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APPENDIX A — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, FILED JANUARY 17, 2024

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 23-80007

In re: JACK JORDAN, Admitted to the Bar of the Ninth Circuit: July 19, 2019,

Respondent.

ORDER

Before: WARDLAW, PAEZ, and NGUYEN, Circuit Judges.

Respondent Jack Jordan's requests to file motions for judicial notice and reconsideration are granted. The motions for judicial notice and reconsideration (Docket Entry Nos. 24, 25, 26 and 27) are denied.

The court has received and reviewed Jordan's objections to the December 14, 2023 report and recommendation. Jordan's objections are overruled and the report and recommendation is adopted in full.

For the reasons set forth in the report and recommendation, respondent Jack Jordan is reciprocally disbarred from the practice of law in this court. Fed. R. App. P. 46(b)(1)(A). The Clerk will update the court's records to reflect that Jordan is not eligible to appear before the Ninth Circuit.

APPENDIX B — REPORT AND RECOMMENDATION OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, FILED DECEMBER 14, 2023

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 23-80007

In re: JACK JORDAN, Admitted to the Bar of the Ninth Circuit: July 19, 2019,

Respondent.

REPORT AND RECOMMENDATION

Before: RICHARD C. TALLMAN, Circuit Judge.

The undersigned herewith submits his Report and Recommendation pursuant to Ninth Circuit Local Rule 46-2.

Respondent Jack R.T. Jordan was admitted to practice law in New York on March 2, 1998, and in Kansas in 2019. *See In re Jordan*, 518 P.3d 1203, 1230 (Kan. 2022); NEW YORK STATE UNIFIED COURT SYSTEM, Attorney Online Services – Search: "Jack R.T. Jordan," https://iapps.courts.state.ny.us/attorneyservices/wicket/page/DetailsPage?3 (last visited Dec. 13, 2023). Respondent was duly admitted to the bar of this Court on July 19, 2019. The Kansas Supreme Court notified our Clerk of Court of his disbarment in Kansas on February 9, 2023. **ECF No. 1.** That triggered issuance of an Order to Show Cause

dated February 10, 2023, ordering Respondent to address whether he should be reciprocally disbarred by our Court. **ECF No. 2.** Respondent requested a hearing. **ECF No. 8.** On December 8, 2023, the undersigned conducted the requested hearing on the record after reviewing 447 pages of pleadings and supporting materials Respondent had filed in response to the Ninth Circuit Order to Show Cause. **ECF. Nos. 3, 4, 5, 6, 7, 11, 12, 13, 15, 16, 18.**

[TABLES INTENTIONALLY OMITTED]

I. INTRODUCTION & BACKGROUND

A. Background Proceedings

The factual circumstances underlying Respondent's disbarment proceedings in Kansas, and subsequent disbarment in New York, the United States Court of Appeals for the District of Columbia, the Eighth Circuit, and the Tenth Circuit, and the Supreme Court of the United States of America, all stem from Respondent's overzealous, decade-long pursuit of one privileged corporate email—the "Powers email," and allegations he has made against judges who rule against him.

On October 17, 2014, Jordan initiated a workers compensation claim on behalf of his wife, Named Plaintiff Maria-Fe M. Jordan, against her employer DynCorp. International ("DynCorp"), and the United States Department of Labor ("DOL"). *See Jordan v. U.S. Dep't of Lab.*, No. 2015-LDA-00030 (Nov. 29, 2017). This case was assigned to Administrative Law Judge Larry S. Merck.

Id. Respondent's wife was injured at the U.S. Consulate in Erbil, Iraq, and brought an action under the Defense Base Act, which provides coverage for injuries sustained by certain employees working on military bases and embassies outside the United States. *Id.* DynCorp had a contract with the U.S. Department of State to provide private security services at the consulate.

During this litigation, Respondent sought, without success, the production of an email sent as part of an email chain between DynCorp Vice-President Darin Powers and his in-house counsel at DynCorp on July 30, 2013 ("Powers email"). *Id.*; **ECF No. 12-1, at 2**. DynCorp resisted production of the Powers email, arguing it was protected by the attorney-client privilege, and it submitted the Powers email to Judge Merck for an *in camera* inspection in October 2015. **Id.**; *See also Talley v. U.S. Dep't of Lab.*, No. 19-00493-CV-W-ODS, 2020 U.S. Dist. LEXIS 122434 at *2–3 (W.D. Mo., July 13, 2020). In February 2016, Judge Merck ruled that the Powers email was protected under the company's attorney-client privilege when it was invoked by outside corporate counsel Littler Mendelson. *Jordan v. U.S. Dep't of Lab.*, No. 2015-LDA-00030 (Nov. 29, 2017). This order stated, in part:

> [DynCorp]'s management-level employees expressly sought legal advice from [DynCorp]'s in-house counsel, and the statements themselves were confidential between the employees and the attorney at the time they were made. These emails were received by the in-house counsel and a select group of upper-level employees, and

> there has been no evidence submitted to this Court that these communications were not kept confidential.

