

# OFFICE OF DISCIPLINARY COUNSEL

September 14, 2018

Julio A. Castillo, Esquire  
Clerk, District of Columbia Court of Appeals  
430 E Street, N.W., Suite 209  
Washington, D.C. 20001

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*Deputy Disciplinary Counsel*

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*Senior Staff Attorney*  
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*Manager, Forensic Investigations*  
Charles M. Anderson

*Senior Forensic Investigator*  
Kevin E. O'Connell

**Re: Steven R. Donziger**  
**Disciplinary Docket No. 2016-D288**  
**Bar No. 431577**

Dear Mr. Castillo:

Enclosed is a certified copy of an order of the Appellate Division of the Supreme Court for the First Judicial Department in the County of New York, New York, temporarily suspending the above-named active member of the D.C. Bar. Disciplinary Counsel is submitting a certified copy of the order to the Court pursuant to D.C. Bar Rule XI, § 11(b), and mailing a copy to Mr. Donziger's counsel.

Also enclosed is a proposed order recommending that Mr. Donziger be suspended but that this matter be stayed pending the conclusion of disciplinary proceedings in New York. If you have a question, please call Assistant Disciplinary Counsel William R. Ross at (202) 638-1501.

Sincerely,

Hamilton P. Fox, III  
Disciplinary Counsel

William R. Ross  
Assistant Disciplinary Counsel

HPF/WRR/his

cc w/Encl: Steven R. Donziger  
c/o Michael S. Frisch, Esquire  
600 New Jersey Avenue, N.W.  
Room 415  
Washington, DC 20001

James T. Phalen, Executive Attorney  
Board on Professional Responsibility

*Serving the District of Columbia Court of Appeals and its Board on Professional Responsibility*

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timing of eligibility for reinstatement as related to compliance with Rule XI, § 14, including the filing of the required affidavit.

BY THE COURT:

**Copies to:**

Steven R. Donziger  
c/o Michael S. Frisch, Esquire  
600 New Jersey Avenue, N.W.  
Room 415  
Washington, DC 20001

James T. Phalen, Executive Attorney  
Board on Professional Responsibility  
Historic Courthouse  
430 E Street, NW  
Suite 138  
Washington, DC 20001

Hamilton P. Fox, III, Esquire  
Disciplinary Counsel  
Office of Disciplinary Counsel  
515 5<sup>th</sup> Street, NW  
Building A, Room 117  
Washington, DC 20001

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on July 10, 2018

Present - Hon. John W. Sweeny, Jr., Justice Presiding,  
Dianne T. Renwick  
Rosalyn H. Richter  
Sallie Manzanet-Daniels  
Marcy L. Kahn, Justices.

-----x  
In the Matter of Steven R. Donziger  
(admitted as Steven Robert Donziger),  
an attorney and counselor-at-law:

Attorney Grievance Committee  
for the First Judicial Department,  
Petitioner,

M-5635

Steven R. Donziger,  
(OCA Atty. Reg. No. 2856052),  
Respondent.

**FILED**  
**JUL 10 2018**  
SUP COURT, APP. DIV.  
FIRST DEPT.

-----x  
The Attorney Grievance Committee for the First Judicial Department, by Jorge Dopico, its Chief Attorney (Naomi F. Goldstein, of counsel), having moved this Court on March 9, 2018, for an order pursuant to Judiciary Law § 90(2), 22 NYCRR 1240.8, and the doctrine of collateral estoppel, for an order finding respondent (who, as Steven Robert Donziger, was admitted to practice as an attorney and counselor at law in the State of New York at a Term of the Appellate Division of the Supreme Court for the First Judicial Department on November 24, 1997) guilty of professional misconduct in violation of former Disciplinary Rules 1-102(A)(4), 1-102(A)(5), 1-102(A)(7), 7-102(A)(6), 7-105, 7-110(A), 7-110(B) and the New York Rules of Professional Conduct 3.4(a)(5), 3.5(a)(1), 8.4(c), and 8.4(d), based upon his actions in Chevron Corp. v Donziger, et al. (974 F Supp 2d 362 [SDNY 2014], affd 833 F3d 74 [2d Cir 2016], cert denied \_\_ US \_\_, 137 S Ct 2268 [2017]). The Committee also seeks respondent's interim suspension pursuant to 22 NYCRR 1240.9(a), premised upon the cited disciplinary violations, which, it argues, constitute uncontroverted evidence of professional misconduct which immediately threatens the public interest,

And respondent, pro se, having opposed both the collateral estoppel motion and the request for an interim suspension,

And Martin Garbus, Esq. and Charles Nesson, Esq., having been granted leave to file a brief amicus curiae in opposition to the Committee's motion (see M-2363 [decided simultaneously herewith]),

And the Committee having submitted a reply,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, and upon the Opinion Per Curiam filed herein, it is ordered that the Committee's motion is granted; respondent is found guilty of professional misconduct; and respondent is suspended from the practice of law; effective immediately, and until further order of this Court, and it is further,

Ordered that for the period of the suspension, respondent is commanded to desist and refrain from the practice of law in any form, either as principal or agent, clerk or employee of another; that respondent is forbidden to appear as an attorney or counselor-at-law before any court, judge, justice, board or commission or other public authority; that respondent is forbidden to give another an opinion as to the law or its application or advice in relation thereto; and it is further,

Ordered that respondent is directed to fully comply with the provisions of the Court's rules governing the conduct of disbarred or suspended attorneys (see 22 NYCRR 1240.15), a copy of which is annexed hereto and made a part hereof; and it is further,

Ordered that, within 20 days of the date of service of this decision, respondent may submit a request, in writing, to this Court for a post suspension hearing (see 22 NYCRR 1240.9[c]).

