

Supreme Court Of New Jersey
Disciplinary Review Board
Docket No. DRB 18-276
District Docket No. I-2016-0001E

In The Matter Of
George Louis Farmer
An Attorney At Law

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Decision

Argued: October 18, 2018

Decided: January 15, 2019

Dorothy F. McCrosson appeared on behalf of the District I Ethics Committee.

Respondent appeared pro se, via telephone.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

This matter was before us on a recommendation for an admonition filed by the District I Ethics Committee (DEC). We determined to treat the matter as a recommendation for greater discipline, in accordance with R. 1:20-15(f)(4).

The formal ethics complaint charged respondent with violating RPC 8.4(g) (engaging, in a professional capacity, in conduct involving discrimination).

For the reasons detailed below, we determine to impose a reprimand.

Respondent earned admission to the New Jersey and Pennsylvania bars in 1996, and to the Colorado bar in 1999. In 2012, he received an admonition for engaging in a conflict of interest. In the Matter of George Louis Farmer, DRB 11-438 (March 27, 2012). During the relevant time frame, respondent maintained an office for the practice of law in Northfield, Atlantic County, New Jersey.

In April 2013, Al Ciccone retained respondent to pursue a medical malpractice claim against Dr. Jun Huang, an optometrist who had performed surgeries on Ciccone's eye. On July 24, 2013, in connection with the malpractice claim and in response to certain prior communications between them, respondent sent an e-mail to Dr. Huang, stating "I have read your letter. The only thing I can suggest is that you are either: delusional, a pathological liar, in denial, a psychopath, or all of the above."

Dr. Huang ultimately retained attorney Richard Amdur to defend Ciccone's malpractice claim. Respondent's October 13, 2013 letter to Amdur forms the basis for this disciplinary action. In the letter, respondent wrote, in pertinent part:

As you are aware, your client has been accused of doing some serious, serious deeds of deception and improprieties. There is no doubt in my mind that he is a pathological liar. He is a doctor who is held to a higher standard than the normal person on the street. He has been accused of altering records in a post hoc effort to lie to try to get away with his mistakes. As time goes on, it only gets worse for him. The documents produced in discovery bear this out. He may think that he is smart and skilled, but his efforts are clearly transparent.

One recent example is the contrived letter that his employee purportedly wrote and signed that was produced during discovery. It is so obvious that Dr. Huang wrote the letter (as it is written in broken English) and forced/cajoled his employee to sign it. It is signed by a Jacqueline Pyle. However, according to the document produced in discovery as 1-1, JP (Jacqueline Pyle) was assisting on 8/17/11, but not 8/8/11. A different employee whose initials are PF was assisting on August 8, 2011. See attached

Putting aside for the moment that I am still somewhat idealistic -- even in my old age, his efforts initially baffled me in light of the fact that I did not / cannot comprehend how someone who worked so hard to achieve what he has achieved in his life would risk it all by lying and attempting to cover up his misdoing. However, I am/was not a student of Chinese culture. So I did a little research and found that "In fact, lying to achieve some business or social aim, and getting away with it, is considered to be a sign of intelligence and social skill among many Chinese." See/25/http://thelinguafanca.wordpress.com/2008/03d-o-the-chinese-lie-that-depends/. Also, in the Chinese culture, "lying has become a means to an end." See http://Ezine Articles.com/1435598.

Having read those articles as well as other related articles, it is starting to make sense to me. Your client's only problem is that even though he is a doctor, and he thinks that he can lie his way through this matter, he is not going to get away with it. I am someone who is smarter than the average person on the street, and am wise to his nonsense, trickery and chicanery. I trust by now you are as well, and have/will counsel him accordingly

About two weeks after respondent sent that letter, Dr. Huang filed an ethics grievance against him, citing the "derogatory, race-based statements" made in the letter, based on "ridiculous and absurd internet article[s]," which Dr. Huang claimed respondent "used to negotiate a civil case." Dr. Huang wrote that he found the statements made by respondent to be "offensive," and a "racist slur not only against me but also against the whole Chinese people." Dr. Huang also claimed that respondent had repeatedly made direct contact with him, despite his represented status, in violation of RPC 4.2. The complaint, however, did not charge respondent with having violated RPC 4.2.

