchase of another property located on Kingfisher Way. Steven invested $60,000 in that property. Another individual, J.C., was the only other investor. Atlantic sold the Kingfisher property that Steven and J.C. invested in and provided them with their portion of the proceeds.[5]

Initially, following their investments in the Ocean Bay and Kingfisher properties, respondent would provide the Rogovich brothers with updates regarding the development of the properties. However, after two years, having received no return on their investments, Christopher and Steven grew frustrated. On April 3, 2018, respondent sent an e-mail to Christopher and Steven, providing updates on the unsold Ocean Bay and Kingfisher properties.

In his e-mail, respondent explained that the Ocean Bay project was delayed due to a disagreement between the municipality and the architect regarding approval to construct additional living space, along with an additional bedroom and bathroom. Although the architect's proposal increased the cost of the project, respondent informed the Rogovich brothers that the additions, in turn, increased the marketability of the property. As a result, respondent stated that Atlantic found an "all cash buyer" and that closing on Ocean Bay would occur in mid-January 2019. Respondent added that "given the elapsed time,

[5] Because the proceeds of one of the Kingfisher properties were appropriately disbursed, subsequent reference in this decision to the Kingfisher property is in respect to the properties for which the Rogovich brothers did not receive their portion of the proceeds.

Frank and I propose that you guys share in the net income of the project and suggest a 2.5% participation in addition to the contracted return on investment at the time of sale," which respondent noted was twenty percent.

Regarding one of the Kingfisher properties, respondent stated that the municipality had issued permits and the structure that previously stood on the land had been demolished. He added that Atlantic did not have a contract for the property but "there has been some interest off of the plans." Furthermore, he believed the construction of the new homes would be completed by summer 2019 and, if they were not sold at that time, Atlantic would seek to lease the properties. Respondent advised that he and Ferrari "would like to offer [Christopher] proportionate participation in the net rental income. Additionally, we suggest a 5% participation in net profit in addition to the contracted return on investment at the time of sale," which respondent noted was twenty percent.

For the second Kingfisher property, the building had been demolished and the municipality issued construction permits. Although the property was under contract at some point, respondent stated that the buyers were "very irrational and litigious" and that he and Ferrari "decided it was not prudent to litigate and keep the property off the market during the pendency of a litigation."

In June 2018, Steven contacted respondent about the properties. During their conversation, Steven alleged that respondent was running a "Ponzi

scheme."[6] Respondent represented to Christopher that he and Ferrari were "working on getting you, your brother and Jerry out" of the investments and had begun a refinancing process "to get your principal investments back to you. Interest will be paid back once the properties close."

On August 14, 2018, respondent sent a text message to Christopher, advising that Atlantic had accepted a buyer's offer to purchase the Ocean Bay property. He added that Atlantic was awaiting attorney review of the offer and anticipated that closing on the property would occur in late November or early December 2018. Respondent also told Christopher that Atlantic received a second offer for the property, "so a bidding war may be brewing."

Seven months later, on March 22, 2019,[7] respondent provided Christopher with another update concerning the Ocean Bay property. Specifically, he informed Christopher that, if there were "no other major hold ups from the municipality, we should be closing within 6 weeks of passing sheetrock inspections. That includes the issuance of the final [certificate of occupancy] and the Home Warranty." He added that, due to the amount of time that had

[6] According to the Securities and Exchange Commission, a Ponzi scheme is "an investment fraud that pays existing investors with funds collected from new investors. Ponzi scheme organizers often promise to invest your money and generate high returns with little or no risk. But in many Ponzi schemes, the fraudsters do not invest the money. Instead, they use it to pay those who invested earlier and may keep some for themselves." See https://www.investor.gov/protect-your-investments/fraud/types-fraud/ponzi-scheme (last visited May 20, 2026).

[7] Respondent was suspended from the practice of law at the time.

lapsed since Christopher and Steven invested in Ocean Bay, including time:

> lost due to the municipality, the carry costs, the additional build out cost (which still is not completed), there will not be any profit on [Ocean Bay.] Frank and I will be coming out of pocket to make your investment whole on the [Ocean Bay] Project with the hopes of seeing better returns on the Kingfisher projects.
>
> [S¶46;Ex.14.]

