

**SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT**

Matter of Schlossberg

2020 NY Slip Op 07712 (App. Div. 2020) · No. Motion Nos. 2020-03313, 2020-03430; Case No. 2020-03248 ·
Decided December 22, 2020

SUMMARY

The New York Supreme Court, Appellate Division, First Department approved a discipline-by-consent motion concerning Aaron M. Schlossberg's abusive and discriminatory conduct at a Manhattan delicatessen. The court publicly censured Schlossberg under New York Rule of Professional Conduct 8.4(h) and ordered two audio-visual recordings sealed.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Per Curiam; David Friedman, J.P.; Judith J. Gische, J.; Ellen Gesmer, J.; Peter H. Moulton, J.; Manuel J. Mendez, J.
JURISDICTION	New York
DECIDED	December 22, 2020
DOCKET	Motion Nos. 2020-03313, 2020-03430; Case No. 2020-03248
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding in which the parties jointly moved for discipline by consent and the respondent cross-moved to seal two audio-visual recordings attached to the petition of charges.
PRECEDENTIAL VALUE	precedential
PARTIES	Attorney Grievance Committee for the First Judicial Department v. Aaron M. Schlossberg

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the parties' stipulated facts and conditional admissions established professional misconduct warranting discipline by consent.
2. Whether a public censure was an appropriate sanction under the circumstances.
3. Whether the respondent's audio-visual recordings of the incident should be sealed because of documented threats to his safety and the cumulative nature of the recordings.

HOLDINGS

1. The parties' joint motion for discipline by consent was granted, and respondent's stipulated conduct was treated as professional misconduct adversely reflecting on his fitness as a lawyer in violation of New York Rule of Professional Conduct 8.4(h).
2. Public censure was an appropriate sanction for respondent's misconduct under the circumstances.
3. The court granted the cross motion to the extent of sealing the two audio-visual recordings attached as Exhibit A to the petition of charges.

KEY QUOTATIONS

*"We agree, finding that the imposition of a public censure under these circumstances is in accord with precedent" ([*4])*

*"Under the circumstances, and particularly in view of the threats against respondent that are documented on the record, we find it appropriate to grant respondent's cross motion to seal the recording of the subject incident that respondent provided to the AGC and that the AGC has placed in the record" ([*4])*

FACTUAL BACKGROUND

On May 15, 2018, Aaron M. Schlossberg confronted individuals speaking Spanish at a Manhattan delicatessen, demanded that they speak English, threatened to contact Immigration and Customs Enforcement to have them deported, and made insulting comments to a patron. A video of the incident was widely disseminated, causing professional and personal consequences. Schlossberg later publicly apologized and cooperated with the Attorney Grievance Committee's investigation by providing his own recording of the incident.

PROCEDURAL HISTORY

The Attorney Grievance Committee filed a petition of charges alleging that respondent's conduct during a 2018 incident adversely reflected on his fitness as a lawyer in violation of New York Rule of Professional Conduct 8.4(h). The parties jointly moved under 22 NYCRR 1240.8(a)(5) for discipline by consent and agreed that a public censure was appropriate. Respondent separately moved to seal recordings he had provided during the investigation. The Appellate Division granted the consent-discipline motion, publicly censured respondent, denied the petition as moot, and granted the sealing motion to the specified extent.

DISPOSITION

other

CASES CITED

- Matter of Wilens & Baker, 9 AD3d 213 (1st Dept 2004)
- Matter of Hayes, 7 AD3d 108 (1st Dept 2004)
- Matter of Schiff, 190 AD2d 293 (1st Dept 1993)
- Matter of Golub, 190 AD2d 110 (1st Dept 1993)
- Matter of Kavanagh, 189 AD2d 521 (1st Dept 1993)
- Matter of McDonald, 241 AD2d 255 (2d Dept 1998)

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