



CLERK OF THE COURT
SUPERIOR COURT

2014 JUL 16 PM 3:42

BY: *De*
DEPUTY CLERK OF COURT

1 **FOR PUBLICATION**

By Order of the Court, Associate Judge JOSEPH N. CAMACHO

2
3
4
5 **IN THE SUPERIOR COURT**
6 **FOR THE**
7 **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

8 **IN RE THE MATTER OF:**) **CIVIL CASE NO. 13-0196**
9)
10 **RAMON KING QUICHOCHO, JR.,**) **DISCIPLINARY ACTION:**
11 **Respondent.**) **DISBARMENT**
12)
13)

14 **I. INTRODUCTION**

15 The disciplinary hearing in this matter began on June 30, 2014 at 1:30 p.m. in Courtroom
16 220A and continued until July 1, 2014. Mark A. Scoggins was the disciplinary counsel appointed to
17 the case (“Disciplinary Counsel”). Respondent Ramon King Quichocho, Jr. did not appear for the
18 hearing.

19 This matter was forwarded to the Court by the Commonwealth of the Northern Mariana
20 Islands Bar Association Disciplinary Committee and arises out of conduct and actions occurring
21 over the course of a two-year attorney-client relationship between Respondent Quichocho and Jung
22 Ja Kim (“Ms. Kim”) and several companies she controlled. Between March 2007 and March 2009
23 Respondent Quichocho engaged in multiple improper and unfair business transactions with Ms.
24 Kim; had inappropriate and nonconsensual sexual relations with Ms. Kim; violated his duty of

1 loyalty by consistently ignoring conflicts of interest; and improperly shared management and
2 control of his law office with his wife, a non-attorney. When viewed in its entirety, the manner in
3 which Respondent Quichocho provided legal services and repeatedly exploited Ms. Kim's interests
4 for his own gain indicates a lack of competence and honesty requisite to practice law.

5 Based on the filings, evidence presented at the hearing, and applicable standards of
6 professional conduct, the Court finds by clear and convincing evidence that Respondent's acts
7 constituted professional misconduct, in violation of the rules governing attorneys in this
8 jurisdiction. The appropriate sanction for these violations is disbarment.

9 II. PROCEDURAL HISTORY

10 During the disciplinary hearing in this matter, the Court found that Respondent Quichocho
11 engaged in a pattern of conduct in this case that indicated intent to delay the proceedings and avoid
12 discipline. The Court sets forth the procedural history of this matter to support that finding, and also
13 to make clear that such tactics are unacceptable and will not prevent the imposition of appropriate
14 sanctions. *See In re Roy*, 2007 MP 28 ¶4 (quoting *In re Rhodes*, 2002 MP 2 ¶ 16) (“[C]ourts impose
15 sanctions with an eye toward other attorneys who are considering violating the ethical canons of our
16 profession.”).

17 The Complaint in this case was filed by Disciplinary Counsel on October 15, 2013, and a
18 summons was personally served upon Respondent's wife, at Respondent's law office, that same
19 day. On November 5, 2013, the deadline for filing an answer under Rule 9(c) of the Commonwealth
20 Disciplinary Rules and Procedures, Respondent and Disciplinary Counsel filed a stipulation stating
21 that Respondent requested more time to file an answer, and Disciplinary Counsel agreed to that
22 request. The Court issued an order extending the deadline to file an answer to November 19, 2013.

23 On November 19, 2013, Respondent filed an Answer. On November 20, 2013, Disciplinary
24 Counsel filed a Notice of Additional Rule Violations arguing that the form and substance of

1 Respondent's Answer constituted additional violations of the Model Rules of Professional Conduct.
2 In a status conference on November 22, 2014, the Court ruled that for the purposes of this matter,
3 only the violations alleged in the Complaint would be at issue, and any add-on violations that
4 occurred as a result of Respondent failing to cooperate with the disciplinary process could be
5 brought as a separate complaint. The principal reason for this ruling was to avoid any additional
6 delay to this matter.

7 Even though the Court does not consider the substance of the Answer to be an additional
8 misconduct charge, the Court finds that the substance of the Answer did constitute another attempt
9 by the Respondent to delay these proceedings. Rule 8(b) of the Commonwealth Rules of Civil
10 Procedure ("Rule 8(b)") sets forth the standard for the form of denials:

11 A party shall state in short and plain terms the party's defenses to each claim
12 asserted and shall admit or deny the averments upon which the adverse party relies.
13 If a party is without knowledge or information sufficient to form a belief as to the
14 truth of an averment, the party shall so state and this has the effect of a denial.
15 Denials shall fairly meet the substance of the averments denied.¹

16 This rule provides three options: (1) admission, (2) denial fairly meeting the substance of
17 the averment denied, and (3) lack of knowledge or information sufficient to form a belief as to the
18 truth of an averment, in effect, conditional denial. *See Lane v. Page*, 272 F.R.D. 581, 602 (D.N.M.
19 2011). These are the only three options that comply with the rule. *See id.* at 603 (noting that
20 responding that an averment is a legal conclusion is not in compliance with Rule 8(b)). Moreover,
21 a party may not assert lack of knowledge or information about a topic that is squarely within their
22 control in order to delay or confuse proceedings; to do so is to admit the averment in the complaint.
23 *Mesirow v. Duggan*, 240 F.2d 751, 756 (8th Cir. 1957). Furthermore, Rule 11 of the
24 Commonwealth Rules of Civil Procedure requires the assertions made in an answer to be "formed

¹ Per Rule 9(e) of the Commonwealth Disciplinary Rules and Procedures, the Commonwealth Rules of Civil Procedure apply to disciplinary proceedings where applicable. The Commonwealth Rules of Civil Procedure set forth guidelines for answers to complaints, and are therefore applicable here.

1 after an inquiry reasonable under the circumstances;” not made for an improper purpose, such as
2 unnecessary delay; and denials must be “warranted on the evidence” or “reasonably based on a lack
3 of information or belief.” NMI R. Civ. P. 11(b).

4 Despite being granted two additional weeks to prepare, Respondent’s Answer does not
5 comply with Rule 8(b). Respondent’s Answer, no fewer than fifty-three times, states:

6 Respondent is without knowledge or information sufficient to form a belief as to the
7 truth of the allegations in paragraph [#], and/or the allegations are either false, vague,
8 inaccurate, or a conclusion and/or misstatement of law that do not warrant an
answer, and on those bases, Respondent denies each an every allegation contained
therein.

9 *See, e.g.,* Resp’t’s Answer ¶ 9.

10 Respondent’s boilerplate response to over half of the Complaint fails to comply with Rule
11 8(b) in several ways. It is not in “short and plain terms.” NMI R. Civ. P. 8(b). Nor does it “fairly
12 meet the substance of the averments denied,” as the same verbiage is repeated over and over,
13 regardless of the substance of the averments being denied. *Id.* Most egregious is Respondent’s
14 repeated claim that he lacks sufficient knowledge or information to form a belief concerning facts
15 that he is in the unique position to know, such as, who his clients are, the legal structure of his law
16 practice, the advice he gave to clients, and whether he was in a sexual relationship before the
17 formation of an attorney-client relationship. *See, e.g.,* Resp’t’s Answer ¶¶ 6, 18, 31, 62. Respondent
18 also repeatedly claimed to lack sufficient knowledge or information to form a belief about facts that
19 are matters of public record. *See, e.g.,* Resp’t’s Answer ¶¶ 6, 49, 56. Such noncompliance with the
20 spirit and the letter of Rule 8(b) evidences an intent to confuse and delay the proceedings in this
21 matter.

22 As noted above, on November 22, 2013, the parties appeared before the Court for a status
23 conference and scheduling hearing. Disciplinary Counsel requested the conference with the purpose
24 of ensuring that the evidentiary hearing occurred within ninety days, as prescribed by Rule 9(d) of

1 the Commonwealth Disciplinary Rules and Procedures. Respondent represented that he wanted to
2 waive the ninety-day requirement because he needed additional time to obtain representation. He
3 also expressed a desire to have the disciplinary hearing occur after the civil case pending in the
4 federal District Court, which was scheduled for trial on February 3, 2014. The Court noted that the
5 ninety-day timeline exists to protect not only the responding attorney, but also the public. The Court
6 suggested January 13, 2014 as the hearing date, but Respondent vehemently opposed. The Court
7 then offered a two-week extension to January 27, 2014. Again Respondent fervently opposed this
8 hearing date, arguing that it was too close to his civil trial in District Court. The Court set the
9 disciplinary hearing for January 27, 2014 over Respondent's objection.

10 On January 22, 2014, the parties again appeared before the Court for a status conference.
11 Juan T. Lizama appeared on behalf of Respondent, and represented that Respondent had discussed
12 with him the possibility of representation the day before, January 21, 2014. Mr. Lizama stated he
13 had not checked for conflicts yet, but would do so, and if there were none, would represent
14 Respondent in the disciplinary hearing, but that he needed more time to prepare. Mr. Lizama also
15 requested that the disciplinary hearing occur after the resolution of the civil case in District Court.
16 Disciplinary Counsel reported that he had been in contact with Respondent's counsel in the civil
17 case, and was hopeful that he could negotiate a resolution to this matter without a disciplinary
18 hearing. Disciplinary Counsel did not oppose the continuance, but also represented he was ready to
19 proceed with the scheduled hearing on January 27, 2014. The Court granted Respondent's request
20 for a continuance to allow Mr. Lizama to become familiar with the case, and allow the parties to
21 attempt to reach an agreement concerning proposed stipulated facts and sanctions. The Court set the
22 hearing for February 18, 2014, and informed Respondent that the hearing would proceed on that
23 date, whether or not he was represented by counsel.

1 On January 29, 2014, the Court issued an order notifying the parties that if Juan T. Lizama
2 did not file his entry of appearance to represent Respondent by January 30, 2014 at noon, the matter
3 would proceed with Respondent representing himself. Mr. Lizama filed his entry of appearance the
4 morning of January 30, 2014.

5 On February 5, 2014, the parties again appeared before the Court for a status conference.
6 Respondent was represented at the hearing by Juan T. Lizama. Respondent again requested a
7 continuance of the disciplinary hearing because of the schedule conflict with the trial in the civil
8 action in the District Court. Disciplinary Counsel did not oppose the request. The Court granted the
9 continuance and continued the disciplinary hearing to March 10, 2014.

10 On March 4, 2014, the parties filed a stipulation requesting another continuance due to a
11 schedule conflict, and the Court granted this request, continuing the hearing to March 31, 2014.

12 On March 12, 2014, Juan T. Lizama filed a motion to withdraw as counsel for Respondent.
13 On March 13, 2014, the Court issued an order granting Mr. Lizama's request, and reiterating that
14 the hearing would proceed as scheduled on March 31, 2014, with Respondent appearing pro se.

15 On March 27, 2014, the Court issued an order again continuing the hearing to June 30,
16 2014, because Ms. Kim, the primary witness in this matter, had hearings scheduled for her divorce
17 in Presiding Judge Naraja's courtroom on March 31, 2014. The Court informed the parties that the
18 beginning June 30, 2014, two weeks of time were reserved for this matter.

19 On March 28, 2014, the verdict was announced in the civil case in the District Court that
20 involved claims on the same subject matter as this disciplinary case. Respondent, along with his
21 wife, his law firm and another company owned by the couple, were found liable to Ms. Kim on
22 eight different claims, and awarded a verdict of \$2,411,719.09.

23 On April 29, 2014, anticipating further requests for delay, the Court issued an order
24 reminding the parties that the evidentiary hearing would proceed on June 30, 2014, and that any

1 proposals for settlement must be submitted to the Court no later than May 2, 2014. This order was
2 personally served on Respondent.

3 On May 5, 2014, the parties, including Respondent who was represented by Michael Dotts
4 for the purposes of negotiating a non-hearing disposition only, submitted a stipulated proposed
5 memorandum containing findings of fact and conclusions of law and a proposed sanction. On May
6 29, 2014 the Court issued an order informing the parties that the evidentiary hearing would proceed
7 as scheduled on June 30, 2014. This order was personally served on Michael Dotts and on Frances
8 Quichocho, Respondent's wife, at Respondent's law office.