On April 4, 2019, Steven sent an e-mail to respondent inquiring whether a closing date had been scheduled for Ocean Bay. Respondent replied that a date had not yet been scheduled, but he anticipated it would be "before Memorial Day." When Steven asked whether any other properties were closing soon, respondent advised that Ocean Bay and "hopefully some" of the Kingfisher properties would be sold. Respondent added that Atlantic had "a few potential buyers coming back this weekend."

In the summer of 2019, Ferrari unexpectedly moved his family to Florida and communicated with respondent less frequently. In late 2019, respondent learned that neither Ferrari nor Atlantic were making required mortgage payments. He also learned that the profits from some of the properties that had been sold were not remitted to the investors. Respondent told the OAE that, when he tried to speak with Ferrari about failing to make mortgage payments, Ferrari ignored him.

On November 15, 2019, respondent sent a text message to Christopher,

advising that Ocean Bay had not yet closed because "the buyers are being a pain." Additionally, respondent informed Christopher that the "bank [was] working on clearing buyers to close [one of the Kingfisher properties.]"

In early February 2020, respondent traveled to Florida to meet with Ferrari regarding his failure to meet Atlantic's business obligations. The meeting was unproductive, but Ferrari told respondent he would make "everything right."

Separately, on February 20, 2020, Steven traveled to view the Ocean Bay and Kingfisher properties; he also reviewed Ocean County real estate records and learned that the Ocean Bay property was sold on August 8, 2019, for $739,000, and one of the Kingfisher properties was sold on October 9, 2019, for $427,500. Respondent explained to the OAE that he did not tell Christopher or Steven that the properties had been sold because his:

> concern was that they would freak out number one. Number two, you know, Steve Rogovich in my opinion, Rogovich is I'm going to say very hot-headed and not always easy to deal with. And three, the – the – there was according to Frank a solution when there was going to be an influx of money coming into the company through various other portals, according to him.
>
> [Ex.5,p13.]

Consequently, Christopher arranged to meet with respondent, on February 24, 2020, and secretly recorded their conversation. During the conversation, Christopher confronted respondent about the Ocean Bay and Kingfisher sales.

He explained to respondent that Steven had contacted the prosecutor's office because they believed Ferrari stole their investments. Respondent told Christopher he did not believe Ferrari's actions were criminal, adding that he believed "it's civil. And I think the easiest thing to do is go after the D&O policy."[8] When Christopher questioned whether the D&O policy covered theft, respondent replied that the policy covered mismanagement. Thus, respondent advised Christopher to speak with an attorney and to send Ferrari a letter demanding payment of his portion of the Ocean Bay and Kingfisher proceeds.

He advised that the letter should indicate "there's been mismanagement and what have you. I – for the civil part I wouldn't make an allegation from a fraudulent standpoint, only because I don't think that's going to be successful in dealing with you know, the D&O policy." Christopher asked respondent whether he would join the Rogovich brothers to file a lawsuit against Ferrari, but respondent declined, explaining that "we probably have [a] conflict using the same attorney, but I'm happy to you know, assist anyway I can."

When Christopher pointed out that, "just a week ago," respondent told

[8] Atlantic's $2 million Directors & Officers and Entity Liability (D&O) policy was renewed on February 19, 2020. The policy defined "wrongful act" as "any actual or alleged error, misstatement, misleading statement, neglect, breach of duty, omission or act committed or attempted by any Insured Persons." The policy does not cover conduct attributable to the policy holder "committing any deliberately fraudulent act or omission or any willful violation of law, if a final and non-appealable adjudication adverse to such Insured in any proceeding not brought by or against the Insurer establishes such an act, omission or willful violation."

him the properties had not been sold, respondent stated:

> I apologize for that. I apologize for that. I knew [the properties had been sold]. But I knew there was a problem and I knew there was a problem trying to fix so we can avoid all of this. And based on the representation I was getting from [Ferrari], hey I'm taking a permanent loan out on this, I'm taking a permanent loan on that, I wanted to stop the bleeding.
>
> [Ex.19,p8.]

