SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 09-135
District Docket No. IV-2007-0044E

IN THE MATTER OF	
GEOFFREY L. STEIERT	
AN ATTORNEY AT LAW	

Decision

Argued: November 19, 2009

Decided: December 17, 2009

Jean Sharon Chetney appeared on behalf of the District IV Ethics Committee.

Respondent appeared pro se.

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

This matter was before us on a recommendation for discipline (reprimand) filed by the District IV Ethics Committee ("DEC"). The complaint alleged that respondent practiced law while ineligible to do so, after having been listed as retired on the records of the New Jersey Lawyers' Fund for Client

Protection ("CPF") of retired attorneys, that he made a false statement to a third person, and that he made misrepresentations regarding the representation. The complaint charged respondent with violating RPC 4.1 (false statement of material fact or law to a third person), RPC 5.5(a) RPC 8.4(c) (unauthorized practice of law), and (misrepresentation). We determine to impose a reprimand for the above violations.

Respondent was admitted to the New Jersey bar in 1980. He has no prior discipline.

The conduct that gave rise to this disciplinary matter was as follows.

Due to financial difficulties brought about by illness, respondent requested that the CPF place him on its list of retired attorneys for the years 2003 through 2006. As such, during all of 2006 and the first half of 2007, he was prohibited from practicing law in this state. Respondent is also a member of the Pennsylvania bar. He was admittedly ineligible to practice law in that state during all of 2006 and 2007.

By way of a July 28, 2006 retainer agreement, Craig Hartzell retained respondent to represent him in a dispute with his brother, Bart Hartzell, and sister, Lynne Liuzzi, regarding their deceased mother's estate, which was being probated in

Pennsylvania and included a house in Springfield, Pennsylvania.[1] Respondent resides in Voorhees, New Jersey, and worked out of his house.

The agreement specifically excluded court appearances, stating that they would be cost-prohibitive, due to unfulfilled continuing legal education requirements in Pennsylvania. The agreement stated that court appearances would "ratchet up the level of confrontation," "lead to lengthier proceedings and added court costs," "be interpreted as an adversary step," and "require [the siblings'] expenditure of monies for legal representation or more formal estate filings." The agreement made no provision for a legal fee, as respondent did not "desire any compensation." The agreement did not disclose respondent's ineligibility to practice law in both New Jersey and Pennsylvania at the time.

On July 31, 2006, respondent sent Liuzzi, the executrix of the estate, a letter on his attorney letterhead. The first sentence read, "Please be advised that I have been retained by your brother Craig, to act as his legal representative in all

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[1] Under RPC 8.5, a lawyer admitted to practice in this state is subject to the New Jersey disciplinary authorities, regardless of where the lawyer's conduct took place.

correspondence and other communications" regarding the estate. The letter requested a copy of Liuzzi's administration papers and of the mother's will. In a document titled "Post Script Personum," attached to the letter, respondent again referred to Hartzell as his client and noted that he would make no court appearances in order to save time and money for the estate. This document, too, did not disclose respondent's ineligibility to practice law in New Jersey and Pennsylvania at the time.

Thereafter, respondent sent Liuzzi two more letters on his attorney letterhead, dated September 29, 2006 and October 19, 2006, respectively.

On June 13, 2007, respondent sent Liuzzi another letter, requesting her to send future correspondence to a different "office address," 4 Lassen Court, Voorhees, which was respondent's home address.

At the DEC hearing, Hartzell testified about the representation. He recalled that respondent had agreed to represent him on a contingency basis and had drawn up a retainer agreement. Hartzell also recalled receiving a July 31, 2006 letter that respondent had sent to Liuzzi and conversations with respondent, in October 2006, during which respondent, urged

him to file a claim of several hundred thousand dollars for his share of the estate.

After respondent and Hartzell obtained the will documents, respondent analyzed them. Hartzell recalled that respondent had advised him to seek a share of the house, as well as other estate assets. Nevertheless, by late June or early July 2007, Hartzell determined to honor his mother's apparent wishes and to sign a deed relinquishing any interest that he may have had in the house.

In early July 2007, according to Hartzell, he and respondent had several conversations about the estate, during which respondent again urged him to press a claim for a share of the estate and during which Hartzell advised respondent again that he was going to sign over the deed and seek nothing from the estate.

Hartzell finally sent respondent an email to that effect. Respondent replied, acknowledging the decision, but attempting to change Hartzell's mind. In respondent's undated reply email, he stated that he had drafted a settlement letter for Liuzzi, in which he had sought $100,000. The email further stated, "If you strongly disagree with the $100,000 number, as too high or too low, and you have good rationale, I will consider modifying it."