During the ethics hearing and also before us at oral argument, respondent contended that he did not intend to cause harm to Dr. Huang by making the statements regarding Chinese culture, but, rather, was citing the opinions of "experts" to explain to Huang's attorney the cultural differences between China and the United States. He conceded, however, that he intended for Dr. Huang to see his statements. During the ethics hearing, respondent was

permitted to submit into evidence copies of the articles he had culled from the internet.

Moreover, as character witnesses, respondent called his girlfriend; Ciccone, his client; two friends; and his former wife. All of the witnesses testified that respondent had never exhibited discriminatory or racist behavior.

The DEC determined that the evidence supported the charges that respondent violated RPC 8.4(g). Specifically, the DEC found no dispute that respondent had authored both the July 24, 2013 e-mail and the October 13, 2013 letter; that the statements made by respondent therein were "discriminatory in nature in that they were directed at [Dr. Huang] in a derogatory manner based upon his national origin;" and that the evidence did not support respondent's contention that the cited articles were written by "experts," and, thus, excused or mitigated his conduct.

The DEC reviewed the plain text of RPC 8.4(g), as well as the official comments, emphasizing that the comments make clear that "'discrimination' is to be construed broadly" and includes "derogatory or demeaning language." Moreover, the DEC reviewed relevant disciplinary precedent in finding that respondent's conduct was unethical.

In mitigation, the DEC found that respondent's misconduct "was an isolated incident and not repeated or recurring behavior." The DEC, thus, recommended that respondent receive an admonition.

Following a de novo review, we are satisfied that the record clearly and convincingly establishes that respondent violated RPC 8.4(g).

In July 2013, via e-mail, respondent accused Dr. Huang of being "delusional, a pathological liar, in denial, a psychopath, or all of the above." Three months later, he wrote a letter to Dr. Huang's attorney, reasserting that Dr. Huang was making blatant misrepresentations, during the course of the civil litigation, but adding that Dr. Huang's alleged misconduct was due to his Chinese heritage. Respondent cited internet "articles" in support of his demeaning and derogatory claim that Dr. Huang was lying because of his race, national origin, and Chinese culture.

Specifically, respondent referenced a letter, which Dr. Huang produced in discovery, stating "[i]t is so obvious that Dr. Huang wrote the letter (as it is written in broken English)." Respondent continued, "I did not/cannot comprehend how someone who worked so hard to achieve what he has achieved in his life would risk it all by lying and attempting to cover up his misdoing. However, I am/was not a student of Chinese culture. So I did a little research and found that 'In fact, lying to achieve some business or social aim,

and getting away with it, is considered to be a sign of intelligence and social skill among many Chinese." He concluded that, in the Chinese culture, "lying has become a means to an end."

RPC 8.4(g) states that

It is professional misconduct for a lawyer to: engage, in a professional capacity, in conduct involving discrimination . . . because of race, color, religion, age, sex, sexual orientation, national origin, language, marital status, socioeconomic status, or handicap where the conduct is intended or likely to cause harm."

As set forth above, the Supreme Court official comments to the RPC state that "'discrimination' is to be construed broadly. It includes . . . derogatory and demeaning language, and, generally, any conduct towards the named groups that are both harmful and discriminatory."

Few disciplinary cases have addressed discrimination based on race or national origin. One case that provides an analysis of RPC 8.4(g) in such a context is In re Geller, 177 N.J. 505 (2003). In that case, the attorney was reprimanded for his wide-ranging misconduct during his own child support and custody matters. In the Matter of Larry S. Geller, DRB 02-467 (May 20, 2003) (slip. op. at 2, 47). In respect of RPC 8.4(g), Geller was found to have "exhibited ethnic bias" toward a Superior Court judge by remarking, following adverse rulings, that "Monmouth County Irish have their own way of doing

business." Id. at 44. In concluding that Geller had violated RPC 8.4(g), we cited both RPC 8.4(g) and In re Vincenti, 114 N.J. 275, 283 (1989), which predated the RPC, wherein the Court stated:

[W]e cannot overemphasize that some of the respondent's offensive verbal attacks carried invidious racial connotations . . . We believe this kind of harassment is particularly intolerable. Any kind of conduct or verbal oppression or intimidation that projects offensive and invidious discriminatory distinctions . . . is especially offensive. In the context of either the practice of law or the administration of justice, prejudice both to the standing of this profession and the administration of justice will be virtually conclusive if intimidation, abuse, harassment, or threats focus or dwell on invidious discriminatory distinctions.

