

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA**

In re:

Case No.: 2:22-mp-00104-BB

**The Disciplinary Proceeding of
MICHAEL E. REZNICK,**

Respondent.

**MEMORANDUM OF DECISION IN
DISCIPLINARY PROCEEDING AGAINST
MICHAEL E. REZNICK**

The matter before this Panel is a disciplinary proceeding (this "Proceeding") commenced against attorney Michael E. Reznick ("Respondent"), California State Bar No. 116126, pursuant to that *Sixth Amended General Order 96-05* (the "General Order") of the United States Bankruptcy Court for the Central District of California (the "Court"). *See also In re Lehtinen*, 564 F.3d 1052, 1062 (9th Cir. 2009) (discretion for each federal court to define disciplinary procedures), *abrogated on other grounds, as stated in In re Gugliuzza*, 852 F.3d 887, 898 (9th Cir. 2017); *In re Nguyen*, 447 B.R. 268, 276-83 (9th Cir. BAP 2011) (discretion to establish disciplinary panels, and what standards to apply, including American Bar Association standards).

The Statement of Cause

On June 27, 2022, the Honorable Ernest M. Robles entered an *Order*: (1) *Finding that Michael E. Reznick Committed Fraud on the Court by Filing a Bankruptcy Petition on Behalf of DA & AR Hospice Care, Inc. Without Authorization*; (2) *Referring Michael E. Reznick to the Bankruptcy Court's Disciplinary Panel Pursuant to Sixth Amended General Order 96-05*; and (3) *Imposing Re-Filing Restrictions Upon Yvette Hargrove-Brown* (the “*Order*”). See Docket No. 1, pp. 17-19.¹ The *Order* was supported by a *Memorandum of Decision*: (1) *Finding that Michael E. Reznick Committed Fraud on the Court by Filing a Bankruptcy Petition on Behalf of DA & AR Hospice Care, Inc. Without Authorization*; (2) *Referring Michael E. Reznick to the Bankruptcy Court's Disciplinary Panel Pursuant to Sixth Amended General Order 96-05*; and (3) *Imposing Re-Filing Restrictions Upon Yvette Hargrove-Brown* (the “*Statement of Cause*”). *Id.* at pp. 2-16.

As set forth in the *Statement of Cause*, Judge Robles found that Respondent “committed fraud on the Court by filing a bankruptcy petition on behalf of DA & AR Hospice Care, Inc. (the “Hospice”) without authorization to do so.” *Id.* at p. 4. Specifically, Judge Robles found that Respondent “lacked authority to file the petition on behalf of the Hospice because the Hospice’s shareholders had not retained [Respondent] to represent the Hospice and did not assent to the filing of the petition.” *Id.* at p. 13. Judge Robles also found that Respondent “had no reasonable basis to conclude that he was authorized to represent the Hospice.” Yet, pursuant to Fed. R. Bankr. Proc. 9011, by filing the petition, Respondent was certifying to the Court that to the best of his “knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the factual contentions set forth in the petition had evidentiary support.” Therefore, in addition to being a fraud on the Court, the filing of the petition constituted a violation of Fed. R. Bankr. P. 9011. *Id.* at p. 14.

¹ Unless stated otherwise, all references to the Docket shall refer to the Court’s Docket in this Proceeding, Case No. 2:22-mp-00104.

Preliminary Matters

The Request for Judicial Notice

On September 6, 2022, the United States Trustee (the “Trustee”) filed a *Request for Judicial Notice in Support of Statement of Case* (the “RJN”) in the instant matter. *See* Docket No. 9. The RJN consists of sixteen (16) exhibits (collectively, the “Exhibits”). Exhibit 1 is a copy of the docket sheet for bankruptcy case number 2:21-bk-19219-ER, the underlying bankruptcy case at issue; Exhibits 2-15 are copies of pleadings filed in the aforementioned bankruptcy case and available on the bankruptcy case docket; and Exhibit 16 is a transcript of a hearing that was conducted on June 27, 2022 in the bankruptcy case.

Pursuant to Fed. R. Evid. 201(b), “[t]he court may judicially notice a fact that is not subject to reasonable dispute because it: (1) is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Judicial notice may be taken “of bankruptcy records in the underlying proceeding...” *In re Tuma*, 916 F.2d 488, 491 (9th Cir. 1990); *see also Lee v. City of Los Angeles*, 250 F.3d 668, 688-689 (9th Cir. 2001)(“[A] court may take judicial notice of ‘matters of public record.’”); *Minden Pictures, Inc. v. Excitant Group, LLC*, 2020 WL 80525311 * 2 (C.D. Cal. December 14, 2020)(“A court may take judicial notice of ‘court records available to the public through the PACER system.’”); *Neylon v. County of Inyo*, 2016 WL 6834097 *2 (E.D. Cal. November 21, 2016)(“Federal courts may take judicial notice of orders and proceedings in other courts, including transcripts”). This Panel will take judicial notice of the existence and authenticity of the Exhibits attached to the RJN as they are all matters of public record from the underlying bankruptcy case, and Respondent has lodged no challenge to the Trustee’s request that this Panel take judicial notice of the Exhibits.

The Request for a Stay Pending Appeal

On September 22, 2022, Respondent filed *Respondent’s (Verified) Notice of Pending Appeal and Request for Stay as a Result Thereof, or in the Alternative, for an Extension of Time to Respond to this Cause* (the “Request for a Stay”). *See* Docket No. 10. Through the Request for a Stay, Respondent informed this Panel that he filed a *Notice of Appeal and Statement of*

1 *Election* related to the Statement of Cause and order with the Bankruptcy Appellate Panel for the
2 Ninth Circuit. *Id.* at p. 1, lines 17-21. With the appeal pending, Respondent argued, “this Panel
3 likely lacks jurisdiction to hear the cause...” *Id.* at p. 2, lines 14-16; *see also id.* at lines 23-26.
4 Respondent also asserted that the lawyer he initially retained for this Proceeding, Lawrence J.
5 Semenza, was also retained to represent him in the appeal of the Statement of Cause and Order,
6 but withdrew from representing Respondent in the appeal due to a conflict of interest. *Id.* at pp.
7 1-2. Consequently, Respondent requested “a stay of the hearing on the cause, [his] filing
8 deadlines and all other proceedings pending a determination of [his] appeal” and that he be
9 allowed to conduct interviews and select a replacement for Semenza as counsel. *Id.* at p. 1, lines
10 22-23, *see also id.* at pp. 2-3.