9 On June 25, 2014 the Court issued an order continuing the evidentiary hearing to 1:30 p.m.
10 on June 30, 2014, and ordered the parties to appear.

11 On June 30, 2014 at 1:30 a.m. Respondent sent an email message to Disciplinary Counsel
12 and copied the Clerk of the Superior Court Patrick Diaz, and Associate Judge Camacho, using
13 Associate Judge Camacho's personal email address. The email reported that Respondent would not
14 attend the June 30, 2014 hearing. Respondent, in the email, asked Disciplinary Counsel to request a
15 continuance, because, among other reasons, Respondent was not present in the CNMI and did not
16 intend to return until at least late July.

17 In sum, Respondent's conduct in this disciplinary matter demonstrated intent to delay the
18 proceedings to avoid sanction. Respondent requested an enlargement of time to file an answer; filed
19 an answer that claimed a lack of familiarity with facts within his personal knowledge and the public
20 record; waited until days before the first scheduled hearing to obtain counsel; requested multiple
21 continuances, consistently pushing to have the disciplinary hearing after the District Court civil
22 trial; and finally, left the jurisdiction, not intending to return in time for the disciplinary hearing,
23 after receiving the clear message from this Court that no further delays would be entertained.

24

1 **III. DECISION TO PROCEED WITH JUNE 30, 2014 DISCIPLINARY HEARING**

2 On June 30, 2014, as ordered, Disciplinary Counsel appeared ready to proceed with the
3 disciplinary hearing. Respondent did not appear, nor did he call in to the Court. Nor did
4 Respondent’s wife appear, despite being summoned as a witness by Disciplinary Counsel. Before
5 beginning the disciplinary proceeding, the Court considered several options given Respondent’s
6 absence. The Court sets forth this written account to explain the decision to proceed with the
7 disciplinary hearing on June 30, 2014.

8 The Commonwealth Disciplinary Rules and Procedures do not provide a specific procedure
9 to follow in the event a respondent fails to appear for a disciplinary proceeding. Nor does
10 Commonwealth case law address this issue. Respondents to disciplinary proceedings are entitled to
11 due process that includes “notice and an opportunity to respond” including “[t]he opportunity for a
12 hearing . . . in those situations where a hearing would assist the court in its decision as to whether
13 sanctions should be imposed or not.” *In re Roy*, 2007 MP 28 ¶ 5.

14 The Court rejected the option of an additional continuance. As described above, the
15 procedural history of this matter indicates not only a lack of diligence on the part of Respondent,
16 but also evidences his intent to delay the proceedings and avoid sanction. Further, given
17 Respondent’s consistent attempts to delay the proceedings, the Court found it unlikely that granting
18 a continuance would secure Respondent’s appearance at a future hearing. An additional continuance
19 would also be extremely inconvenient to the Court and Disciplinary Counsel, as the disciplinary
20 hearing was already scheduled and continued multiple times. Disciplinary Counsel devoted a
21 significant amount of time to preparing for the hearing on multiple occasions. The Court likewise
22 devoted time and resources to preparing for the disciplinary hearing, and even reserved two weeks
23 of time to hear the matter.

1 The Court also considered the possible harm to Respondent should the hearing proceed as
2 scheduled. In this case, there was no indication that Respondent would benefit from a continuance.
3 There was not, for example, new evidence that had recently come to light requiring further
4 investigation. Respondent's presence is no more likely at any future disciplinary hearing as he
5 intentionally left the jurisdiction before this one. Similarly, there was no harm to Respondent in the
6 form of a violation of his due process rights. As noted above, the Respondent is entitled to notice
7 and the opportunity to be heard before any disciplinary sanctions are imposed. Respondent had
8 ample notice of all of the alleged violations of professional rules and standards. The Complaint was
9 filed on October 15, 2013, and the Court's inquiry during the disciplinary hearing was limited to
10 those violations. While Respondent is entitled to the opportunity to be present at a hearing, he is not
11 entitled to halt disciplinary proceedings for which he had sufficient and repeated notice by fleeing
12 the jurisdiction. *See State ex rel Okla. Bar Ass'n v. Shomber*, 227 P.3d 157, 163 (Okla. 2009) ("Due
13 process does not mean that a respondent may attempt to thwart discipline by willfully failing to
14 attend a disciplinary hearing."). The Court also notes that, as long as adequate notice of the hearing
15 is provided, it is not uncommon to proceed with disciplinary hearings in the absence of the
16 respondent attorney in other United States jurisdictions. *See, e.g., Martin v. State Bar*, 52 Cal. 3d
17 1055, 1063 (1991); *In re Allper*, 94 Wn. 2d 456, 458 (1980); *In re Benson*, 275 Kan. 915, 918
18 (2003); *and State ex rel Okla. Bar Ass'n v. Latimer*, 262 P.3d 757, 763 (Okla. 2011). Thus, the
19 Court found that there would be no harm to Respondent in the form of a due process violation.

20 In brief, Respondent did not diligently prepare, but instead attempted to roadblock these
21 proceedings in a variety of ways; a continuance was unlikely to secure Respondent's presence in
22 the future; a continuance would highly inconvenience Disciplinary Counsel and the Court; and
23 Respondent received adequate notice of the hearing but still failed to appear. Accordingly, the
24 Court found that a continuance was not warranted in this matter.

1 Another option presented by Disciplinary Counsel was to allow Disciplinary Counsel to file
2 an amended complaint, and, in essence, begin the whole process again. The Court found this option
3 inefficient and was concerned that such a path would be destined to end in a similar situation in the
4 future.

5 The Court also considered and discarded the option of considering Respondent's absence an
6 admission of all of the averments in the Complaint, and granting a default judgment against
7 Respondent without hearing evidence. Disciplinary Counsel represented to the Court that this
8 approach is disfavored in other jurisdictions. Similarly, Rule 9(c) of the Commonwealth
9 Disciplinary Rules and Procedures provides notice to respondents that if an answer is not filed, "the
10 charges shall be deemed admitted," but does not provide a similar rule concerning failure to appear
11 at the hearing. Thus, given our judicial system's preference for deciding issues on the merits, the
12 Court found that the presentation of evidence would aid in determining whether there was
13 professional misconduct, and if so, the appropriate sanction. *See In re Benson*, 275 Kan. 915, 918
14 (2003). The Court also considered as persuasive authority the Commonwealth Rules of Judicial
15 Disciplinary Procedure, which direct the Supreme Court to proceed with the disciplinary hearing
16 whether or not the judge appears. NMI R. Judicial Disc. P. 28(c).

17 Accordingly, the Court found that proceeding with the evidentiary hearing in Respondent's
18 absence best matched the goals of disciplinary proceedings: to protect the public, the legal
19 profession, and the administration of justice. *In re Roy*, 2007 MP 28 ¶ 4. The Court found that given
20 Respondent's pattern of seeking to delay proceedings, his failure to appear was another attempt to
21 derail the disciplinary process, and the Court refused to accommodate such behavior.

22 **IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

23 This matter arises from Respondent's conduct related to Ms. Jung Ja Kim ("Ms. Kim").
24 Respondent represented Ms. Kim in her personal capacity, and also represented several business

1 entities she controlled. This professional relationship spanned a period of approximately two years,
2 from March 2007 until March 2009. During the course of this relationship, Respondent repeatedly
3 violated multiple rules of professional conduct. Disciplinary Counsel grouped the violations by
4 subject matter, and this decision will proceed in the same manner, setting forth the findings of fact
5 and conclusions of law for each section. The Court will conclude with a separate discussion of
6 Respondent's violation of the duty of competence.

7 In making the following findings of fact, the Court relies on the credible testimony of Ms.
8 Kim, the credible testimony of Mr. Mohammad Delowar, the exhibits admitted during the hearing,
9 and the admissions made in Respondent's Answer.

10 **A. ATTORNEY-CLIENT RELATIONSHIP AND RESPONDENT'S LAW OFFICE**

11 The Court finds the following facts concerning the attorney-client relationships and
12 Respondent's law office to be established by clear and convincing evidence.

13 Respondent acted as Ms. Kim's attorney beginning in March of 2007, when Ms. Kim visited
14 his law office to request assistance forming four new business entities, and ending in March 2009,
15 when Respondent sent a letter to Ms. Kim terminating his representation on all pending matters.

16 During this two-year period, Respondent provided legal services to Ms. Kim in a variety of
17 capacities. He represented Ms. Kim as an individual, but primarily, he provided legal services and
18 representation for Ms. Kim's businesses. During the period of March 2007 to March 2009, Ms. Kim
19 owned, controlled or managed several business entities that were clients of Respondent, including:
20 Soi-In Corporation; Jung A Enterprises, Inc.; Pacific Saipan, LLC; and Blue Bird, Inc. In providing
21 legal services to these companies, Respondent dealt with Ms. Kim as the representative of the
22 companies. Respondent also provided legal services to Ms. Kim in her capacity as attorney-in-fact
23 for her daughter Dan Bi Choi. There are no written representation agreements between Respondent
24 and any of these clients, nor are there any written fee agreements.

1 For all periods relevant to this matter, March 2007 through March 2009, Respondent's legal
2 practice took the form of a limited liability corporation named Law Offices of Ramon K.
3 Quichocho, LLC (the "Law Office"). This business had a physical location, initially on the second
4 floor of the V.S. Sablan Building in Chalan Piao, and then on the second floor of the Cabrera
5 Building in San Jose.² Respondent is married to Frances Quichocho ("Frances"). Frances was a
6 member of the Law Office and was active in providing services to Respondent's clients. Frances sat
7 in the reception area, answered the phone, sent correspondence, sent bills, and prepared legal forms
8 and documents.

9 **B. MANAGEMENT OF LAW OFFICE BY NON-ATTORNEY MEMBER**

10 The Complaint alleges that the structure of Respondent's law practice violates Rule 5.4(d)
11 of the American Bar Association's Model Rules of Professional Conduct.³ The Court finds the
12 following facts to be demonstrated by clear and convincing evidence.

13 Respondent is an attorney and is licensed to practice before the courts of the Commonwealth
14 of the Northern Mariana Islands under Bar Number F0243. The Court takes judicial notice that
15 pursuant to the order issued May 28, 2014, Respondent is currently suspended from practicing law
16 before courts of the Commonwealth of the Northern Mariana Islands. *In re Quichocho*, Civ. No. 13-
17 0098 (NMI Super. Ct. May 28, 2014) (Disciplinary Action: Suspension) (unpublished). During the
18 time period relevant to this matter, March 2007 to March 2009, Respondent practiced law in the
19 form of a professional limited liability company, the Law Office. The Law Office was organized on
20 November 10, 2005. An annual report for the Law Office was filed for 2006, 2007, 2008 and 2009,
21 all of which list Frances as a member. According to the Articles of Incorporation, the Law Office

23 ² This building has also been referred to as the Sign Arts Building.

24 ³ The ABA Model Rules of Professional Conduct apply in the Commonwealth. NMI Disc. R. 2. In this decision, these rules will be referred to as the "Model Rules."

1 was member-managed, and the members were Respondent and Frances. Frances is not and has
2 never been an attorney.

3 In a March 9, 2009 letter to Ms. Kim from Respondent, Respondent reported that he was
4 terminating representation of Ms. Kim and all of her companies because he had “difficulty . . . in
5 communicating” with Ms. Kim “due to [Ms. Kim’s] misunderstanding, disagreement, and
6 miscommunication with [Respondent’s] wife.” Ex. 93.

7 The above facts evidence a violation of Model Rule 5.4(d). Model Rule 5.4 serves to
8 maintain the independence of attorneys by limiting fee sharing and eliminating the influence of
9 third parties on the attorney’s professional judgment. MODEL RULES OF PROF’L CONDUCT R. 5.4(d)
10 cmt. 1 & 2. Model Rule 5.4(d) states:

11 A lawyer shall not practice with or in the form of a professional corporation or
12 association authorized to practice law for a profit, if:

13 (1) a nonlawyer owns any interest therein [. . .]

