In re Richard P. Broderick
Respondent-Appellant
Commission No. 2022PR00053

Synopsis of Review Board Report and Recommendation
(August 2023)

The Administrator brought a two-count complaint against Respondent, charging him with making a false statement to a court and engaging in dishonest conduct, which was prejudicial to the administration of justice, in violation of Rules 3.3(a)(1), 8.4(c), and 8.4(d) of the Illinois Rules of Professional Conduct (2010). The complaint alleged that Respondent lied to the court concerning why he failed to file a motion on a timely basis, and he subsequently submitted false hospital records to support that lie.

The Hearing Board found that Respondent had committed the charged misconduct and recommended that Respondent be suspended for one year and until further order of the Court.

Respondent appealed, challenging the Hearing Board's sanction recommendation, and asking the Review Board to recommend a three-month suspension.

The Review Board recommended that Respondent be suspended from the practice of law for five months based on the limited scope of the misconduct, the significant mitigating factors, and relevant legal authority.

FILED

August 15, 2023

ARDC CLERK

BEFORE THE REVIEW BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of:

RICHARD P. BRODERICK,

Respondent-Appellant,

No. 6221017.

Commission No. 2022PR00053

REPORT AND RECOMMENDATION OF THE REVIEW BOARD

SUMMARY

The Administrator brought a two-count complaint against Respondent alleging that Respondent intentionally lied to the court and subsequently filed false hospital records to support that lie. Count I of the complaint charged Respondent with making a false statement to a court and engaging in dishonest conduct by falsely representing that he had been hospitalized, which prevented him from filing a motion on a timely basis, in violation of Rules 3.3(a)(1) and 8.4(c) of the Illinois Rules of Professional Conduct (2010). Count II of the complaint charged Respondent with engaging in dishonest conduct, which was prejudicial to the administration of justice, by filing false hospital records to support his false statement, in violation of Rules 8.4(c) and 8.4(d).

Respondent, who represented himself during the disciplinary proceedings, failed to file an answer to the disciplinary complaint, and the allegations in the complaint were deemed admitted. At the disciplinary hearing, the parties were limited to presenting aggravating and mitigating evidence.

Following the disciplinary hearing, at which Respondent appeared *pro se*, the Hearing Board concluded that Respondent had committed the charged misconduct. The Hearing

Board recommended that Respondent be suspended for one year and until further order of the Court ("UFO").

Respondent, who is now represented by counsel, appealed the Hearing Board's sanction recommendation, and asks this Panel to recommend a three-month suspension. The only issue on appeal is the sanction.

For the reasons that follow, we recommend that Respondent be suspended from the practice of law for five months.

BACKGROUND

Respondent

Respondent was licensed to practice law in Illinois in 1994, and he primarily practices divorce law and family law. He has no prior discipline.

Respondent's Misconduct

In 2020, Respondent lied to the court and filed false hospital records to support his lie. Respondent's misconduct occurred in the probate case relating to his mother's estate. His mother died in 2017 and was survived by her seven adult children. One of her daughters was the executor of her will. Respondent, who was a beneficiary, appeared *pro se* on his own behalf.

In February 2020, the judge in the probate case ruled on certain issues regarding Respondent's use of estate assets, including that Respondent had to personally pay for certain expenses, instead of the estate making those payments. Respondent filed a motion in March 2020, requesting additional time to file a motion for reconsideration of that order.

In August 2020, the judge granted Respondent's motion for an extension of time and ordered Respondent to file his motion to reconsider within two weeks. Respondent did not file his motion on the due date.

In early September 2020, Respondent appeared before the probate judge for a status hearing. At that hearing, Respondent falsely represented that he had been unable to file his motion by the due date because he had been admitted to the Veterans Affairs Hospital for a week in late August. That was not true. Respondent had not been admitted to the hospital in August 2020.