11 On September 23, 2022, in response to the Request for a Stay, this Panel entered its
12 *Order Denying Respondent’s Request for Stay or, in the Alternative, Extension of Time to*
13 *Respond* (the “Order Denying the Stay Request”). *See* Docket No. 11. In the Order Denying the
14 Stay Request, this Panel disagreed with Respondent’s argument that the appeal of the Statement
15 of Cause and Order deprived this Panel of jurisdiction and held that this Proceeding was not
16 aimed at “alter[ing] or expand[ing] upon” the Statement of Cause and Order, but was rather a
17 proceeding to “implement or enforce” that Order. *Id.* at p. 4, lines 11-18. As the “function of the
18 Panel [is] to decide upon and impose such discipline as may appear warranted based upon that
19 [Order],” the Panel is not tasked with modifying, altering, or expanding on that Order. *Id.* at
20 lines 18-23. The Panel ruled that the hearing on the Statement of Cause, pursuant to Judge
21 Robles’ Order, would proceed as scheduled. *Id.* at p. 5.

22 **Background**

23 *The Clinica Medica group of clinics, and Noblequest*

24 In 2019, Yvette Hargrove-Brown (“Hargrove-Brown”) was hired by Clinica Medica
25 General Medical Center, Inc. (“Clinica Medica”), a group of medical clinics, “to work in their
26 academic units, to recruit colleges and universities to work with our clinics.” *See* RJN, Exhibit
27 12, Bates Stamped Page (hereinafter, “BSP”) 752. “These medical clinics were owned by Dr.
28

1 David Kyle and Mr. [Mike Patel].” *Id.* Eventually, Ms. Hargrove-Brown “was appointed the
2 Global Administrator for all of the clinics.” *Id.* at 753.

3 Between October 14, 2021 and November 1, 2021, Hargrove-Brown, as “Global
4 Administrator,” signed five (5) bankruptcy petitions with the Court, all of which were dismissed
5 shortly after filing for the failure to file schedules. *See* Statement of Cause, pp. 12-13.
6 Respondent was not the attorney who signed these petitions. *Id.*

7 But at least one related bankruptcy filing did involve Respondent. On September 2,
8 2021, there was a board meeting for Noblequest Health Foundation, Inc. (“Noblequest”). *See*
9 RJN, Exhibit 12, BSP 754. Respondent was present at the board meeting. *Id.* At that meeting,
10 Hargrove-Brown was purportedly “voted in as the new CEO of Noblequest...” *Id.* at 755. On
11 December 3, 2021, as Noblequest’s purported CEO, and on behalf of Noblequest, CarePlus
12 Medical Group and herself individually, Hargrove-Brown executed with Respondent a *Retainer*
13 *for Legal Services – Broad Scope.* *Id.* at 766-770.

14 On December 8, 2021, Hargrove-Brown as “Global Administrator” signed, purportedly at
15 Respondent’s direction, a voluntary bankruptcy petition on behalf of Noblequest (the
16 “Noblequest Bankruptcy”), which Respondent signed as counsel and filed with the Court. *See*
17 RJN, Exhibit 4, BSP 224-238. The Noblequest Bankruptcy was dismissed on December 27,
18 2022, for the failure to file schedules. *Id.* at 223.

19 *The Hospice*

20 Articles of incorporation regarding the Hospice were filed with the California Secretary
21 of State on October 17, 2014. *See* RJN, Exhibit 9, BSP 646. Ailene Rivera, Paul Laurel, and
22 Rosalie Manuel have all testified that, as to the ownership of the Hospice, Ms. Rivera Holds
23 50,000 shares, or 50%; Ms. Manuel holds 25,000 shares, or 25%; and Mr. Laurel holds 25,000
24 shares, or 25%. *See* RJN, Exhibit 11, BSP 746-748. On October 22, 2021, a *Statement of*
25 *Information* was filed with the Secretary of State identifying Jose De La Llana, M.D. as the
26 Chief Executive Officer of the Hospice. *See* RJN, Exhibit 10, BSP 717. As of March 28, 2022,
27 the *State of Information* found on the Secretary of State’s web portal identified Ailene Rivera as
28 the Hospice’s Chief Executive Officer, Secretary, and Director. *Id.* at 657-658.

1 On October 29, 2021, Respondent filed on behalf of the Hospice and others, and as
2 against Ailene Rivera and others, a Complaint in the Superior Court of the State of California,
3 for the County for Los Angeles, asserting, among other things, that Dr. De La Lana was “the
4 Chief Executive Officer, Medical Director and controlling shareholder of care/noble/[the
5 Hospice].” *Id.* at 681. Respondent, under the penalty of perjury, declared before Judge Robles
6 that “[i]n fact, [the Hospice] is owned by a medical doctor, JOSE DE LA LLANA, M.D. . . .”
7 *See* RJN, Exhibit 6, BSP 243. At that time, Respondent appeared to argue, without proof, that
8 ownership of the Hospice changed hands due to a debtor creditor relationship. By Respondent’s
9 own admissions, he never had any evidence that the ownership of the Hospice was anything
10 other than as provided by Ailene Rivera.