14 (2) a nonlawyer is a corporate director or officer thereof or occupies the position of
15 similar responsibility in any form of association other than a corporation; or

16 (3) a nonlawyer has the right to direct or control the professional judgment of a
17 lawyer.

18 In a member-managed limited liability company, “each member has equal rights in the
19 management and conduct of the company’s business.” 4 CMC § 4854. Thus, a member holds a
20 position of authority similar to that of a director or officer of a corporation. *See* MODEL RULES OF
21 PROF’L CONDUCT R. 5.4(d)(2). Here, clear and convincing evidence establishes that Frances was a
22 member of the member-managed Law Office, and that Respondent made a decision about client
23 termination based on Respondent’s belief that the client had difficulty communicating with Frances.

24 Thus, Respondent violated Model Rule 5.4(d) by practicing in the form of a limited liability
corporation managed by a non-attorney.

1 **C. CONFLICT OF INTEREST: LEASE OF CABRERA BUILDING UNITS**

2 The Complaint alleges that Respondent violated Model Rules 1.1, 1.3, 1.8, 5.3 and 8.4(c)⁴
3 by entering into unfair lease agreements with a client and instructing his wife to do the same. The
4 Court finds the following facts to be demonstrated by clear and convincing evidence.

5 The Law Office entered into a lease with Soi-In Corporation (“Soi-In”) on October 15, 2007
6 (“the Law Office lease”). Respondent pitched this lease agreement to Ms. Kim in October 2007
7 when she came to the Law Office seeking services on a different matter. Respondent suggested that
8 the Law Office rent space from Soi-In for a reduced rate, and in return, Respondent would provide
9 document handling services and legal services for all of the entity clients that Ms. Kim owned or
10 managed. The Law Office agreed to sublease two units on the second floor of the Cabrera Building
11 from Soi-In for \$400.00 per month, a reduced rate. Soi-In agreed to this reduced rental rate because
12 Respondent agreed to provide legal services to Soi-In and to the other entities owned and managed
13 by Ms. Kim. This term was not in the written lease, a document prepared by Respondent. Ms. Kim
14 also agreed to renovate the space the Law Office would rent and to provide furniture, additional
15 terms that were not in the written lease. Respondent also prepared a notice to vacate that was sent to
16 the tenants who occupied the property. In October 2007, Respondent was representing both Ms.
17 Kim and Soi-In. Respondent did not explain the conflict of interest inherent in a lease between
18 attorney and client, nor did he advise Ms. Kim to consult with an independent attorney before
19 entering the lease.

20 The Law Office moved to the new location in December 2007. Ms. Kim is not sure when
21 the Law Office vacated that location, as Respondent never returned the keys. When Ms. Kim
22 inspected the property after the end of the lease term, which was January 31, 2010, all of the

23 _____
24 ⁴ The Complaint also alleged violations of rules 5.4 and 5.7, but during the hearing Disciplinary Counsel represented that no evidence was introduced to support these allegations.

1 furniture was gone. From December 2007 to January 2010, the Law Office paid no rent to Ms. Kim
2 or Soi-In.

3 On March 13, 2009, Respondent sent a letter to Ms. Kim that acknowledged the lack of rent
4 payments from the Law Office:

5 Regarding the leases, you are doing it again! As you know, we always paid the
6 monthly office rent until you insisted not to pay for the office portion since we were
7 sharing office space. But, since you are playing dirty and unfair, I will of course pay
any rent that is due. Please send me a billing as to how much you are claiming is past
due.

8 Ex. 39.

9 Soi-In retained a different attorney in 2009, and through that attorney sent a notice of default
10 and demand to cure to the Law Office on May 20, 2009.

11 In addition to the lease for the Law Office, Frances entered into a separate lease agreement
12 with Soi-In and Ms. Kim for the term of April 30, 2008 until January 31, 2010 (the “residential
13 lease”). The written agreement was drafted by Respondent. Ms. Kim executed the agreement on
14 behalf of Soi-In on March 19, 2008. Frances executed the agreement on May 19, 2008. Frances
15 agreed to sublease two additional units on the second floor of the Cabrera Building for \$600.00 per
16 month for the family residence. Respondent represented Soi-In in March 2008. Respondent did not
17 explain the conflict of interest of advise Ms. Kim or Soi-In to consult with independent counsel
18 concerning the residential lease.

19 Respondent, Frances, and their young daughter moved into the residence in April 2008,
20 which had been renovated and furnished for them by Soi-In. Ms. Kim is not sure when they vacated
21 the property because they never returned the keys. After the end of the lease term, Ms. Kim
22 inspected the property and found all of the furniture gone, and some damage to the property.

23 Frances paid only four months of rent, from May to August 2008.

24

1 Respondent acknowledged the residential lease and rent due in the letter to Ms. Kim dated
2 March 13, 2009:

3 With respect to the house rent, I have referred this matter to my wife, but please send
4 the billing to me as well. I suspect that you are full of hatred, sadness, discontent and
depression right now and into the future, but please send me an honest billing.

5 Ex. 39.

6 By May 2009 Ms. Kim had retained a different attorney, and through counsel she sent a
7 notice of default and demand to cure to Frances. Ms. Kim's counsel demanded \$5,400 for the
8 period of September 5, 2008 through May 5, 2009. Respondent replied to this notice of default the
9 following day, May 21, 2009. Concerning the amount demanded to cure the default, Respondent's
10 letter stated:

11 Needless to say, your client's figure is dishonestly bloated. While I am not exactly
12 sure what was the basis or source of your assertion, it appears that your source either
13 has not keep [sic] good records or is simply lying to you. I have instructed my staff
14 to calculate the amounts in question and I will share that result with you soon. In the
meantime, please check your figures because they are wrong, unfair, and lack the
whole truth. Ostensibly, this is just the beginning of a number of baseless claims that
I anticipate your client will lodge against me and/or those around me. Please be
careful.

15 Ex. 31. Respondent's reply letter to Ms. Kim's counsel also contained the following inflammatory
16 and unprofessional statement:

17 P.S. As a brother in the law, I would caution you to be very careful with your client
18 because she attempted to make me to do to others what she is making you do to me
19 and my wife and maybe others, i.e., to assert false, malicious, inaccurate, or
vindictive claims. Fortunately, I figured out her shenanigans early. Also, in one of
20 my previous letters to her, I told her to not do to you and your wife what she did to
me and my wife. Unfortunately, I see her pattern working in you. Just a thought and
out of brotherly love. Rob, please be careful.

21 Ex. 31.

22 Ms. Kim provided furnishings for both the Law Office and the residence, however, when
23 Respondent and Frances vacated the premises, all of those items were removed. Neither lease states
24 that the sublessor, Soi-In, will provide furniture for the units.

1 On March 13, 2009, Respondent sent a letter to Ms. Kim that references the furniture:

2 Regarding your bald and nonsensical demand to return the “couch, table, network
3 router, desk, desk chairs, round table and chairs, shelves and miscellaneous
4 additional furniture,” and printer, you have got to be out of your mind, again! All the
5 things that are in my office are either given or bought. If you recall, you completely
6 moved all of your furniture, equipment, and supplies, out of my office when my wife
7 and I were off-island. In fact, I am very concerned that you have taken items that are
8 not yours. Although I may be willing to give you some items if you ask nicely, I
9 refuse to succumb to your fraudulent attempt to obtain some things that are not
10 yours. Please, please, please, I am getting tired of responding to your lies and
11 misrepresentations!

12 Ex. 39.

13 Ms. Kim has not received any payment from Respondent, Frances or the Law Office for the
14 outstanding rent, the missing furniture, or the damage to the property.

15 Model Rule 1.3 requires that an attorney “act with reasonable diligence and promptness in
16 representing a client.” MODEL RULES OF PROF’L CONDUCT R. 1.3. This duty of diligence requires an
17 attorney to “act with commitment and dedication to the interests of the client and with zeal in
18 advocacy upon the client’s behalf.” *Id.* at cmt. 1. Respondent’s conduct concerning the leases was
19 not diligent. Respondent did not draft leases that fully explained the terms of the agreements, nor
20 did Respondent zealously advocate for his clients’ interests. Instead, the facts demonstrate that he
21 protected his own interests. Thus, Respondent violated Model Rule 1.3 by drafting the Law Office
22 and residential leases and advising Ms. Kim and Soi-In to agree to those leases.

23 Model Rule 1.8(a) governs business transactions between the attorney and client, generally
24 prohibiting them:

(a) A lawyer shall not enter into a business transaction with a client . . . unless:

(1) the transaction and terms on which the lawyer acquires the interest are fair and
reasonable to the client and are fully disclosed and transmitted in writing in a manner
that can be reasonably understood by the client;

(2) the client is advised in writing of the desirability of seeking and is given a
reasonable opportunity to seek the advice of independent legal counsel on the
transaction; and

1
2 (3) the client gives informed consent, in writing signed by the client, to the essential
3 terms of the transaction and the lawyer's role in the transaction, including whether
4 the lawyer is representing the client in the transaction.

5 MODEL RULES OF PROF'L CONDUCT R. 1.8(a).

6 The requirements of Model Rule 1.8(a) do not apply to "standard commercial transactions
7 between the lawyer and the client for products or services that the client generally markets to
8 others" because there, "the lawyer has no advantage in dealing with the client." *Id.* at cmt. 1. The
9 requirements of Model Rule 1.8(a) do apply, however, when an attorney accepts "nonmonetary
10 property as payment of all or part of a fee." *Id.*

11 Model Rule 1.8(a) applies in this case. Even if Soi-In often acted as a sublessor, in
12 negotiating the terms of a property transaction, Respondent, as an attorney, had an advantage over
13 his client. The Law Office received a reduced rental rate because of the attorney-client relationship
14 in this case. And the agreement included the exchange of a nonmonetary property right for
15 Respondent's legal services.

16 None of the conditions required for a permissible business transaction between attorney and
17 client are present in this case. The Law Office lease was in writing, but its essential terms were not
18 written down or fairly disclosed to the client. The sublease agreement did not explain how the
19 provision of legal services fit into the exchange. *See* MODEL RULES OF PROF'L CONDUCT R.
20 1.8(a)(1) and (3). Nor did it explain whether Respondent was representing Soi-In in the lease
21 transaction. *See* MODEL RULES OF PROF'L CONDUCT R. 1.8(a)(3). Respondent never advised Soi-In
22 to consult with an independent attorney regarding the lease. *See* MODEL RULES OF PROF'L CONDUCT
23 R. 1.8(a)(2). Instead, when Ms. Kim consulted with an independent attorney in May 2009,
24 Respondent warned the new attorney against assisting Ms. Kim, and accused her of being
"malicious" and "vindictive." Ex. 39.

1 Nor was the transaction fair or reasonable for Soi-In. It was not clear how much benefit Soi-
2 In would get from the transaction, because the agreement did not specify the amount of legal
3 services that Respondent would provide, or on what matters. The lack of clarity surrounding the
4 provision of furniture was also unfair to Soi-In. Additionally, Respondent's actions throughout the
5 term of the sublease were unfair and unreasonable as no rent was actually paid.

6 Accordingly, Respondent violated Model Rule 1.8(a) by engaging in a sublease agreement
7 with Soi-In.

8 Respondent is also responsible for Frances' violation of Model Rule 1.8(a) in entering the
9 residential lease with Soi-In and Ms. Kim. Model Rule 5.3 sets forth an attorney's responsibilities
10 regarding nonlawyers who assist the attorney. MODEL RULES OF PROF'L CONDUCT R. 5.3 Relevant
11 to this circumstance is Model Rule 5.3(c)(1):

12 With respect to a nonlawyer employed or retained by or associated with a lawyer:

13

14 (c) a lawyer shall be responsible for conduct of such a person that would be a
violation of the Rules of Professional Conduct if engaged by a lawyer if:

15 (1) the lawyer orders, or with the knowledge of the specific conduct, ratifies the
16 conduct involved. . . .