At that hearing, the judge gave Respondent additional time to file his motion to reconsider. The judge also ordered Respondent to provide proof of his hospital stay. The judge ruled that the failure to do so would result in Respondent's being prohibited from filing his motion to reconsider.

Approximately one week later, Respondent filed his motion to reconsider, and he attached false hospital records to his motion. Respondent had altered dates on pre-existing hospital records in order to make it falsely appear that he had been hospitalized in August 2020, as he had represented to the court, which was not true.

The Disciplinary Proceedings

Respondent failed to take certain steps during the disciplinary proceedings. He failed to file an answer to the ARDC complaint; he failed to file a list of potential witnesses; and he failed to appear at a pre-hearing conference.

Respondent prepared an answer to the complaint and emailed it to the ARDC Clerk's Office and to the Administrator's counsel, but he did not e-file it in the ARDC's electronic filing system as required. The Administrator filed a motion requesting that the allegations of the complaint be deemed admitted, and that motion was granted. Respondent filed a motion for reconsideration and for an extension of time to file his answer, but those motions were denied.

In his motion for reconsideration, Respondent stated that he was not familiar with the ARDC's procedures, and mistakenly believed that he had satisfied the filing requirements by emailing his answer to the Clerk's Office and the Administrator's counsel. Respondent also stated

he did not realize that he had failed to properly file the answer until after the Hearing Board ruled that his answer had not been filed.

Respondent did not file a witness list, and therefore was barred from calling any witnesses. Two of his proposed exhibits, which were medical records concerning his mental health, were also barred because he could not call witnesses to verify those records.

Respondent also failed to appear at a pre-hearing conference. In his motion for reconsideration, Respondent stated that he failed to appear because he was in court on another matter, which ran longer than he expected. Respondent also stated that he contacted the Administrator's counsel later the same day concerning the pre-hearing conference that Respondent had missed. He attached documentation to his motion to show he was in court as he represented.

Respondent's Mental Health

At the disciplinary hearing, in an attempt to offer mitigation, Respondent testified that he had been experiencing significant stress and anxiety due to difficult circumstances at the time of his misconduct in 2020, and he had been diagnosed with depression. Respondent testified that his stress and anxiety were caused by the following: (1) he was suffering from health issues, involving growths in his hands and chest caused by medications he was taking, and he was afraid the growths were cancerous; (2) he was unable to work and earn money in 2020 because of the Covid pandemic; (3) he did not have sufficient funds to pay child support in 2020, and he was arrested for failure to make those payments; and (4) he was engaged in a contested divorce and probate proceeding.

Respondent also testified that several of those very stressful problems had been resolved prior to the disciplinary hearing. His health problems were resolved through surgery and the discontinuance of certain medications; his financial problems were resolved when he was able

to return to work; and his child support problems were resolved when his income increased and the amount of his payments were decreased by the court.

Respondent testified that he had previously been treated by a psychiatrist and a psychologist over a period of time for his anxiety and depression. He also testified that, at the time of the disciplinary proceeding, he was still being treated by a psychologist, who was on parental leave for a couple of months and was supposed to be back at the end of the month. Respondent also testified that he was seeing a psychologist, rather than a psychiatrist, because they had not been able to find a medication that he could tolerate.

HEARING BOARD'S FINDINGS AND RECOMMENDATION

Misconduct Findings

Based on the allegations in the complaint, which were deemed admitted, the Hearing Board found that Respondent lied to the court by falsely representing that he had missed the deadline to file a motion because he had been hospitalized, thereby engaging in dishonest conduct, in violation of Rules 3.3(a)(1) and 8.4(c). The Hearing Board also found that Respondent provided false hospital records to the court, thereby engaging in conduct that was dishonest and prejudicial to the administration of justice, in violation of Rules 8.4(c) and 8.4(d).

Mitigation And Aggravation Findings

In mitigation, the Hearing Board found that Respondent is a veteran and has no prior discipline. The Hearing Board rejected Respondent's argument that his stress and anxiety at the time of the misconduct constituted a mitigating factor, finding that there was no causal connection between Respondent's mental health issues and his misconduct.

