IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2652 Disciplinary Docket No. 3
Petitioner	:	No. 83 DB 2018
v.	:	Attorney Registration No. 61258
CRAIG B. SOKOLOW,	:	(Philadelphia)
Respondent	:	

ORDER

PER CURIAM

AND NOW, this 11th day of December, 2019, upon consideration of the Report and Recommendations of the Disciplinary Board, Respondent's Petition for Review, and the Office of Disciplinary Counsel's response, the petition for review is denied. Respondent Craig B. Sokolow is suspended from the Bar of this Commonwealth for a period of two years, and he shall comply with all the provisions of Pa.R.D.E. 217. Respondent shall pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

Justice Baer and Justice Todd dissent and would issue a rule to show cause why Respondent should not be disbarred for his repeated dishonest conduct.

A True Copy Patricia Nicola
As Of 12/11/2019

Attest: Patricia Nicola
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL Petitioner	:	No. 83 DB 2018
v.	:	Attorney Registration No. 61258
CRAIG B. SOKOLOW Respondent	:	(Philadelphia)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania ("Board") herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

By Petition for Discipline filed on May 21, 2018, Petitioner, Office of Disciplinary Counsel, charged Respondent, Craig B. Sokolow, with violation of Pennsylvania Rules of Professional Conduct ("PA RPC") and New York Rules of Professional Conduct ("NY RPC") arising out of allegations that Respondent made knowingly false statements to a judge and to Petitioner. On June 11, 2018, Respondent filed an Answer to Petition for Discipline.

Following the referral of this matter to a District I Hearing Committee ("Committee"), the Committee Chair held a prehearing conference on August 9, 2018. The Committee conducted a hearing on September 25, 2018. Petitioner moved into evidence Joint Stipulations of Fact, Law and Exhibits and the exhibits referenced therein, two additional exhibits, and called Respondent as on cross. Respondent testified on his own behalf, offered an additional fact witness, and moved two exhibits into the record. At the close of the hearing, the Committee directed the parties to submit briefs on the issue of violation of the rules.

Petitioner filed a Brief to the Committee on November 27, 2018 and requested that the Committee find that Respondent violated NY RPC 3.3(a)(1), 4.1, 8.4(c) and 8.4(d) and PA RPC 8.1(a), 8.4(c) and 8.4(d), and that the Committee reconvene to receive evidence on the issue of the appropriate disciplinary sanction to be imposed, pursuant to Disciplinary Board Rule 89.151(a).

Respondent filed a Brief to the Committee on December 27, 2018 and requested that the Committee find that Respondent did not violate the Rules of Professional Conduct charged in the Petition for Discipline.

By letter dated January 10, 2019, the Committee Chair advised the parties that it found prima facie evidence of at least one violation of the rules. The Committee conducted a second hearing on February 14, 2019, for the purpose of receiving evidence relevant to the sanction to be imposed. The Committee noted on the record that Respondent appeared thirty minutes late without adequate excuse. Petitioner moved into evidence three exhibits. Respondent presented one character witness and moved into evidence three exhibits.

Petitioner filed a Brief to the Committee on March 5, 2019 and requested that the Committee recommend to the Board that Respondent be suspended for not less than one year and one day.

Respondent filed a Brief to the Committee on April 1, 2019 and requested that the Committee recommend to the Board that he receive either a public or private reprimand, as he is not guilty of acts warranting suspension or disbarment.

On May 28, 2019, the Committee filed a Report, wherein it concluded that Respondent committed professional misconduct and recommended that he be suspended from the practice of law for a period of nine months.

On June 10, 2019, Petitioner filed a Brief on Exceptions to the Committee's Report and requested that the Board reject the Committee's recommendation and recommend to the Supreme Court that Respondent be suspended for a period of not less than one year and one day.

On June 20, 2019, Respondent filed a Brief on Exceptions and requested that the Board reject the Committee's recommendation and impose a sanction that will permit him to continue practicing law. Respondent requested oral argument before the Board.

A three-member panel of the Board held oral argument on July 16, 2019.

The Board adjudicated this matter at the meeting on July 19, 2019.

II. FINDINGS OF FACT

The Board makes the following findings.

1. Petitioner, whose principal office is located at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, Harrisburg, Pennsylvania 17106, is invested, pursuant to Pennsylvania Rule of Disciplinary Enforcement 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent is Craig B. Sokolow, born in 1951 and admitted to practice law in the Commonwealth in 1991. During the relevant time period, Respondent maintained an office address at 236 South 21st Street, Suite B, Philadelphia PA 19103. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania. Joint Stipulations ("Jt. Stip.") 2 – 4.

Goldsleger II Litigation

3. On June 2, 2014, Respondent filed a Complaint on behalf of Fran P. Goldsleger in the United States District Court for the Eastern District of Pennsylvania, thereby commencing a civil case captioned ***Fran P. Goldsleger v. Bank of America Home Loans et al.***, 2:14-cv-03102 ("Goldsleger I").

4. Aside from the Complaint, Respondent joined with counsel for the defendants in Goldsleger I, to file in Goldsleger I a pleading titled "Stipulation and Order Regarding Extensions of Time of Defendants' Answer to Complaint." Jt. Stip. 7.

5. On or about September 23, 2014, Goldsleger I was transferred to the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. §1407 by the United States Judicial Panel on Multidistrict Litigation ("JPML") as part of the LIBOR (London Interbank Offered Rate) Multidistrict Litigation ("the LIBOR MDL"); the LIBOR MDL was assigned docket number 11 MD 2262. Jt. Stip. 8.