17 Frances is associated with Respondent. As discussed above, Frances held a prohibited role
18 as member of the Law Office limited liability company. Frances also worked at the office, sending
19 correspondence, answering phones, and preparing documents. In this case, Respondent had
20 knowledge of the specific conduct, because he prepared the lease. He ratified the conduct by living
21 in the residence. Leasing property from Ms. Kim and Soi-In, both clients, is a violation of Model
22 Rule 1.8(a), because it is a business transaction and Ms. Kim was never advised in writing to seek
23 the advice of independent counsel. MODEL RULES OF PROF'L CONDUCT R. 1.8(a). Thus, Respondent
24 is responsible for the violation of Model Rule 1.8(a) embodied in the residential lease.

1 The sublease agreements and Respondent’s conduct during the term of the leases, and upon
2 demand from Ms. Kim’s new counsel to cure the default, indicate that Respondent acted
3 dishonestly. Under Model Rule 8.4(c) it is professional misconduct to “engage in conduct involving
4 dishonesty, fraud, deceit or misrepresentation.” MODEL RULES OF PROF’L CONDUCT R. 8.4(c).
5 “Dishonesty . . . means conduct evincing a lack of honesty, probity or integrity in principle; [a] lack
6 of fairness and straightforwardness.” *In re Yana*, 2014 MP 1 ¶ 30 (internal quotations and citations
7 omitted). “[M]isrepresentation means a statement made by a party that a thing is in fact a particular
8 way, when it is not so; untrue representation[s]; [or] false or incorrect statements or accounts.” *Id.*
9 (internal quotations and citations omitted).

10 Respondent’s own communications concerning the terms of the subleases indicate dishonest
11 behavior. For example, the rent in the residential lease is \$600 per month. In responding to the
12 demand letter, which requested rent for nine months in the amount of \$5,400, Respondent
13 acknowledged that some rent was owed on the residential lease, but expressed disbelief and lack of
14 understanding about how the amount of outstanding rent was calculated. Respondent also
15 acknowledged that rent was owed on the Law Office lease in his March 13, 2009 letter to Ms. Kim.
16 From that letter, it is apparent that Respondent was happy to ignore the terms of the lease when it
17 benefitted him. In that letter he also characterized Ms. Kim’s request that he comply with the lease
18 terms as “playing dirty and unfair.” Ex. 39. Similarly, in the May 21, 2009 letter to Ms. Kim’s new
19 attorney, Respondent insulted Ms. Kim and attempted to paint her as conniving and unreliable. The
20 Court also notes that Respondent employed abusive and manipulative language in his
21 correspondence with Ms. Kim concerning the subleases and the furniture. The Court finds that the
22 nature of Respondent’s communication about the leases indicates that he lacked integrity
23 throughout the course of the sublease transactions.

1 Thus, Respondent's misrepresentations concerning the terms of the Law Office lease and
2 the residential lease constitute professional misconduct under Model Rule 8.4(c).

3 **D. SEXUAL RELATIONS WITH CLIENT**

4 The Complaint alleges that Respondent violated Rules 1.8(j), 5.3(c), and 8.4(b) and (c) by
5 engaging in sexual acts with Ms. Kim and instructing his wife to do the same. The Court finds the
6 following facts to be established by clear and convincing evidence.

7 Ms. Kim and Respondent did not have a sexual relationship before Ms. Kim and her
8 business entities were clients of Respondent. Ms. Kim's testimony at the disciplinary hearing and
9 the Google chat records established that there were sexual relations between Respondent and Ms.
10 Kim on at least seven occasions.

11 The first of these incidents occurred in the early morning hours of November 2, 2008. On
12 November 1, 2008, Ms. Kim asked Respondent for help because she was suffering from depression.
13 Ms. Kim trusted Respondent to assist her. Respondent flew with Ms. Kim to Guam to the hospital
14 that same day. After seeing the doctor, Ms. Kim was prescribed medication. Respondent picked up
15 the medication from a pharmacy. That night, Ms. Kim and Respondent stayed in the same hotel
16 room because Respondent told Ms. Kim that only one room was available, but promised he would
17 not touch her. Respondent handed Ms. Kim two pills and instructed her to take them, which she did.
18 The hotel room had two beds, and Ms. Kim got into her bed and was able to fall asleep, but awoke
19 some time in the middle of the night or early morning to find Respondent in her bed. Respondent
20 inserted his penis into Ms. Kim's vagina until he ejaculated, despite Ms. Kim's protests.

21 During a Google chat exchange between Respondent and Ms. Kim on November 5, 2014,
22 Respondent alluded to the sexual contact:

23 [Respondent]: U mean u can jus forgt wat we did jus like that?

[Ms. Kim]: do not talk about it any more pls!

24 [Respondent]: Ok I wil stop but I wan u to know that u r very good!

1 [Ms. Kim]: do not say it
[Respondent]: Ok I try[;] very hard but I try
2 [Ms. Kim]: thanks
[Respondent]: I miss u so much!!!
3 [Ms. Kim]: we can do it
[Respondent]: I love u!!! U r part of my body oredy!
4 [Ms. Kim]: forget about memory

Ex. 86.

5
6 During a chat exchange on November 10, 2008 between Respondent and Ms. Kim,
7 Respondent again acknowledged that he had sexual contact with Ms. Kim. He stated “i just want to
8 tell you that you can run away from my love but you cannot hide.” Ex. 87. And, later “i know you
9 love me[;] your saranghe is the best [...] smells the best [...] tastes the best [...] looks the best[...]
10 feels the best [...].” *Id.* Ms. Kim explained that saranghe is a Korean word for love, and that
11 Respondent used “saranghe” to refer both to her vagina and Respondent’s penis.

12 The next sexual contact occurred on December 11, 2008. Ms. Kim testified that in the early
13 evening hours, Respondent again forcibly inserted his penis into her vagina until he ejaculated. This
14 occurred in Respondent’s apartment, with his young daughter sleeping about three feet away.
15 Respondent told Ms. Kim not to scream, using the presence of his young child to control Ms. Kim.
16 Respondent then took Ms. Kim to Godfather’s Bar to cheer her up. After Ms. Kim had a couple of
17 beers at Godfather’s Bar, Respondent and Ms. Kim drove in Respondent’s car to Kagman Beach.
18 There Respondent and Ms. Kim again had vaginal intercourse and engaged in other sexual contact,
19 but this time the contact was consensual.

20 Chat messages exchanged that night between Ms. Kim and Respondent acknowledge that
21 they had sexual contact. In response to Ms. Kim’s message “you are my teacher coz u teach me
22 how accept man and sex . . .” Respondent replied “U knw oredy bt u jus nid somebody to lov u.”
23 Ex. 89. Later Respondent stated, “I wan second round bt u sed we go home. Lol.” Ex. 89. Ms. Kim

24

1 replied with the question “did you shower n wash face.” *Id.* Respondent answered “R u kidding? I
2 sleep w ur juice on my face!!!” *Id.* Ms. Kim explained that this referred to fluids from her vagina.

3 Respondent and Ms. Kim had vaginal intercourse again in late December 2008, on January
4 2, 2009 and two other times in January 2009, while Respondent, Ms. Kim and Frances were visiting
5 Rota. Ms. Kim testified that the last three times involved her engaging in sexual acts with both
6 Respondent and Frances, and that Respondent insisted Ms. Kim and Frances drink alcohol but
7 Respondent did not drink any alcohol.

8 Respondent represented Ms. Kim and her companies during the time period that spanned
9 from November 1, 2008 to January 2009. Exs. 49 & 94 (demonstrating that Respondent represented
10 Ms. Kim, Jung A Enterprises, Soi-In, Corp., Pacific Saipan LLC and Dan Bi Choi in Civil Case 08-
11 0041 in the District Court for the Northern Mariana Islands during that period).

12 Model Rule 1.8(j) prohibits most sexual relationships with clients: “A lawyer shall not have
13 sexual relations with a client unless a consensual relationship existed between them when the client-
14 lawyer relationship commenced.” This rule recognizes the fiduciary nature of the attorney-client
15 relationship, and that a sexual relationship between an attorney and client likely involves the
16 exploitation of the client’s trust for the attorney’s benefit. MODEL RULES OF PROF’L CONDUCT R. 1.8
17 cmt. 17. A sexual relationship between attorney and client also runs the risk of creating an
18 emotional involvement that will impair the attorney’s professional judgment. *Id.* When the client is
19 an organization, the attorney is prohibited from “having a sexual relationship with a constituent of
20 the organization who supervises, directs or regularly consults with that lawyer concerning the
21 organization’s legal matters.” MODEL RULES OF PROF’L CONDUCT R. 1.8 cmt. 18.

22 The Court finds by clear and convincing evidence that there was a sexual relationship
23 between Respondent and Ms. Kim that did not exist prior to the attorney-client relationship. Thus,
24 Respondent violated Rule 1.8(j). For the purposes of Rule 1.8(j), even consensual sexual relations

1 are prohibited if the relations began after the attorney-client relationship was established. However,
2 evidence presented at the hearing clearly and convincingly demonstrated that at least two of the
3 instances of sexual contact took place without Ms. Kim's consent. This indicates another level of
4 professional misconduct.

5 Model Rule 8.4 concerns the attorney's duty to maintain the integrity of the legal profession
6 and the trust of the public. MODEL RULES OF PROF'L CONDUCT R. 8.4. Under Model Rule 8.4(b), it
7 is professional misconduct for an attorney to, among other things, "commit a criminal act that
8 reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects."
9 Offenses that involve "violence, dishonesty, breach of trust, or serious interference with the
10 administration of justice" reflect adversely on the attorney's fitness. MODEL RULES OF PROF'L
11 CONDUCT R. 8.4 cmt. 2. An attorney need not be prosecuted or convicted of a crime for Rule 8.4(b)
12 to apply to the attorney's conduct. *Ligon v. Newman*, 365 Ark. 510, 521-22 (2006). Additionally,
13 as described above, under Model Rule 8.4(c) it is professional misconduct to "engage in conduct
14 involving dishonesty, fraud, deceit or misrepresentation."

15 On November 1, 2008, when Ms. Kim approached Respondent for help with her health
16 condition, he misrepresented his intentions. Instead of prioritizing her health and well-being, he
17 took advantage of Ms. Kim while he was acutely aware that she was experiencing a medical crisis.
18 It is a crime to engage in sexual penetration without the consent of the other person. 6 CMC
19 § 1301(a)(1). And Respondent's willingness to disregard the rights and autonomy of a vulnerable
20 client "reflects adversely" on his "trustworthiness and fitness as a lawyer." MODEL RULES OF
21 PROF'L CONDUCT R. 8.4(b). Additionally, the sexual assaults on November 2, 2008 and the early
22 evening of December 11, 2008, were offenses involving violence. *See* MODEL RULES OF PROF'L
23 CONDUCT R.8.4 cmt. 2. These assaults also fall under Rule 8.4(c) because they indicate a lack of
24 integrity in principle. *See In re Yana*, 2014 MP 1 ¶ 30. Accordingly, the Court finds that

1 Respondent's sexual assaults of Ms. Kim on November 2, 2008 and December 11, 2008 constitute
2 professional misconduct.

3 Additionally, Respondent is responsible for the sexual relations between Ms. Kim and
4 Frances. As discussed above, Model Rule 5.3(c)(1) imposes on the attorney responsibility for
5 actions taken by associated assistants if those actions violate the Model Rules of Professional
6 Conduct, and the lawyer orders the conduct, or having knowledge of the conduct, ratifies it. As
7 discussed above, Frances is associated with Respondent. Respondent ordered the sexual contact
8 between Frances and Ms. Kim. And, the sexual contact that occurred between Frances and Ms. Kim
9 would be prohibited if engaged in by Respondent under Model Rule 1.8(j). Therefore, Respondent
10 violated Model Rule 1.8(j) by instructing Frances to have sexual contact with Ms. Kim.

11 **E. CONFLICT OF INTEREST: SEIZING CONTROL OF POKER COMPANIES**

12 The Complaint alleges that Respondent violated Model Rules 1.1, 1.2(d), 1.7, 1.8(a), 5.3 and
13 8.4(b) and (c) by encouraging and facilitating Ms. Kim's transfer of assets to a company wholly
14 owned and operated by his wife, purportedly to protect Ms. Kim's interests. The Court finds the
15 following facts to be established by clear and convincing evidence.