Respondent also told Christopher that he should have been "honest with you when it happened. That's my fault. I will take 1000% [sic] blame for that . . . my goal is to make sure that nobody – at the end of the day, everybody gets everything back that they were supposed to get back."[9]

Christopher told respondent that he and Steven continued to pay interest on the funds they had invested with Atlantic and that he was:

> losing money in these investments. I could've stopped paying interest six months ago, eight months ago [when the properties were sold]. You know, if I would've known I would've gone after [Ferrari] months ago, where maybe there would've been a resolution today. But now it's probably going to take me another six or eight months where I'm paying interest.
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> [Ex.19,p23.]

Following their February 24, 2020 conversation, Christopher terminated

[9] Respondent invested his mother's funds in Atlantic ventures through a family trust and did not receive a return. According to the stipulation, respondent's "investment was made via a promissory note, initially secured by a mortgage against" one of the Kingfisher properties.

the attorney-client relationship and, on September 9, 2020, he filed an ethics grievance against respondent.

In addition to investigating Christopher's ethics grievance, the OAE reviewed respondent's financial records and discovered that, between May 2016 and September 2018, he made numerous improper electronic transfers from his ATA without signed, written instructions to the financial institution, in violation of RPC 1.15(d) and R. 1:21-6(c)(1)(A), including a July 11, 2016 electronic ATA transfer concerning the Ocean Bay property.

Based on the foregoing facts, respondent stipulated that he violated RPC 1.5(b) by failing to set forth, in writing, the basis or rate of his fee in connection with representing Piermont and Christopher. Respondent also stipulated that he violated RPC 1.8(a) by entering into a business transaction with Christopher without "(1) transmitting in writing the terms of the transaction; (2) advising [Christopher] in writing of the desirability of seeking independent counsel; and (3) obtaining [Christopher's] informed written consent to the essential terms of the transaction including whether Respondent was representing [Christopher] in the transaction." Additionally, respondent stipulated he violated RPC 1.15(d) by making improper electronic transfers from his ATA without signed, written instructions to the financial institution. Last, respondent stipulated that he violated RPC 8.4(c) by misrepresenting to Christopher and Steven that the

Ocean Bay and Kingfisher properties had not been sold when, in fact, he knew that the closings already had occurred.

The Parties' Positions Before the Board

In its written submission to us and during oral argument, the OAE argued that, although disciplinary precedent supported a reprimand for respondent's misconduct, principles of progressive discipline supported the imposition of a censure.

Specifically, the OAE contended that, standing alone, respondent's failure to memorialize, in writing, the basis or rate of his fee warranted a reprimand. See In re Yannon, 220 N.J. 581 (2015) (the attorney failed to memorialize the basis or rate of his fee in two real estate transactions, a violation of RPC 1.5(b); discipline enhanced from an admonition based on the attorney's prior one-year suspension).

Additionally, the OAE asserted that "respondent did not represent [Christopher or Steven] in the Atlantic investment transaction, but he had an attorney-client relationship by imputation with [Christopher], at the time he encouraged [Christopher] to invest (via Vineyard) in Atlantic, since [r]espondent was still informally representing Piermont with a commercial lease matter." The OAE analogized respondent's misconduct to the misconduct we

addressed in In re Gertner, 205 N.J. 468 (2011) (reprimand for an attorney who provided legal representation at the closings on houses that he and his business partner purchased and flipped, without complying with the requirements of RPC 1.8(a); he also negligently misappropriated client funds on four occasions). Just as Gertner's client was an experienced businessman, respondent was working with someone experienced in real estate. Nevertheless, the OAE contended that respondent still had an obligation to adhere to the requirements of RPC 1.8(a) and failed to do so.

The OAE also argued that respondent violated RPC 8.4(c) by misrepresenting to Christopher that the closings for Ocean Bay and Kingfisher properties had not yet occurred, despite knowing that the properties already had been sold. The OAE argued that, standing alone, a violation of RPC 8.4(c) in connection with misrepresentations to a client is usually met with a reprimand. However, the OAE noted that whether respondent misrepresented information to a client or to a third party turned on whether we found that Christopher was a client or a third person.[10]

Finally, the OAE argued that the improper electronic transfers respondent made from his ATA ordinarily would be met with an admonition because they

[10] The OAE did not charge respondent with having violated RPC 4.1(a) (knowingly making a false statement of material fact or law to a third person).

did not result in a negligent misappropriation of client funds.