Finally, the email contained several ultimatums. Hartzell was to let respondent know, within two days, if he objected to the letter. Otherwise, he would send it without discussion:

> I would still consider it unfathomable that you might actually consider signing and sending the deed, and giving up all of our leverage and potential recourse, without even dialoguing with me. And I know you just said you were thinking about it. But I have a duty to you, and to myself, to try to protect against adverse eventuality, no matter how remote.
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> [Ex.R-5.]

Hartzell was unaware that respondent had sent Liuzzi the $100,000 settlement letter, dated July 10, 2007. Hartzell also denied having given respondent authority to make the settlement offer. Hartzell specifically recalled that, just prior to July 10, 2007, "I had told him that I didn't want to pursue it any further, so I did not expect [any further correspondence] to go to my sister after that point."

Hartzell learned about the settlement offer from Liuzzi, who called him when she received the letter, in order to express her displeasure with his decision to press a claim. Hartzell recalled that he had immediately signed the deed and sent it to Liuzzi. He had his wife call Liuzzi to let her know that it was on its way.

Liuzzi also testified at the DEC hearing. She recalled having received correspondence from respondent, in which he had stated that he was Hartzell's attorney. Liuzzi also remembered having been "shocked" that her brother would "stoop" so low, knowing that he had no right to a share of the estate. She did not reply to the letter, giving it to her lawyer instead.

According to Liuzzi, the following day, Hartzell's wife called to tell her to disregard that letter, as Hartzell had never authorized a settlement offer and had already "Federal Expressed" the signed deed to her.

For his own part, respondent denied, in his answer, that he had practiced law or held himself out as Hartzell's attorney, but conceded that a "review of the initial letter to Lynne Hartzell, in July 2006, shows respondent that the reader of that letter could conclude that respondent was holding himself out as legal counsel to his friend Craig Hartzell – at least in relation to the Pennsylvania estate of Craig's mother."

Respondent testified about his involvement in the matter. He again argued that he had not practiced law. He stated that he had been placed on "inactive" status after several failed spinal surgeries had left him in chronic pain and financial ruin. He was on "total disability" when, in 2006, Hartzell, his best

friend since childhood, had contacted him about threatening calls from his brother Bart about their mother's house. Respondent stated, "And I have to admit, I perhaps, you know, I'm from the days of King Arthur when my best friend who has four daughters was threatened in that matter, I felt I should help out." "We talked all the time and there was a gradual evolution of advice between friends." Respondent urged a consideration that his sole interest was to protect his best friend's family.

Respondent undertook the representation and set up a post office box to receive legal correspondence because his "lady" did not want him to give out their home address. He recalled having advised Liuzzi that he was acting as Hartzell's attorney because he needed to convince Bart that he had some legal authority. "[T]hat was the only way that [Liuzzi] could credibly say to Bart someone is speaking for Craig. It had to be some representation of capacity. And therefore, I wrote and said I am an attorney."

Respondent also referred to Hartzell as his client, during the DEC hearing. When discussing the need for copies of the estate documents, such as the will, respondent stated, "I gave him a choice. You do that with a client, prospective client. He

can get [the documents] himself at his own cost, and that's what he chose to do. Like a lot of clients, it took a few months and he did."

In addition, although the retainer agreement did not set forth a fee structure, respondent admitted that he sought payment for his services. He offered in evidence a March 13, 2007 "Revised Retainer Letter," which stated, in part:

> Whereas the original motive and goal of my intervention was [sic] primarily to protect your emotions, in the aftermath of the painful manner in which you learned of your mother's passing and your being rejected by the rest of your family (wearing my legal hat only to help control the harassment that threatened your real family); you recently learned you have a real estate interest to fight for, and made a decision to oppose the maneuvers of your siblings to claim your Mom's estate, including aggressive litigation as needed.
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> More than ever, this requires my trust of your declared intentions – to stand up for your interests, and to reward my efforts, my dedication and my trust. I continue to defer any compensation – until we prevail in confronting your antagonists, and/or until you realize on the value of your realty interest. I am trusting you in all of this.
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> [Ex.R-9 at Ex.A.]