6. After Goldsleger I was transferred to the Southern District, that matter was assigned docket number 1:14-cv-07720 ("Goldsleger II"). Jt. Stip. 9.

7. Goldsleger II was assigned to the Honorable Naomi Reice Buchwald. Jt. Stip. 11.

8. Pursuant to 28 U.S.C. §1407, the JPML promulgated Rules of Procedure of the JPML ("JPML Rule"). JPML Rule 2.1(c) permitted Respondent to continue to represent Ms. Goldsleger when Goldsleger I was transferred to the Southern District. Jt. Stip. 12, 17; ODC-4.

9. After Goldsleger I was transferred to the Southern District, the Southern District transmitted to Respondent at Respondent's email address of cbslawcraig@gmail.com all case activity in Goldsleger II; however, the Southern District cannot state whether Respondent received the Southern District's emails. Jt. Stip. 18.

10. On September 24, 2014, the Southern District docketed a notice to out-of-state attorneys regarding admission to the Southern District and rules of obtaining and utilizing an ECF account. This was docketed in Goldsleger II. ODC-2.

11. The Notice was sent to Respondent via email. However, Respondent testified at the disciplinary hearing that he did not adequately understand how email works. This testimony lacks credibility, as other record evidence demonstrates that Respondent has an email account for his law practice and that he used that email to

send and receive legal matters, that he lists an email address on his letterhead, and that he prints documents that are sent to his email account. ODC-1, 2, 16; N.T. 9/25/18 at 81-82, 85-88.

12. On November 19, 2014, Judge Buchwald sent a letter to Respondent and counsel for the defendants in Goldsleger II in which Judge Buchwald, *inter alia*:

a. Stated that Goldsleger II had been transferred to the Southern District after Judge Buchwald had scheduled briefing on motions to dismiss amended complaints in other non-class action lawsuits that were part of the LIBOR MDL;

b. Noted that as a consequence, Ms. Goldsleger had not amended the Complaint in Goldsleger II and the defendants had not moved to dismiss on the same schedule as the other non-class action lawsuits;

c. Advised that Judge Buchwald wanted to coordinate any motion to dismiss in Goldsleger II with the previously filed motions to dismiss in non-class action lawsuits; and

d. Requested that the parties confer and recommend to her by November 25, 2014, a schedule for "integrating" Goldsleger II with the other scheduled motions to dismiss.

Jt. Stip. 19.

13. Between November 24, 2014 and November 28, 2014, Respondent and counsel for the defendants in Goldsleger II exchanged several emails regarding deadlines for filing a motion to dismiss, the answer to a motion to dismiss, and a reply to any answer filed. Jt. Stip. 21.

14. Respondent and defense counsel agreed that:

a. Defendants' motion to dismiss was to be filed by January 16, 2015;

b. Ms. Goldsleger's answer to the motion to dismiss was to be filed by February 17, 2015; and

c. Defendants' reply to the answer was to be filed by March 17, 2015.

Jt. Stip. 23.

15. By letter dated December 1, 2014, sent to Judge Buchwald by Robert Frank Wise, Jr., Esquire, an attorney who represented the defendants in Goldsleger II, Mr. Wise, *inter alia*:

a. Advised on the due dates agreed to by the parties for the motion to dismiss, the answer, and the reply (with the exception that the letter identified February 27 instead of February 17, 2015, as the due date for the answer); and

b. Requested that Judge Buchwald endorse the parties' proposed schedule.

Jt. Stip. 24.

16. Mr. Wise's December 1, 2014 letter was filed and docketed in Goldsleger II. Jt. Stip. 25.

17. On December 3, 2014, the clerk filed and docketed in Goldsleger II Judge Buchwald's "Memo Endorsement" of Mr. Wise's December 1, 2014 letter setting

forth the proposed due dates for the motion to dismiss, the answer, and the reply. Jt. Stip. 26.

18. On January 16, 2015, Mr. Wise filed in Goldsleger II the defendants' "Notice of Motion to Dismiss," "Memorandum of Law in Support of Defendant's [sic] Motion to Dismiss" (collectively "the MTD"), "Declaration of Paul S. Mishkin in Support of Defendant's [sic] Motion to Dismiss" ("the Declaration"), and January 16, 2015 letter summarizing the arguments raised in the MTD. Jt. Stip. 27.

19. Upon filing of the MTD, Declaration and correspondence, automatic emails were generated by the Southern District, giving notice of the filings to multiple parties. Emails providing notice of this filing were sent to Respondent at cbslawcraig@gamil.com. ODC-11.

20. Respondent received Judge Buchwald's Memo Endorsement, the MTD, the Declaration and defense counsel's January 16, 2015 letter from the Southern District via email. ODC-8 through 11; N.T. 9/25/18 at 75-76.

21. The docket report for Goldsleger II does not reflect that Respondent filed on behalf of Ms. Goldsleger an answer and corresponding memorandum of law to the MTD. Jt. Stip. 32; ODC-11.

22. Respondent did not serve or otherwise provide counsel for the defendants in Goldsleger II with an answer and corresponding memorandum of law to the MTD. Jt. Stip. 33; N.T. 9/25/18 at 75-76.

23. Respondent admitted that he did not file in Goldsleger II an answer and corresponding memorandum of law to the MTD. Jt. Stip. 34; N.T. 9/25/18 at 75-76.