11 Despite baseless representations to the Court that Dr. De La Llana “in fact” owned the
12 Hospice, in an email from Respondent to numerous parties, including Hargrove-Brown, on April
13 4, 2022, Respondent disclosed his true understanding of the ownership of the Hospice. Some of
14 Respondent’s germane statements in the email are as follows:

- 15 • The Hospice is “a company **I have been told but have been unable to prove** is
16 apparently related in some way to NobleQuest, the non-profit I do represent...”
- 17 • “I was subsequently informed by Daniel Callahan (‘DC’) that Daniel Rose, M.D.
18 or one of his many related entities that you are familiar with as me (‘Dr. Rose’)
19 now owns or controls [the Hospice] but **I have never confirmed this.**”
- 20 • “I have also asked repeatedly from DC and alleged members of ‘new’
21 management, including Hargrove Brown and Kelli Williams, who I am told is the
22 ‘Chief Reorganization Officer’ [] of NobleQuest, Care Plus and [the Hospice]
23 based on a creditor debtor relationship that **I also have not confirmed**, to provide
24 me with any documentation whatsoever that process the legitimacy of your or our
25 team’s management and control of any of these entities.”
- 26 • “Please be advised that beyond the SLC Notice that I prepared nearly a year ago, **I**
27 **have nothing to disprove that Alene Rivera is not in fact the legitimate owner**
28

1 of these medical practices but for the fact that she is not a licensed California
2 physicianbed [sic] by Jose De La Lallana.”

- 3 • “The United States Department of Justice and [the Trustee] are accusing me
4 of filing a fraudulent bankruptcy petition and I have no documentation to
5 prove otherwise from you, DC, Kelli, Hargrove Brown, or anyone else on your
6 legal and business teams.”
- 7 • “Frankly, the answer I have been given by Hargrove Brown, DC and Kelli
8 Williams, namely that ‘Ailene Rivera took all the corporate records we have and
9 we don’t have a single document’ doesn’t pass the smell test.”
- 10 • “Please be further advised that without some genuine showing of legitimacy in
11 my opposition, as opposed to the bull**** I have received in the past, the OSC
12 will likely be granted...”
- 13 • “Regrettably all of my requests for information concerning the companies – since
14 October 2021 – have thus fallen on deaf ears, with the same lame refrain, that
15 nobody has a single document.”
- 16 • “...these questionable companies and bankruptcies.”
- 17 • “I cannot go into court with the scant evidence we now have against Ailene
18 Rivera.”
- 19 • “We need to explain what happened with Ailene without any further [expletive].”
- 20 • “I can fix or spin what I know, but not what is concealed from me.”
- 21 • “Right now all I have is thin air and I need help from everyone because Ailene
22 looks to me and the judge and Department of Justice and Chase like the one who
23 is wearing the ‘white hat,’ while we all look like common criminals.”

24 *See* RJN, Exhibit 12, BSP 802-804 (emphasis added).

25 While Respondent asserted that Ailene Rivera was placed on administrative leave during
26 a Noblequest board meeting, Judge Robles found that any business regarding Noblequest at the
27 board meeting “would not confer upon [Respondent] authority to act on behalf of the Hospice,
28 which is completely different entity.” *See* Statement of Case, p. 12.

1 According to Hargrove-Brown, she was told in early December 2021 by Mr. Mike Patel
2 “that [the Hospice] was owned by Dr. Rose and that Dr. Rose had appointed [Hargrove-Brown]
3 as Administrator and President...” See RJN, Exhibit 12, BSP 757. Some weeks later, according
4 to Hargrove-Brown, she was instructed by Callahan (which instruction was confirmed by Mr.
5 Mike Patel), to sign a bankruptcy petition for the Hospice. *Id.* at 758.

6 Ailene Rivera maintains that she is the President of the Hospice and the 50% shareholder.
7 *Id.* at 746. She maintains that she “never authorized the filing of [the Hospice Bankruptcy],” and
8 Respondent “was never authorized to file anything on behalf of the Hospice and he was never
9 employed by the Hospice as its attorney.” *Id.*

10 Despite Respondent’s inability to confirm ownership of the Hospice as far back as
11 October 2021 (including the absence of any documents or arguments that, in his view, would
12 pass the “smell test” in establishing ownership of the Hospice by any entity or person other than
13 Rivera, Manuel and Laurel), and the fact that there was no retention agreement between the
14 Hospice and Respondent, on December 14, 2021, Respondent caused a “face-sheet” voluntary
15 chapter 11 petition to be filed on behalf of the Hospice (the “Hospice Bankruptcy”) with the
16 Court.

17 As with the Noblequest Bankruptcy, Hargrove-Brown signed the Hospice’s bankruptcy
18 petition, but as “President,” and Respondent signed the petition as counsel to the Hospice. *See*
19 RJN, Exhibit 2, BSP 17-33. Filed with the petition was a *List of Creditors Who Have the 20*
20 *Largest Unsecured Claims and are Not Insiders.* *Id.* at 23. The second and third creditors listed,
21 “The transion [*sic*] retreat Management Trust” and “the lakeside remodeling trust” both list
22 Respondent as their contact. *Id.* In fact, the entirety of the list is a word-for-word reproduction
23 of the same list that was filed in the bankruptcy case of The Lakeside Trust, which was a case
24 filed with the Court by Daniel Rose on November 22, 2021. *See* RJN, Exhibit 8, BSP 441-456.
25 Hargrove-Brown attested that Daniel Rose was asserted to be the owner of the Hospice in early
26 December 2021 by Dr. David Kyle and Mr. Mike Patel. *See* RJN, Exhibit 12, BSP 757.
27 However, as Respondent stated in his email to Hargrove-Brown and others, there never were any
28

1 documents provided to him, notwithstanding his requests for such documents, establishing Rose,
2 or anyone other than Rivera, Manuel, and Laurel as owners of the Hospice.

