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May 28, 2026

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

Re: **In the Matter of Katherine M. Mitchell**
Docket No. DRB 26-105
District Docket No. XIV-2020-0133E

Dear Ms. Baker:

The Disciplinary Review Board (the Board) has reviewed the motion for discipline by consent (three-month suspension or such lesser discipline as the Board deems appropriate) filed by the Office of Attorney Ethics (the OAE) in the above matter, pursuant to R. 1:20-10(b). Following a review of the record, the Board granted the motion and determined that a censure is the appropriate quantum of discipline for respondent's violation of RPC 8.4(b) (committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer).

The stipulated facts are as follows. On March 1, 2020, respondent was the subject of a motor vehicle stop conducted by the New Jersey State Police, while her vehicle was parked on the side of the road, in Jersey City, New Jersey. During the traffic stop, the trooper observed a controlled dangerous substance (CDS) (heroin) in respondent's vehicle, and a subsequent search incident to her arrest revealed additional CDS and drug paraphernalia on her person. At that

time, respondent was arrested and charged with two counts of possession of CDS, a third-degree crime, contrary to N.J.S.A. 2C:35-10a(1), and possession of drug paraphernalia, a disorderly persons offense, contrary to N.J.S.A. 2C:36-2.¹

On March 4, 2020, during an undercover operation, law enforcement observed respondent purchasing CDS. Following a subsequent vehicle stop, she was found to be in possession of CDS and a hypodermic syringe. As a result, the Bergen County Prosecutor's Office charged respondent with two counts of possession of CDS (heroin and prescription drugs), crimes of the third-degree, contrary to N.J.S.A. 2C:35-10a(1), and possession of hypodermic syringe, a disorderly persons offense, contrary to N.J.S.A. 2C:36-6a.²

On June 3, 2020, respondent entered a home that was under police surveillance for the purpose of purchasing CDS. Following a subsequent vehicle stop, she was arrested and charged with one count of possession of CDS.³

¹ N.J.S.A. 2C:35-10a(1): Possession, use or being under the influence, or failure to make lawful disposition – provides that “[i]t is unlawful for any person, knowingly or purposely, to obtain, or to possess, actually or constructively, a controlled dangerous substance or controlled substance analog, unless the substance was obtained directly, or pursuant to a valid prescription or order form from a practitioner, while acting in the course of his professional practice . . . (1) A controlled dangerous substance, or its analog, classified in Schedule I, II, III or IV other than those specifically covered in this section, is guilty of a crime of the third degree”

N.J.S.A. 2C:36-2: Use or possession with intent to use – provides that a person “is guilty of a disorderly persons offense if that person purposely or knowingly violates an order entered under the provisions of the ‘Prevention of Domestic Violence Act of 1991,’ . . . or an order entered under the provisions of a substantially similar statute under the laws of another state or the United States.”

² N.J.S.A. 2C:36-6a: Possession of hypodermic syringe, needle under certain circumstances not an offense – provides that “[t]he possession of a hypodermic syringe or needle by a consumer who participates in, or an employee or volunteer of, a sterile syringe . . . shall not constitute an offense . . . This provision shall extend to a hypodermic syringe or needle that contains a residual amount of a controlled dangerous substance or controlled substance analog.”

³ Respondent was arrested on multiple occasions in 2020; however, the OAE's investigation did not develop clear and convincing evidence of the charges that led to the additional arrests. Moreover, the OAE argued that the inclusion of such charges in the underlying complaint was unlikely to warrant discipline any higher than the discipline for the charges outlined herein. See, generally, R. 1 :20-3(h).

During the July 18, 2023 demand interview, respondent admitted to purchasing CDS prior to her March 4, 2020 arrest.

Respondent's March 1 and March 4, 2020 arrests proceeded to municipal court for disposition, where the court dismissed nearly all the charges and expunged her record.⁴

Based on the above facts, the parties stipulated that respondent's misconduct violated RPC 8.4(b) and the parties jointly recommended the imposition of a censure or a three-month suspension as the appropriate quantum of discipline (or such lesser discipline as the Board deems appropriate).⁵

Based on respondent's criminal conduct, the Board determined that respondent violated RPC 8.4(b). "A three-month suspension is a generally appropriate measure of discipline for possessory crimes related to [CDS]." Musto, 152 N.J. at 174. See, e.g., Kassem, 249 N.J. at 98 (possession of heroin); In re Holland, 194 N.J. 165 (2008) (possession of cocaine); In re Sarmiento, 194 N.J. 164 (2008) (possession of ecstasy); In re McKeon, 185 N.J. 247 (2005) (possession of cocaine).