Id.; *See also Talley v. U.S. Dep't of Lab.*, No. 19-00493-CV-W-ODS, 2020 U.S. Dist. LEXIS 122434, at *5–6 (W.D. Mo., July 13, 2020 (Judge Ortrie D. Smith, presiding)). Jordan filed an interlocutory appeal, which the Eighth Circuit denied in affirming Judge Smith's ruling, and the Supreme Court denied certiorari. *Jordan v. Dir., OWCP, DOL*, 138 S. Ct. 1609 (2018).

Jordan then continued his quest to obtain the Powers email through alternative routes, including filing multiple Freedom of Information Act ("FOIA") actions against the DOL and the Department of Justice ("DOJ") which handled the litigation. On September 19, 2016, Jordan filed a FOIA action in the United States District Court for the District of Columbia, Judge Rudolph Contreras presiding, asking for review of a denied FOIA request for the Powers email. *Jordan v. U.S. Dep't of Lab.*, 273 F. Supp. 3d 214, 227 (D.D.C., 2017), *reconsideration denied*, 308 F. Supp. 3d 24 (D.D.C., 2018), *aff'd sub nom. Jordan v. U.S. Dep't of Lab.*, No. 18-5128, 2018 WL 5819393 (D.C. Cir., Oct 19, 2018). On August 4, 2017, Judge Contreras, after viewing the documents *in camera*, concurred and denied Respondent's FOIA request for the unredacted Powers email, concluding the email was also protected from release as privileged under FOIA Exemption (b)(4). *See Jordan v. U.S. Dep't. of Lab.*, 273 F. Supp. 3d 214, 232 (D.D.C., Aug. 4, 2017) (granting the Department of Labor's cross-motion for summary judgment); 5 U.S.C. § 552(b)(4).

Appendix B

The United States Court of Appeals for the District of Columbia Circuit affirmed Judge Contreras's decision on October 19, 2018. *Jordan v. U.S. Dep't of Lab.*, No. 18-5128, 2018 WL 5819393 (D.C. Cir., Oct. 19, 2018) (holding "[t]he district court did not err in concluding that the Powers email is exempt from disclosure pursuant to 5 U.S.C. § 552(b)(4)"). In its opinion, the D.C. Circuit Court of Appeals specifically refuted Jordan's accusations that District Judge Contreras was biased or untruthful, stating "[n]otwithstanding appellant's speculation to the contrary, there is no reason to doubt the district court's finding that an in camera review revealed the Powers email contains an explicit request for legal advice. Nor is there any evidence of judicial bias, despite appellant's accusations to the contrary." *Id.* at *1. After receiving numerous motions for clarification, reconsideration, and production from Respondent/Appellant Jordan, the Clerk for the D.C. Circuit Court of Appeals was "directed to accept no further pleadings from appellant in this closed case." *Jordan v. U.S. Dep't of Lab.*, 2018 WL 5819393 (D.C. Cir., Apr. 15, 2019).

After the D.C. Circuit affirmed Judge Contreras's finding, Jordan returned to the D.C. District Court, filing a motion to set aside the court's previous holding and find that the Powers email was not protected by attorney-client privilege. In July 2019, Judge Contreras denied Jordan's motion, stating "[t]his case is over. Plaintiff may not file any further motions without first obtaining leave of court. Leave will not be granted based on the same recycled arguments that Plaintiff has repeatedly raised and this Court has repeatedly found to be meritless. Moreover,

raising such arguments again may be cause for an award of fees." *Jordan v. U.S. Dep't of Lab.*, 331 F.R.D. 444, 454 (D.D.C. 2019).

Jordan's numerous filings seeking the unredacted Powers email, however, were not just limited to the D.C. Courts. On August 29, 2018, Jordan filed a lawsuit against the DOL in the United States District Court for the Western District of Missouri, attempting to collaterally obtain the same unredacted email through another FOIA request. *Jordan v. U.S. Dep't of Lab.*, 2018 WL 6591807 (W.D. Mo., Dec. 14, 2018). This case was assigned to Judge Ortrie D. Smith. *Id.* Judge Smith subsequently granted the DOL's motion to dismiss the portion of Respondent's complaint relating to the Powers email, finding that Jordan's lawsuit was "parallel or duplicative of the matter litigated in the D.C. District Court." *Id.* at *5. Jordan appealed that decision on April 9, 2019. *Jordan v. U.S. Dep't of Lab.*, 794 Fed. App'x. 557 (8th Cir. 2020). The Eighth Circuit affirmed Judge Smith's original dismissal on February 21, 2020. *Id.*

In October 2019, before the Eighth Circuit Court of Appeals responded to Jordan's pending appeal, Jordan entered his appearance as plaintiff's counsel in an additional case against the DOL in the District Court for the Western District of Missouri, Judge Ortrie D. Smith also presiding. *Talley v. U.S. Dep't of Lab.*, No. 19-00493-CV-W-ODS, 2019 U.S. Dist. LEXIS 198994 (W.D. Mo., Nov. 18, 2019). Like *Jordan*, and likely guided by Respondent Jordan, the named plaintiff there, Ferissa Talley, was requesting release of the entire Powers email, among other documents, under FOIA. *Id.*