3 In the Hospice Bankruptcy, no seven-day compliance package was provided to the
4 Trustee. *See* Statement of Cause, p. 9. Prior to the § 341(a) meeting of creditors, Respondent
5 could not provide the Trustee with any information concerning the Hospice's operations, such as
6 "the number of people it employed, and the number of patients it treated." *Id.* At the § 341(a)
7 meeting of creditors, Hargrove-Brown, who the bankruptcy petition stated was the Hospice's
8 president, "lacked the ability to answer even basic questions about the Hospice's business or
9 operations," including whether or not the Hospice had any patients, or to name even a single
10 member of the Hospice's board of directors. *Id.* This demonstration at the § 341(a) meeting of
11 creditors is consistent with Respondent's statements that he was in possession of not a "single
12 document" regarding the Hospice's ownership or operations.

13 Like the Noblequest Bankruptcy, and the aforementioned bankruptcy cases where
14 Hargrove-Brown signed the petitions, the Hospice Bankruptcy was dismissed on January 25,
15 2022 due to the Hospice's failure to file schedules. *Id.* at 5-16.

16 **The Order to Show Cause**

17 On February 9, 2022, the Trustee filed the *United States Trustee's Notice of Application*
18 *and Application for Issuance of Order to Show Cause: (1) Directing Michael E. Reznick and*
19 *Yvette Hargrove-Brown to Personally Appear to Explain Why This Bankruptcy Was Not Filed in*
20 *Bad Faith; (2) Why Michael E. Reznick Should Not Be Required to Disgorge All Fees Received*
21 *Pursuant to 11 U.S.C. § 329; (3) Why Michael E. Reznick Should Not Be Referred to the*
22 *Bankruptcy Court Attorney Disciplinary Panel for Filing A Fraudulent Bankruptcy Case; and*
23 *(4) Why Yvette Hargrove-Brown Should Not Be Ordered to Pay the Subchapter V Trustee's Fees*
24 *Incurred in the Instant Case and Barred from Future Bankruptcy Filings. See RJN, Exhibits 3-4.*

25 On February 23, 2022, the Court entered its *Order Granting United States Trustee's Notice of*
26 *Application and Application for Issuance of Order to Show Cause: (1) Directing Michael E.*
27 *Reznick and Yvette Hargrove-Brown to Personally Appear to Explain Why This Bankruptcy Was*
28 *Not Filed in Bad Faith; (2) Why Michael E. Reznick Should Not Be Required to Disgorge All*

1 *Fees Received Pursuant to 11 U.S.C. § 329; (3) Why Michael E. Reznick Should Not Be Referred*
2 *to the Bankruptcy Court Attorney Disciplinary Panel for Filing A Fraudulent Bankruptcy Case;*
3 *and (4) Why Yvette Hargrove-Brown Should Not Be Ordered to Pay the Subchapter V Trustee's*
4 *Fees Incurred in the Instant Case and Barred from Future Bankruptcy Filings (the "OSC"). See*
5 *RJN, Exhibit 5.*

6 In response to the OSC, Respondent filed a *Declaration of Michael E. Reznick in Support*
7 *of Opposition to the OSC. See RJN, Exhibit 6. Hargrove-Brown filed a Declaration of Yvette*
8 *Hargrove-Brown in Support of Opposition to OSC and that Supplemental Declaration of Yvette*
9 *Hargrove-Brown in Support of Opposition to OSC. See RJN, Exhibits 7 and 12, respectively.*

10 The balance of the pleadings filed in support of the OSC are attached to the RJN as Exhibits 8-11
11 and 13-15.

12 **Statement of Procedure and Notice of Hearing**

13 Judge Robles initiated this Proceeding against Respondent pursuant to the General Order
14 by filing with the Clerk of the United States Bankruptcy Court for the Central District of
15 California (the "Clerk") the Statement of Cause, which set forth the basis for the referral to this
16 Panel and recommended a proposed form of discipline. *See Docket No. 1.*

17 Pursuant to the General Order, the Clerk selected three (3) bankruptcy judges from this
18 District to serve on this Panel, all of whom accepted the assignment: the Honorable Sheri
19 Bluebond, Presiding Judge; the Honorable Neil W. Bason; and the Honorable Ronald A. Clifford
20 III. The *Notice of Assignment of Hearing Panel; Sixth Amended General Order 96-05;*
21 *Statement of Cause* (the "Notice of Assignment") was served on Respondent on July 25, 2022.
22 *See Docket No. 6.* Pursuant to the General Order, Respondent had until August 8, 2022 to file a
23 motion to recuse any of the members of this Panel. No such motion was filed.

24 On August 15, 2022, Respondent was served with a *Notice of Disciplinary Hearing and*
25 *Order Establishing Procedures for Hearing by Videoconference* (the "Notice of Hearing"). The
26 Notice of Hearing, among other things, provided that: (1) a hearing on the Statement of Cause
27 would take place on September 29, 2022; (2) the Trustee would have until September 15, 2022 to
28 file, if he so desired, a *Notice of Intent to Appear*, a memorandum of points and authorities and

1 any supporting declarations, requests for judicial notice and/or evidence in connection with the
2 Statement of Cause; and (3) Respondent would have until September 22, 2022, to file any
3 memorandum of points and authorities and any supporting declarations, requests for judicial
4 notice and/or evidence refuting or responding to any of the statements contained in the Statement
5 of Cause, any filings of the Trustee in this Proceeding and any evidence that Respondent sought
6 to introduce to this Panel in support of mitigation or as otherwise bearing upon the type or extent
7 of any discipline to be imposed upon him in this Proceeding. *See* Docket No. 7, p. 2, lines 16-
8 27. On September 6, 2022, the Trustee filed his *Notice of Intent to Appear* and the RJN. *See*
9 Docket Nos. 8 and 9 respectively.