In aggravation, the Hearing Board found that Respondent intended to deceive the court; he engaged in a pattern of dishonest conduct; and his participation in the disciplinary

proceeding was sporadic. The Hearing Board also expressed concerns about Respondent's ability to practice law competently based on his mental health issues.

Recommendation

The Hearing Board recommended that Respondent be suspended for one year, UFO.

SANCTION RECOMMENDATION

The only issue on appeal is the appropriate sanction for Respondent's misconduct. Respondent argues that the Hearing Board's recommended sanction is unduly harsh and asks this Board to recommend a three-month suspension. The Administrator argues that the Hearing Board's recommendation is appropriate and asks this Board to make the same recommendation.

We review the Hearing Board's sanction recommendations *de novo*. *See In re Storment*, 2018PR00032 (Review Bd., Jan. 23, 2020) at 15, *petition for leave to file exceptions denied*, M.R. 030336 (June 8, 2020). In making our recommendation, we consider the nature of the proved misconduct, and any aggravating and mitigating circumstances shown by the evidence, *In re Gorecki*, 208 Ill. 2d 350, 360-61, 802 N.E.2d 1194 (2003), while keeping in mind that the purpose of discipline is not to punish but rather to protect the public, maintain the integrity of the legal profession, and protect the administration of justice from reproach. *See In re Timpone*, 157 Ill. 2d 178, 197, 623 N.E.2d 300 (1993). We also consider the deterrent value of attorney discipline and whether the sanction will help preserve public confidence in the legal profession. *See Gorecki*, 208 Ill. 2d at 361. We seek to recommend a sanction that is consistent with sanctions imposed in similar cases, *Timpone*, 157 Ill. 2d at 197, while considering the unique facts of each case. *See In re Witt*, 145 Ill. 2d 380, 398, 583 N.E.2d 526 (1991).

We note that "where the factual issues are undisputed, the Review Board is as capable as the hearing panel of assessing and recommending appropriate discipline." *In re*

Feldman, 89 Ill. 2d 7, 11, 431 N.E.2d 388 (1982). The facts in this case are not disputed. Respondent lied to the court concerning the reason he missed a filing deadline; he fabricated hospital records to support his lie; he failed to take certain steps during the disciplinary hearing; and he was experiencing significant stress and anxiety at the time of the misconduct. Respondent was the only witness at the disciplinary hearing, and the Hearing Board did not make any adverse findings concerning his credibility.

We recommend that Respondent be suspended from the practice of law for five months. We believe that a five-month suspension is the appropriate sanction in this case because the scope of the misconduct was limited; there are significant mitigating factors; Respondent's failure to take certain actions during the disciplinary hearing primarily resulted from mistakes that he made; the evidence did not establish that Respondent lacks the ability to practice law competently; and comparable cases have resulted in similar sanctions.

The Serious Nature of the Misconduct

The Hearing Board found that Respondent's misconduct – lying to the court and submitting false hospital records – was serious, and that he acted with a deceptive motive. We agree with the Hearing Board on those points.

Respondent argues that a three-month suspension is warranted here. We disagree, given the serious nature of the misconduct. However, we also disagree with the Administrator that a one-year suspension, UFO, is warranted.

Although Respondent's misconduct was serious, the record shows that it was limited in scope, and concerned only one case. His misconduct consisted of one lie that related to a filing deadline and, thereafter, the submission of one group of false hospital records. The entire course of conduct took place inside of a week. Significantly, no clients were harmed since Respondent was representing himself, and he did not intend to involve or affect any clients. While

those facts do not excuse Respondent's misconduct, the limited scope of the misconduct does impact on the appropriate sanction.