24. By Order dated July 23, 2015, Judge Buchwald scheduled oral argument on the MTD for August 20, 2015, at 10:00 a.m. Jt. Stip. 35; ODC-2.

25. Respondent received telephonic notice from the Court that the MTD was scheduled for oral argument before Judge Buchwald for August 20, 2015, at 10:00 a.m. Jt. Stip. 36.

26. Respondent maintained a file for Ms. Goldsleger's legal matter and review that file before the oral argument. N.T. 9/25/18 at 91-93.

27. On August 20, 2015, Respondent appeared at Judge Buchwald's courtroom for oral argument on the MTD. Jt. Stip. 37.

28. During the August 20, 2015 oral argument:

a. Judge Buchwald inquired as to why Respondent had not opposed the MTD and Respondent answered that he believed he had opposed the MTD. ODC-12, p. 6

b. When Judge Buchwald asked Respondent what opposition document(s) he filed, he answered that while he filed opposition documents, he had not brought those with him to the oral argument. *Id.*

c. Defense counsel advised Judge Buchwald that the defense had not been served with any opposition documents or seen any opposition documents on the ECF account. ODC-12, 00. 6-7.

d. When Judge Buchwald asked Respondent if he had an ECF account in the Southern District, he replied, "Yes, Your Honor." ODC-12, p. 13.

e. When Judge Buchwald asked Respondent if he would receive an email acknowledgement via the ECF account after filing, he again replied, "Yes, Your Honor." *Id.*

f. When Judge Buchwald advised Respondent that he would need to demonstrate proof of his alleged filings, he responded, "All right, Your Honor." *Id.*

29. At the conclusion of the oral argument, Judge Buchwald dismissed Goldsleger II. Jt. Stip. 40; ODC-2.

30. On August 25, 2015, the Clerk of Court for the Southern District noted on the docket that on August 20, 2015, Judge Buchwald granted the MTD and ordered the dismissal of Goldsleger II. Jt. Stip. 41; ODC-2.

31. Respondent falsely stated to Judge Buchwald that he had filed paperwork opposing the MTD and that he had obtained an ECF account with the Southern District and had previously used that account to file pleadings with the Southern District opposing the MTD.

32. Respondent's false representations to Judge Buchwald were knowing.

33. Respondent's admissions and the evidence introduced at the hearing on September 25, 2018 established that Respondent was notified of the deadline for filing an answer to the MTD and did not file an answer. Jt. Stip. 33, 34; ODC-1-2, 6-7; N.T. 74-76.

34. Respondent's claims that he did not know that Judge Buchwald was referring to the Southern District when she asked him whether he had "an ECF account here" is not credible because he was in court in the Southern District for argument on the MTD filed in the Southern District and was being asked by Judge Buchwald of the Southern District to supply proof of his filings there. ODC-12, pp.6-7, 13.

35. Respondent did not have an ECF account with the Southern District on August 20, 2015, when he appeared for oral argument before Judge Buchwald. He first obtained an ECF account with the Southern District on August 15, 2018. M.T. 9/25/18 at 78-80; ODC-17.

36. Respondent's false statements to Judge Buchwald involved issues of material fact because the August 20, 2015 hearing was convened for oral argument on the MTD, and during said argument, Judge Buchwald was trying to determine if any opposition documents had been filed by Respondent. ODC-2, ODC-12.

37. Respondent failed to correct his false statements to Judge Buchwald. ODC-12.

38. Fran Goldsleger and Respondent testified at the disciplinary hearing that prior to August 20, 2015, Respondent had negotiated with Bank of America and that Ms. Goldsleger wanted Goldsleger II dismissed because she was satisfied with the renegotiated terms of the loan. N.T. 9/25/18 at 36-39, 48-50, 77-78.

39. Respondent testified at the disciplinary hearing that when he appeared for the August 20, 2015 oral argument before Judge Buchwald, he wanted to have Goldsleger II dismissed, did not intend to argue against its dismissal, and intended to ask for its dismissal. N.T. 9.25.18 at 92-98.

40. Respondent testified that Judge Buchwald did not give him an opportunity to request dismissal. N.T. 9/25/18 at 96.

41. The transcript of the August 20, 2015 oral argument demonstrates that Respondent presented oral argument in opposition to the MTD, and despite being given opportunity to do so, never requested that Goldsleger II be dismissed. ODC-12; N.T. 9/25/18 at 5-15.

42. Respondent's testimony at the disciplinary hearing that he had not reviewed his file in Goldsleger II, and what pleadings had been filed, in preparation for the oral argument before Judge Buchwald because he wanted the matter dismissed is not credible, because he knew the oral argument was scheduled specifically to address the MTD, he admitted that he had spoken with opposing counsel before the oral argument and intended to treat "answers" submitted in Goldsleger I as an answer to the MTD, and he actually argued against the MTD during the oral argument. ODC-13; N.T. 9/25/18 at 91-93.

Office of Disciplinary Counsel Investigation

43. By DB-7 Letter dated November 2, 2016, Petitioner notified Respondent of the allegations of misconduct in his representation of Ms. Goldsleger in Goldsleger I and Goldsleger II. Jt. Stip. 42; ODC-13.

44. On January 4, 2017, Petitioner received from Respondent an undated letter, with supporting exhibits, in answer to the DB-7 letter. Jt. Stip. 44; ODC-14.