10 At the September 29, 2022 hearing on the Statement of Cause, Randall Miller, Esq.
11 appeared on behalf of Respondent and made an oral request to continue the hearing. Mr. Miller
12 asserted that he had only been recently retained by Respondent and therefore had insufficient
13 time to prepare for the hearing. In response to Mr. Miller's oral request, this Panel entered its
14 *Order and Notice of Continuance of Disciplinary Hearing and Agreement to Refrain from New*
15 *Filings* (the "Continuance Order"). *See* Docket No. 14.

16 In accordance with the Continuance Order, the hearing on the Statement of Cause was
17 continued to November 10, 2022, and Respondent was allowed to file no later than October 20,
18 2022, "a memorandum of points and authorities, accompanied by one or more declarations
19 and/or requests for judicial notice, setting forth or attaching any argument and evidence that he
20 would like the Panel to consider in mitigation or as otherwise bearing upon the type or extent of
21 any discipline to be imposed upon him in this matter." *Id.* at pp. 2-3. The Trustee was given
22 until November 3, 2022, to file pleadings in response to any such documents filed by
23 Respondent. *Id.* at p. 3, lines 5-8. Respondent was also prohibited "from filing any new cases
24 under any chapter of Title 11 of the United States Code in [the Court]" pending "the issuance of
25 a written decision by the Panel resolving [this Proceeding]." *Id.* at lines 9-12.

26 On October 21, 2022, a day after the deadline set by the Continuance Order, Respondent
27 filed *Respondent Michael E. Reznick's Response to June 28, 2022 Statement of Cause, and in*
28 *Mitigation of Discipline* (the "Response") and *Declaration of Respondent Michael E. Reznick in*

1 *Support of Response to June 28, 2022 Statement of Cause, and in Mitigation of Discipline* (the
2 “Reznick Declaration”). *See* Docket Nos. 17 and 18 respectively. Respondent argues through
3 the Response that he had “an objectively reasonable basis for concluding that Ms. Hargrove-
4 Brown, as opposed to Ms. Rivera, was the authorized representative of [the Hospice],” and that
5 his actions did not constitute fraud on the court or violations of Federal Rule of Bankruptcy
6 Procedure 9011(b)(3). *See* Docket No. 17, p. 2, lines 17-22. The Response closed with the
7 statement that Respondent “does not [] contest the discipline recommended in the [Statement of
8 Cause] to the effect that [his] privilege to practice law before [the Court] be revoked (subject to
9 reinstatement).” *Id.* at p. 8, lines 9-11. However, the Response argues that this Panel, assuming
10 it accepts the recommended discipline in the Statement of Cause, should, in conjunction with the
11 implementation of that discipline, vacate any finding by Judge Robles that Respondent
12 committed fraud on the Court, acted in bad faith, or violated Rule 9011(b)(3). *Id.* at lines 2-5.

13 Given Respondent’s agreement to the proposed discipline in the Statement of Cause, this
14 Panel on October 28, 2022, entered its *Order Tentatively Adopting Recommended Discipline,*
15 *Pursuant to Respondent’s Agreement* (the “Tentative Order”), whereby this Panel, as its tentative
16 ruling, accepted Respondent’s agreement to the minimum sanctions recommended by the
17 Statement of Cause, but denied Respondent’s request to vacate or delete any portion of the
18 Statement of Cause.” *See* Docket No. 21, p. 3, lines 11-13. The Tentative Order provided
19 Respondent with a deadline of October 31, 2022 to elect to proceed with the hearing on the
20 Statement of Cause, and advised that, if Respondent failed to so elect in a timely manner, this
21 Panel would adopt its Tentative Order as the final order on the Statement of Cause. *Id.* at p. 4,
22 lines 2-10.

23 On October 31, 2022, Respondent filed *Respondent’s Statement Regarding Election to*
24 *Proceed with the Disciplinary Hearing, Scheduled for November 10, 2022, Per the Disciplinary*
25 *Panel’s Order of October 28, 2022*, in which Respondent sought clarification regarding the
26 hearing and any order to be entered by this Panel, including the Panel’s jurisdiction in light of the
27 appeal of the Statement of Cause and Order, and informed the Panel that he intended to argue
28

1 that the Statement of Cause and Order should be modified by this Panel to exclude any findings
2 of bad faith or fraud on the Court. *See* Docket No. 24.

3 On November 2, 2022, the Trustee filed the *United States Trustee's Response to*
4 *Respondent Michael E. Reznick's Response to June 28, 2022 Statement of Cause and in*
5 *Mitigation of Discipline*, in which he argued that this Panel has jurisdiction to enter this
6 Memorandum and any accompanying order and that this Panel should adopt the findings and
7 recommendations of the Statement of Cause. *See* Docket No. 25.

8 A hearing took place on the Statement of Cause on November 10, 2022. Respondent and
9 Mr. Miller appeared on Respondent's behalf; Hatty Yip appeared on behalf of the Trustee.
10 Respondent at the hearing, again, accepted the proposed discipline set forth in the Statement of
11 Cause and Order, but argued that his conduct in the Hospice Bankruptcy did not rise to level of
12 fraud on the Court or a violation of Fed. R. Bankr. P. 9011. The parties did not request, and this
13 Panel did not order, presentation of any further evidence or testimony beyond that which was
14 already in the record. At the end of the hearing the matter was submitted. This Memorandum of
15 Decision follows.

16 Discussion

17 As noted above, Judge Robles' Statement of Cause relies on two alternative grounds:
18 fraud on the Court; and violation of Rule 9011. We analyze both.

