SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 14-141
District Docket No. XIV-2013-0034E

IN THE MATTER OF	:	
CAROLE KING BOYD	:	
AN ATTORNEY AT LAW	:	Decision

Argued: September 18, 2014

Decided: December 4, 2014

Maureen G. Bauman appeared on behalf of the Office of Attorney Ethics.

Respondent appeared pro se, via telephone.

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

This matter was first before us in January 2013, on a recommendation for a six-month suspension filed by the District VII Ethics Committee, based on findings of violations of RPC 1.16(d) (upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's

interests), RPC 3.3(a)(1) (false statement of material fact or law to a tribunal), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and RPC 8.4(d) (conduct prejudicial to the administration of justice). We remanded the matter for another disciplinary hearing before a different district ethics committee, because District XIII had denied respondent's request to appear by telephone, contrary to R. 1:20-6(c)(2)(D), which does not require that a respondent's appearance at a disciplinary hearing be in person.

On remand, a two-day hearing took place before a panel of the District VII Ethics Committee (DEC), in late 2013. The DEC found that respondent had violated only RPC 3.3(a)(1) and RPC 8.4(c) and recommended the imposition of a reprimand. For the reasons set forth below, we find that respondent violated RPC 1.16(d), RPC 3.3(a)(1), RPC 8.4(c), and RPC 8.4(d) and determine to impose a three-month suspension on her.

Respondent was admitted to the New Jersey bar in 1985. At the relevant times, she maintained an office for the practice of law in Milford, New Jersey, and in Medina, Texas.

Respondent has no disciplinary history. Nevertheless, on November 2, 2011, the Supreme Court temporarily suspended her for failure to abide by the Court's prior orders, requiring her to comply with the determination of a fee arbitration committee

and establishing a payment plan to enable her to do so. In re Boyd, 208 N.J. 357 (2011).[1]

Over the course of many years, respondent represented Drew Bradford in several matters. The one underlying this disciplinary action involved a New Jersey civil suit that respondent filed against Dianne Gleason and Renee Hedges, alleging malicious prosecution, libel, and intentional deprivation of prospective economic benefit (the Gleason matter). Respondent filed the Gleason complaint in 2006, even though she had moved to Texas in 2004. When she was required to appear on Bradford's behalf in New Jersey, she did so via telephone.

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[1] At the disciplinary hearing, respondent described the fee arbitration proceeding involving the grievant in this matter, Drew Bradford, as "ridiculous" and a "witch hunt" and declared that, even "if hell freezes over, Mr. Bradford is never going to get that [fee refund] from me" because, she asserted, "I don't owe it and it is not right." Although R. 1:20A-5 provides that fee arbitration proceedings are confidential, because the order suspending respondent for failure to comply with the fee arbitration determination is public and because the parties discussed the fee arbitration matter during the disciplinary hearing, we deem the confidential nature of the fee arbitration matter to be waived.

In May 2007, the Gleason matter was dismissed on summary judgment. The dismissal was appealed as to Gleason only. On August 13, 2009, the Appellate Division reversed the summary judgment order and remanded the Gleason matter for trial on the malicious prosecution claim. The next day, the aforementioned fee arbitration hearing between respondent and Bradford was conducted.[2]

Sometime prior to August 2009, respondent had attempted to terminate the representation of Bradford, but he would not permit it. Thus, she decided to file a motion to withdraw. She also decided to tender her resignation from the New Jersey bar because, she testified, she did not have the resources to continue practicing law in this state.

On August 19, 2009, after the Appellate Division had remanded the Gleason matter, but before a trial date had been set, respondent filed a motion with the trial court, seeking leave to withdraw as counsel for Bradford. The motion,

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[2] On December 12, 2008, Bradford's request for fee arbitration was docketed. At the time, respondent was representing Bradford on appeal in the Gleason matter. She was not charged with having engaged in a conflict of interest, however.

returnable on September 11, 2009, was accompanied by a twenty-one paragraph supporting certification. Bradford denied that respondent had discussed the motion to withdraw with him, before filing it. He allegedly learned of it only after receiving a copy.

