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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 99-292

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IN THE MATTER OF :  
RICHARD J. ZEITLER :  
AN ATTORNEY AT LAW :  
\_\_\_\_\_ :

Decision

Argued: November 18, 1999

Decided: February 22, 2000

Julius J. Feinson appeared on behalf of the District VIII Ethics Committee.

Douglas R. Kleinfeld appeared on behalf of respondent.

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

This matter was before us based on a recommendation for discipline filed by the District VIII Ethics Committee ("DEC"). The complaint alleged that respondent practiced law while ineligible, in violation of RPC 5.5(a).

Respondent was admitted to the New Jersey bar in 1966 and maintains an office for

the practice of law in Iselin, New Jersey. Respondent has an extensive disciplinary history. In 1976, he was suspended from the practice of law for one year for misconduct involving dishonesty, fraud, deceit or misrepresentation in two cases. In re Zeitler, 69 N.J. 61 (1976). In 1980, respondent was suspended for two years for his gross neglect of two client matters and his failure to tell his clients that their cases had been dismissed. In re Zeitler, 85 N.J. 21 (1980). In 1995, respondent received an admonition for lack of diligence in one matter. In the Matter of Richard J. Zeitler, Docket No. DRB 95-323 (November 3, 1995). On April 29, 1999, respondent was reprimanded for the improper release of escrow funds. In re Zeitler, 158 N.J. 182 (1999). Finally, we recently determined to reprimand respondent for lack of diligence and failure to communicate with his client in a personal injury case. In the Matter of Richard J. Zeitler, Docket No. DRB 99-138 (1999). That matter is being submitted to the Supreme Court together with this case.

\* \* \*

It is undisputed that, as of September 5, 1997, respondent was ineligible to practice law because of his failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection ("CPF") and that, on February 20, 1998, he was returned to eligible status. It is also undisputed that for much of that time period respondent continued to practice law.

In his defense, respondent testified that he was unaware that he had been placed on the ineligible list. From August 5 to August 18, 1997, respondent was hospitalized at Carrier

Foundation with a diagnosis of "bipolar disorder, manic." He was placed on medication and participated in individual, group and family therapy. After his discharge from Carrier, he continued intensive daily outpatient treatment at another Carrier facility until September 10, 1997. His discharge prognosis was "good." He was to continue taking Depakote and Lithium. Other medications had been discontinued.

Respondent initially testified that, while he was an inpatient, his wife, who is also his office manager, would bring paperwork and trust account checks for him to sign. He later testified that he did not remember signing anything while an inpatient and only one or two documents while an outpatient. During the period of respondent's treatment, his wife ran his office and another attorney handled his cases. His wife had signatory authority over his attorney business account.

Approximately one week after respondent's discharge from the outpatient facility, he returned to work on a part-time basis. On October 22, 1997, he returned to work on a full-time basis. However, according to respondent, it was not until another attorney told him, in February 1998, that he was not listed in the Lawyers' Diary, that he learned he was ineligible to practice law. He immediately paid the assessment and was declared eligible to practice.

Respondent did not deny having received the CPF's original notice of the assessment, which would have predated his hospitalization. However, he testified that he was unaware that the 1997 payment had not been made. According to respondent, his bookkeeper typically made out the business checks, including payments to the CPF, and either he or his

wife signed the checks. Respondent did not know why in this instance the bookkeeper had not made out the check to the CPF.

\* \* \*

The DEC found that respondent violated RPC 5.5(a). The DEC rejected respondent's defense, finding that he had been in treatment for only part of the time during which he practiced law while ineligible and, therefore, should have been aware that he had not paid the CPF. The DEC further found that, even if it was true that respondent was unaware that he was ineligible, his conduct was still a violation of the rule. The DEC recommended that respondent be reprimanded.

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Upon a de novo review of the record, we are satisfied that the DEC's conclusion that respondent was guilty of unethical conduct is fully supported by clear and convincing evidence.

In finding immaterial whether or not respondent knew that he was ineligible to practice, the DEC correctly relied on In re Medford, 148 N.J. 81 (1997). In Medford, the district ethics committee found no violation of RPC 5.5(a) because the attorney did not know that he was ineligible to practice. We disagreed with the DEC, stating that "[n]owhere in the rule is there a requirement of knowledge on the part of the attorney to sustain a violation of

RPC 5.5(a).” In the Matter of John K. Medford, DRB Decision at 6 (October 17, 1996). See also In re Namias, 157 N.J. 15 (1999) (attorney violated RPC 5.5(a) when he practiced law while on the ineligible list, even though he was unaware that payment had not been made to the CPF due to personal and secretarial problems).

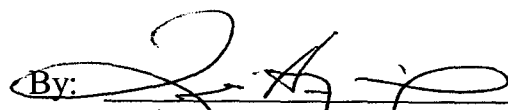
Practicing law while ineligible has generally resulted in an admonition. See In the Matter of Edward Wallace, III, Docket No. DRB 97-381 (1997) (admonition where attorney appeared twice in a criminal matter while ineligible to practice); In the Matter of Peter E. Hess, Docket No. DRB 96-262 (1996) (admonition where attorney practiced law while ineligible and failed to maintain a bona fide office). Reprimands have been imposed where the attorney committed other misconduct in addition to practicing law while ineligible or there were aggravating circumstances. See In re Namias, *supra*, 157 N.J. 15 (1999) (reprimand for practicing law while ineligible, lack of diligence and failure to communicate with a client); In re Alston, 154 N.J. 83 (1998) (reprimand for practicing law while ineligible and failure to cooperate with disciplinary authorities); In re Armorer, 153 N.J. 359 (1998) (reprimand for practicing law while ineligible, gross neglect, failure to communicate and failure to maintain a bona fide office); In re Gaskins, 151 N.J. 3 (1997) (reprimand for practicing law while ineligible, failure to maintain a bona fide office and failure to maintain trust and business accounts in an approved New Jersey banking institution).

Because of respondent’s disciplinary history, however, we unanimously determined to elevate the degree of discipline to a reprimand. One member did not participate.

We also reiterate our recent determination that, for a period of two years, respondent must be supervised by a proctor approved by the Office of Attorney Ethics and that he complete the skills and methods courses offered by the Institute for Continuing Legal Education.

We further determined to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: 2/22/00

By:   
LEE M. HYMERLING  
Chair  
Disciplinary Review Board

**SUPREME COURT OF NEW JERSEY**

**DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

**In the Matter of Richard J. Zeitler  
Docket No. DRB 99-292**

**Argued: November 18, 1999**

**Decided: February 22, 2000**

**Disposition: Reprimand**

Members	Disbar	Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hyerling			x				
Cole			x				
Boylan			x				
Brody			x				
Lolla			x				
Maudsley			x				
Peterson							x
Schwartz			x				
Wissinger			x				
<b>Total:</b>			<b>8</b>				<b>1</b>

*Robyn M. Hill* 3/7/00  
Robyn M. Hill  
Chief Counsel