16 **1. Findings of Fact**

17 In the spring of 2008 Ms. Kim's ex-husband began to dispute the division of their marital
18 property and threatened to take back control of some of Ms. Kim's companies and assets. Ms. Kim
19 and her ex-husband had divorced in June 2005. Ms. Kim testified that she suffered abuse from her
20 ex-husband during the marriage. In April 2008 Ms. Kim asked Respondent to help her to create a
21 new limited liability company so that she could transfer the ownership of some disputed assets to
22 that new company. Respondent offered instead to sell Ms. Kim an existing limited liability
23 company, Tan Dingo', LLC ("Tan Dingo'") for the price of \$650. This was the same price that he
24 usually charged Ms. Kim for the formation of a new business entity. At that time, the members of

1 Tan Dingo' were Respondent, Frances, and Joaquin Atalig, Respondent's uncle. Respondent
2 represented to Ms. Kim that in exchange for the \$650, the members of Tan Dingo' would resign,
3 and Ms. Kim would be the sole member of the company. Respondent did not explain that there was
4 a conflict of interest between his personal interests and Ms. Kim's. Respondent did not advise Ms.
5 Kim to seek independent legal advice.

6 Ms. Kim agreed to this deal because she trusted Respondent. She paid the \$650 with the
7 understanding that in exchange she would be the sole owner of Tan Dingo'. Minutes from a Tan
8 Dingo' member meeting on April 25, 2008 report that Ms. Kim became a member of the
9 organization, and that the members agreed to open a new bank account with Ms. Kim as the sole
10 signatory of the account. However, unbeknownst to Ms. Kim, the other members never resigned or
11 otherwise transferred their ownership of the company to her. Instead, the Tan Dingo' 2008 annual
12 report filed on March 6, 2009 indicates that Ms. Kim was a 9% member, pending confirmation of
13 contribution, and that Respondent's membership interest had been transferred to his father Ramon
14 Quichocho (no middle initial "K."). And, an amended 2008 annual report for Tan Dingo', filed on
15 July 9, 2009 shows only three members, Respondent's uncle, Frances, and Respondent's father.

16 Believing that she was the sole owner of Tan Dingo', in May 2008, Ms. Kim facilitated the
17 transfer of eight poker machines from Pacific Saipan, LLC to Tan Dingo'. Ms. Kim testified that
18 the date on the Bill of Sale for these machines was incorrect, and although it states they were
19 transferred in March, they were actually transferred in May. Ms. Kim also testified that although the
20 Bill of Sale listed the price of \$950.00 per machine, \$7,600.00 total, no money was exchanged. Ms.
21 Kim testified that the sole purpose of the Bill of Sale form was to document that Tan Dingo' now
22 owned the poker machines, so that they could be licensed under the new owner. The machines
23 stayed in the same location. Pacific Saipan, LLC was a client of Respondent's as reflected in a letter
24 drafted by Respondent for Pacific Saipan, LLC dated July 15, 2008.

1 In July 2008, Ms. Kim facilitated the transfer of eight more poker machines from Soi-In to
2 Tan Dingo'. The Bill of Sale reflected a price of \$950.00 per machine, \$7,600.00 total, but Ms. Kim
3 again testified that no money was actually exchanged. These poker machines also stayed in the
4 same location. Soi-In was a client of Respondent's in 2008, as is reflected in documents drafted for
5 Soi-In by Respondent and dated March 5, 2008 and October 29, 2008.

6 In October 2008, Ms. Kim facilitated the transfer of ten more poker machines from Pacific
7 Saipan, LLC to Tan Dingo'. The Bill of Sale for these machines states that the machines were sold
8 at the price of \$2,500 per machine, \$25,000 total, however, Ms. Kim testified that no money was
9 actually exchanged.

10 Ms. Kim effected the payment of \$168,000 in licensing fees for the transferred poker
11 machines. \$141,000 of the licensing fees were paid by Soi-In (\$60,000 debit transaction, \$36,000
12 check, and \$45,000 check to Tan Dingo' all of which was paid to CNMI Treasury), \$20,000 was
13 paid by Pacific Saipan, LLC, and the remaining \$7,000 came from Tan Dingo', of origin unknown.
14 Ms. Kim testified that no other members of Tan Dingo' contributed any funds or assets to the
15 business.

16 In December 2008, Tan Dingo' obtained business licenses for PS Poker and Leo I Poker,
17 poker rooms for which the business license was previously held by other companies owned and
18 managed by Ms. Kim, Pacific Saipan, LLC and Kosta, LLC respectively.

19 Ms. Kim again sought Respondent's assistance in September 2008. Beginning in 2004, Ms.
20 Kim had an agreement with her ex-husband's brother, Byung Kook Choi ("B.K. Choi"), that he
21 would operate a poker room on Rota, Rota II Poker, and that she was paid 50% of the net profits
22 from that business. The property where Rota II Poker was located was leased by Blue Bird, Inc., a
23 corporation owned by Ms. Kim's mother and brother. Ms. Kim was always paid her 50% share,
24

1 until the spring of 2008, around the same time that her ex-husband returned to the CNMI from
2 Korea. Ms. Kim came to Respondent requesting legal help to recover the 50% payments.

3 In September of 2008 Respondent traveled to Rota to assist Ms. Kim with this matter. Ms.
4 Kim did not go to Rota with Respondent, but when Respondent returned, he reported to her that he
5 had shut down the poker room, and he showed Ms. Kim a lease that he had drafted, and that had
6 been executed, with Frances as the lessee of the poker room property. The lessor of the property
7 was Fidel. S. Mendiola, the husband of Respondent's cousin, Abelina Mendiola. Ms. Kim had not
8 instructed Respondent to shut down the poker room or transfer the lease. Respondent advised her
9 after the fact that having the lease in Frances' name, instead of Blue Bird, Inc.'s, would protect Ms.
10 Kim's interests against her ex-husband and his brother. Respondent told Ms. Kim that he would
11 prepare a sublease with Frances as sublessor and one of Ms. Kim's companies as sublessee. So, Ms.
12 Kim filed the lease and paid the filing fee. However, Respondent never drafted the promised
13 sublease agreement. Respondent did not explain any possible conflicts of interest, or encourage Ms.
14 Kim to consult with an independent attorney about the lease transfer.

15 On October 24, 2008, Respondent again traveled to Rota. After he returned, on October 26,
16 2008, Respondent told Ms. Kim that her ex-brother-in-law, B.K. Choi, was planning to bring a civil
17 action,⁵ so Ms. Kim should create a new company to protect her assets. Respondent advised Ms.
18 Kim that her interests would be best protected if she transferred assets to a company which she did
19 not own. Respondent prepared all of the documents to form Latte Stone, LLC, with Frances as the
20 sole member. Respondent explained that Frances would own and control the business for Ms.
21 Kim's benefit, to protect her interests against B.K. Choi. Ms. Kim agreed to this plan, and Latte

22
23 ⁵ This civil action was brought by B.K. Choi and Pacific Rota, LLC, in November 2008 in the District Court for the
24 Northern Mariana Islands. The case concerned Respondent's actions on Rota in September 2008, when he closed down
the poker room and changed the lease. The defendants were Ms. Kim, Respondent, Frances, the Mendiolas, Pacific
Saipan, LLC, and Dan Bi Choi. As will be discussed below, Respondent represented all co-defendants, including
himself, in this civil matter.

1 Stone, LLC was formed on October 29, 2008. Respondent did not explain the conflicts between his
2 own interests and Ms. Kim's in this situation, or tell Ms. Kim to consult with an independent
3 attorney.

4 Ms. Kim intended to set up a new poker room on Rota using Latte Stone, LLC. Ms. Kim
5 testified that Respondent asked her when she was planning to start operations, and when she
6 responded that she was having financial difficulties, Respondent offered to loan her \$50,000, which
7 he did.

8 On November 10, 2008, Ms. Kim facilitated the transfer of ten poker machines to Latte
9 Stone, LLC, nine from Soi-In, and one from Tan Dingo'. Frances prepared the Bill of Sale forms
10 for these machines, which indicate that the price was \$300.00 per machine. However, Ms. Kim
11 testified that no money was actually exchanged.

12 On November 12, 2008, Ms. Kim facilitated payment of \$1,412.45 to the Commonwealth
13 Utilities Corporation as a deposit for power for the new poker room on Rota. On November 17,
14 2008, Ms. Kim facilitated the payment of \$80,000 in licensing fees for eight poker machines to be
15 used on Rota. On November 19, 2008, Latte Stone, LLC was issued a license to commercially
16 operate the poker machines in Sinapalo, Rota.

17 Seven people, including Ms. Kim, Frances, Respondent, and Ms. Kim's long-time
18 employee, Mr. Mohammad Delowar, traveled to Rota to open up the new poker room. Ms. Kim,
19 Frances and three others arrived on November 14, 2008; Respondent and Mr. Delowar followed on
20 November 15, 2008. Mr. Delowar stayed on in Rota as the manager of Latte Poker, the new poker
21 business that opened in the same location as Rota II Poker, the shop that Respondent shut down in
22 September 2008.

23 Mr. Delowar understood that the poker business was Ms. Kim's and that he answered to her.
24 He hired Respondent's cousin and the cousin's wife to work at the poker room. He was instructed

1 that if he could not get into contact with Ms. Kim, then he could call Frances and should then
2 follow her instructions. Mr. Delowar deposited most of the money from the business into Latte
3 Stone, LLC's bank account at the Bank of Guam, to which Frances was the sole signatory.
4 Sometimes Ms. Kim instructed him to give money to Frances, and Frances would sign a receipt.
5 Mr. Delowar's understanding was that Respondent was the company lawyer. The poker shop
6 operated smoothly from its opening in November 2008 until February 24, 2009.

7 On the morning of February 24, 2009, Ms. Kim and Respondent met in Saipan at Café by
8 the Park. Respondent and Frances had traveled to the Philippines in mid-February, and since they
9 had returned, Frances had not returned any of Ms. Kim's communications. Ms. Kim met with
10 Respondent to obtain assistance getting information from Frances about Latte Poker. She also
11 sought clarification about who Respondent actually represented and requested an accounting of the
12 services provided. Among other things, Ms. Kim asked why full ownership of Tan Dingo' had not
13 been transferred to her.

14 Later that day, Respondent traveled to Rota, where Mr. Delowar saw him in the cash room
15 of Latte Poker. Respondent asked Mr. Delowar to come with him to talk. Respondent told Mr.
16 Delowar to stop working and not to call Ms. Kim. Respondent told Mr. Delowar that Ms. Kim and
17 Frances were having problems and as the company lawyer, Respondent was stepping in to solve the
18 problems. Respondent told his cousin, the other poker room employee, to call the police if Mr.
19 Delowar returned to the poker shop. Mr. Delowar was confused, but followed Respondent's
20 instructions because Respondent was the company lawyer. Mr. Delowar was scared because he
21 thought Respondent was accusing him of stealing.

22 At that point, Ms. Kim lost all control of Latte Poker, Latte Stone, LLC, and Tan Dingo' and
23 all of the assets owned by those companies. Mr. Delowar moved back to Saipan in March 2009.

24

1 Ms. Kim has not received any payments for her interest in Tan Dingo', the Rota poker business, or
2 the poker machines transferred to Tan Dingo' and Latte Stone, LLC.

3 **2. Conclusions of Law**

4 Disciplinary Counsel asserts that this conduct violates Model Rules 1.1, 1.2(d), 1.7, 1.8(a),
5 5.3, and 8.4(b) and (c).

6 Model Rule 1.2(d) states that an attorney "shall not counsel a client to engage, or assist a
7 client in conduct that the lawyer knows is criminal or fraudulent." A "fraudulent act" is "conduct
8 involving bad faith, dishonesty, a lack of integrity, or moral turpitude." BLACK'S LAW DICTIONARY
9 (9th Ed. 2010). Respondent violated this rule by encouraging Ms. Kim to "protect her assets" from
10 other parties who were claiming an interest in the assets, by, in effect, hiding them in a company
11 she did not own while still maintaining actual control. Such conduct is dishonest and fraudulent for
12 the purposes of Model Rule 1.2(d). Additionally, the Bill of Sale forms that described the poker
13 machine sales were all fraudulent as they described prices that were never paid and were never
14 intended to be paid. Frances, a member of Respondent's Law Office, prepared all of these forms.
15 Accordingly, Respondent violated Model Rule 1.2(d) by counseling Ms. Kim to transfer assets to
16 Latte Stone, LLC and assisting her in doing so.