In mitigation, the OAE noted that respondent entered into a disciplinary stipulation, thereby conserving valuable resources.

In aggravation, however, the OAE asserted that respondent's disciplinary history, particularly his past violation of RPC 8.4(c), warranted discipline greater than a reprimand.

In his brief to us and during oral argument, respondent acknowledged that he and the OAE "largely agree[d]" on the facts and applicable case law in this matter. Thus, he presented us with twenty mitigating factors to consider when crafting the appropriate discipline to impose for his admitted misconduct.

Among the mitigating factors offered, respondent asserted that both Christopher and Steven are sophisticated businessmen with expertise in real estate investments. Respondent, thus, contended that neither Christopher nor Steven relied on him to make decisions regarding whether to invest in Atlantic projects; instead, respondent argued that "their knowledge about the risks of such investing was superior to his own understanding."

Furthermore, respondent stated that the financial losses suffered by Christoper and Steven were due to Ferrari's failure to abide by the operating agreements and not due to any action or inaction by respondent. Indeed, respondent asserted that the operating agreements he prepared contained

"explicit language confirming that the investors had an opportunity to consult with an attorney of their choice and had in fact consulted with an attorney." Nevertheless, respondent conceded that he did not abide by the "niceties" of RPC 1.8(a).

Additionally, respondent argued that, after he learned of Ferrari's improper actions, he provided Christopher with information about Atlantic's D&O insurance policy and advised him to retain an attorney to pursue claims against Atlantic and Ferrari. Indeed, respondent contended that Christopher and Steven filed insurance claims and civil lawsuits to recover their losses and "were able to recoup substantial sums from the investments."[11] In addition, respondent asserted that he did not engage in misconduct for personal gain and, in fact, has not been able to recover the personal funds he lost through his own investments in Atlantic.

Furthermore, respondent emphasized that, although he has prior discipline, he was last disciplined in 2018 for conduct that occurred in 2015.

[11] Presumably, respondent was referring to the lawsuit that the Rogovich brothers filed against Atlantic, Ferrari, and respondent on April 23, 2021. Rogovich, et al. v. Ferrari, et al., BER-L-002707-21. According to eCourts, it appears that respondent settled his portion of the case on October 8, 2024. On January 1, 2025, the Honorable Lina P. Corriston, J.S.C., entered a $464,066.45 default final judgment against Ferrari, finding, by clear and convincing evidence, that "(1) Defendant Ferrari made false representations with the intent of deceiving the Plaintiffs, (2) Plaintiffs relied on those false representations, (3) Plaintiffs' reliance was justified, and (4) Plaintiffs sustained damages in the amount of $464,066.45." The Rogovich brothers have not yet collected their judgment against Ferrari.

Respondent, thus, asserted that his prior misconduct "does not overlap with the current misconduct consisting of administrative violations, conflict of interest and misrepresentation."

Therefore, respondent urged that a reprimand was the appropriate quantum of discipline for his misconduct. Alternatively, he asserted that discipline no greater than a censure was warranted. He contended that, if he were allowed to continue practicing law, he would do so in conformity with the Rules of Professional Conduct, as he has done since 2015.

Finally, respondent submitted four character letters from individuals who described respondent as a capable and ethical attorney.

Analysis and Discipline

As a threshold matter, we find that respondent and Christopher had established an attorney-client relationship not only in connection with respondent's representation of Christopher and Piermont, but also with respect to Christopher's investments in Atlantic ventures – specifically the Ocean Bay and Kingfisher properties.