19 The Court's Local Rule 2090-2(a) provides that "[a]n attorney who appears for any
20 purpose in this court is subject to the standards of professional conduct set forth in Local Civil
21 Rule 83-3." Local Rule 83-3.1.2 for the United States District Court for the Central District of
22 California provides:

23 In order to maintain the effective administration of justice and the integrity of the
24 Court, each attorney shall be familiar with and comply with the standards of
25 professional conduct required of members of the State Bar of California and
26 contained in the State Bar Act, the Rules of Professional Conduct of the State Bar
27 of California, and the decisions of any court applicable thereto. These statutes,
28 rules and decisions are hereby adopted as the standards of professional conduct,
and any breach or violation thereof may be the basis for the imposition of
discipline. The Model Rules of Professional Conduct of the American Bar
Association may be considered as guidance.

1 The Court of Appeals for the Ninth Circuit has held, “[s]imply put, not all fraud is fraud
2 on the court,” but rather, “[t]o constitute fraud on the court, the alleged misconduct must ‘harm []
3 the integrity of the judicial process.’” *In re Levander*, 180 F.3d 1114, 1119 (9th Cir.
4 1999)(citing *Alexander v. Robertson*, 882 F.2d 421, 424 (9th Cir. 1989). The Ninth Circuit has
5 limited the definition of fraud on the court to “only that species of fraud which does or attempts
6 to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial
7 machinery can not perform in the usual manner its impartial task of adjudging cases that are
8 presented for adjudication.” *Id.* (citing *In re Intermagnetics America, Inc.*, 926 F.2d 912, 916
9 (9th Cir. 1991)). “Fraud on the court must be an ‘intentional, material misrepresentation.’” *In re*
10 *U.S. v. Sierra Pacific Indus., Inc.*, 862 F.3d 1157, 1168 (9th Cir. 2017)(citing *In re Napster, Inc.*
11 *Copyright Litig.*, 479 F.3d 1078, 1097 (9th Cir. 2007). “Thus, fraud on the court ‘must involve
12 an unconscionable plan or scheme which is designed to improperly influence the court in its
13 decision.’” *Id.* (internal citation omitted).

14 Federal Rule of Bankruptcy Procedure 9011(a) provides in relevant part that “[e]very
15 petition, pleading, written motion, and other paper [] shall be signed by at least one attorney of
16 record in the attorney’s individual name.” Pursuant to Fed. R. Bankr. P. 9011(b)(3), “[b]y
17 presenting to the court [] a petition [etc.] an attorney [] is certifying to the best of the person’s
18 knowledge, information, and belief, formed after an inquiry reasonable under the circumstances
19 the allegations and other factual contentions have evidentiary support or, if specifically so
20 identified, are likely to have evidentiary support after a reasonable opportunity for further
21 investigation or discovery.” “Another representation, which is implied any time an attorney files
22 a pleading on behalf of a party, is that an attorney-client relationship exists between the attorney
23 and the party and that the party has authorized the filing.” *In re Healthrio, Inc.*, 2013 WL
24 6500478 *10 (Bankr. Colo. December 11, 2013)(citing *Restatement (Third) of Law Governing*
25 *Lawyers* § 25).

26 ***Respondent Committed Fraud on the Court***

27 As noted *supra*, Judge Robles found that Respondent “committed fraud on the Court by
28 filing a bankruptcy petition on behalf of the Hospice without authorization to do so.” Statement

1 of Case, p. 15. Respondent's own statements in evidence support Judge Robles' finding.
2 Regarding ownership of the Hospice, Respondent asserted he was in possession of "nothing to
3 disprove that Ailene Rivera is not in fact the legitimate owner of these medical practices, but for
4 the fact that she is not a licensed California physician...." In Respondent's written query to
5 those parties who claimed to have supplanted Ms. Rivera and her colleagues as the owners and
6 managers of the Hospice, Respondent himself admits that, in light of the fact that there exists not
7 a "single document [to prove ownership]," their explanation "doesn't pass the smell test." As to
8 the alleged proof provided, Respondent was not convinced of its veracity, which proof he
9 referred to as "bull****" (expletive).

10 What is more, even if Respondent plausibly could assert that he believed the Hospice had
11 new owners and managers (which he could not), Respondent was never engaged by those new
12 persons or anyone else to represent the Hospice as counsel. Respondent has not provided any
13 retainer agreement with the Hospice, any corporate resolution of the Hospice to retain him, or
14 any other evidence that he was retained by the Hospice. To the contrary, all the circumstantial
15 evidence shows the opposite. The record before this Panel strongly reinforces Judge Robles'
16 finding of fraud on the Court: Respondent was fully aware that he was never retained by the
17 Hospice, and yet he intentionally purported to represent it, thereby harming the Hospice, its true
18 owners and managers, its patients, and the bankruptcy system.

19 For example, Respondent was never paid any monies by the Hospice to prepare, file and
20 appear at meetings/hearings on behalf of the Hospice in the Hospice Bankruptcy. That lack of
21 payment by the Hospice itself corroborates Respondent's own admission that any purported
22 authority anyone might have to direct him to act for the Hospice did not "pass the smell test."
23 RJN, Exhibit 12, at BPN 803.

24 Additional corroboration of Respondent's fraud on the Court includes the papers he filed
25 with the Hospice's bankruptcy petition. Those papers included a listing of the top 20 creditors
26 which was signed by Hargrove-Brown and Respondent under penalty of perjury with the
27 certification that the list "is complete, correct and consistent with the Debtor's schedules and
28 I/we assume all responsibility for errors and omissions." In that list of creditors, Respondent was

1 listed as the contact for two of the top three creditors. Although that appears to have been an
2 (extremely reckless) error – the list of creditors was the mirror image of the creditors from a
3 completely unrelated case – it demonstrates Respondent’s complete lack of the concern that an
4 attorney admitted to the bar normally would have about signing false statements, which
5 corroborates that, despite his knowledge that he had not been retained by the Hospice, he was
6 unconcerned about signing the bankruptcy petition, thereby falsely representing to the Court that
7 he was its authorized bankruptcy attorney.