17 Model Rule 1.7 prohibits attorneys from representing clients when doing so involves a
18 concurrent conflict of interest. "A concurrent conflict of interest exists if: . . . (2) there is a
19 significant risk that the representation of one or more clients will be materially limited by . . . a
20 personal interest of the lawyer." MODEL RULES OF PROF'L CONDUCT R. 1.7(a)(2). Such a conflict
21 can be waived if four separate conditions are met including "each affected client gives informed
22 consent, confirmed in writing." MODEL RULES OF PROF'L CONDUCT R. 1.7(b).

23 Here, Respondent encouraged Ms. Kim to become a member of a company he partly owned,
24 promising falsely that he and the other members would resign. Then, Respondent counseled Ms.

1 Kim to transfer assets first to that company, which he partly owned, and then to a company wholly-
2 owned by his wife. Respondent was involved in all sides of these transactions: his own interests
3 were involved as a member of Tan Dingo'; he formed Latte Stone, LLC and held himself out as the
4 company lawyer to employees; he counseled Ms. Kim in her personal capacity to purportedly
5 protect her interests against others who were claiming ownership of the poker business; he
6 represented Soi-In, the seller of the poker machines; and he provided instructions to his wife as the
7 owner of Latte Stone, LLC. There was a significant risk that Respondent and his wife's personal
8 interests would materially limit his ability to provide loyal and independent legal services to Ms.
9 Kim and her companies. And indeed, these risks became a reality when Respondent took control of
10 the Rota poker business and Tan Dingo'. Ms. Kim did not waive these conflicts by giving informed
11 consent in writing.

12 Accordingly, Respondent violated Model Rule 1.7 by providing legal services to Ms. Kim in
13 connection with the transfer of poker machines to Tan Dingo' and Latte Stone, LLC from Soi-In.

14 As described above, under Model Rule 1.8(a), attorneys are generally prohibited from
15 entering business transactions with clients unless: (1) the transaction is fair and reasonable; (2) the
16 attorney advises the client in writing to consult an independent attorney on the matter; and (3) the
17 client gives informed consent in writing, to the terms of the transaction, which must include
18 whether the attorney is representing the client in the transaction. The purpose of this rule is to
19 ensure that the attorney's own interests do not conflict with the interests of the client or infringe on
20 the attorney's duty of loyalty to the client. "A lawyer's legal skill and training, together with the
21 relationship of trust and confidence between lawyer and client, create the possibility of
22 overreaching when the lawyer participates in a business, property or financial transaction with a
23 client." MODEL RULES OF PROF'L CONDUCT R. 1.8 cmt. 1.

1 In this case, overreaching is an understatement. The Court finds that Respondent entered
2 into several business transactions with Ms. Kim concerning the poker machines. The first was
3 purporting to sell Tan Dingo' to Ms. Kim. None of the terms of this agreement were put into
4 writing, and the result is that Ms. Kim's understanding of the essential terms of the transaction, that
5 she would own the entire company for \$650, contradicts the annual reports, which reflect at most a
6 9% interest in the company, and in the end, no interest. *See* Rule 1.8(a)(3). Without these written
7 terms, it is also unclear which clients Respondent represented in the transaction, although, he
8 arguably attempted to represent all parties involved. Nor was Ms. Kim ever advised in writing to
9 seek the advice of independent counsel. *See* MODEL RULES OF PROF'L CONDUCT R. 1.8(a)(2).
10 Therefore, Respondent violated Model Rule 1.8(a) through his involvement with the sale of Tan
11 Dingo'.

12 Once enmeshed in joint ownership of Tan Dingo' under unclear terms with Ms. Kim,
13 Respondent violated Model Rule 1.8(a) every time that Tan Dingo' conducted a business
14 transaction with Ms. Kim or one of her other companies, such as Soi-In or Pacific Saipan, LLC
15 because Respondent never counseled Ms. Kim to seek advice of independent counsel. The Court
16 heard testimony about two additional business transactions involving the transfer of poker machines
17 from Soi-In and Pacific Saipan, LLC to Tan Dingo'. Although the terms of these sales were in
18 writing, the transactions were not fair because, as Ms. Kim testified, the Bill of Sale documents
19 were fraudulent. The parties did not and never intended to exchange money for the poker machines.
20 Due to Respondent's representations, Ms. Kim believed that the poker machines were being
21 transferred from a company she owned, to another company she owned. However, the company
22 documents reflect that Ms. Kim owned only a minority interest in the transferee company. Thus,
23 these transactions unfairly divested ownership in the poker machines from Ms. Kim. Given these
24

1 facts, the Court finds that Respondent violated Model Rule 1.8(a) through the poker machine sales
2 to Tan Dingo’.

3 The formation and transfer of assets to Latte Stone, LLC was also a prohibited transaction
4 between Respondent and Ms. Kim. Although many of the transactions concerning Latte Stone, LLC
5 were between Frances and Ms. Kim, and although Frances was the sole member of Latte Stone,
6 LLC, the Court finds that Respondent is responsible for Frances’ conduct.

7 Model Rule 5.3 describes an attorney’s responsibilities regarding nonlawyer assistants.
8 Relevant to this situation are subsections (b) and (c)(1):

9 With respect to a nonlawyer employed or retained by or associated with a lawyer:

10

11 (b) a lawyer having direct supervisory authority over the nonlawyer shall make
12 reasonable efforts to ensure that the person’s conduct is compatible with the
13 professional obligations of the lawyer; and

14 (c) a lawyer shall be responsible for conduct of such a person that would be a
15 violation of the Rules of Professional Conduct if engaged by a lawyer if:

16 (1) the lawyer orders, or with the knowledge of the specific conduct, ratifies the
17 conduct involved. . . .

18 MODEL RULES OF PROF’L CONDUCT R. 5.3(b), (c)(1). Respondent is responsible for Frances’
19 conduct concerning Latte Stone, LLC under Model Rule 5.3(c)(1), because, as discussed above,
20 Frances is associated with Respondent. And Respondent ratified Frances’ conduct by preparing the
21 lease which transferred property rights from Blue Bird, Inc. to Frances; preparing the Latte Stone,
22 LLC formation documents; counseling Ms. Kim to engage in the plan to transfer assets to Latte
23 Stone, LLC; presenting himself as the company lawyer to employees of the Latte Stone, LLC poker
24 room; and finally, taking control of the business.

25 The Latte Stone, LLC transactions violated Model Rule 1.8(a). As with the transactions
described above, Ms. Kim was not counseled to seek independent legal advice, nor were the terms

1 of the transaction set forth in writing. Moreover, the formation and transfer of assets to Latte Stone,
2 LLC was unfair to Ms. Kim. As with the above-described poker machine transfers, the sale of poker
3 machines from Soi-In and Tan Dingo' to Latte Stone, LLC did not actually involve the exchange of
4 money. And, as Mr. Delowar described, Respondent eventually shut down the poker room in Rota
5 and took control of all of the assets that had been transferred to Latte Stone, LLC. Respondent
6 violated Model Rule 1.8(a) by suggesting the plan, forming the entity, and encouraging the transfer
7 of assets from Ms. Kim and her companies to Latte Stone, LLC, a company wholly-owned by his
8 wife and improper business partner.

9 These facts also demonstrate that Respondent violated Model Rule 5.3(b) by failing to make
10 reasonable efforts to ensure that Frances' conduct conformed to professional standards. MODEL
11 RULES OF PROF'L CONDUCT R. 5.3(b).

12 All of the actions in violation of Model Rule 1.8(a) also constitute professional misconduct
13 under Model Rule 8.4(b) and (c). As described above, under Model Rule 8.4(b) it is professional
14 misconduct to commit a criminal act that reflects poorly upon an attorney's fitness to practice law,
15 including the attorney's honesty. And under Model Rule 8.4(c) it is professional misconduct to
16 engage in conduct involving dishonesty. It is a crime to "purposefully obtain property of another by
17 deception" where deception is, among other things, purposefully "creat[ing] or reinforc[ing] a false
18 impression, including false impressions as to law, value, intention or other state of mind" or
19 "prevent[ing] another from acquiring information which would affect his or her judgment of a
20 transaction." 6 CMC § 1603(a)(1), (2). Respondent's acts concerning the sale of Tan Dingo', the
21 creation of Latte Stone, LLC, and the transfer of assets to those companies all involved deception
22 and dishonesty. The transactions were fraudulent but were not presented that way, and they were
23 described to Ms. Kim as designed to protect her interests, when they actually were designed to
24 usurp ownership of valuable assets. Respondent created and reinforced these false impressions with

1 Ms. Kim. Thus, Respondent's actions in connection with the poker businesses and poker machine
2 transfers constituted professional misconduct under Model Rule 8.4(b) and (c).

3 **F. CONFLICT OF INTEREST: REPRESENTATION IN CIVIL CASES**

4 The Complaint alleges that Respondent violated Model Rules 1.2(a), 1.5(a) and (b), 1.7,
5 1.15, 5.3(c) and 8.4(c)⁶ by representing Ms. Kim, her companies, Respondent's family members,
6 and Respondent himself as co-defendants in two civil actions and then unfairly billing Ms. Kim for
7 the services rendered to defend against the claims. The Court finds the following facts to be
8 established by clear and convincing evidence.

9 In Civil Case 08-0413 in the District Court for the Northern Mariana Islands ("Civil Case
10 08-0413"), plaintiffs Byung Kook Choi (older brother of Ms. Kim's ex-husband) and Pacific Rota,
11 LLC brought suit against Respondent, Frances, Vianney Hocog (Respondent's uncle), Fidel S.
12 Mendiola, Abelina T. Mendiola (Respondent's cousin), Ms. Kim and Dan Bi Choi. Respondent
13 represented all defendants in this matter, including himself. Respondent did not set forth the terms
14 of the representation or explain the conflict of interest in writing; nor did he otherwise communicate
15 them to the co-defendants. Respondent did not advise Ms. Kim to consult with an independent
16 attorney before agreeing to his representation in this case.

17 In Civil Case 08-0041 in the District Court for the Northern Mariana Islands ("Civil Case
18 08-0041") plaintiff Byung Joon Choi brought suit against Jung A Enterprises, Soi-In Coproration,
19 Pacific Saipan, LLC, Dan Bi Choi, Ms. Kim and Respondent. Respondent represented all
20 defendants in this matter, including himself. Respondent did not set forth the terms of the
21 representation or explain the conflict of interest in writing; nor did he otherwise communicate them
22

23 _____
24 ⁶ The Complaint also alleged violations of Rules 1.6, 1.8, 5.3(c), and 8.4(b) but at the close of the disciplinary hearing, Disciplinary Counsel informed the Court that no evidence was presented to establish those violations.

1 to Ms. Kim or any other representative of the co-defendant companies. Respondent did not advise
2 Ms. Kim to consult with an independent attorney.

3 On March 12, 2009, Respondent sent a bill to Ms. Kim in her capacity as President of Soi-In
4 for a total of \$21,885.00 for services provided in Civil Case 08-0041. The bill included \$9,500 in
5 attorney's fees for Respondent's time, \$11,767.50 in paralegal fees, and \$617.50 for copies, all for
6 the period of October 1, 2008 to March 6, 2009. The bill includes charges for paralegal time of
7 15.7, 17.5 and 18.6 hours of time on November 15, 16, and 17, 2008 respectively, and charges for
8 14.3, 12.8 and 12.5 hours of time on December 12, 13, and 14, 2008 respectively.

9 This bill, along with one other bill sent in March 2009, are the only bills that Respondent
10 ever sent to Ms. Kim. Before March of 2009, when Ms. Kim sought the assistance of a different
11 attorney, Respondent had consistently told her that he provided services to her for free because she
12 was "family," the only exception to that arrangement being the \$650 flat fee that Respondent
13 regularly charged Ms. Kim to form a new business entity.