On August 20, 2009, the day after respondent filed the motion to withdraw, she signed a Resignation Without Prejudice From the Bar of the State of New Jersey form, which the Supreme Court received on August 24, 2009. In connection with her resignation, respondent certified that she had "notified all clients for whom I have performed any professional services or by whom I have been retained of my pending resignation and have complied with RPC 1.16."[3]

Respondent denied that the Gleason matter was pending, when she submitted her resignation. She claimed that "[t]he case wasn't pending at that point. It had just been decided by the Appellate Division. It hadn't been even sent back yet. It was

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[3] RPC 1.16(d) requires an attorney, upon termination of the representation of a client, to "take steps to the extent reasonably practicable to protect a client's interests," including, but not limited to, "giving reasonable notice to the client" and "allowing time for employment of other counsel."

a brand new file." Respondent maintained that she had told Bradford that she was "going to resign" from the bar, at the August 14, 2009 fee arbitration and in "numerous" faxes to him. Contrarily, Bradford testified that respondent had said only that she was "thinking about possibly resigning."

According to the ethics complaint, respondent did not comply with RPC 1.16, because she failed to give Bradford reasonable notice of her intended resignation and to allow him time to retain other counsel, before she tendered her resignation to the Supreme Court. Moreover, in her certification to the Court, in support of her tendered resignation from the bar, she had not disclosed either the pending litigation in the Gleason matter or her motion to be relieved as counsel for Bradford in that case, which, the complaint charged, constituted violations of RPC 3.3(a)(1), RPC 8.4(c), and RPC 8.4(d).

In respondent's certification in support of her August 19, 2009 motion for leave to withdraw, she asserted the following:

- In June 2007, she had billed Bradford for work done in the Gleason matter, plus disbursements made in two other matters.

- At the time, Bradford was short on funds, so she agreed to a payment plan and proceeded to prosecute the appeal in the Gleason matter.

- Between June and October 2007,[4] she and Bradford had discussions, in which he had agreed that, if the appeal in the Gleason matter were successful, "he would make other arrangements for representation for trial."

- Bradford had "received several notices in writing that payment must be made on his bill or that [she] would seek to withdraw as counsel."

- On October 1, 2007, she submitted another bill to Bradford, which included the outstanding balance from June; none of the bills to Bradford had been paid.

- Although the Gleason appeal was successful, Bradford refused to either hire another attorney or to represent himself at trial.

- Bradford refused to permit her to withdraw from the representation. Yet he called her incompetent and threatened and berated her, causing her to cease any verbal communication with him.

- Bradford now wanted her to handle the trial on a contingent fee basis and claimed that he was no longer able to pay for her travel and expenses from Texas to New Jersey.

- In the past, Bradford had litigated "a substantial amount of cases pro se" and, therefore, he was "entirely capable of doing so in this one."

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[4] The certification identified the year as 2009. We infer that "2009" was a typographical error and that, instead, the year should have been 2007.

- The Gleason matter now involved the trial of only one count and one defendant.

In paragraph 11 of her August 19, 2009 certification to the trial court, respondent asserted that she could no longer continue to represent Bradford in the Gleason matter, for the following reasons:

> I have a busy practice in Texas and [sic] unable to continue any representation in New Jersey, and am in the process of resigning from the New Jersey Bar. I have no other matters which require my New Jersey admittance, it is impossible to leave my practice in Texas for any period of time, and it is a financial hardship to try to pay dues, client protection Fund fees, keep attorney trust accounts, and maintain offices in both states.
>
> [Ex.1¶11.]

Respondent told the trial court that she was "resigning from the New Jersey bar for the reason that it is financially burdensome to try to maintain practices in both states."