This case is comparable to *In re Wylie*, in which an attorney lied to the court and fabricated documents to support that lie. *See In re Wylie*, 2016PR00010, *petition for discipline on consent allowed*, M.R. 028350 (Feb. 3, 2017). In that case, the attorney failed to appear at a court-ordered status conference and then lied to the court about the reason she was not there. She subsequently fabricated documents to support that lie. She also lied to her supervisor at the law firm. In aggravation, Wylie intentionally lied to the ARDC about the fabrication of those documents. In mitigation, Wylie expressed regret, had no prior discipline, and was supporting her siblings. A six-month suspension was imposed in that case. *Wylie* is remarkably similar to this case in terms of the misconduct, mitigation, and aggravation, although Wylie lied to the ARDC, whereas Respondent did not. Thus, we believe that a five-month suspension is appropriate here.

A five-month suspension is also consistent with other similar cases. *See e.g., In re Bulger*, 2002PR00040 (Review Bd., May 3, 2004), *approved and confirmed*, M.R. 19550 (Oct. 18, 2004) (five-month suspension for creating a false document and lying to the court about how the false document was prepared; he also failed to provide competent representation; in aggravation, he lied to the ARDC); *In re Narmont*, 2009PR00027 (Review Bd., May 10, 2012), *petitions for leave to file exceptions denied*, M.R 25404 (January 9, 2013) (five-month suspension where the attorney made a false statement to a bankruptcy judge that resulted in the dismissal of a case; he filed three bankruptcy petitions containing false information; and he engaged in a conflict of interest; in aggravation, the Hearing Board found his testimony was not credible on many of the issues; there was also extensive mitigation).

We believe that a five-month suspension is supported by relevant authority and that it will serve to deter Respondent and other attorneys by impressing upon them the seriousness of the misconduct.

Respondent's Actions During the Disciplinary Proceedings

The Hearing Board found that Respondent's failure to take certain actions during in the disciplinary proceeding was an aggravating factor, and we agree with that finding. The Administrator argues, however, that Respondent's conduct during the disciplinary proceeding warrants a UFO sanction. We disagree.

Although Respondent failed to file an answer to the complaint, he prepared the answer and emailed it to the Clerk's office and to counsel for the Administrator, which he mistakenly believed satisfied the filing requirements. When he learned that he had failed to properly file the answer, he filed a motion requesting permission to properly file the answer, but his motion was denied.

Respondent made a mistake. He got it wrong and he tried to make it right. His failure to file the answer was not intentional, and it does not demonstrate that he was indifferent to the proceedings, particularly in light of his attempt to correct his mistake.

Respondent also failed to appear at a pre-hearing conference. Respondent explained, however, that he was in court for another case and the case ran longer than he expected. He contacted counsel for the Administrator later that same day concerning the pre-hearing conference. Respondent's failure to appear was wrong, and, at a minimum, he should have contacted the ARDC before the pre-hearing conference began. It is evident, however, Respondent was not simply ignoring the disciplinary proceedings or intentionally acting disrespectfully.

In evaluating Respondent's participation in the disciplinary proceedings, we also consider the other actions Respondent took during those proceedings, including that he self-

reported his misconduct to the ARDC; he agreed to accept service of the complaint by email; he attended the first pre-hearing conference; he provided a sworn statement and a deposition; he maintained contact with counsel for the Administrator; he produced documents; he filed a list of exhibits; and he participated in the disciplinary hearing, where he testified, offered exhibits, and made opening and closing statements. Additionally, after the disciplinary hearing concluded, Respondent hired an attorney, filed an appeal, and appeared at oral argument.