8 Respondent’s misrepresentation that he had been retained by the Hospice, and was
9 authorized to file its bankruptcy petition, caused real harm. At the § 341(a) meeting, Respondent
10 lacked any knowledge about the Hospice’s operations, including critical information regarding
11 the number of patients, their location, and their well-being. The Bankruptcy Code, and by
12 extension, this Court deems it mission critical to ensure in the first instance that patients of a
13 healthcare business in bankruptcy are cared for. *See e.g.*, 11 U.S.C. § 101(27A); *see also In re*
14 *Valley Health System*, 381 B.R. 756 (Bankr. C.D. Cal. 2008); *In re Alternate Family Case*, 377
15 B.R. 754, 758 (Bankr. S.D. Fla. 2007). This task of the Court became even more important
16 given the Covid-19 pandemic. The evidence in the record shows further that the unauthorized
17 bankruptcy petition was extremely disruptive to the Hospice and opened the door for theft of
18 funds that were supposed to be used for hospice care. *See, e.g.*, RJN, Exhibit 11, BPN 746 ¶ 8
19 and BPN 747 ¶ 8. Ultimately, Respondent’s lack of information regarding the Hospice’s
20 patients before and after the filing of the Hospice Bankruptcy interfered with the Court’s ability
21 to ensure the Hospice’s patients were cared for, which is one of the more important duties the
22 Court undertakes in adjudicating matters involving healthcare providers. By the time the Court
23 could address Respondent’s willful misrepresentation that he was authorized to file the
24 bankruptcy petition, it was already too late: his filing of the petition had operated as an “order”
25 for relief (11 U.S.C. § 301(b)), equivalent to a judgment (Fed. R. Bankr. P. 9001(7)); that has
26 already facilitated the theft of funds critical for patient care; and by knowingly misusing the
27 bankruptcy system he had already harmed the integrity of the judicial process. *See Sierra Pacific*
28

1 *Indus.*, *supra* 862 F.3d 1157, 1168-69 (fraud on the court must affect the outcome, and not be
2 curable before the court's judgment).

3 To date, and after two (2) sets of hearings on this issue (the OSC hearings and the
4 hearings on the Statement of Cause), there has been no evidence provided by Respondent
5 evidencing that he had any authority to file the bankruptcy petition on behalf of the Hospice. In
6 fact, as early as October 2021, Respondent characterized responses from Hargrove-Brown,
7 Callahan and Patel regarding proof of ownership as "lame refrain[s]," meaning, at the time of the
8 filing of the Hospice's petition, Respondent was aware that he lacked proof of the ownership of
9 the Hospice, and in turn lacked authority to file the Hospice Bankruptcy, but filed the petition
10 anyhow.

11 Simply restating Respondent's own words, he and whomever else colluded with him in
12 filing the Hospice Bankruptcy "all look like common criminals." Even from Respondent's
13 perspective, his look was indeed one of deception.

14 Respondent has argued that Ailene Rivera "could not be an authorized representative of
15 [the Hospice], in part because she was the one who was committing the acts that forced the
16 prospect of bankruptcy for [the Hospice], but also because [as a non-physician] she was not
17 permitted by California law [to own 50% of the Hospice]." *See* Docket No. 17, p. 3, lines 13-16.
18 Regarding California law on who may be an owner of a hospice, that has nothing to do with
19 whether Respondent was authorized to file the petition. In other words, this is a non-sequitur:
20 even supposing for the sake of discussion that Ms. Rivera was not authorized, that does not mean
21 Respondent *was* authorized.

22 Respondent also argued that "Dr. De La Llana confirmed [he was the medical director of
23 the Hospice and its majority shareholder] by signing the retainer agreement [for **different**
24 **entities**] with Respondent" *Id.* at p. 4, lines 3-7. Again, this is a non-sequitur. The point is
25 that there is no evidence that *the Hospice* has ever retained Respondent. There is no retention
26 agreement between Respondent and the Hospice, signed or otherwise. The purported retention
27 agreement submitted by Respondent reflects De La Llana as a signatory for Care Plus Medical
28 Group, Inc. and De La Llana individually. *See* RJN, Exhibit 6, BSP 260-263. That retention

1 agreement never mentions the Hospice. The only other retention agreement in the record is
2 dated December 3, 2021, and that is related to Noblequest, Care Plus Medical Group, Care Plus
3 Urgent Care, and Hargrove-Brown individually. *See* RJN, Exhibit 12, BSP 766-770.

4 Respondent also argued that “Dr. De La Llana confirmed [he was the medical director of
5 the Hospice and its majority shareholder] by ... providing a confirmed copy of a Statement of
6 Information [] filed by the California Secretary of State.” Docket No. 17, p. 4, lines 3-7. The
7 *Statement of Information* submitted in evidence does indeed name De La Llana as the Chief
8 Executive Officer and Secretary of the Hospice, and every other position, but it only bears Dr.
9 De La Llana’s (typed) signature – there is no verification from anyone else – so at best it only
10 confirms that there was a dispute between Dr. De La Llana and Ms. Rivera and her co-owners
11 about who owned and controlled the Hospice. *See* RJN, Exhibit 10, BSP 717-718.

12 In other words, far from supporting Respondent’s assertions, it only makes things worse
13 for him. It shows that Respondent knew, before he purported to act for the Hospice by filing its
14 bankruptcy petition, that there were very serious doubts whether he had any authority whatsoever
15 to do so. Apart from Dr. De La Llana’s word, he had no evidence of any transfer of ownership
16 or control. That made it all the more critical for him to obtain a retainer agreement, written
17 authorization to file a bankruptcy petition for the Hospice, and corroborating evidence that he
18 was acting on behalf of persons who had a good faith basis to assert their ownership and control
19 of the Hospice. Instead, as stated by Respondent himself, the lack of any reliable documentation
20 does not “pass the smell test.” RJN, Exhibit 12, BSP 803.