Based on the similarities of the cases, Judge Smith granted the DOL's motion to stay the *Talley* case until the Eighth Circuit resolved *Jordan v. U.S. Dep't of Lab. Talley v. U.S. Dep't of Lab.*, No. 19-00493-CV-W-ODS, 2020 U.S. Dist. LEXIS 122434, at *19 (W.D. Mo., July 13, 2020). However, Jordan continued to file countless motions, both in his named Western District of Missouri case and in the *Talley* case. *Id.* (citing to at least 19 pending matters in the *Talley* case alone). As Judge Smith highlighted, Jordan continued this pattern of filing in multiple jurisdictions, under a variety of named plaintiffs, in his continuing attempts to collaterally obtain the privileged email:

> The Court is aware of at least four lawsuits Jordan has filed on behalf of himself or others that seek the same relief Jordan sought in his D.C. lawsuit: (1) Jordan's lawsuit in this Court; (2) this lawsuit; (3) a lawsuit filed in this Court by Robert Campo, who is represented by Jordan (No. 19-905); and (4) a lawsuit filed by another individual represented by Jack Jordan, which is pending in the United States District Court for the Eastern District of New York. In addition, according to Jordan's filings and declarations, there are at least three other individuals represented by Jordan — i.e., Magdangal, Purchase, and Donaldson — who intend to file lawsuits to obtain the Powers email.

Id. at *36. On November 19, 2019, Jordan filed a document in *Talley* titled, "Plaintiff's Suggestions Supporting Motion to Remedy Judge Smith's Lies and Crimes and

Lift the Stay or Disqualify Judge Smith." *Id.*; *See also In re Jordan*, 518 P.3d 1203, 1208 (Kan. 2022). This document repeatedly asserts that "Judge Smith is violating his oaths of office and the Constitution and committing crimes, specifically, to help DOL and DOJ employees violate their oaths and the Constitution and commit crimes" because he did not grant Jordan's request to produce the unredacted Powers email. *Id.* This document goes on to allege, among many other things, that "Judge Smith's actions (and refusals to act) are so inimical to our entire systems of government and law that they are criminal," and "Judge Smith's vague references to whatever 'discretion' or 'inherent power' he might have were irrelevant and illusory. They were blatantly deceitful declarations of his intent to defraud. Judge Smith has openly declared his intent to decide this case fraudulently, just as he 'decided' *Jordan* fraudulently." *Id.* at 1208–09.

On January 8, 2020, Judge Smith issued an order denying the relief sought in Respondent's filing and issued a separate Order to Show Cause as to why Jordan should not be held in contempt of court. *Id.* Judge Smith ordered that "Plaintiff and her counsel must show cause why either or both should not be held in contempt" and directed the Clerk of the Missouri District Court to "randomly assign this matter to another Article III judge for the limited purposes of conducting a show cause proceeding and issuing any order resulting therefrom." *Id.* at 1209.

Chief Judge for the Western District of Missouri Beth Phillips, assigned to the contempt case initiated by Judge Smith, issued a Show Cause Order as to why the parties

should not be sanctioned on January 13, 2020. *Talley v. U.S. Dep't of Lab.*, No. 19-00493-CV-W-ODS, 2019 U.S. Dist. LEXIS 198994 (W.D. Mo., Jan. 13, 2020); *see also In re Jordan*, 518 P.3d 1203, 1209 (Kan. 2022). Jordan responded to the order, and filed an "Answer to Show Cause Order Regarding Contentions That Judge Smith Asserted Lies and Committed Crimes," in which he asserted, among other things:

> The efforts of multiple DOL attorneys and ALJs and multiple DOJ attorneys and federal judges to conceal evidence at issue in this case [which] is evidence that crime is particularly contagious and insidious when DOJ attorneys and federal judges conspire to commit them . . . .
>
> Among the most insidious domestic enemies of the constitution is a federal judge or a DOJ attorney, who—like Judge Smith, Judge Contreras and Ray have in cases regarding Powers' email—used his position and authority to attack and undermine (1) federal law and the Constitution and (2) citizens (like [F.T.] and Jordan) . . . .
>
> Judge Phillips also is undermining the institutions she swore to protect. A judge's decisions failing to apply the standard enunciated in federal law are an "evil" that "spreads in both directions," avoiding "consistent application of the law" and preventing "effective review of" decisions by superior "courts."

In re Jordan, 518 P.3d 1203, 1211 (Kan. 2022). On March 4, 2020, Judge Phillips concluded that Jordan had violated Rule 11 of the Federal Rules of Civil Procedure, sanctioned him in the amount of $1,000, and referred the matter to the Kansas Bar Association. Jordan appealed, and the Eighth Circuit Court of Appeals affirmed the sanctions, which Jordan refused to pay. *See Campo v. U.S. Dep't of Justice*, 854 F. App'x 768, 769 (8th Cir. 2021).