"At its most basic, [the attorney-client relationship] begins with the reliance by a nonlawyer on the professional skills of a lawyer who is conscious of that reliance and, in some fashion, manifests an acceptance of responsibility

for it." Michels & Hockenjos, New Jersey Attorney Ethics, (GANN, 2026) at 179 (citing In re Palmieri, 76 N.J. 51, 58, 60 (1978)). The relationship can begin absent an express agreement, a bill for services rendered, and the actual provision of legal services. Ibid. The relationship may be inferred from the conduct of the attorney and client, or by surrounding circumstances. Ibid.

Having determined that respondent had an ongoing attorney-client relationship with Christopher, we now consider respondent's misconduct in connection with his handling of the Atlantic real estate ventures.

Violations of the Rules of Professional Conduct

Following a review of the record, we determine that the facts set forth in the stipulation clearly and convincingly support the finding that respondent committed all the charged unethical conduct.

Specifically, there is no question that respondent failed to provide Christopher or his business entity, Piermont, with a written retainer agreement setting forth the structure of his fees, in violation of RPC 1.5(b). Moreover, once respondent began representing Christopher and Piermont, Christopher clearly relied on respondent to be his attorney for all his matters, including his investments in Atlantic projects, even in the absence of a written retainer agreement.

Indeed, Christopher's investments in Atlantic, where respondent held the titles of general counsel and director of business development, were unquestionably a business transaction with respondent, his attorney. Yet, respondent failed to adhere to any of the safeguards required by RPC 1.8(a). Respondent incorrectly relied upon the Ocean Bay and Kingfisher operating agreements to assert that Christopher was instructed to seek outside counsel. Given his ongoing attorney-client relationship with Christopher, that argument misses the mark.

The singular paragraph concerning outside counsel was located sixteen pages into the operating agreements. Moreover, Christopher questioned respondent, whom he considered his attorney, about whether he needed to have outside counsel review the operating agreement. Rather than citing to paragraph 14.3 and referring him to seek the advice of outside counsel, respondent instead told him there was no need to "waste his money" by having an outside attorney review it because the property itself protected his investment. Thus, paragraph 14.3 of the operating agreements can hardly be construed as Christopher giving informed consent, in writing, concerning respondent's role in the transaction. Thus, we conclude that respondent violated RPC 1.8(a) by informing Christopher there was no need for him to seek the advice of independent counsel because the Atlantic ventures were a "good investment."

Although respondent assured Christopher that investing in Atlantic properties was a wise decision, when certain properties finally sold, respondent covered up for Ferrari's misdeeds by actively misleading Christopher into believing the properties were still on the market. Respondent's dishonesty, which lasted several months, not only violated RPC 8.4(c), but also denied Christopher and Steven the ability to take prompt action to safeguard their investment funds. As a result, Christopher and Steven suffered extended financial harm, continuing to pay interest on borrowed capital in connection with investments that had been sold without their knowledge. The $464,066.45 judgment the Rogovich brothers obtained against Ferrari does not negate respondent's intentional decision to cover up Ferrari's actions.

Finally, respondent violated RPC 1.15(d) by repeatedly transferring funds from his ATA, via wire transfers, without providing his bank with signed, written instructions concerning the transfers.

In sum, we find that respondent violated RPC 1.5(b); RPC 1.8(a); RPC 1.15(d); and RPC 8.4(c). The sole issue left for our determination is the appropriate quantum of discipline for respondent's misconduct.

Quantum of Discipline

Here, although respondent engaged in an impermissible business transaction with Christopher, his most egregious misconduct concerned his intentional and prolonged misrepresentation regarding the completed sales of the Ocean Bay and Kingfisher properties. Conduct involving dishonesty, fraud, deceit, or misrepresentation typically results in a range of discipline from a reprimand to a term of suspension, depending on the gravity of the offense, the presence of other unethical conduct, and aggravating or mitigating factors. See, e.g., In re Mehta, 227 N.J. 53 (2016) (reprimand for an attorney who fabricated a letter to a former client and submitted it to disciplinary authorities, in violation of RPC 8.1(a) and RPC 8.4(c); in mitigation, the letter did not harm the client, the attorney had no prior discipline, and he readily admitted to misconduct by consenting to discipline); In re Otlowski, 220 N.J. 217 (2015) (censure for an attorney who participated in a Ponzi scheme as counsel to a business that purchased and renovated distressed real estate properties with funds from individual lenders; the business used the funds of new lenders to pay its obligations to pre-existing lenders and to the president of the business's personal creditors; the attorney received the investment funds in escrow, deposited them in his ATA, and disbursed the funds in accordance with the president's instructions; the attorney mislead an investor regarding the amount of funds he