Respondent was still seeking a fee when, in July 2007, he emailed to Hartzell an ultimatum regarding a settlement:

> I pretty much documented by all the research I've done that you're entitled to one-third, and being a contingent fee, you know, I didn't want [Hartzell] to throw that away because if he had to pay me, he might think twice about sending the deed away because that would have compensated me and now he has to reach into his own pocket. So I sent this e-mail and I got no response. I gave him two days to respond, he never responded.
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> [T158-24 to T159-7.][2]

Respondent was admittedly upset by Hartzell's decision not to pursue a claim in the estate. In a December 12, 2008 certification to the DEC, respondent stated:

> At the time that I sent my proposal to executrix Lynne Liuzzi, it is now clear that I no longer had a willing client. [Hartzell] had, in a weirdly dysfunctional manner, abrogated our retainer agreement and declared his intent to dishonor and evade his obligations to me. At that point, it seems clear that my rights under our agreement became paramount to any illusion of client duty. Despite this reality, I persisted in my efforts to communicate with [Hartzell], and at all times acted consistent with what I believed were his best interests.
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> [Ex.R-9 at ¶29.]

In addition to his testimony below, respondent furnished ethics authorities with several lengthy and somewhat rambling

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[2] "T" refers to the transcript of the January 6, 2009 DEC hearing.

documents advancing his argument that he did not practice law. They include the above certification, a "Biography and Résumé," dated January 20, 2009, and a twenty-eight page legal memorandum, dated February 19, 2009, listed in the record as "Other Documents". In essence, respondent's argument was that the definition of practicing law advocated by the presenter was too broad and should not include his conduct because he did not accept a client with the intent to render legal advice, did not have a law office or staff, and had no other clients. So, too, he argued, he did not initially ask for or receive a fee for his services.

The DEC found respondent guilty of having violated RPC 5.5(a), RPC 4.1(a)(1), and RPC 8.4(c) and recommended the imposition of a reprimand.

In a November 2, 2009 brief to us, respondent raised issues previously raised in submissions to the DEC and at the DEC hearing. For example, he stated that he suffers chronic back pain from spinal injuries and failed surgeries.[3]

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[3] Although we have no reason to doubt the veracity of respondent's medical claims, we point out that, at no stage of the proceedings has he provided any medical evidence of a condition that limits his ability to serve clients.

Respondent also set forth numerous objections to the findings below, primary among them that he was not given sufficient latitude, at the DEC hearing, to confront witnesses on cross-examination; that the DEC failed to "recognize or consider respondent's prior factual certifications" (without referring us to any specific certifications); that the DEC failed to comply with his discovery requests, leading to "surprise testimony" from his client; that the DEC's findings of misconduct are not supported by the record; that facts found by the DEC are not supported by the record; and that the recommended sanction of a reprimand was excessive and disproportionate to his conduct.

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

Respondent's protestations aside, he practiced law while ineligible to do so. According to CPF records, respondent declared himself retired on April 26, 2005 for all of 2005 and remained retired until June 18, 2007, when he paid the annual assessments for 2005 through 2007. As such, respondent was ineligible to practice law for all of 2006 and the first half of 2007, the time period involved in this representation.

During respondent's period of ineligibility, he agreed to represent Hartzell in the estate matter. He prepared and sent Hartzell a retainer agreement and, later, a revised agreement, both of which outlined the legal services that he would render for Hartzell. He referred to Hartzell as his client. He drafted and sent Liuzzi, the executrix of the estate, letters stating that he represented Hartzell and containing requests for documents. Respondent reviewed the will and had discussions about it with Hartzell. In short, he held himself out to Hartzell and the estate as an attorney who was authorized to practice law, when he was not authorized to do so.

Once respondent paid his outstanding obligations to the CPF, on June 18, 2007, he was removed from the CPF ineligible list of attorneys. It appears that respondent's actions thereafter, including the settlement offer to Liuzzi, on July 10, 2007, did not run afoul of the RPCs. However, from the inception of the representation, in July 2006, through June 18, 2007, when he was restored to eligible status, he practiced law while ineligible, a violation of RPC 5.5(a).

The allegations that respondent violated RPC 4.1 and RPC 8.4(c) relate to his offer to settle the estate matter for $100,000. Hartzell testified that he never authorized respondent

to settle the matter or send the settlement offer to Liuzzi and was unaware that respondent had done so, until Liuzzi called to confront him about it. According to Hartzell, he had already advised respondent that he would press no claim against the estate and that he intended to convey his interest in the house to Bart. Respondent admitted that he was aware of Hartzell's determination to sign the deed and end the matter. But he pressed ahead anyway, claiming to have done so in order to protect both his client's interests and his own, that is, his fee.