Bradford testified that he did not read respondent's August 19, 2009 certification in its entirety, because there were "[s]ignificant falsehoods" that captured his attention. Thus, he "missed" that portion of respondent's certification that stated that she would be resigning from the New Jersey bar. Moreover, he asserted, respondent's claim that she was "in the process of resigning" was vague.

In a September 10, 2009 letter to Judge William L'E. Wertheimer, Bradford opposed respondent's motion to withdraw, claiming that he could not find another attorney and that, due to a number of physical and mental infirmities, he could not represent himself. His opposition to the motion resulted in an adjournment of the September 11, 2009 return date to September 25, 2009.

In a telephone conversation with Judge Wertheimer's law clerk, respondent asked that a trial date not be set until after the motion was heard. Nevertheless, sometime before the September 25, 2009 return date, the trial was scheduled for November 30, 2009.

On September 20, 2009, respondent signed a reply certification, in further support of her motion to withdraw as counsel for Bradford in the Gleason matter. She did not address Bradford's claim that she had never discussed the motion with him. She did assert, however, that she had "received a notice from the Bar stating that [her] resignation is pending confirmation."

Bradford testified that he never received a copy of respondent's resignation papers and that he did not learn of her application until he read about it, in respondent's September 20, 2009 reply certification to Judge Wertheimer.

On September 22, 2009, the Supreme Court accepted respondent's tendered resignation, "effective immediately." On September 25, 2009, Judge Wertheimer denied respondent's motion for leave to withdraw, on the basis that a trial date had been scheduled for November 30, 2009 and that Bradford could not be left without counsel, two months before trial, "without suffering adverse effects on his interests."

On September 28, 2009, Bradford wrote to Office of Attorney Ethics (OAE) Director Charles Centinaro, to former OAE Deputy Ethics Counsel John McGill, III, and to Supreme Court Clerk Mark Neary, offering his "opposition" to Boyd's resignation. Specifically, Bradford took the position that, by tendering her resignation on August 20, 2009, respondent was representing to the Supreme Court that, as of that date, she was no longer practicing law in New Jersey. He disputed the truthfulness of respondent's statement, presumably because, as of August 20, 2009, her motion to withdraw from the Gleason matter was pending and, therefore, she remained counsel of record in that case.

Bradford also stated in his September 28, 2009 "opposition" that he had not learned of respondent's pending resignation until September 25, 2009, when he had received her September 20, 2009 reply certification to the trial court. Bradford requested

the rescission of the September 22, 2009 Court order accepting respondent's resignation.

On October 6, 2009, Bradford wrote to McGill and Neary and informed them that Judge Wertheimer had denied respondent's motion to withdraw as counsel in the Gleason matter. Three days later, Neary wrote to respondent and asked her to "explain the apparent inconsistencies between your sworn affidavit of August 20, 2009 [to the Supreme Court], and the representations of Mr. Bradford's correspondence." Specifically, Neary identified her sworn statement, in the resignation form, that she had "notified all clients . . . of [her] pending resignation and [she had] complied with RPC 1.16." Neary informed respondent that, "in the absence of a satisfactory response, the Supreme Court may take action vacating its Order accepting your resignation without prejudice."

In an October 19, 2009 letter to Neary, respondent indicated that she had notified Bradford of her "intention to withdraw from practice in New Jersey." She also stated that she had informed Bradford, in November 2008, that, if the appeal in the Gleason matter were successful, he would have to retrieve his file and retain a new attorney.

Respondent further told Neary that, after the Appellate Division had ruled in Bradford's favor, Bradford had refused to

retrieve his file or to hire new counsel. Accordingly, she had notified him of her "intention to terminate [their] relationship, stop practicing in NJ, and move to withdraw as counsel if he did not honor his agreement with her." According to respondent, when Bradford informed respondent that he had no intention of allowing her to withdraw as his attorney, she filed a motion to withdraw and tendered her resignation from the bar. Respondent claimed to Neary that she no longer represented Bradford in the Gleason matter and that she was now representing herself, in the attempted withdrawal as counsel.