Here, respondent's statements in the October 2013 letter were written in his professional capacity, during the course of the civil litigation between Ciccone and Dr. Huang. The statements are discriminatory and demeaning on their face, ascribing misrepresentations purportedly made by Dr. Huang directly to his Chinese heritage. Respondent's asserted defenses — that he is not racist, and that he is absolved of any misconduct because he relied on "expert opinions" in the submitted internet articles — are wholly specious and unworthy of serious consideration. Indeed, as the DEC hearing panel noted, the articles on which respondent relied were merely "opinion pieces found on the internet, without any indication of the credentials of the respective

authors." The panel continued, "[t]he mere existence of an opinion online does not establish its author as an expert. If it did, every post on Facebook or Twitter could constitute expert opinion." Before us, respondent repeatedly characterized the authors of those article as "experts," despite the lack of support for that position.

Moreover, respondent's additional defense that he did not intend to cause harm by making the statements ignores the plain language of RPC 8.4(g), which also prohibits conduct "likely to cause harm." Previously, in In re Pinto, 168 N.J. 111 (2001), this Board and the Court rejected the very same defense, based on the plain language of RPC 8.4(g). In that case, the attorney received a reprimand after being found guilty of having sexually harassed a vulnerable, unsophisticated female client, in violation of RPC 8.4(g). During a conference with the client in his office, Pinto questioned her about her physical appearance, and engaged in "extremely crude," explicit conversations about what he could do sexually with her; on one occasion, respondent massaged the client's shoulders, kissed her on the neck, and told her that she should show herself off, "show whatever you have." In the Matter of Harry J. Pinto, Jr., DRB 00-049 (October 19, 2000) (slip op. at 3). On another occasion, Pinto was called upon to help the client jump start her car. Upon completing that task, he exclaimed, "This is what a real man can do," and then slapped the victim on

the buttocks in the presence of her son and daughter. Id. at 5-6. Regardless of Pinto's subjective intent, this Board and the Court determined that his behavior was "demeaning, crude and vulgar," and, thus, "likely to cause harm" to his client, in violation of RPC 8.4(g). Id. at 13.


Our research yielded no precedent for the imposition of only an admonition on an attorney for his or her violation of RPC 8.4(g). Indeed, all reported cases addressing such violations have resulted in a reprimand or greater discipline. As set forth above, the attorneys in both Geller and Pinto received reprimands. Although both of those attorneys also committed additional ethics violations, they also had no prior discipline.

Here, in his professional capacity, respondent made demeaning, discriminatory statements regarding Dr. Huang. In aggravation, in 2012, he received an admonition for engaging in a conflict of interest. Worse, respondent has shown no remorse for his conduct. Indeed, he continues to defend it. We, therefore, determine to impose a reprimand for his violation of RPC 8.4(g).

Members Rivera and Zmirich voted to impose a censure. Member Joseph did not participate.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Bonnie C. Frost, Chair

By: 
Ellen A. Brodsky
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD


In the Matter of George Louis Farmer
Docket No. DRB 18-276

Argued: October 18, 2018

Decided: January 15, 2019

Disposition: Reprimand

| <i>Members</i> | Reprimand | Censure | Recused | Did Not Participate |
|----------------|-----------|---------|---------|---------------------|
| Frost | X | | | |
| Clark | X | | | |
| Boyer | X | | | |
| Gallipoli | X | | | |
| Hoberman | X | | | |
| Joseph | | | | X |
| Rivera | | X | | |
| Singer | X | | | |
| Zmirich | | X | | |
| Total: | 6 | 2 | 0 | 1 |


Ellen A. Brodsky
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