45. Respondent's response to the DB-7 contained false statements:

a. "we answered all memorandums and motions from Bank of America";

b. That he filed pleadings in Goldsleger I, other than a complaint;

c. He "did answer any MTD motions by the defendants (see attached briefs) including the memorandum of law or brief concerning the Libor case";

d. That he answered the MTD;

e. "We wanted the Court to dismiss the Libor case";

f. "The opposition brief was part of briefs in original case and transferred over to Goldsleger II";

g. He "did fail to bring said documents to court. But did not deem them to be necessary as it was part of the record and we had already settled the suit as to the mortgage and we wanted the Libor case dismissed";

h. His "representation of filing memorandum and/or brief was not false as it was part of the record and filed in Goldsleger I and transferred to Goldsleger II as part of the record";

i. His "case strategy was to be dismissed from the multijurisdictional Libor case and we accomplished that fact in the least costliest method for [Respondent's] client" referring to potential avoidance of costs associated with a voluntary withdrawal of the action.

ODC-13, 14.

46. Respondent's false statements in his response to the DB-7 were made knowingly.

47. Respondent's false statements in the DB-7 response involved issues of material fact, as the factual allegations enumerated in the DB-7 letter show that Petitioner's inquiry focused on, *inter alia*, whether Respondent had: made false statement or representations to Judge Buchwald during oral argument; filed a response to the MTD; and established an ECF account with the Southern District. ODC-13.

48. Respondent testified at the disciplinary hearing that one of his exhibits he attached to his DB-7 response was an "answer and brief" filed by another party in the LIBOR MDL, which would have constituted the "answer" to the MTD that he referenced in his DB-7 response. ODC-14; N.T. 9/25/19 at 131-134.

49. This testimony was rebutted by the very document that Respondent referred to as an "answer and brief," which in fact, was a Complaint filed in another matter, and had attached an exhibit filed in a pleading by defense counsel in Goldsleger I to have that matter transferred to the Southern District. ODC-1, 14; N.T. 9/25/18 at 131-147.

50. By letter dated January 31, 2017, Petitioner requested that Respondent provide Petitioner with "copies of all pleadings, petitions, answers, briefs, and memorandum, other than the initial Complaint, that [he] filed in either the Eastern District of Pennsylvania or the Southern District of New York in Goldsleger I and Goldsleger II." Jt. Stip. 46; ODC-15.

51. In response to the January 31, 2017 letter, Respondent sent to Petitioner a letter dated February 9, 2017, in which he stated, *inter alia*, that he was also sending Petitioner "pleadings and answers and memorandum filed in the eastern district. The emails from NYSD also include briefs and memorandum and responses filed by litigants in the Libor suit. Those responses also speak to the issues in all cases and were filed as amicus briefs and submission." Jt. Stip. 48; ODC-16.

52. In his February 9, 2017 letter, Respondent made false statements, in that Respondent claimed:

a. That he had previously sent to Petitioner briefs that Respondent had filed in Goldsleger I and Goldsleger II; and

b. That he had filed briefs in Goldsleger I, which were subsequently transferred to Goldsleger II.

ODC-1, 2, 14, 16.

53. Respondent's false statements in the February 9, 2017 letter involved issues of material fact. ODc-15-16.

54. When Respondent prepared his DB-7 response and the February 9, 2017 letter, he had available for review his file for Goldsleger I and Goldsleger II. ODC-1, 2, 4, 7-11; N.T. 9/25/18 at 122-127, 151-152.

55. Respondent did not testify credibly at the hearing on September 25, 2018:

a. Respondent's claim that he intended to ask for dismissal of Goldsleger II at the oral argument was contradicted by his hearing testimony that he was concerned that asking for withdrawal would result in fees and costs being assessed against his client (N.T. 96, 156, 160-161);

b. Respondent testified that he did not need to file an answer to the MTD because he "was going to do a motion to dismiss"; thereafter, Respondent offered contradictory testimony by claiming that he had opposed the MTD and that he had "relied on the answers" that had been "filed by other attorneys..." (N.T. 9/25/18 at 97, 100);

c. Respondent testified that his representations to Judge Buchwald at the August 20, 2015 oral argument "didn't matter" because he "had already had the case [Goldsleger II] dismissed"; however, he had not,

in fact moved to have Goldsleger II dismissed (ODC-12; N.T. 9/25/18 at 109);

d. Respondent disputed that the DB-7 letter contained allegations raising concerns about his conduct in Goldsleger I and Goldsleger II (ODC-13; N.T. 9/25/18 at 111-112); and

e. Respondent testified that his statement to Judge Buchwald at the oral argument that he understood "what she was saying" did not mean that he subjectively agreed with Judge Buchwald's reasoning that led her to dismiss Goldsleger II; Respondent contradicted that testimony by claiming that this same statement showed that he agreed with Judge Buchwald's decision to dismiss Goldsleger II. ODC-12; N.T. 9/25/18 at 109, 163-164, 175.

Aggravating Factors

56. Respondent has a prior record of discipline that includes a disbarment and an informal admonition. ODC-18, 20.

57. By Order dated April 24, 1997, the Supreme Court disbarred Respondent on consent based on his criminal convictions of 107 counts of mail fraud, 17 counts of money laundering, and one count of criminal forfeiture. ODC-18.