The proceeding is referred to Paul Doyle, Esq., Kelley Drye & Warren, LLP, 101 Park Avenue, New York, New York; 917-254-8513 to hold a hearing on sanction within 60 days of this order (22 NYCRR 1240.8[b][1]). The referee is directed to file a report on sanction with this Court within 60 days of the conclusion of the hearing (22 NYCRR 603.8-a[t]).

ENTERED:

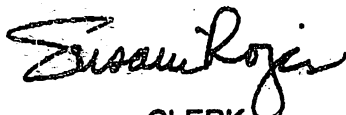
APPELLATE DIVISION SUPREME COURT FIRST DEPARTMENT  
STATE OF NEW YORK

I, SUSANNA ROJAS, Clerk of the Appellate Division of the Supreme Court First Judicial Department, do hereby certify that I have compared this copy with the original thereof filed in said office on 7/10/18 and that the same is a correct transcript thereof, and of the whole of said original.



CLERK

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of this Court on 7/10/18



CLERK

JUL 1 0 2018

SUPREME COURT, APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT

John W. Sweeny, Jr.,  
Dianne T. Renwick  
Rosalyn H. Richter  
Sallie Manzanet-Daniels  
Marcy L. Kahn,

Justice Presiding,  
  
  
  
Justices.

-----x

In the Matter of Steven R. Donziger  
(admitted as Steven Robert Donziger),  
an attorney and counselor-at-law:

Attorney Grievance Committee  
for the First Judicial Department,  
Petitioner,

M-5635

Steven R. Donziger,  
Respondent.

-----x

Disciplinary proceedings instituted by the Attorney Grievance  
Committee for the First Judicial Department. Respondent,  
Steven R. Donziger, was admitted to the Bar of the State of  
New York at a Term of the Appellate Division of the Supreme  
Court for the First Judicial Department on November 29,  
1997.

Jorge Dopico, Chief Attorney,  
Attorney Grievance Committee, New York  
(Naomi F. Goldstein, of counsel; George A. Davidson, pro  
bono special counsel), for petitioner.

Respondent pro se.

M-5635 - March 9, 2018

IN THE MATTER OF STEVEN R. DONZIGER, AN ATTORNEY

PER CURIAM

Respondent Steven R. Donziger was admitted to the practice of law in the State of New York by the First Judicial Department on November 29, 1997. At all times relevant herein, respondent has maintained an office for the practice of law within the First Department.

The Attorney Grievance Committee (AGC) seeks an order, pursuant to Judiciary Law § 90(2), the Rules for Attorney Disciplinary Matters (22 NYCRR) § 1240.8, and the doctrine of collateral estoppel, finding respondent guilty of professional misconduct in violation of former Code of Professional Responsibility DR 1-102(a)(4) (22 NYCRR 1200.3[a][4]), 1-102(a)(5), 1-102(a)(7), 7-102(a)(6) (22 NYCRR 1200.00[a][6]) 7-105 (22 NYCRR 1200.36), 7-110(a) (22 NYCRR 1200.41[a]), 7-110(b), and New York Rules of Professional Conduct (22 NYCRR 1200.00) rules 3.4(a)(5), 3.5(a)(1), 8.4(c), and 8.4(d), and immediately suspending him from the practice of law pursuant to 22 NYCRR 1240.9(a). Respondent, appearing pro so, opposes the motion.

The assertion of collateral estoppel is premised on a 322-page decision issued on March 4, 2014 by Judge Lewis A. Kaplan of the United States District Court for the Southern District of New York in *Chevron Corp. v Donziger* (974 F Supp 2d 362 [SD NY 2014],

*affd* 833 F3d 74 [2d Cir 2016], *cert denied* \_\_ US \_\_, 137 S Ct 2268 [2017]), in which respondent was found to have engaged in, inter alia, coercion, fraud and bribery in connection with an \$8.6 billion judgment obtained in Ecuador.

In order to invoke collateral estoppel, it must be shown that (1) the issues raised and resolved in the prior proceeding are identical to those decisive in the present proceeding; and (2) the party against whom collateral estoppel is asserted has had a full and fair opportunity to litigate the issues now said to be controlling (see *Schwartz v Public Adm'r of County of Bronx*, 24 NY2d 65 [1969]).

There is an "identity of issue" insofar as both the prior proceeding before Judge Kaplan and the instant disciplinary matter center on respondent's judicial coercion, corruption of a court expert and ghostwriting of his report, misrepresentations concerning the expert's independence, obstruction of justice, witness tampering, improperly threatening criminal prosecution, and judicial bribery (see *Ross v Medical Liab. Mut. Ins. Co.*, 75 NY2d 825 [1990]).

Further, respondent was afforded a full and fair opportunity to litigate, as evinced by the voluminous record on which Judge Kaplan's findings were based. Judge Kaplan conducted a seven-week trial, heard 31 live witnesses (including respondent), and considered sworn testimony of three dozen others, as well as



thousands of documents. Respondent appealed Judge Kaplan's decision, yet chose not to challenge the underlying factual findings. Thus, his argument that he was denied meaningful appellate review fails.

Because Judge Kaplan's findings constitute uncontroverted evidence of serious professional misconduct which immediately threatens the public interest, respondent should be immediately suspended, pursuant to 22 NYCRR 1240.9(a)(5) (see e.g. *Matter of Truong*, 2 AD3d 27 [1st Dept 2003]).

Accordingly, the AGC's motion should be granted, and respondent suspended from the practice of law, effective immediately, and until further order of this Court.

All concur.

Order filed.

Respondent suspended from the practice of law in the State of New York, effective the date hereof, and until further order of this Court; referee to hold hearing on sanction for disciplinary rule violations. Opinion Per Curiam. All concur.