On July 20, 2020, Judge Smith issued an order sanctioning Jordan another $500.00, "[f]or his repeated violations of [the] Court's Orders, including but not limited to the Court's Orders prohibiting Plaintiff's counsel from emailing Chambers staff and Clerk's Office staff." *Talley v. U.S. Dep't of Lab.*, No. 19-00493-CV-W- ODS, 2020 U.S. Dist. LEXIS 127171, at *1 (W.D. Mo., July 20, 2020); *In re Jordan*, 518 P.3d 1203, 1214 (Kan. 2022). Judge Smith stated that Jordan's filings were not only frivolous, but "Jordan continuously stated that [Judge Smith] committed and was continuing to commit crimes, including conspiring with Defendant and its counsel; violating federal law and the Constitution; setting forth 'false and illegal contentions'; engaging in 'criminal misconduct'; asserting 'Lies'; issuing 'blatantly unconstitutional and illegal' orders; and was 'willfully blind.'" *Talley v. U.S. Dep't of Lab.*, No. 19-00493-CV-W-ODS, 2020 U.S. Dist. LEXIS 122434, at fn.12 (W.D. Mo., July 13, 2020); *Talley v. U.S. Dep't of Lab.*, No. 19-00493-CV-W-ODS, 2020 U.S. Dist. LEXIS 127171, at *1 (W.D. Mo., July 20, 2020). Within his order, Judge Smith also directed "the Clerk's Office to transmit [the] Order to the Office of the Kansas Disciplinary Administrator and

the New York Attorney Grievance Committee." *Talley v. U.S. Dep't of Lab.*, No. 19-00493-CV-W-ODS, 2020 U.S. Dist. LEXIS 127171, at *1 (W.D. Mo., July 20, 2020).

Meanwhile, the Eighth Circuit Court of Appeals began receiving similar filings accusing District Judges Smith and Phillips, as well as Judge Contreras and Administrative Law Judge Merck, of mass corruption and fraud, in both Jordan's appealed sanctions orders and his appealed denial of FOIA requests for the Powers email. *In re Jordan*, 518 P.3d 1203, 1215 (Kan. 2022). After the Eighth Circuit Court of Appeals affirmed the sanctions imposed on the Respondent by the Missouri District Court on July 30, 2021, *Campo v. U.S. Dep't of Justice*, 854 F. App'x 768 (8th Cir. 2021), Jordan filed "Appellant's Motion for the Issuance of a Published (Or At Least Reasoned) Opinion." *In re Jordan*, 518 P.3d 1203, 1215 (Kan. 2022). This filing included similar language as Jordan's filings in the Missouri District Court, stating, in part:

> Standing alone, the [Eighth Circuit Court of Appeals] Opinion shows no more ability to comprehend clear commands in federal law or the Constitution, or to write about the foregoing, than would be expected of a young college student who had either no real aptitude for or no genuine interest in even practicing law. The Opinion showed absolutely no comprehension of, much less respect for, the limits that all three judges knew Appellants clearly showed federal law, the Constitution and copious U.S. Supreme Court precedent imposed on their powers.

Id. at 1215.

Jordan goes on to claim that the three judges on the Eighth Circuit Court of Appeals panel (Circuit Judges Gruender, Benton, and Stras) "are essentially con men perpetrating a con, i.e., playing a confidence game." *Id.*; **see also ECF no. 3 at 41.** Jordan also filed an August 8, 2021, Supplemental Memorandum, adding that the "responsible judges' pretense that tacking a few citations onto their lies, above, somehow countered all the clear commands and prohibitions above was a blatant con job." *In re Jordan*, 518 P.3d 1203, 1216 (Kan. 2022). The Eighth Circuit directed the Court Clerk to serve copies of these filings on the relevant bar authorities. *Id.* On August 9, 2021, the Eighth Circuit Court of Appeals issued an Order to Show Cause as to why Jordan should not face discipline. *Id.* On November 2, 2021, the Eighth Circuit disbarred Jordan for his actions before that court. *Jordan v. U.S. Dep't of Lab.*, No. 20-2494, Doc. #5093357 (8th Cir., Nov. 2, 2021) (holding in full "Jack R. T. Jordan is disbarred from practicing law in this court") (*cert. denied* Apr. 25, 2022).

In January 2022, a three-member hearing panel of the Kansas Board for Discipline of Attorneys began disciplinary proceedings against Jordan. Kansas afforded Jordan a one-day evidentiary hearing on the matter, during which he "confirmed during his testimony at the formal hearing that he carefully considered the statements he made in his filings." *In re Jordan*, 518 P.3d 1203, 1228 (Kan. 2022). Moreover, Mr. Stratton, the Kansas investigator, testified that:

> [R]espondent told Mr. Stratton that 'he had carefully considered the course of action that he should take prior to making the allegations against' the federal judges, that 'the allegations had not been made lightly at all' and that he 'truly believed they were necessary to get the evidence that has been denied for years.' The respondent was warned several times by the judges he appeared before that his conduct was sanctionable and violated attorney ethical rules, but he persisted in the same type of conduct in repeated filings making the same statements and rehashing the same arguments. The respondent's repeated derogatory statements of a similar nature in numerous filings about judges and attorneys involved in the underlying federal cases establishes his conduct was intentional.

Id. Jordan called no witnesses to testify and offered no exhibits for admission during the Kansas hearing. *Id.* Moreover, the Investigator testified that Jordan offered "no evidence that the respondent or someone he associated with had viewed an unredacted version of the Powers' email" and "no evidence to support the respondent's assertion that the judges had lied about the contents of Powers' email." *Id.* When asked by one of the Justices of the Kansas Supreme Court during oral argument whether he had ever seen an unredacted version of the document before making his accusations against various judges, Jordan invoked his Fifth Amendment privilege against self-incrimination. Kansas Supreme Court, *Case No.*

124,954 – In the Matter of: Jack R.T. Jordan, YOUTUBE, https://www.youtube.com/watch?v=Jy4AIByQMzg&feature=youtu.be (at 33:51).