58. Respondent's criminal conduct involved offering and marketing health benefits to small business employers, their employees and families, in which he falsely represented to the public that the health benefit plans offered by Respondent's companies were fully-insured by Independence Blue Cross and Pennsylvania Blue Shield when in fact, the health benefit plans were self-insured, thus defrauding members of their

premiums. Respondent used the Blue Cross logo on marketing and billing materials to create the impression that his companies were the equivalent of a Blue Cross fully-insured benefits plan, and he laundered the premiums he received through banks, brokerage accounts, real property, and mortgages. ODC-19, Exhibit "A," pp. 5-6.

59. The disbarment order was based on Respondent's March 12, 1997 Statement of Resignation pursuant to Rule 215, Pa.R.D.E. ODC-19.

60. Attached as Exhibit "A" to the Resignation Statement was a July 26, 1996 Opinion of the United States Court of Appeals for the Third Circuit affirming Respondent's judgment of conviction and sentence, and the forfeiture order, that was entered against Respondent following a criminal case that was tried before a jury in the United States District Court for the Eastern District of Pennsylvania. ODC-19.

61. Respondent was sentenced to 92 months of prison, followed by three years of supervised release; a $50,000.0 fine; $6,200.00 in special assessments; $2,141,108.67 in forfeiture; and $690,264.34 in restitution to be paid by Respondent. *Id.*

62. By Order dated December 10, 2008, the Court reinstated Respondent to active status.

63. On March 13, 2013, Respondent received an Informal Admonition for violation of PA RPC 8.4(c). Respondent either knowingly or recklessly made a false statement that an opposing party in a divorce proceeding, who was an attorney, had "already been censured once by the Ethics Board." ODC-20.

64. Respondent offered non-credible testimony at the September 25, 2018 disciplinary hearing, which lacked candor. Respondent's testimony was contradictory of other credible evidence, and, at times, contradictory of his own prior statements.

65. Respondent failed to exhibit any remorse for his misconduct, as exemplified by his unwillingness to admit that he had engaged in any misconduct. N.T. 9/25/18 at 100, 106, 113-114, 130, 143, 155-159, 162-163, 173-175.

66. Respondent's failure to accept responsibility for his actions was demonstrated by his response to the DB-7, his non-credible testimony, and his failure to appear on time, without adequate excuse, at the February 14, 2019 hearing.

67. At the February 14, 2019 hearing, Respondent presented character evidence.

68. Maureen Pie, Esquire testified as to Respondent's competency in handling dependency matters in Philadelphia Family Court and Respondent's dedication to the juvenile and adult clients he represented. N.T. 2/14/2019 at 29-33; 44-45.

69. Respondent's character evidence is assigned little weight because Ms. Pie had incomplete information regarding Respondent's alleged misconduct and his disciplinary history.

70. Respondent offered two exhibits that related to his work in dependency matters. One exhibit listed the number of active dependency matters Respondent has been court-appointed to handle, which matters had hearings listed from February 6, 2019 through May 31, 2019. R-103.

71. As a second exhibit, Respondent offered an email that he received from a former juvenile dependency client who had graduated from college; in that email, the former client thanked Respondent for his work on her dependency matters and for ensuring she had "the essentials to be successful in college." R-102.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following NY RPC and PA RPC:

1. Respondent's misconduct in Goldsleger II occurred before a tribunal in New York;

2. Based on an application of PA RPC 8.5(a) and PA RPC 8.5(b)(1), the ethics rules in New York apply to Respondent's conduct in Goldsleger II. *See, e.g.* ***Office of Disciplinary Counsel v. Erling Rolf Krosby***, No. 125 DB 2003 (D. Bd. Rpt. 7/12/2005)(S. Ct. Order 9/30/2005) (the Board applied the Texas Rules of Professional Conduct to Krosby's misconduct that occurred in federal courts in Texas); S.D.N.Y. Local Civil Rule 1.5(b)(5) ("In connection with activities in this Court," the New York State Rules of Professional Conduct will be applicable);

3. NY RPC 3.3(a)(1) – A lawyer shall not knowingly make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

4. NY RPC 4.1 – In the course of representing a client, a lawyer shall not knowingly make a false statement of fact or law to a third person;

5. NY RPC 8.4(c) - A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

6. NY RPC 8.4(d) – A lawyer shall not engage in conduct that is prejudicial to the administration of justice;

7. PA RPC 8.1(a) – An applicant for admission to the bar, or a lawyer in connection with a bar admissions application or in connection with a disciplinary matter, shall not knowingly make a false statement of material fact;

8. PA RPC 8.4(c) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and

9. PA RPC 8.4(d) – It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

IV. DISCUSSION

Herein, the Board considers the allegations against Respondent that he committed professional misconduct by making false statements to a court and false statements to disciplinary authority. Our review follows the filing of the Committee's Report, wherein it concluded that Respondent engaged in professional misconduct and recommended a nine-month period of suspension; the parties' exceptions to the Committee's Report; and oral argument before a Board panel. Petitioner bears the burden of proving ethical misconduct by a preponderance of the evidence that is clear and satisfactory. ***Office of Disciplinary Counsel v. John Grisgby***, 425 A.2d 730, 732 (Pa. 1981). Upon our review, we conclude that Petitioner met its burden of proving that Respondent violated the New York and Pennsylvania Rules of Professional Conduct and we recommend that he be suspended for a period of two years.