held in his ATA; the attorney also misrepresented information on his application for malpractice insurance; the attorney had an unblemished forty-six years at the bar); In re Allen, 250 N.J. 113 (2022) (three-month suspension for an attorney who falsely represented to the OAE and to us that he had procured a settlement with a client, knowing he had not, in violation of RPC 3.3(a)(1) (making a false statement of material fact to a tribunal) and RPC 8.4(c); the attorney also committed recordkeeping violations, failed to maintain required professional liability insurance, and failed to produce a number of records the OAE requested during its investigation; prior admonition and censure).

When an attorney enters into an improper business transaction with a client without observing the safeguards of RPC 1.8(a), an admonition typically results. See, e.g., In the Matter of Edward Joseph Hovatter, DRB 23-147 (September 22, 2023) (the attorney borrowed $50,000 from a client without observing the safeguards of RPC 1.8(a); the attorney needed the funds to renovate a property he owned so he could sell it and use the proceeds to care for his ailing father-in-law; the attorney told his client the loan would be secured by a "purchase money mortgage" on the property and that it would have priority over existing mortgages; the attorney later filed for Chapter 11 bankruptcy; once the property was sold, the attorney paid his client back at a loss of nearly $900; no discipline in thirty years at the bar); In the Matter of John F. O'Donnell, DRB

21-081 (September 28, 2021) (the attorney provided his client a $180,000 loan, at a six-percent interest rate, in violation of RPC 1.8(a); the attorney also violated RPC 1.7(a) (engaging in a concurrent conflict of interest) by representing the client in connection with "multiple promissory notes" at the same time the attorney represented a property management company in connection with a real estate transaction in which the client acted as a "broker;" the concurrent representation required the attorney to disburse to his client fees from his trust account, on behalf of the property management company; in imposing an admonition, we weighed the attorney's otherwise unblemished legal career of more than forty years and the fact that the misconduct had occurred more than ten years earlier); In the Matter of John O. Poindexter, III, DRB 19-414 (March 20, 2020) (the attorney borrowed $30,000 from a client and committed recordkeeping violations; the attorney also failed to communicate and did not set forth the basis of his fees in writing; the attorney had an unblemished career of forty years).

However, improper business transactions with a client can result in more severe discipline if the sum of money involved was large, or if aggravating circumstances or additional offenses are present. See, e.g., In re Heine, 254 N.J. 369 (2023) (reprimand for an attorney who lacked diligence, failed to timely deliver property to his client, and borrowed $4,500 at 5% per annum from the

same client without complying with RPC 1.8(a); the attorney never repaid the loan, showed no remorse, and was discourteous when the client demanded repayment; we stated that the loan transaction, standing alone, merited an admonition because the harm to the client was comparatively limited; however, a reprimand was imposed due to additional offenses, including lacking diligence and failing to promptly deliver funds to his client; no prior discipline in more than fifty years at the bar); In re Klein, 248 N.J. 204 (2021) (censure for an attorney who borrowed $235,000 from two clients; the attorney also unknowingly practiced law while ineligible and included the term "law group" in his firm name despite being a solo practitioner; the attorney committed extensive recordkeeping violations, negligent misappropriation, and commingling; the attorney had to deposit $320,000 of his own funds to make up for shortages in his ATA; in mitigation, the attorney stipulated to the misconduct and had a long, unblemished disciplinary history); In re Abraham, 250 N.J. 407 (2022) (three-month suspension for an attorney who borrowed $140,000 from an elderly client; the loan caused the client significant financial harm because it rendered her ineligible for Medicaid; the attorney also neglected two matters he handled for the client, causing default to be entered against her; the attorney commingled borrowed funds in his ATA; at the time of our decision, the attorney had repaid the client only $7,000, although he had committed to repay the loan

in full; in recommending a suspension, we considered that the client was vulnerable); In re Bosworth, 241 N.J. 26 (2020) (six-month suspension for an attorney who borrowed $500,000 from his client; the attorney took advantage of the client's trust, creating loan documents with conflicting terms and failing to record the mortgages associated with the loan; the attorney took conflicting positions regarding interest on the loan during the disciplinary proceedings; the attorney's payment of the principal of the loan was six months late, and as of the date of our decision, the attorney still had not paid any interest; the attorney was also guilty of recordkeeping violations; no history of discipline in more than forty years).