In their December 13, 2021, report and recommendation, the disciplinary hearing panel unanimously found that the Respondent had violated five of the Kansas Rules of Professional Conduct, finding violations in "at least 12 filings in the District Court for the Western District of Missouri and the Eighth Circuit Court of Appeals." *In re Jordan*, 518 P.3d 1203, 1229 (Kan. 2022). All of this was exhaustively recounted by the Kansas Supreme Court in its 76-page opinion considering the 87-page Disciplinary Hearing Panel Report, submitted to, and reviewed by the Kansas Supreme Court after Jordan presented oral argument. *Id.* at 1203; *see also Case No. 124,954 – In the Matter of: Jack R.T. Jordan*, YOUTUBE, Kansas Supreme Court, available at https://www.youtube.com/watch?v=Jy4AIByQMzg&feature=youtu.be.

The Kansas Supreme Court affirmed the Panel's findings and disbarred him, holding that "clear and convincing evidence supports each rule violation the panel found." *In re Jordan*, 518 P.3d 1203, 1237 (Kan. 2022). The Kansas Supreme Court additionally cited to the ABA Standards for Imposing Lawyer Sanctions in its disciplinary opinion, holding that the court based Jordan's disbarment determination on violations of ABA Standards 6.12, stating that such discipline is appropriate "when a lawyer knows that false statements or documents are being submitted to the court . . . and causes an adverse or potentially adverse effect on the legal proceeding[s]";

6.22 "when a lawyer knows that he or she is violating a court order or rule, and . . . causes interference or potential interferences with a legal proceeding"; and 7.2 "when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system." *In re Jordan,* 518 P.3d 1203, 1240 (Kan. 2022). On October 21, 2022, Jordan was disbarred in the State of Kansas.

Formal disbarment in a state triggers optional reciprocal disbarment in any court of appeals in which that attorney is licensed. Fed. R. App. P. 46(b)(1)(A). Since his disbarment in Kansas, Jordan has gone through numerous disciplinary hearings, filed countless motions, and been subject to the review of a myriad of courts who have reciprocally disbarred him. On January 3, 2023, the United States Court of Appeals for the Tenth Circuit denied Jordan's request for an evidentiary hearing and issued a reciprocal order disbarring him. *In re Jordan,* 2023 U.S. App. LEXIS 16506 (10th Cir., Jan. 3, 2023). The State of New York disbarred Jordan on July 6, 2023, *In re Jordan,* 2023 NY Slip Op. 03752, (N.Y. App. Div., July 6, 2023), followed by the Eastern District of New York, *In re Jordan,* 2023 WL 6460800 (E.D.N.Y., Oct 3. 2023). The Circuit Court of Appeals for the District of Columbia disbarred Jordan on November 14, 2023. *In re Jordan,* 2023 U.S. App. LEXIS 30393 (D.C. Cir., Nov. 14, 2023). Notably, the Supreme Court of the United States of America even disbarred Jordan in an order dated June 5, 2023. *In re Disbarment of Jordan,* 143 S. Ct. 2605 (2023).

Appendix B

B. Ninth Circuit Reciprocal Discipline Proceedings

The Ninth Circuit Court of Appeals issued an Order to Show Cause to Respondent on February 10, 2023, asking why reciprocal disbarment should not be imposed and calling for a showing, if any he had, why Jordan should not be so disciplined. **ECF No. 2.** Respondent submitted a 172-page response (including tables, captions, and attachments), and requested an evidentiary hearing. **ECF Nos. 3, 8.** This response echoes his filings in other courts, claiming the withholding of the Powers email and his subsequent disbarments have all been part of a conspiracy committed by federal judges and government employees against him. **See, e.g., ECF. No. 3 at 27** (stating "[t]he judges of their court (Mo. W.D.) and the Eighth Circuit *know* that Judges Smith and Phillips and Eighth Circuit judges lied and knowingly (criminally) violated JJ's rights secured by federal law and the Constitution."); **ECF. No. 3 at 14** ("Many judges have lied and committed federal offenses to help other judges conceal evidence that they lied and committed federal offenses.") (citing to Jordan's "black collar crime memo"). Prophetically, on page 40 of his response to the Ninth Circuit Order to Show Cause, Jordan avers that "if this Court's judges disbar [Jordan], it can be only because this Court's judges knowingly and willfully repeated the outrageous misconduct of the judges who already disbarred [Jordan]." **ECF No. 3 at 53.**

In the month prior to Respondent's December 8, 2023, evidentiary hearing, Respondent also submitted: 1) a motion to clarify the grounds for discipline, **ECF No. 11**, answered briefly in this Court's November 28, 2023,