The transcript of the August 20, 2015 oral argument, Respondent's hearing testimony, the Joint Stipulations, and Petitioner's exhibits prove that Respondent violated NY RPC 3.3(a)(1), 4.1, 8.4(c) and 8.4(d). Respondent represented Fran Goldsleger, the plaintiff in a civil case filed in the Eastern District of Pennsylvania (Goldsleger I), subsequently transferred to the Southern District of New York (Goldsleger II). Respondent's New York violations resulted from his acts and omissions in Goldsleger II.

On August 20, 2015, Judge Buchwald held oral argument on the defendants' "Notice of Motion to Dismiss" and "Memorandum of Law in Support of Defendant's [sic] Motion to Dismiss" ("MTD"). Respondent appeared for the oral argument on behalf of Ms. Goldsleger and falsely represented to Judge Buchwald that he had filed paperwork opposing the MTD, that he had an ECF account with the Southern District, and that he had previously used the ECF account with the Southern District to file paperwork opposing the MTD.

Respondent's misrepresentations to Judge Buchwald involved issues of material fact because the oral argument related to the MTD and the purported filing of an answer by Respondent on behalf of Ms. Goldsleger. The evidence proved that Respondent knowingly made these false representations to Judge Buchwald. Respondent: had notice of the deadline for filing a response to the MTD and had not prepared an answer or any opposition paperwork regarding the MTD. Respondent admitted that he did not file an answer to the MTD or serve any opposition paperwork on defense counsel, and testified that he was treating "answers" filed by other counsel as his opposition to the MTD. Respondent reviewed his file for Ms. Goldsleger's legal matter prior to the oral argument and had a conversation with opposing counsel prior to the oral argument that showed that Respondent was aware that he had not filed an answer to the MTD.

Further, Respondent understood that Judge Buchwald had asked him whether he had an ECF account with the Southern District, and knew that at that point in time, he had not obtained an ECF account from the Southern District, and therefore, could not have used that account to file an answer to the MTD.

Petitioner's exhibits, the Joint Stipulations, and Respondent's testimony established that in connection with Petitioner's investigation of Respondent's conduct in the New York matter, Respondent violated PA RPC 8.1(a), 8.4(c) and 8.4(d) by making false statements in his DB-7 response and letter to Petitioner. Respondent falsely represented that: he had filed an "answer" and "briefs" in Goldsleger I that were transferred to Goldsleger II; he had answered the MTD; he had an ECF account with the Southern District; and he had provided Petitioner with the briefs filed in Goldsleger I that were transferred to Goldsleger II. The factual allegations and charges of misconduct in Petitioner's DB-7 letter and the request for certain documents set forth in Petitioner's January 31, 2017 letter proved that Respondent's false statements involved issues of material fact.

Having concluded that Respondent violated the New York and Pennsylvania Rules of Professional Conduct, we turn to the appropriate discipline to address his misconduct. The Committee recommended that Respondent be suspended for nine months, which would allow Respondent to return to the practice of law without demonstrating through a reinstatement process that he has rehabilitated himself. Respondent filed exceptions to the Report and recommendation, contending that his misconduct at most warrants a public reprimand. Petitioner also filed exceptions, contending that the Committee's recommended discipline does not properly account for the weighty aggravating facts that demonstrate Respondent's unfitness to practice law. Having considered the parties' arguments, we conclude that Respondent's exceptions are without substance. We further conclude that Petitioner's exceptions are well-founded that discipline more severe than the nine-month period of suspension recommended by the Committee is warranted.

In looking at the general considerations governing the imposition of final discipline, it is well-established that each case must be decided individually on its own unique facts and circumstances. ***Office of Disciplinary Counsel v. Robert Lucarini***, 472 A.2d 186 (Pa. 1983). In order to "strive for consistency so that similar misconduct is not punished in radically different ways," ***Office of Disciplinary Counsel v Anthony Cappuccio***, 48 A.3d 1231, 1238 (Pa. 2012) (quoting ***Lucarini***, 472 A.2d at 190), the Board is guided by precedent for the purpose of measuring "the respondent's conduct against other similar transgressions." ***In re Anonymous No. 56 DB 94***, 28 Pa. D. & C. 4th 398 (1995). The Board is mindful when adjudicating each case that the primary purpose of the lawyer discipline system in Pennsylvania is to protect the public, preserve the integrity of the courts, and deter unethical conduct. ***Office of Disciplinary Counsel v. Akim Czmus,*** 889 A.2d 117 (Pa. 2005).

In recommending an appropriate sanction, the Board must consider the attendant aggravating or mitigating factors. ***In re Anonymous (Melvin V. Richardson)***, 8 Pa. D. & C. 4th 344, 355 (1990). The record before us reveals numerous weighty aggravating factors, which increase the severity of Respondent's conduct.

Respondent has a prior disciplinary history of a disbarment on consent and an informal admonition. Respondent's 1997 disbarment arose from his criminal conviction for 107 counts of mail fraud, 17 counts of money laundering and one count of criminal forfeiture. His criminal conduct involved offering and marketing health benefits to small businesses, and falsely representing to the public that the plans offered by his companies were fully-insured by Independence Blue Cross and Pennsylvania Blue Shield, when in fact the plans were self-insured, thus defrauding members of their premiums. Respondent was reinstated from his disbarment in 2008.

Respondent's 2013 Informal Admonition addressed his violation of RPC 8.4(c), wherein he either knowingly or recklessly included in a court pleading the statement that an attorney, who was the opposing party in a proceeding, "had already been censured once by the Ethics Board," which statement was false. This record of discipline demonstrates that Respondent has a history of making false representations to others.