21 Respondent argued that “while [he] may have failed to adhere to the standard of care,
22 measured by the actions of a ‘reasonable attorney under the same or similar circumstances,’ that
23 is not remotely close to the utmost ‘egregious conduct’ proven by ‘clear and convincing
24 evidence.’” Docket No. 17, p. 7, lines 20-22. As outlined herein, this Panel disagrees.
25 Respondent’s conduct was intentional, and, on the facts presented here, constitutes some of the
26 most “egregious” conduct one could fathom. Respondent, without confirming that Callahan,
27 Rose, De La Llana, or Patel were the legitimate owners of the Hospice in any form, filed a
28 bankruptcy petition in the Court, thereby using the Court’s processes to disrupt the business of

1 the Hospice, and, in that course, almost inevitably risking the safety and well-being of patients of
2 the Hospice.

3 As noted *supra*, this Panel has no authority to vacate Judge Robles' findings in the
4 Statement of Cause, or his conclusions of law. However, in reviewing Judge Robles' findings in
5 relation to the Panel's duties in this Proceeding, based on the record presented, Judge Robles'
6 findings and conclusions of law that constitute the bases for the Statement of Cause are sound,
7 and this Panel does not perceive any reason to disturb them even if that is or were an option here.

8 The Panel also pauses here to recognize the egregious nature of the Hospice Bankruptcy
9 filing. The Hospice's business is to provide hospice care. Hospice care is critical to ensure care,
10 comfort and quality of life for a person who is approaching the end of life. Hospice care seems
11 even more essential at a time when more than a million Americans have perished in one of the
12 deadliest pandemics the world has confronted. Professionalism aside, to file a disruptive
13 bankruptcy case without any authority to do so, and without a scintilla of knowledge about where
14 and how many patients the Hospice was caring for, exceeds by a wide margin our social order's
15 acceptable limit of decency and morality.

16 ***Respondent Violated Rule 9011***

17 As discussed herein, "[p]ursuant to Rule 9011, bankruptcy courts have the authority to
18 sanction [attorneys] who present (sign, file, or later advocate) a petition [] to a bankruptcy court
19 that is either frivolous or presented for an improper purpose." *In re Blue Pine Group, Inc.*, 457
20 B.R. 64, 75 (9th Cir. BAP 2011) (aff'd and vacated on other grounds). "The Ninth Circuit has
21 held that the standard to determine reasonableness of an attorney's inquiry as to facts contained
22 in signed documents submitted to a court is an objective one. In considering sanctions under
23 Rule 9011, the bankruptcy court must measure the attorney's conduct objectively against a
24 reasonableness standard, which consists of a competent attorney admitted to practice before the
25 involved court." *Id.*

26 As noted by Respondent, he "may have failed to adhere to the standard of care, measured
27 by the actions of a 'reasonable attorney under the same or similar circumstances...'" Docket No.
28 17, p. 7, lines 19-22. This Panel agrees with Respondent here, as well as with Judge Robles'

1 assessment of Respondent's actions related to the Hospice Bankruptcy. Objectively, a
2 reasonable attorney would have "confirmed" the statements of Callahan, Rose, De La Llana, and
3 Patel that the creditor-debtor relationship that they asserted somehow gained them, or entities
4 they claimed to control, ownership of the Hospice. A reasonable attorney would have confirmed
5 that the Hospice was "related in some way" to Noblequest and that this relationship gave the
6 attorney authority to act for the Hospice. A reasonable attorney would not have moved forward
7 with the filing of the Hospice Bankruptcy with the "bull****" Respondent received from
8 purported, and unconfirmed "new management" regarding the ownership of the Hospice. A
9 reasonable debtor's attorney would have paused when he realized that the list of creditors
10 attached to the petition listed that attorney himself as representing two (2) of the three (3) largest
11 creditors. A reasonable attorney would not have signed, filed, and prosecuted (at least to the
12 point of the § 341(a) meeting of creditors) the petition in the Hospice Bankruptcy given the
13 dearth of information to support his authority to do so. Thus, Respondent's signing, filing, and
14 prosecuting the Petition was a clear violation of Rule 9011.

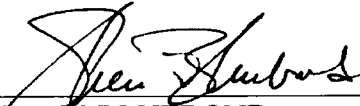
15 Discipline

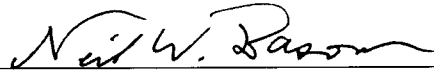
16 Through the Order, Judge Robles "recommends that [Respondent's] privilege to practice
17 in the [Court] be revoked for a period of at least three (3) years from the date of the order to be
18 entered by [this Panel]. [Judge Robles] further recommends that after the expiration of the
19 suspension period, [Respondent] be permitted to apply for reinstatement of his practice and
20 privileges only if he has (a) successfully completed twenty (20) hours of bankruptcy-related
21 Mandatory Continuing Legal Education in ethics; (b) demonstrated that he is in good standing
22 with the State Bar of California; and (c) demonstrated that he has met all additional reinstatement
23 requirements set forth in the General Order 96-05." This Panel finds Judge Robles'
24 recommendations as to discipline of Respondent to be appropriate under the circumstances and
25 adopts those recommendations in full as its order.

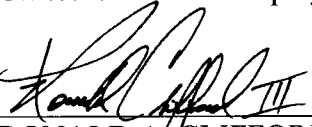
26 Copies of this Memorandum of Decision and the order issued concurrently herewith shall
27 be served by the Clerk of this Court on each Bankruptcy Judge sitting in the Central District of
28

1 California, on the Clerk of the United States District Court for the Central District of California,
2 and on the State Bar of California.

3 Dated: December 29, 2022


SHERI BLUEBOND
United States Bankruptcy Judge


NEIL W. BASON
United States Bankruptcy Judge


RONALD A. CLIFFORD III
United States Bankruptcy Judge