14 Model Rule 1.2(a) requires an attorney to "abide by a client's decisions concerning the
15 objectives of representation and . . . shall consult with the client as to the means by which they are
16 to be pursued." MODEL RULES OF PROF'L CONDUCT R. 1.2(a). Model Rule 1.4 sets forth the
17 attorney's obligations concerning communication and consultation with the client. MODEL RULES
18 OF PROF'L CONDUCT R. 1.4. Respondent never discussed with Ms. Kim how decisions would be
19 made in these civil cases wherein Respondent was also a defendant. Thus, Respondent violated
20 Model Rule 1.2(a).

21 Model Rule 1.5 governs fees charged by attorneys. MODEL RULES OF PROF'L CONDUCT R.
22 1.5. Model Rule 1.5(a) prohibits charging, collecting, or agreeing to unreasonable fees, and sets
23
24

1 forth factors to consider when determining the reasonableness of a fee.⁷ The Court “must exercise
2 its discretion and wisdom to tailor the balancing of factors to the particular circumstances in a given
3 case.” *Ishimatsu v. Royal Crown Insurance Corp.*, 2012 MP 17 ¶ 19 (in the context of the court
4 conducting a reasonableness hearing for awarding attorney’s fees in a civil case, a process that also
5 requires the court to apply the factors listed in Model Rule 1.5(a)). The initial burden of proving the
6 reasonableness of a fee lies with the lawyer charging the fee, even in proceedings where the lawyer
7 does not ordinarily bear the burden of proof. *Matsunaga v. Cushnie*, Civ. No. 97-0043 (NMI Super.
8 Ct. June 29, 2004) (Findings of Fact and Conclusions of Law at 9) (citing Restatement (Third) of
9 the Law Governing Lawyers § 42 (2000)).

10 Here, the Court is without information about the subject matter and difficulty of the
11 questions involved in the underlying case for which Respondent and his paralegal billed time for.
12 However, the Court heard substantial evidence about the nature and length of the professional
13 relationship between Respondent and Ms. Kim. *See* MODEL RULES OF PROF’L CONDUCT R.
14 1.5(a)(6). The Court finds that the relationship was exploitative, with Respondent consistently
15 taking advantage of Ms. Kim. The fact that this billing was one of only two ever submitted to Ms.
16 Kim, and that both bills arrived only after Ms. Kim decided to pursue alternative legal
17 representation, weighs against its reasonableness. It is clear from the billing, wherein Ms. Kim was
18 charged for six days of over twelve hours of paralegal time, that Respondent charged Ms. Kim for

19
20 ⁷ Rule 1.5(a) states:

21 The factors to be considered in determining the reasonableness of a fee include the following:

- 22 (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to
23 perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other
24 employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- (8) whether the fee is fixed or contingent.

1 all of the time spent defending this case, even though he too was a defendant. This is not
2 reasonable.

3 Thus, the Court finds that weighing the factors known in this case, and given the absence of
4 any factors indicating the reasonableness of the fees, the March 12, 2009 bill was unreasonable, in
5 violation of Model Rule 1.5(a).

6 The fee arrangement embodied in the March 12, 2009 bill also violates Model Rule 1.5(b).
7 Model Rule 1.5(b) requires that the fee arrangement and scope of representation be clearly
8 communicated to the client:

9 The scope of the representation and the basis or rate of the fee and expenses for
10 which the client will be responsible shall be communicated to the client, preferably
11 in writing, before or within a reasonable time after commencing the representation,
12 except when the lawyer will charge a regularly represented client on the same basis
13 or rate. Any changes in the basis or rate of the fee or expenses shall also be
14 communicated to the client.

15 MODEL RULES OF PROF'L CONDUCT R. 1.5(b).

16 When an attorney regularly represents a client, usually an understanding develops between
17 them concerning the attorney's standard rate. *Id.* at cmt. 2. Although fee agreements are not
18 required to be in writing, "[a] written statement concerning the terms of the engagement reduces the
19 possibility of misunderstanding." *Id.*

20 Respondent often worked for Ms. Kim, but this bill was not similar to their past
21 arrangements. In light of the fact that it was improper for Respondent to represent himself and his
22 client co-defendants, which will be discussed more below, Respondent failed to clearly
23 communicate the scope of the representation, and how the fees would be allocated among the
24 various co-defendants, including him. Respondent's failure to communicate the fee arrangement in
25 this matter, Civil Case 08-0041, violates Model Rule 1.5(b).

26 Model Rule 1.7, as discussed above, prohibits attorneys from representing a client when the
27 attorney's representation of the client will be materially limited by the attorney's own interests,

1 unless four conditions are met, including written informed consent of all affected clients. MODEL
2 RULES OF PROF'L CONDUCT R. 1.7. Respondent's personal interests as a co-defendant in these cases
3 clearly limit his ability to represent all of the other co-defendants, as there is nearly always the issue
4 of comparative liability between civil co-defendants. And Respondent represented all of the other
5 co-defendants in both cases without obtaining written informed consent. Thus, Respondent violated
6 Model Rule 1.7 by representing himself and all of the other defendants in Civil Cases 08-0041 and
7 08-0413 without informed written consent of the clients.

8 Model Rule 1.15 requires attorneys to "hold property of clients or other third persons that is
9 in a lawyer's possession in connection with a representation separate from the lawyer's own
10 property." MODEL RULES OF PROF'L CONDUCT R. 1.15. No evidence was presented specific to
11 property held by Respondent concerning these civil cases, so the Court finds no specific violation of
12 Model Rule 1.15 here.

13 However, the fee arrangement in Civil Case 08-0041 constitutes professional misconduct
14 under Model Rule 8.4(c). As discussed above, under Model Rule 8.4(c) it is professional
15 misconduct to "engage in conduct involving dishonesty, fraud, deceit or misrepresentation." MODEL
16 RULES OF PROF'L CONDUCT R. 8.4(c). And dishonesty includes conduct evidencing a "lack of
17 fairness." *In re Yana*, 2014 MP 1 ¶ 30. The billing here was unfair because it charged Ms. Kim for
18 all of the legal services that Respondent and his paralegal provided to defend against a claim to
19 which Respondent was also a co-defendant.

20 **G. LACK OF COMPETENCE**

21 The Complaint alleges that the number of violations and the nature of violations, involving
22 the most basic rules of professional ethics, indicate that Respondent is unfamiliar with professional
23 standards, in violation of Model Rule 1.1, the attorney's duty of competence. The Complaint
24

1 separately alleges that Respondent's conduct concerning the leases and the poker machine
2 transactions constitute violations of the duty of competence.

3 The Court does not find it necessary to detail every instance in which Respondent violated
4 his duty of competence, as there are many in the facts found above. Instead, the Court considers as
5 a whole the attorney-client relationship between Respondent and Ms. Kim and the various entities
6 she controlled. The Court finds that Respondent's conduct throughout this relationship indicates
7 that Respondent has willfully disregarded the most basic duties of lawyers, and in doing so, has
8 violated Model Rule 1.1.

9 Model Rule 1.1 states: "A lawyer shall provide competent representation to a client.
10 Competent representation requires legal knowledge, skill, thoroughness and preparation reasonably
11 necessary for the representation." MODEL RULES OF PROF'L CONDUCT R. 1.1. Legal knowledge in
12 every manner of representation includes knowledge of professional ethics and the rules governing
13 professional conduct. The findings in the sections above detail professional misconduct that
14 demonstrates an intentional disregard for the rules governing professional conduct and the
15 fundamental ethical duties of attorneys. Accordingly, Respondent failed to competently represent
16 Ms. Kim and all of her companies in every matter described above.

17 V. SANCTION

18 Because the Court finds that Respondent Quichocho committed acts constituting
19 professional misconduct, the Court must "determine and impose appropriate sanctions." NMI Disc.
20 R. 2(a) & (b), 9(i)(1). The Court looks to the ABA Standards for Imposing Lawyer Sanctions for
21 guidance in making these determinations. *In re Yana*, 2014 MP 1 ¶ 39. The Court considers (1) the
22 duty violated; (2) the lawyer's mental state; (3) the potential or actual injury caused by the lawyer's
23 misconduct; and (4) the existence of aggravating or mitigating factors. *See* ABA Standards for
24 Imposing Lawyer Sanctions § 3.0 (1992). The Court also takes into consideration any prior

1 sanctions imposed on the lawyer. NMI Disc. R. 9(i)(3). Additionally, the Court considers sanctions
2 imposed in similar situations. *In re Yana*, 2014 MP 1 ¶ 44.

3 Here the Court found violations of the following rules:

- 4 • Multiple violations of Model Rule 1.1 (competence);
- 5 • Model Rule 1.2(a) (did not discuss objectives of representation with clients);
- 6 • Model Rule 1.2(d) (counseled client to engage in fraudulent conduct);
- 7 • Model Rule 1.3 (diligence);
- 8 • Model Rule 1.5(a) (charged unreasonable fees);
- 9 • Model Rule 1.5(b) (failed to adequately communicate fees);
- 10 • Multiple violations of Model Rule 1.7 (ignored concurrent conflict of interest with
11 personal interest and failed to obtain informed consent from client);
- 12 • Multiple violations of Model Rule 1.8(a) (engaged in prohibited business
13 transactions with clients);
- 14 • Multiple violations of Model Rule 1.8(j) (had sexual relations with client); and
- 15 • Model Rule 5.3(b) (failed to make reasonable efforts to ensure assistant acted
16 professionally).

17 All of these rule violations constitute professional misconduct under Model Rule 8.4(a).

18 Moreover, the Court separately found many of the violations above also constituted professional
19 misconduct under Model Rule 8.4(b) and (c) because the acts constituting the rule violations were
20 criminal and dishonest.

21 Through this professional misconduct, Respondent Quichocho violated his most basic duties
22 to his clients to act competently and avoid conflicts between his personal interests and those of his
23 clients (Rules 1.1, 1.2(d), 1.7, 1.8(a) and 1.8(j)); and his duty to the public to conduct himself with
24

1 personal integrity (Rule 8.4(b) and (c)). None of the acts detailed above were based in negligence or
2 mistake. Instead, they were intentional acts, calculated to achieve personal gain at the expense of
3 his clients, Ms. Kim and the companies she controlled. The harm that Ms. Kim and her companies
4 suffered as a result of Respondent's conduct was great. Ms. Kim suffered physical harm when she
5 was sexually assaulted. She lost control of two limited liability companies and many valuable poker
6 machines owned by those companies. Her companies lost rent and the money spent on furniture for
7 the Law Office and residence of Respondent. Expert witness Bruce McMillan testified that in his
8 opinion as a certified public accountant, the loss to Ms. Kim totaled \$2.2 million.

9 The Court notes that every single aggravating factor listed in section 9.22 of the ABA
10 Standards for Imposing Lawyer Sanctions is present in this case. Section 9.22 states:

11 Aggravating factors include:

- 12 (a) prior disciplinary offenses;
- 13 (b) dishonest or selfish motive;
- 14 (c) a pattern of misconduct;
- 15 (d) multiple offenses;
- 16 (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply
with rules or orders of the disciplinary agency;
- 17 (f) submission of false evidence, false statements, or other deceptive practices during the
disciplinary process;
- 18 (g) refusal to acknowledge wrongful nature of conduct;
- 19 (h) vulnerability of victim;
- 20 (i) substantial experience in the practice of law;
- 21 (j) indifference to making restitution;
- 22 (k) illegal conduct, including that involving the use of controlled substances.

23 ABA Standards for Imposing Lawyer Sanctions § 9.22.

24 Respondent has several prior disciplinary offenses. *See id.* at § 9.22(a). Respondent was
recently suspended for three years for violations of Model Rules 1.9(a) and (c) and 8.4(c) and (d)
because he, in concert with his wife and uncle, submitted a series of Open Government Meetings
and Records Act requests to his former client, the Municipality of Tinian and Aguiguan, to
improperly pressure the client to make payments for legal services. *In re Quichocho*, Civ. No. 13-
0098 (NMI Super. Ct. May 28, 2014) (Disciplinary Action: Suspension) (unpublished).