Respondent testified about his terrible financial condition when he took the case. He also spent considerable time on the matter and determined that he deserved a fee for his efforts. Respondent went so far as to state, in his certification, that, when Hartzell put his foot down and decided to sign the deed, in early July 2007, respondent's "rights under [their] agreement became paramount to any illusion of client duty."

Respondent is mistaken. It was his client's sole right to settle his dispute in whatever legal manner he chose, including surrendering a possible interest in the estate. Respondent mistakenly believed that he had become a stakeholder in the outcome and that his position somehow trumped that of Hartzell.

We conclude, from respondent's own admissions, that he made the $100,000 settlement offer knowing that his client had not authorized him to send it. His attempt to automatically trigger his client's authorization, by requiring a reply within two days of his undated email, did not grant him any meaningful authority to act for Hartzell. Rather, respondent misrepresented to Liuzzi both that he had Hartzell's authorization to present the offer and that Hartzell intended to settle the matter for $100,000. He, therefore, violated RPC 4.1(a)(1) and RPC 8.4(c).

Practicing law while ineligible will ordinarily yield a reprimand, when the attorney is aware of the ineligibility and practices law nevertheless, has an extensive ethics history, has been disciplined for conduct of the same sort, or has also committed other ethics improprieties. See, e.g., In re Austin, 198 N.J. 599 (2009) (during one-year period of ineligibility attorney made three court appearances on behalf an attorney-friend who was not admitted in New Jersey, receiving a $500 fee for each of the three matters; the attorney knew that he was ineligible; also, the attorney did not keep a trust and a business account in New Jersey and misrepresented, on his annual registration form, that he did so; several mitigating factors considered, including the attorney's unblemished disciplinary

record); In re Lucid, 174 N.J. 367 (2002) (attorney practiced law while ineligible; the attorney had been disciplined three times before: a private reprimand in 1990, a private reprimand in 1993 and a reprimand in 1995); In re Hess, 174 N.J. 346 (2002) (attorney practiced law while ineligible and failed to cooperate with disciplinary authorities; the attorney had received an admonition for practicing law while ineligible and failing to maintain a bona fide office in New Jersey); In re Ellis, 164 N.J. 493 (2000) (one month after being reinstated from an earlier period of ineligibility, the attorney was notified of his 1999 annual assessment obligation, failed to make timely payment, was again declared ineligible to practice law, and continued to perform legal work for two clients; he had received a prior reprimand for unrelated violations); In re Kronegold, 164 N.J. 617 (2000) (attorney practiced law while ineligible; an aggravating factor was the attorney's lack of candor to us about other attorneys' use of his name on complaints and letters and about the signing of his name in error); and In re Armorer, 153 N.J. 358 (1998) (attorney practiced law while ineligible, exhibited gross neglect, failed to communicate with a client, and failed to maintain a bona fide office). But see In the Matter of Maria M. Dias, DRB 08-138

(July 29, 2008) (although attorney knew of her ineligibility, compelling mitigation warranted only an admonition; in an interview with the Office of Attorney Ethics, the attorney admitted that, while ineligible to practice law, she had appeared for other attorneys forty-eight times on a part-time, per diem basis, and in two of her own matters; the attorney was unable to afford the payment of the annual attorney assessment because of her status as a single mother of two young children).

So, too, knowingly making a false statement of material fact to a third person ordinarily requires a reprimand. See, e.g., In re Lowenstein, 190 N.J. 58 (2007) (reprimand for attorney who failed to notify an insurance company of the existence of a lien that had to be satisfied out of settlement proceeds; the attorney's intent was to avoid the satisfaction of the lien).

Although a reprimand is typically the discipline for each of respondent's infractions, we have considered that this is his first brush with the disciplinary system since his admission to the New Jersey bar in 1980 and that, albeit misguided, his actions were prompted by the desire to help a friend. We, therefore, determine that discipline no more severe than a reprimand is appropriate in this instance.

We determine that a reprimand is the appropriate discipline for respondent's misconduct.

Member Clark 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
Louis Pashman, Chair

By: Julianne K. DeCore
Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Geoffrey Steiert
Docket No. DRB 09-135

Argued: November 19, 2009

Decided: December 17, 2009

Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Pashman			X			
Frost			X			
Baugh			X			
Clark						X
Doremus			X			
Stanton			X			
Wissinger			X			
Yamner			X			
Zmirich			X			
Total:			8			1

Julianne K. DeCore
Julianne K. DeCore
Chief Counsel