Order, **ECF No. 14**; 2) a motion to order production of the Powers email, **ECF No. 12**; 3) a motion for judicial notice, **ECF No. 13**; 4) a motion to reconsider this court's response to the motion to clarify grounds for discipline, **ECF No. 15**; 5) a motion to continue, **ECF No. 16**; and 6) additional excerpts of record, **ECF No. 18**. All pending motions were denied, **ECF Nos. 12, 13, 15, 16**, except for Respondent's Motion for Reconsideration, which was granted in part to provide clear notice to Respondent of his burden of proof in advance of his evidentiary hearing. **ECF Nos. 15 (granted in part), 17**. In Court orders dated November 28, 2023, **ECF No. 14**, and December 4, 2023, **ECF No. 17**, this Court emphasized the focus of the disciplinary hearing was reciprocal disbarment, and that the Court is guided by existing case law under *In re Kramer*, 282 F.3d 721, 724 (9th Cir. 2002), and *Selling v. Radford*, 243 U.S. 46, 50–51 (1917). This Court also emphasized that it was beyond the scope of the disciplinary hearing to re-litigate issues previously answered by other courts outside of the Ninth Circuit. **ECF No. 17 at 4–5.**

Respondent appeared before the undersigned on December 8, 2023, at 10 A.M., by video appearance. He was given 45 minutes for argument on why reciprocal disbarment should not be imposed, as well as an opportunity to present any witnesses or evidence to the Court. He declined the second opportunity. Instead, Jordan focused on repeating his arguments made in multiple judicial proceedings challenging the constitutionality of the disbarment proceedings and what he urges to be guiding precedent. He argued, as he does in his many filings, that reciprocal disbarment would violate his

constitutional and federal rights. **See ECF. No. 3 at 65.** During these proceedings, Jordan confirmed he had been disbarred in the jurisdictions listed above, as well as his continuing refusal to pay the outstanding unpaid sanctions in the amount of $1,500 imposed on him in the Western District of Missouri. The Court informed Jordan at the conclusion of the hearing that it would draft a Report and Recommendation as outlined in Ninth Circuit Local Rule 46-2, and that he would be given 21 days from the date of filing to respond with any objections to the same.

II. GOVERNING LAW

A. Good Character and Moral Standing

Courts generally look to the ABA Rules of Professional Conduct in determining an attorney's continuing fitness and character to remain a practicing lawyer before the court. As the Supreme Court held in *Selling*, "continued possession of a fair private and professional character is essential to the right to be a member of this Bar." 243 U.S. 46, 49 (1917). At issue in the underlying Kansas disbarment were ABA Model Rules of Professional Conduct 3.1, 8.2, and 8.4. Rule 3.1 states that a "lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous." Rule 8.2, which exists to maintain the integrity of the profession, states that a "lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory official or public legal officer." Finally, Rule 8.4(d) states that

"[i]t is professional misconduct for a lawyer to . . . engage in conduct that is prejudicial to the administration of justice."

B. Reciprocal Disbarment

Federal Rule of Appellate Procedure 46(b) allows for "suspension or disbarment" by this Court if the member "has been suspended or disbarred from practice in any other court; or . . . is guilty of conduct unbecoming a member of the court's bar." Fed. R. App. P. 46(b)(1)(A)(B). Ninth Circuit Local Rule 46-2(c) allows for reciprocal discipline when "this Court learns that a member of the bar of this Court has been disbarred or suspended from the practice of law by any court or other competent authority." However, the United States Supreme Court held in *Theard v. United States*, 354 U.S. 278, 281–82 (1957), "that disbarment by federal courts does not automatically flow from disbarment by state courts." Instead, "a federal court's imposition of reciprocal discipline on a member of its bar based on a state's disciplinary adjudication is proper unless an independent review of the record reveals: 1) a deprivation of due process; 2) insufficient proof of misconduct; or 3) grave injustice which would result from the imposition of such discipline." *In re Kramer*, 282 F.3d 721, 724 (9th Cir. 2002) (citing *Selling v. Radford*, 243 U.S. 46, 50–51 (1917)).

In a reciprocal discipline proceeding, this court does not exercise appellate review over a state court's disciplinary decision. *See Selling*, 243 U.S. at 50 (explaining that federal courts lack authority to re-examine or reverse a state supreme court's disciplinary action against a

member of its bar); *In re Caranchini*, 160 F.3d 420, 424 (8th Cir. 1998) (explaining that in reciprocal disbarment cases, "'high respect' is given 'to the judgment of the state court in its disbarment proceedings'"). Moreover, the burden of proof lies with Respondent. In *In re Kramer*, we emphasized that "in cases where a federal court seeks to impose reciprocal discipline on a member of its bar based on discipline imposed on the attorney by another court or disciplinary authority, it is the attorney's burden to demonstrate, by clear and convincing evidence, that one of the *Selling* elements precludes reciprocal discipline." *In re Kramer*, 282 F.3d at 724. The evidence presented by Respondent must be "clear and convincing." *Id.*; *see also In re Hoare*, 155 F.3d 937, 940 (8th Cir. 1998); *In re Friedman*, 51 F.3d 20, 22 (2d Cir. 1995) ("As *Selling* makes clear, it was Friedman's burden to demonstrate by clear and convincing evidence that . . . the New York procedures were wanting.")

III. FINDINGS

We analyze Jordan's disciplinary record under the *Selling* factors, specifically examining whether there was: "1) a deprivation of due process; 2) insufficient proof of misconduct; or 3) grave injustice which would result from the imposition of such discipline." *In re Kramer*, 282 F.3d at 724. By submitting no clear and convincing evidence to establish any of the three factors, Jordan completely fails to meet his burden to avoid reciprocal discipline under established Ninth Circuit and Supreme Court precedent.