The Administrator argues that Respondent's actions during the disciplinary proceeding show that he cannot be trusted to practice law and a UFO sanction should be imposed because he acted irresponsibly and he was indifferent to the misconduct charges. In support of that argument, the Administrator cites cases in which the attorneys were suspended, UFO, for engaging in serious misconduct and failing to cooperate during the disciplinary process. Those cases, however, are distinguishable from the instant matter. *See In re Runkle*, 2014PR00150 (Hearing Bd., Sept. 3, 2015), *approved and confirmed*, M.R. 27676 (Jan. 21, 2016) (the attorney failed to file a lawsuit on his client's behalf as promised, and he had prior discipline for similar conduct; in aggravation, he failed to cooperate in both disciplinary proceedings); *In re Maye*, 2010PR00057 (Hearing Bd., Dec. 2, 2010), *approved and confirmed*, M.R. 24389 (March 21, 2011) (the attorney engaged in the unauthorized practice of law for more than a year, representing clients in 13 matters, which showed a disregard for his professional obligations and provided the basis for imposing a UFO sanction; he also neglected a case; in aggravation, he failed to appear at his disciplinary hearing and he failed to participate in the disciplinary proceedings in any way); *In re Suding*, 2009PR00014 (Hearing Bd., Feb. 24, 2010), *approved and confirmed*, M.R. 23813 (May 18, 2010) (the attorney lied about a financial issue that impacted on his divorce settlement, and resulted in subsequent litigation; in aggravation, he failed to appear at his disciplinary hearing).

In *Runkle*, *Maye*, and *Suding*, the attorneys intentionally shirked their obligation to participate in the disciplinary proceedings, whereas here, although Respondent failed to take certain steps during the disciplinary proceedings, he actively cooperated in most aspects of the proceedings by producing documents, maintaining contact with the Administrator's counsel, and participating in the disciplinary hearing and the appeal. The charged misconduct in *Runkle*, *Maye*, and *Suding* was also more egregious than the charged misconduct here.

We conclude that Respondent's actions during the disciplinary proceeding do not show that he was indifferent to the proceedings or that he was unconcerned about the charges against him; additionally, his actions do not establish that he is unwilling or unable to conform to ethical standards in the future or that he is unfit to represent clients. Accordingly, we find that Respondent's actions during the disciplinary hearing do not provide a basis for recommending a UFO sanction.

Mitigating Factors

Given the significant mitigation in this case, we are convinced that a five-month suspension is appropriate because it properly balances the serious nature of the misconduct and the mitigating factors.

The Hearing Board found in mitigation that Respondent is a veteran and has no prior discipline. We agree with the Hearing Board, and we give significant weight to the fact that Respondent has no prior discipline. Prior to his misconduct, Respondent had practiced law for 26 years, and he had never been disciplined. Additionally, after his misconduct in 2020, Respondent continued to practice law for more than two years prior to the disciplinary hearing, without any disciplinary problems.

We have also considered additional mitigating factors that are apparent in the record, which include the following:

- Respondent accepted responsibility and expressed genuine remorse.
- He wrote a letter to the probate judge, acknowledging his misconduct and apologizing for his wrongdoing.
- He fully understands that his actions were wrong.
- He self-reported to the ARDC.
- He did not harm any clients or attempt to do so; his actions did not have an impact on any clients; and his misconduct did not involve any client matters.
- He paid the attorneys' fees that resulted from his misconduct in the probate case.
- At the time of the disciplinary proceeding, he was paying child support.
- He testified that he would never do this again.
- He testified that he represents clients who have limited financial resources, and he expressed concern about leaving those clients without counsel.

Although that mitigation does not negate or excuse Respondent's misconduct, the mitigating evidence is a strong indicator that Respondent is unlikely to repeat his misconduct in the future. We believe that a five-month suspension is appropriate given the mitigation in this matter.

Respondent's Stress and Anxiety in 2020

The Administrator argues that a UFO sanction is warranted based on Respondent's testimony that he suffered from significant stress and anxiety at the time of the misconduct, so that Respondent can get treated for mental health issues and prove he is fit to practice law. We disagree.

The evidence presented at the disciplinary hearing does not establish that Respondent is likely to engage in misconduct because of his mental health issues or that he is unfit to practice law at this time because of those issues. The Hearing Board specifically found that

Respondent's mental health issues did not cause the charged misconduct, stating, "there was no evidence of a causal connection between those [mental health] issues and the misconduct." (Hearing Bd. Report at 2.) We agree with the Hearing Board's finding, and we give that finding substantial weight.