Respondent offered testimony at the disciplinary hearing that was internally inconsistent, contradicted by other evidence, and simply incredible. By the Board's tally, Respondent made at least twelve different contradictory statements about his actions in this matter. Respondent's testimony cannot be relied upon to ascertain his intent when he appeared before Judge Buchwald for the oral argument, what he claims he filed in the lawsuit, and what he claims is contained in documents that he prepared.

By way of example, *inter alia*, Respondent offered contradictory testimony when he testified at the disciplinary hearing that he did not need to file an answer to the MTD because he was going to have Goldsleger II dismissed, and then later testified that he had opposed the MTD. Similarly, at one point Respondent testified that he did not subjectively agree with Judge Buchwald's reasoning that resulted in the dismissal of Goldsleger II, but later testified that he agreed with Judge Buchwald's decision to dismiss Goldsleger II. N.T. 93-94, 97, 100, 109, 163-164, 175; ODC-12, pp. 15-16. Respondent testified that he was planning to request that Judge Buchwald dismiss Goldsleger II but she did not give him the opportunity to make such a request. N.T. 96. The transcript of the oral argument rebuts Respondent's testimony, in that Respondent never requested of Judge Buchwald that she dismiss Goldsleger II despite Respondent's having the opportunity to make such a request. ODC-12, pp 5-15. Respondent testified that he was

concerned that withdrawal of Goldsleger II would result in Ms. Goldsleger being assessed fees and costs. N.T.96, 156, 160-161. This testimony was inconsistent with Respondent's claim that he intended to ask Judge Buchwald to dismiss Goldsleger II.

Respondent testified at the disciplinary hearing that when Judge Buchwald inquired if he had "an ECF account here" he did not know she was referring to the Southern District. N.T. 9/25/2018 at 104-105. The transcript of the oral argument demonstrates that Respondent's testimony is incredible because the nature of the argument, the exchange between Respondent and Judge Buchwald, and the location of the oral argument in the Southern District make clear that "here" referred to the Southern District. ODC-12, pp. 6-7, 13.

Respondent testified that he had attached to the DB-7 response an "answer and brief" that constituted an answer to the MTD. N.T. 131-134; ODC-14, Exhibits 6-7. Respondent's testimony was contradicted by the document he identified as an "answer and brief." That document was neither a "brief" nor an "answer," but a Complaint filed in a California federal court, which complaint was an exhibit to a pleading filed by counsel for Bank of America. N.T. 131-147; ODC-1, p. 2; ODC-14, Exhibit 6-7.

Respondent testified incredibly when he disputed that the DB-7 letter contained allegations raising concerns about his conduct in Goldsleger I and Goldsleger II and when he stated that he did not know how his email account "works." N.T. 107-108; 86-88. Respondent's testimony was contradicted by Petitioner's exhibits. ODC-1-2, 4, 6, 11, 12, 13, 14, 16.

Respondent failed to demonstrate sincere and credible remorse. Respondent was unwilling to admit that he had done anything wrong and failed to correct any of his false statements before Judge Buchwald or to Petitioner.

We give great weight to the aggravating factors, as they underscore Respondent's history of making false representations and failing to conduct himself with veracity. Conversely, we conclude that Respondent's mitigating factors are entitled to little weight. Respondent's character witness shed little light on Respondent's actual character, as she had incomplete information regarding Respondent's misconduct and disciplinary history. Likewise, Respondent's exhibits regarding his dependency work are not afforded great weight.

In determining the appropriate discipline, the Board reviewed matters where attorneys made intentional misrepresentations to a tribunal. Precedent supports the recommendation that Respondent be suspended for a period of two years.

In the matter of ***Office of Disciplinary Counsel v. Lawrence J. DiAngelus***, 907 A.2d 452 (Pa. 2006), a majority of the Court suspended DiAngelus for five years for misrepresenting to an assistant district attorney that the officer who issued a citation to DiAngelus's client had agreed that the charge against the client could be reduced. Therein, Office of Disciplinary Counsel proved that the officer was not present in the court on the day that DiAngelus claimed that he and the officer had supposedly conversed about the charges. DiAngelus and the officer had not spoken before the plea deal was reached between DiAngelus and the assistant district attorney, and the assistant district attorney and the judge relied on DiAngelus's misrepresentation in accepting the client's plea to a lesser charge.

In determining the appropriate measure of discipline in ***DiAngelus***, the Court stated that the Board correctly treated DiAngelus's misrepresentation to the assistant district attorney "as deceit to the court." 907 A.2d at 458. The Court found that DiAngelus's misconduct affected the outcome of his client's proceeding, in that

DiAngelus's misconduct resulted in the court accepting a plea to a lesser charge. The Court treated DiAngelus's record of prior discipline as an aggravating factor. DiAngelus had a disbarment on consent that had been entered in 1984 for misusing and misappropriating client funds, and failing to account for client funds. The Court noted that the disbarment was removed in time, being twenty years old. Additionally, DiAngelus had an Informal Admonition that had been administered in 2002, for signing a co-counsel's name on a petition and verification without permission in connection with a criminal case. In mitigation, the Court considered that DiAngelus presented character evidence from eight witnesses and demonstrated that he had engaged in law-related community activities.