In some cases, however, the Court has refrained from imposing a term of suspension. See, e.g., In re TenBroeck, 242 N.J. 152 (2020) (censure, with conditions, for attorney's unlawful possession and use of cocaine; the attorney successfully completed all conditions of the Pre-Trial Intervention (PTI) Program; participated in the New Jersey Lawyers Assistance Program; attended counseling; and submitted negative urinalysis results; the attorney also established significant rehabilitation and remorse, including regularly donating blood, regularly attending meetings for current and former law enforcement officers and lawyers, and traveling to self-help recovery meetings to speak about his experience and recovery); In re DeSevo, 228 N.J. 461 (2017) (censure imposed on attorney against whom an accusation and an indictment had issued for two separate incidents involving his possession of CDS (cocaine); the attorney was admitted into the PTI program for a twelve-month period, which

⁴ See In the Matter of Charles E. Meaden, DRB 99-082 (April 12, 2000), so ordered, 65 NJ. 22 (2000), in which the Board found that expunged records could be considered in disciplinary matters.

⁵ Although the stipulation refers to a protective order, the OAE informed the Office of Board Counsel that the parties were no longer pursuing a protective order.

he successfully completed; the attorney had participated in four inpatient drug treatment programs and an intensive out-patient program, followed by a period of time living in a half-way house, and then a sober living house where he served as an active member for almost two years; in addition to attendance at more than 1,000 recovery meetings, the attorney had a sponsor and, in turn, sponsored two men, and had been clean and sober for forty-one months; professionally, after he had been away from the practice of law for two years, a law firm hired the attorney as the director of litigation, where he handled a number of cases that were resolved successfully; because the attorney had made great strides to achieve rehabilitation, had successfully and diligently returned to practice, and had moved on with his personal life, the Board found that a suspension would be demoralizing and could derail his rehabilitation efforts; prior admonition); In re Simone, 201 N.J. 10 (2009) (censure for attorney charged in Florida with possession of crack cocaine; the attorney was admitted to the Florida Drug Court Program, which was equivalent to New Jersey's PTI program; the Board considered that the attorney had successfully completed inpatient treatment; attended twice weekly counseling sessions after his release from inpatient treatment, and then weekly sessions; attended ten to twelve Alcoholics Anonymous meetings per week; successfully completed PTI, resulting in the dismissal of all criminal charges against him; and submitted clean drug screens to the OAE and to us; in addition, the drug court judge believed that the attorney was doing so well with his recovery, he could inspire others, and, thus, invited him to address a drug court graduation, which the attorney accepted); In re Filomeno, 190 N.J. 579 (2007) (censure for attorney arrested for possession of cocaine and drug paraphernalia; numerous mitigating circumstances considered, including the attorney's quick action to achieve rehabilitation; his attendance at 415 meetings in that process; his instrumental role in re-establishing the New Jersey Lawyers Concerned for Lawyers Program meetings in Bergen County, the fact that he acted as a "very distinctive and helpful role model," from which other participants in that program profited; his conclusion of the PTI program three months early because of his commitment and diligence in exceeding its terms; and his expression of deep regret for his conduct).

Here, although respondent did engage in rehabilitation efforts, nothing in the record suggests that she did anything above and beyond the requirements imposed on her, like the attorneys in TenBroeck, De Sevo, Simone, and Filomeno. However, considering that approximately six years have elapsed since her last arrest, during which time the parties stipulated that she has remained sober, the Board determined that the imposition of a three-month

suspension would be unduly punitive and counter to the primary purpose of the disciplinary system to protect the public. Further, like the attorney in DeSevo, given that respondent is presently engaged in the practice of law, the imposition of a three-month suspension may derail her apparent progress toward sustained sobriety.

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

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated April 2, 2026.
2. Stipulation of discipline by consent, dated March 13, 2026.
3. Affidavit of consent, dated April 1, 2026.
4. Ethics history, dated May 28, 2026.

Very truly yours,

/s/ Timothy M. Ellis

Timothy M. Ellis
Chief Counsel

TME/knd
Enclosures

c: (w/o enclosures)
Hon. Mary Catherine Cuff, P.J.A.D. (Ret.), Chair
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