Moreover, the Hearing Board did not find, and the evidence did not establish, that Respondent's mental health caused any other wrongdoing, mistakes, negligence, or ethical lapses by Respondent, or impacted on his actions during the disciplinary proceedings. Additionally, the evidence does not show that his mental health prevented Respondent from practicing law ethically or effectively in the past or is likely to do so in the future.

Rather, the record shows that after his misconduct in September 2020, Respondent continued to practice law for two full years, prior to the disciplinary hearing, without any disciplinary actions against him. At the time of the disciplinary proceeding, Respondent had 30 to 35 cases, and there was no evidence that he had failed to meet his professional obligations in those cases. Respondent's ability to practice law during 2021 and 2022, without discipline, undermines the argument that Respondent is unfit to practice law.

Furthermore, Respondent testified that his stress and anxiety were situational, resulting from his circumstances in 2020. He did not testify, and there was no evidence, that he was still experiencing the same extreme stress and anxiety he was experiencing in 2020.

Respondent also testified that his mental health issues in 2020 resulted from specific stressful events, which included the following: (1) he had growths in his hands and chest caused by medications he was taking, which he feared were cancerous, and he was waiting for surgery on those growths; (2) he was unable to work and earn money in 2020 because of the Covid pandemic; (3) he did not have sufficient funds to pay child support, and he was arrested for failure to make those payments; and (4) he was engaged in a contested divorce and probate proceeding.

Respondent also testified that several of those very stressful problems had been resolved prior to the disciplinary hearing. His health problems were resolved through surgery and the discontinuance of certain medications; his financial problems were resolved when he was able to return to work; and his child support problems were resolved when his income increased and the amount of his payments were decreased by the court. The fact that those problems have been resolved undermines the argument that the stress and anxiety he experienced in 2020 will negatively impact his ability to practice law in the future.

The Hearing Board expressed concern that Respondent had not recently received consistent mental health treatment. Although we recognize the Hearing Board's legitimate concern, we believe that Respondent's testimony pertaining to his counseling satisfactorily addresses that issue. Respondent testified he had been seeing a psychologist on a monthly basis until his psychologist went on parental leave for a couple of months. Respondent also testified that the psychologist was scheduled to return at the end of the month. Thus, Respondent did not intentionally or permanently discontinue treatment and he planned to resume treatment when the psychologist returned.

In support of the argument that a UFO sanction is warranted here based on Respondent's mental health issues, the Administrator cites cases in which the attorneys had mental health problems, and a UFO sanction or disbarment was imposed. Those cases, however, are distinguishable. *See e.g.*, *In re McFarland*, 2002PR00103 (Hearing Bd., Feb. 26, 2004), *approved and confirmed*, M.R. 19393 (May 18, 2004) (the attorney neglected seven matters, and four of those cases were time-barred due to her neglect; the Hearing Board recommended a UFO sanction because McFarland agreed to represent clients at a time when she believed she was not capable of practicing law, and because she owed $150,000 in restitution; McFarland indicated that her medical difficulties prevented her from performing her duties, and therefore, in order to be

reinstated, she was required to submit medical documentation stating she was fit to return to practice); *In re Olds*, 1996PR00545 (Review Bd., Nov. 12, 1998), *approved and confirmed*, M.R. 15487 (March 23, 1999) (Olds was disbarred for engaging in insider trading and he violated numerous court orders by dishonestly sending money overseas; he also failed to pay restitution; in aggravation, Olds lied to the ARDC about his insider trading; Olds was an admitted alcoholic who continued to drink alcohol and suffered from severe emotional issues, for which he had been previously hospitalized; in order to be reinstated, Olds was required to prove that he had addressed those problems). Those cases are inapplicable because the misconduct, the aggravating factors, and the mental health problems in those cases are much more serious than here. Unlike those cases, the evidence here does not establish that Respondent presents a risk to the public or the legal profession.