The instant matter is very similar to the ***DiAngelus*** matter in that both attorneys made false representations that were communicated to a tribunal; had been previously disbarred; and had been previously informally admonished for dishonest activity following reinstatement to the bar from disbarment. One factual distinction between Respondent's matter and ***DiAngelus*** is that unlike DiAngelus's misconduct that impacted the outcome of his client's criminal case, Respondent's misrepresentations to Judge Buchwald did not affect the outcome of his client's civil case. This fact reinforces the Board's recommendation in the instant matter for a suspension less than that imposed in ***DiAngelus***.

In the matter of ***Office of Disciplinary Counsel v. Steven Lawrence Sigal***, No. 14 DB 2006 (D. Bd. Rpt. 4/11/2008) (S. Ct. Order 9/4/2008), the Court suspended Sigal for a period of three years resulting from his false representation to a federal court judge. Therein, during a court proceeding, the judge questioned Sigal as to how many times Sigal had visited his client in a federal detention center. Sigal lied and stated that

he had visited his client one time. In fact, the evidence demonstrated that Sigal had never visited his client during the time frame in question. A short time later, when given the opportunity by the judge to correct the record, Sigal instead reiterated his false statement in a letter to the judge.

In making its recommendation to the Court,[1] the Board considered as an aggravating factor Sigal's prior history of discipline, which consisted of a Private Reprimand for failing to appear for a scheduled court hearing and being held in contempt of court, and an Informal Admonition for misconduct that involved a prior incident of contempt of court for failing to appear for a hearing and lying to a tribunal. The Board emphasized that Sigal's current disciplinary problems were similar to his past actions. The Board also found in aggravation that Sigal's testimony was inconsistent, he placed blame on others for his problems, and he exhibited poor demeanor at the disciplinary hearing when he rudely insulted disciplinary counsel and stated after the hearing "if you hear bones breaking, it's going to be [disciplinary counsel]'s." D. Bd. Rpt. at 8. In mitigation, Sigal demonstrated that he suffered from a psychiatric disorder that caused his misconduct.

The Court suspended an attorney for nine months for her misrepresentation to a judge.[2] ***Office of Disciplinary Counsel v. Rubina Arora Wadhwa***, No. 99 DB 2005

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[1] The Board recommended a suspension for two years; the Court imposed a three year suspension.

[2] Examples of matters that did not result in suspension where attorneys engaged in false representations to a judge: ***Office of Disciplinary Counsel v. Blair Harry Hindman***, 122 DB 2013 (D. Bd. Rpt. 12/8/2014) (S. Ct. Order 2/10/2015) (Hindman redacted information from a letter that was not favorable to his client; submitted the redacted letter to the court as part of a sentencing memorandum for his client; when questioned by the court, made misrepresentations, for which he later apologized; no prior discipline; sincere remorse; public censure imposed); ***In re Anonymous (Alan S. Fellheimer)***, 44 Pa. D. & C. 4th 299 (1999) (Fellheimer, *inter alia*, falsely stated to the court that his client was out of the country and unavailable to attend a hearing; remorse and no record of discipline; public censure imposed.)

(D. Bd. Rpt. 5/22/2007) (S. Ct. Order 8/30/2007). Wadhwa failed to appear for an immigration hearing and made a false statement to the immigration judge in a motion to reopen the client's case by claiming that she was hospitalized at the time of the hearing. Although the judge denied Wadhwa's motion, the client subsequently retained new counsel and was able to reopen the matter. In considering appropriate discipline, the Board noted that Wadhwa had a disciplinary record consisting of a reciprocal indefinite suspension, with leave to petition for reinstatement after having been suspended for two years, based on Wadhwa's indefinite suspension before the Immigration and Naturalization Service and the Executive Office of Immigration Review. Wadhwa's misconduct that resulted in her indefinite suspension was her submission of fraudulent medical records to support an application for a travel document in an immigration case. Wadhwa ultimately served a forty-one month period of suspension before being reinstated in the Commonwealth in 2003.

The Board found that Wadhwa engaged in a "single misrepresentation" made "during a period of anxiety, stress and illness," which circumstances the Board treated as a mitigating factor. D. Bd. Rpt. at 11, 13. Other mitigating factors were Wadhwa's two character witnesses and eleven character letters, and her acts of community service.

The Committee in the instant matter relied on ***Wadhwa*** in support of its recommended nine-month period of suspension; however, upon our review, we find distinguishing factors that merit more severe discipline for the instant Respondent. Upon close scrutiny, we find that ***Wadhwa*** is distinguishable from the instant matter in that not only did Respondent violate the New York ethical rules by making false statements to a judge, he violated Pennsylvania ethical rules by making false statements to Petitioner.

Additionally, unlike Wadhwa, Respondent engaged in multiple misrepresentations and showed no acceptance of responsibility or remorse, gave incredible testimony at the disciplinary hearing, and had little mitigation.

The purpose of the disciplinary system is to protect the public from unfit lawyers and to maintain the integrity of the legal system. ***Office of Disciplinary Counsel v. John*** Keller, 506 A.2d 872, 875 (Pa. 1986). Respondent's false representations to Judge Buchwald and Petitioner were designed to frustrate the truth-determining process in civil and disciplinary proceedings. Respondent's prior record of discipline shows a propensity for making false statements and his unbelievable, unconvincing testimony at the disciplinary hearing underscores his lack of remorse and failure to appreciate the seriousness of the his actions. Upon this record, we recommend a suspension for two years.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Respondent, Craig B. Sokolow, be Suspended for two years from the practice of law in this Commonwealth.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

By: _____
Dion G. Rassias, Member

Date: 9/4/19
Board Chair Trevelise recused.