1 The Court also takes judicial notice of Judge Manglona's January 28, 2010 order wherein
2 Judge Manglona found that Respondent Quichocho's representation of Mayor-elect Ramon M. Dela
3 Cruz violated Model Rule 1.7(a) and disqualification was required. *Dela Cruz v. San Nicholas*, Civ.
4 No. 09-0492 (NMI Super. Ct. Jan. 28, 2010) (Decision on Order Granting Defendant's Motion to
5 Disqualify Ramon K. Quichocho as Plaintiff's Legal Counsel at 8-10).

6 Additionally, the Court takes judicial notice of the Memorandum Opinion and Order issued
7 on September 23, 2013 by Judge Govendo, finding that Respondent Quichocho filed a motion to
8 disqualify Judge Govendo in that case "solely to avoid an adverse decision." *Shinji Fujie and*
9 *Toshin Group Int'l, Inc. v. Atalig*, Civ. No. 10-0131 (NMI Super. Ct. Sep. 23, 2013) (Memorandum
10 Opinion and Order at 4). In the September 23, 2013 Order, Judge Govendo, on the court's own
11 initiative, sanctioned Respondent Quichocho and co-counsel Robert Myers for violation of Rule
12 11(b) of the Commonwealth Rules of Civil Procedure because Respondent Quichocho filed a
13 motion for reconsideration that consisted of arguments already made in the original opposition to
14 summary judgment and included "name calling, personal attacks, and wild conspiracy theories" that
15 were "designed to harass the [opposing party] and the Court." *Id.* at 10. The sanction imposed
16 included an award of attorney's fees, a fine of \$5,000, and transmission of the September 23, 2013
17 Order and relevant documents to the Disciplinary Committee of the Commonwealth Bar
18 Association. *Id.* at 12.

19 Finally, the Court takes judicial notice of the recent public reprimand imposed on
20 Respondent for violations of Model Rules 1.1 and 1.4(a)(2) & (3). *In re Quichocho*, Civ. No. 13-
21 0086 (NMI Super. Ct. July 15, 2014) (Findings of Fact and Conclusions of Law at 17). In that case,
22 the court found that Respondent violated Model Rules 1.1 and 1.4 by failing to inform his client
23 that the government was possibly filing criminal charges against the client, and that the CNMI
24 Office of the Attorney General was potentially willing to discuss a settlement. *Id.* at 8-9.

1 Respondent's conduct throughout the attorney-client relationship with Ms. Kim
2 demonstrates a selfish and dishonest motive. *See* ABA Standards for Imposing Lawyer Sanctions
3 § 9.22(b). Through his relationship with Ms. Kim, Respondent obtained rent-free housing and
4 office space, sex, many poker machines, a variety of furniture, and two companies, all by
5 misrepresenting that he was acting in the client's best interest. Respondent demonstrated a pattern
6 of entering business transactions with Ms. Kim for his own benefit. Along with the prior
7 disciplinary offenses, the offenses in this case establish that Respondent demonstrates a pattern of
8 using his knowledge of legal tools, such as Open Government Act requests or the process of
9 forming and owning business entities, to harm his clients. *See id.* at § 9.22(c). There is also a
10 pattern of engaging in representation that conflicts with Respondent's personal interests without
11 written consent of the clients. *See id.* The acts described in this matter also constitute multiple
12 offenses of the Model Rules of Professional Conduct. *See id.* at § 9.22(d).

13 Respondent also demonstrated dishonesty throughout the disciplinary proceedings and
14 attempted to obstruct the disciplinary proceedings in bad faith. *See id.* at § 9.22(e) & (f). As was
15 detailed above, Respondent requested multiple continuances; submitted an answer that was evasive,
16 not truthful, and not in compliance with the Commonwealth Rules of Civil Procedure; left the
17 jurisdiction without notifying the Court, despite his awareness for months that the disciplinary
18 proceeding was scheduled; and failed both to appear for the hearing and to ensure that his wife
19 appeared for the hearing.

20 Respondent has not acknowledged the wrongful nature of his conduct. *See* ABA Standards
21 for Imposing Lawyer Sanctions § 9.22(g). The evidence presented at the hearing, particularly the
22 letters he sent to Ms. Kim and her new attorney in the spring of 2009, demonstrate that Respondent
23 attempted to shift all of the blame to Ms. Kim, completely ignoring the fiduciary nature of the
24

1 attorney-client relationship. In Respondent's answer to the disciplinary complaint, he characterized
2 the allegations against him as "trivial." Resp't Answer ¶ 87(f).

3 Ms. Kim, the person who suffered the most harm as a result of Respondent's professional
4 misconduct, was very vulnerable. *See* ABA Standards for Imposing Lawyer Sanctions § 9.22(h).
5 She was resolving marital property division issues related to a divorce that ended an abusive
6 marriage, and was actively experiencing a medical crisis when Respondent sexually assaulted her
7 and took control of a considerable amount of her assets. Respondent was aware of Ms. Kim's
8 vulnerability. She approached him for help because she trusted him, but instead of providing Ms.
9 Kim with ethical legal services, Respondent took advantage of the situation and further harmed her
10 for his own gain. Respondent then used his knowledge of her vulnerable situation to attempt to
11 dissuade her from seeking outside legal opinions. For example, in the letters he sent to Ms. Kim on
12 March 13, 2009, on Law Office letterhead, he said "you have got to be out of your mind, again!"
13 and "I suspect that you are full of hatred, sadness, discontent, and depression right now and into the
14 future." Ex. 39.

15 Respondent has substantial experience practicing law. *See* ABA Standards for Imposing
16 Lawyer Sanctions § 9.22(i). The Court takes judicial notice of the fact that Respondent has been a
17 member of the CNMI Bar for over ten years.

18 Respondent has also shown an indifference towards restitution. *See id.* at § 9.22(j). For over
19 five years Ms. Kim has been requesting that Respondent return her property, and Respondent has
20 refused in a variety of unprofessional ways. For example, in the March 13, 2009 letter, Respondent
21 stated "Although I may be willing to give you some items if you ask nicely, I refuse to succumb to
22 your fraudulent attempt to obtain some things that are not yours." Ex. 39. And in the May 21, 2009
23 response letter that Respondent sent to Ms. Kim's new attorney, Respondent acknowledged that he
24 owed rent on the leases with Soi-In, but stated, "Of course, your clients owe us substantially more

1 than everything your clients can honestly claim we owe them, if any, so naturally, I expect and
2 hereby demand that the outstanding billing statements be paid in full, and in cash or United States
3 Postal Money Order . . .” Ex. 31 (emphasis in original removed). These are the same billing
4 statements that the Court determined violated Model Rule 1.5(a). Respondent has not paid
5 restitution to Ms. Kim or any of the other client companies.

6 Finally, Respondent’s conduct involves illegal acts. *See* ABA Standards for Imposing
7 Lawyer Sanctions § 9.22(k). The sexual assaults against Ms. Kim and the theft by deception of
8 property owned by Ms. Kim through her companies are criminal acts.

9 Section 9.32 of the ABA Standards for Imposing Lawyer Sanctions lists several mitigating
10 factors. The Court finds that none of the mitigating factors are present in this case.

11 The Court notes that the conduct described in any one of the subject matter sections above
12 would warrant disbarment. As such, there is no question that disbarment is the appropriate sanction.
13 For misconduct involving a conflict of interest “[d]isbarment is generally appropriate when a
14 lawyer, without the informed consent of client(s): (a) engages in representation of a client knowing
15 that the lawyer’s interests are adverse to the client’s with the intent to benefit the lawyer or another,
16 and causes serious or potentially serious injury to the client.” ABA Standards for Imposing Lawyer
17 Sanctions § 4.31. For misconduct involving lack of competent representation, “[d]isbarment is
18 generally appropriate when a lawyer’s course of conduct demonstrates that the lawyer does not
19 understand the most fundamental legal doctrines or procedures, and the lawyer’s conduct causes
20 injury or potential injury to a client.” *Id.* at § 4.51. Similarly, “[d]isbarment is generally appropriate
21 when: . . . (b) a lawyer engages in . . . intentional conduct involving dishonesty, fraud, deceit or
22 misrepresentation that seriously adversely reflects on the lawyer’s fitness to practice.” *Id.* at § 5.11.
23 And, finally, “[d]isbarment is generally appropriate when a lawyer knowingly engages in conduct
24 that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer

1 or another, and causes serious or potentially serious injury to a client, the public, or the legal
2 system.” *Id.* at § 7.1.

3 Case law from this jurisdiction also supports the sanction of disbarment. In *In re Yana*, two
4 attorneys were disbarred because during the course of a probate matter they obtained more than
5 their share of attorney’s fees, hid the money, and refused to disgorge the improper fees in defiance
6 of court orders. 2014 MP 1 ¶¶ 4-10, 40. And in *In re Woodruff*, an attorney was disbarred because
7 he demonstrated a pattern of first obtaining payment from clients, and then failing to represent
8 clients in a timely, competent manner. Civ. No. 13-0017 (NMI Super. Ct. June 7, 2013)
9 (Disciplinary Action: Disbarment). As in these two cases, Respondent has engaged in a pattern of
10 misconduct involving dishonesty to clients and resulting in unfair benefit to the attorney. However,
11 Respondent’s conduct is even more egregious because he sexually assaulted his client and obtained
12 property that could in no way be understood to constitute attorney’s fees.

13 Case law from other jurisdictions also supports the sanction of disbarment in this case. For
14 example, in *Florida Bar v. Swann*, an attorney was disbarred for professional misconduct including:
15 using estate funds as if they were his own when was the administrator of the estate; exploiting an
16 elderly client through his girlfriend where the attorney prepared the documents that transferred the
17 client’s property to the girlfriend; attempting to defraud his wife during his divorce proceedings;
18 and entering business transactions with clients, including taking control of a corporation he had
19 formed for a client. 116 So. 3d 1225 (Fla. 2013). There, the court noted “[the attorney’s] actions,
20 both in his personal matters and in his practice of law, were dishonest, self-serving, and prejudicial
21 to justice. . . [such conduct] taints how the legal profession is viewed by members of the public and
22 by people who seek the professional services of an attorney.” *Id.* at 1234.

23 Similarly, a Maryland attorney was disbarred for, among other offenses, engaging in
24 sexual relations with a client without her consent. *Atty. Griev. Comm’n v. Culver*, 849 A.2d 423,

1 430, 438, 451 (Md. 2004). There, the court found that the attorney “abused his relationship with his
2 client, destroyed the trust clients should have in their attorneys, and represents a danger to clients
3 who entrust their future in his hands.” *Id.* at 451.

4 Accordingly, the Court finds that Respondent’s conduct warrants disbarment. No lesser
5 sanction would match the severity of this misconduct. The attorney-client relationship is grounded
6 in trust, and it is that trust upon which the validity of the entire legal system depends. In this case,
7 Respondent, by exploiting Ms. Kim on multiple levels, undermined not only her trust in him, but
8 the public’s trust in the legal profession and the legal system. Such conduct is not tolerated from an
9 attorney practicing before the courts of the Commonwealth of the Northern Mariana Islands.

10 VI. CONCLUSION

11 Accordingly, the Court orders the following:

- 12 1. Respondent Quichocho is disbarred from the practice of law before the courts of the
13 Commonwealth of the Northern Mariana Islands.
 - 14 2. Respondent Quichocho shall pay all costs and fees as set forth in Rule 19 of the
15 Commonwealth Disciplinary Rules and Procedures.
 - 16 3. As Respondent Quichocho is currently suspended from the practice of law in the
17 Commonwealth of the Northern Mariana Islands, Respondent Quichocho shall submit to
18 the Court an affidavit, as described in Rule 15(d), on or before July 30, 2014.
 - 19 4. Should Respondent apply for readmission to the Bar of the Commonwealth of the
20 Northern Mariana Islands in the future, Respondent must provide proof of restitution to
21 Ms. Kim as a condition of readmission.
- 22
23
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

IT IS SO ORDERED this 16th day of July, 2014.



JOSEPH N. CAMACHO
Associate Judge