In sum, Respondent's mental health issues did not cause his misconduct; there is no evidence that his extreme stress and anxiety are on-going; several significant problems that caused his stress and anxiety have been resolved; he practiced law during 2021 and 2022 without disciplinary action; and the cases cited by the Administrator are inapplicable. We conclude that the evidence does not establish that Respondent lacks the ability to practice law competently or to meet his professional obligations as a result of his mental health. Accordingly, we find that a UFO sanction is not warranted based on Respondent's mental health issues and we do not see any useful purpose that would be served by imposing that sanction.

<u>This Case Should not be Remanded</u>

Respondent argues that this matter should be remanded to a new Hearing Panel for another hearing, if additional evidence concerning Respondent's mental health is needed. We do not believe that additional evidence is needed, nor do we believe that remanding this case would

be appropriate. The parties presented evidence at the disciplinary hearing, and there is sufficient evidence in the record to determine an appropriate sanction. There is no need for another hearing.

Cases Cited by the Administrator

We have considered all of the cases cited by the Administrator on appeal and at the disciplinary hearing, as well as the cases cited by Respondent. The Administrator argues that the imposition of a one-year suspension, UFO, in this case is supported by precedent. We disagree.

We believe that the cases cited by the Administrator are inapplicable because they involved more serious misconduct and had more significant consequences than the misconduct here. *See, e.g., In re Arrigo*, 2006PR00045, *petition for discipline on consent allowed*, M.R. 21373 (March 19, 2007) (one-year suspension, UFO, where the attorney, who was a colonel in the U.S. Air Force Judge Advocate's office, prepared a fake job performance evaluation in order to obtain a promotion to Brigadier General, and he forged his supervisor's signature; he also bypassed the established review chain and the report was entered into the official military record; moreover, he lied to another supervisor about the signature on the report; in aggravation, Arrigo participated only minimally during the disciplinary proceedings); *In re Hays*, 2005PR00003 (Review Bd., June 6, 2006), *petition to file exceptions denied*, M.R. 21050 (Dec. 1, 2006) (one-year suspension for fabricating a marital settlement agreement, forging his wife's signature on the agreement, and lying to the court about the settlement agreement; Hays obtained a dissolution of the marriage without his wife's knowledge, which resulted in subsequent litigation); *In re VanAusdall*, 2021PR00039, *petition for discipline on consent allowed*, M.R. 31127 (April 15, 2022) (one-year suspension where the attorney lied to the court in order to convince the court to enter a false dissolution of marriage agreement that the attorney had prepared, in which she fraudulently modified and added certain key provisions, without the knowledge or consent of opposing counsel; she was criminally prosecuted for her misconduct).

Respondent's misconduct was not as serious as the conduct in the cases cited by the Administrator. The attorneys in those cases lied about substantive issues that significantly impacted on the legal matters at issue, and their lies caused considerable harm. Respondent's misconduct was much more limited than the misconduct in those cases and therefore warrants a lower sanction.

As discussed above, we find a basis in the evidence to believe that Respondent is willing and able to comply with ethical requirements in the future and that he has the ability to practice law responsibly. For that reason, we believe that a one-year suspension, UFO, is not warranted here, and would only serve to punish Respondent. Additionally, we note that a UFO sanction would also impact on Respondent's clients, who may have limited financial resources, leaving them without counsel.