The remainder of respondent's misconduct typically is met with an admonition. See In the Matter of Robert E. Kingsbury, DRB 21-152 (October 22, 2021) (admonition for an attorney who failed to set forth, in writing, the basis of his $1,500 flat legal fee; the attorney also mishandled the client's matter for almost three years before the client retained substitute counsel to complete her matter; in mitigation, the attorney completely refunded the fee to the client, who suffered no ultimate financial harm; no prior discipline), and In the Matter of David Stuart Bressler, DRB 22-157 (November 21, 2022) (the attorney committed several recordkeeping violations, including failing to perform three-way reconciliations, maintaining an improper account designation, and failing

to preserve images of processed checks; the attorney also commingled client and personal funds; in mitigation, the attorney rectified his recordkeeping errors, caused no ultimate harm to his clients, and had no disciplinary history).

In our view, respondent's role in Atlantic was most akin to that of the attorney in Otlowski, who was censured. As general counsel and director of business development, respondent initially believed Atlantic's business model offered legitimate investment opportunities in real estate – in fact, he invested in ventures himself. However, when he subsequently learned that Ferrari was not disbursing relevant sale proceeds to investors as required by the governing operating agreements, he intentionally withheld that information from his client. Indeed, pursuant to the operating agreements, Ferrari, as a member, was not permitted to sell the properties without investor approval, which he neither sought nor obtained.

In aggravation, unlike Otlowski, who had a lengthy unblemished disciplinary history, respondent was disciplined, in Nihamin II, for misconduct in connection with real estate transactions. Thus, he had a heightened awareness of his fiduciary duty to safeguard the Rogovich brothers' investments in the Atlantic ventures. Instead, when he learned that Ferrari absconded to Florida after selling the Ocean Bay and Kingfisher properties and keeping the funds for himself, respondent unsuccessfully attempted to speak with Ferrari about how

to remit the proceeds to Christopher and Steven. Only when Christopher confronted respondent did he acknowledge his falsehoods.

In further aggravation, respondent's disciplinary history demonstrates his penchant for dishonesty. Notably, respondent's misconduct regarding the Atlantic ventures occurred in the midst of Nihamin III, while New York disciplinary authorities were investigating him for lying under oath about whether he had engaged in the unauthorized practice of law. Furthermore, he also has prior discipline for recordkeeping violations, misconduct present in this matter. Thus, we accord significant weight to respondent's disciplinary history, which includes an admonition for recordkeeping irregularities, a three-month suspension for misconduct in connection with real estate transactions, and a one-year suspension for making blatant misrepresentations to disciplinary authorities. The Court has signaled an inclination toward progressive discipline and stern treatment of repeat offenders. In such scenarios, enhanced discipline is appropriate. See In re Kantor, 180 N.J. 226 (2004) (disbarment for abandonment of clients and repeated failure to cooperate with the disciplinary system).

In mitigation, respondent stipulated to his misconduct underlying this matter, thereby conserving disciplinary resources.

Conclusion

On balance, we find that the aggravating factors – respondent's disciplinary history in particular – outweigh the sole mitigating factor and, thus, conclude that a three-month suspension is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

Members Modu and Spencer 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 Felix Nihamin
Docket No. DRB 25-303

Argued: March 19, 2026

Decided: May 27, 2026

Disposition: Three-Month Suspension

Members	Three-Month Suspension	Absent
Cuff	X	
Boyer	X	
Campelo	X	
Hoberman	X	
Menaker	X	
Modu		X
Petrou	X	
Rodriguez	X	
Spencer		X
Total:	7	2

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