Appendix B

A. Respondent Received Adequate Due Process.

First, we look to the Kansas Supreme Court proceedings to confirm that no deprivation of due process occurred in violation of *Selling*'s first factor. In *In re Kramer (Kramer III)*, we reversed and remanded a District Court reciprocal disbarment decision based solely on the fact of disbarment in the referring jurisdiction, holding that "[t]he due process requirements established by *Selling* mean that, at a minimum, the district court should issue an order to show cause to Kramer and, unless he concedes that the action of the New York courts satisfies *Selling* and its progeny, the district court should review the state court record." 193 F.3d 1131, 1133 (9th Cir. 1999).

However, the facts of *Kramer III* are vastly different from Jordan's recent Kansas Supreme Court disbarment. As mentioned above, the Kansas Supreme Court gave ample time and attention to Jordan's disciplinary proceedings. *See In re Jordan*, 518 P.3d 1203 (Kan. 2022). The Court issued a notice of disciplinary proceedings, convened a hearing panel, held a day long evidentiary hearing, reviewed the 87-page Disciplinary Hearing Panel Report and Disbarment Recommendation of the Kansas Bar, gave opportunity for briefing and oral argument in light of the panel's recommendation, and wrote a 76-page opinion outlining the grounds for Jordan's disbarment. *Id.* The panel gave Jordan an opportunity to support his case at the hearing, but like here, "[t]he respondent called no witnesses to testify and offered no exhibits for admission during the hearing." *Id.* at 1218. Jordan had every opportunity to defend himself in front of the

Kansas Supreme Court, unlike in *Kramer III* where the "order of suspension or disbarment [was] filed by the Chief Judge without the necessity of any notice to the affected attorney or any hearing." *Kramer III*, 193 F.3d at 1132. Accordingly, Jordan received sufficient due process under controlling Ninth Circuit precedent.

B. There is Sufficient Proof of Misconduct.

Second, Respondent argues reciprocal discipline is not appropriate because the underlying Kansas disbarment was entered without proof of misconduct. The Court bases this reciprocal disbarment proceeding on Jordan's disbarment by the Kansas Supreme Court, which was supported by an extensive investigation, a daylong hearing, and a written Disciplinary Hearing Panel Report and Disbarment Recommendation of the Kansas Bar. *See generally In re Jordan*, 518 P.3d 1203 (Kan. 2022). This report outlines countless examples of frivolous filings and baseless insults undermining the integrity of our judicial system, which, applying the ABA rules outlined above, offers a fair basis for state discipline.

Jordan argues that the underlying Kansas Supreme Court disbarment was flawed, as the "[t]he purported findings of fact were mere vague conclusory contentions and lies by Judges Smith and Phillips to conceal facts and evidence." **ECF No. 3 at 51 (emphasis omitted).** It is his belief that the "Kansas justices illegally pretended that 'the burden [somehow] shifted to' JJ 'to disprove that' purported 'finding under [Kansas Supreme Court] Rule 220'" and that he is protected from reciprocal

discipline under the second *Selling* factor because the Kansas Supreme Court did not "prove by any quantum of admissible evidence that any judge did not lie or not commit any crime." **ECF No. 3 at 60–61; ECF No. 3 at 8 (stating "the Kansas justices did not only lack evidence, they repeatedly lied about having evidence").** Moreover, Jordan insists that the Kansas Supreme Court "did not (and could not) prove that anything [Jordan] wrote was false, so they did not (and could not) prove any actual danger or harm." **ECF No. 3 at 8.** Finally, Jordan maintains, in both his response to the Order to Show Cause and in his evidentiary hearing before this Court, that the burden now rests on this Court to prove his accusations about judicial lying and conspiracy wrong, citing repeatedly to our decision in *In re Yagman*, 38 F.4th 25 (9th Cir. 2022).

These arguments are circular, and not within the purview of our review here. In reviewing a reciprocal disbarment, we do not re-try an attorney for misconduct. *Comm. on Grievances of the U.S. Dist. Ct. for the E. Dist. of New York v. Feinman*, 239 F.3d 498, 508 (2d Cir. 2001) (noting that "by arguing that defects in the [district court] proceedings justify lesser discipline, [the respondent attorney] seeks a review of the merits of the state proceedings that is beyond the circumscribed scope of review in reciprocal disciplinary proceedings"). The Ninth Circuit has been clear that when determining whether to impose reciprocal discipline, the factual findings of the jurisdiction imposing the original discipline are entitled to a "presumption of correctness." *In re Rosenthal*, 854 F.2d 1187, 1188 (9th Cir. 1988); *In re Ringgold*, 2022 U.S. Dist. LEXIS 212216, at *10 (C.D. Cal., Aug. 22, 2022).

Proof of Jordan's accusations must, therefore, be submitted to this Court by Jordan in the form of clear and convincing evidence. *In re Kramer*, 282 F.3d 721, 725 (9th Cir. 2002). Jordan has offered none. Instead, this Court has received recycled and conclusory accusations by Respondent that every Court that has disbarred him has been part of a larger conspiracy, employing judicial liars and traitors to the U.S. Constitution. This does not meet Jordan's burden. As the Second Circuit previously explained in a case with a similar fact-pattern:

> While it is true that, should [he] prove the above state of affairs by clear and convincing evidence, this Court would not impose reciprocal discipline, [he] must do more than state the existence of his defense to carry that burden. [The respondent attorney] presents no evidence in support of his statement and, in fact, admits to engaging in the conduct for which he was disbarred . . . . Therefore, this Court finds that [he] has failed to prove by clear and convincing evidence that there was any infirmity of proof whatsoever establishing the alleged misconduct.