Similar Cases Involving Comparable Misconduct

A five-month suspension is consistent with sanctions imposed in similar cases involving comparable misconduct. *See Wylie*, 2016PR00010, *supra,* (six-month suspension for lying about the reason for missing a court appearance; fabricating documents; and lying to the ARDC); *Bulger*, 2002PR00040, *supra,* (five-month suspension for creating a false document and lying to the court about how it was prepared); *Narmont*, 2009PR00027, *supra*, (five-month suspension for making a false statement to a bankruptcy judge that resulted in the dismissal of a case, and filing bankruptcy petitions containing false information); *In re Argoudelis*, 2012PR00160 (Review Bd., Oct. 2, 2014), *petition for leave to file exceptions denied,* M.R. 27036 (Feb. 6, 2015) (five-month suspension where the attorney lied to the probate court, at a hearing and in a written motion, falsely representing that his client was the only heir to the estate in a probate case, thereby placing the interests of other heirs in jeopardy; in aggravation, the Hearing Board found that the attorney's testimony at the disciplinary hearing was not credible concerning

the reason he engaged in the misconduct); *In re Wilson,* 2012PR00157, *petition for discipline on consent allowed*, M.R. 26126 (Oct. 16, 2013) (five-month suspension where the attorney falsely represented to bankruptcy judges in several cases that his clients had signed the bankruptcy petitions that he filed, when, in fact, the attorney had affixed his clients' signatures to the pleadings without their authorization, including one pleading that contained incorrect information, which resulted in his client's wages be garnished); *In re Witter*, 2009PR00050 (Review Bd., Dec. 8, 2011), *petition for leave to file exceptions denied*, M.R. 25283 (June 8, 2012) (four-month suspension where the attorney lied to two judges, in two written pleadings, falsely representing that he had been awarded substantial fees by a judge in another case, which he knew was not true; his false statements caused needless litigation; in aggravation, he also made false statements regarding the integrity of a judge); *In re Sutton*, 2012PR00156, *petition for discipline on consent allowed*, M.R. 26134 (Oct. 16, 2013) (three-month suspension where the attorney prepared, backdated, signed, and filed three false quitclaim deeds, and caused his client to sign those deeds, in order to make it falsely appear to Medicaid that those properties had been transferred at an earlier date).

Having considered the cases discussed above, as well as the other cases cited by the parties and relied on by the Hearing Board, we believe that the appropriate sanction is a five-month suspension, which falls within the range of sanctions imposed in similar cases.

CONCLUSION

Accordingly, we recommend that Respondent be suspended for five months. We believe that a five-month suspension serves the goals of attorney discipline by protecting the public, acting as a deterrent to Respondent and other attorneys, and helping to preserve public confidence in the legal profession. We find that a five-month suspension is commensurate with

Respondent's misconduct and consistent with discipline that has been imposed for comparable misconduct, without being so harsh that it constitutes punishment.

Respectfully submitted,

George E. Marron III
Michael T. Reagan
Esther J. Seitz

CERTIFICATION

I, Michelle M. Thome, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, hereby certifies that the foregoing is a true copy of the Report and Recommendation of the Review Board, approved by each Panel member, entered in the above entitled cause of record filed in my office on August 15, 2023.

/s/ Michelle M. Thome
Michelle M. Thome, Clerk of the
Attorney Registration and Disciplinary
Commission of the Supreme Court of Illinois

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BEFORE THE REVIEW BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of: **RICHARD P. BRODERICK,** Respondent-Appellant, No. 6221017.	Commission No. 2022PR00053

PROOF OF SERVICE
OF THE REPORT AND RECOMMENDATION
OF THE REVIEW BOARD

I, Andrea L. Watson, hereby certify that I served a copy of the Report and Recommendation of the Review Board on the parties listed at the addresses shown below by e-mail and regular mail, by depositing it with proper postage prepaid, by causing the same to be deposited in the U.S. Mailbox at One Prudential Plaza, 130 East Randolph Drive, Chicago, Illinois 60601 on August 15, 2023, at or before 5:00 p.m. At the same time, a copy was sent to Counsel for the Administrator-Appellee by e-mail service.

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

Michelle M. Thome,
Clerk

/s/ Andrea L. Watson
By: Andrea L. Watson
Deputy Clerk

FILED

August 15, 2023

ARDC CLERK