Comm. on Grievances of the U.S. Dist. Ct. for the E. Dist. of New York v. Feinman, 239 F.3d 498, 507 (2d Cir. 2001). So too is the case here. The evidence Jordan has submitted is simply not sufficient to prove by clear and convincing evidence that there was an infirmity of proof before, and evidence improperly relied upon by, the Kansas Supreme Court.

C. No Grave Injustice Would Result From Such Discipline.

Finally, Respondent argues that his speech against Judges for which he was disbarred is constitutionally protected under the First Amendment, the Equal Protection Clause, and by Separation of Powers. **See ECF No. 3.** Specifically, Jordan argues that: "Judges have no authority to punish any critic merely because he offends," **ECF No. 3 at 21**; that "'[i]t is' JJ's 'duty to criticize' judges' knowing violations of their 'duty to administer' federal law and support the Constitution systems of justice and government," **Id. at 56**; and that "'[w]hoever' acts 'under color of' any legal authority to 'willfully' deprive JJ of 'any rights, privileges, or immunities' that are in any way 'secured or protected by the Constitution' or any federal 'laws' commits a crime," **Id. at 58.** Accordingly, disbarring Respondent would, in his eyes, result in a "grave injustice" not permitted under the third *Selling* factor.

Jordan has already raised these constitutional arguments before multiple U.S. courts to no avail. In disciplinary hearings, we must "inquire only whether the punishment imposed by another disciplinary authority or court was so ill-fitted to an attorney's adjudicated misconduct that reciprocal disbarment would result in grave injustice." *In re Kramer*, 282 F.3d 721, 727 (9th Cir. 2002). We are not here to relitigate issues presented and decided by these other courts. The Supreme Court of Kansas noted that while Respondent "filed exceptions to the [Kansas] panel's report and argues discipline cannot be imposed because the First Amendment to the

United States Constitution protects his statements . . . '[t]he power to regulate the bar, including the power to discipline its members, rests inherently and exclusively with' this court." *In re Jordan*, 518 P.3d 1203, 1207, 1237 (Kan. 2022) (quoting *State ex rel. Stephan v. Smith*, 747 P.2d 816 (Kan. 1987)).

Moreover, Respondent made almost identical arguments to the New York Appellate Division, First Department, *see In re Jordan*, 217 A.D.3d 21, 26 (N.Y. Div., July 6, 2023), and before the Court of Appeals for the Tenth Circuit. *In re Jordan*, 2023 U.S. App. LEXIS 16506 (10th Cir., Jan. 3, 2023). In fact, as the Eastern District of New York stated when rejecting these arguments two months ago, "the respondent has submitted substantially similar, if not the same, arguments to multiple courts . . . These arguments have all been heard, addressed, and rejected. The respondent's sixth bite at the apple meets the same fate." *In re Jordan*, 2023 U.S. Dist. LEXIS 179201, at *7–8 (E.D.N.Y., Oct. 3, 2023).

In *Kramer III*, we recognized that "district courts have the authority to supervise and discipline the conduct of attorneys who appear before them." 193 F.3d 1131, 1132 (9th Cir. 1999). The undersigned agrees with the countless other courts who have heard Jordan's constitutional claims to no avail. The power to regulate the members of its own bar fall squarely within this Court's jurisdiction, and Jordan has not offered sufficient evidence to prove a grave injustice will occur if this Court follows the established precedent and orders his reciprocal disbarment from this Court's Bar.

Appendix B

IV. SUMMARY OF RECOMMENDATIONS

Respondent has not demonstrated by clear and convincing evidence any *Selling* factor that would prevent reciprocal disbarment. Moreover, Respondent's conduct towards this Court, and other courts since his original 2022 Kansas disbarment have displayed a pattern of vexatious harassment, dishonesty, and frivolousness not befitting the character of a member admitted to our Bar. Accordingly, the undersigned respectfully recommends that the Ninth Circuit Court of Appeals order reciprocal disbarment of Respondent Jack R. T. Jordan, prohibiting him from further practice before our Court.

As the Court informed Jordan during his hearing, he has 21 days from the date of this Report and Recommendation to file any objections he may have, not to exceed 7,500 words in 14-point Times New Roman font. No other filings will be entertained unless ordered by the panel.

Respectfully submitted,

DATED: December 14, 2023

/s/_____
Richard C. Tallman
UNITED STATES CIRCUIT JUDGE

APPENDIX C — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, FILED JUNE 4, 2024

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 23-80007

In re: JACK JORDAN, Admitted to the Bar of the Ninth Circuit: July 19, 2019,

Respondent.

ORDER

Before: WARDLAW, PAEZ, and NGUYEN, Circuit Judges.

Respondent has filed a combined motion for reconsideration and motion for reconsideration en banc (Docket Entry No. 30).

The motion for reconsideration is denied and the motion for reconsideration en banc is denied on behalf of the court. *See* 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11.

All remaining pending motions are denied as moot.