At the disciplinary hearing, respondent could not recall whether, prior to the submission of her resignation form, she had reviewed R. 1:20-22, the rule governing that process. Instead, she stated, she had simply called the Supreme Court Clerk's office and "did what they told [her] to do." She could not remember the name of the person who had advised her how to proceed. At oral argument before us, she elaborated:

> Anyway, I called the -- I did make my motion and it was returnable, I think, September 11th and maybe that date's in my mind for another reason. But anyway, it was sometime early in September and I called . . . several different agencies because I wasn't sure how to proceed. I had bar dues and client protection dues or whatever that were payable and I didn't want to continue practicing in New Jersey when I wasn't physically there, had no clients there and

had no intention of continuing to practice there with any clients. So I called, first, I think about the dues and they said well, just hold off, what are you going to do, are you going to resign? And I said, yeah, I guess so. I don't know the process. They said well just a minute, we'll transfer you. Then they transferred me to some other person who I believe was in the Supreme Court. I'm not sure who it was but I'm sure if somebody wanted to check this back then, they could have gotten the phone records and seen that I had called. And if somebody wanted to check this such as the [presenter], they could have checked with people there because I spoke to at least two people and maybe three. So someone would have remembered this conversation if the truth wanted to be brought out. The truth was never brought out.

I had my testimony, my sworn testimony, that I did this. There was never any evidence to the contrary. There couldn't have been because this is exactly what I did. I had no intention of trying to deceive anyone, I wanted to know what to do and they told me. They said, -- that I was told it takes at least 30 days to process an application so your motion [to withdraw] is fine, go ahead and fill the application out, send it in, and your motion will be heard probably before this so there shouldn't be any problem. Well, that was the plan but that's not what happened.

[BT13-14 to BT14-25.][5]

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[5] "BT" refers to the transcript of the oral argument before us, on September 18, 2014.

There is no indication in the record that respondent notified the Supreme Court that the motion to withdraw had been adjourned to September 25, 2009, which was beyond the thirty-day window that the Court employee allegedly told respondent would be the earliest that the Court would act on her resignation. Further, when the motion to withdraw was denied, respondent did not immediately inform the Supreme Court. She claimed that she wanted to first straighten out what she believed to have been some confusion at the trial court level. Before she accomplished that, however, the Supreme Court learned of Judge Wertheimer's decision, when it received a copy of his order.

Respondent testified that, if the Court employee had told her to wait to resign until after the motion to withdraw had been decided, she would have done that, "but they didn't say that." She neither wrote to Bradford to inform him that she had resigned nor sent him a copy of the resignation form. She considered the six-page reply certification "additional notice" to him.

Respondent testified that, after her motion to withdraw was denied on September 25, 2009, she once again called the Supreme

Court Clerk's office seeking direction.[6] An employee told her to file a motion for reconsideration of the denial. When respondent stated that she could not do that because she was no longer a member of the bar, the employee told her to file it anyway or seek admission pro hac vice.

Although respondent filed a motion for reconsideration with the trial court, it was returned to her because Judge Wertheimer, she was told, was going to enter an order sua sponte. Bradford testified that he did not oppose the motion because, at that point, a lawyer had advised him that, given the animosity between Bradford and respondent, there would be a mistrial "and it would just be a mess and a waste."

On October 22, 2009, Judge Wertheimer issued an order directing Bradford to "represent himself or seek alternate counsel within 20 days," as respondent was no longer eligible to practice law in New Jersey. Bradford received a copy of the order.

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[6] It is not clear when respondent made this call, in light of her failure to promptly notify the Court that the motion was denied.

On November 17, 2009, the Supreme Court vacated its September 22, 2009 order accepting respondent's August 2009 resignation, on the basis that she was still counsel of record in the Gleason matter, when she submitted her resignation.

On December 18, 2009, Judge Karen M. Cassidy granted respondent's motion for reconsideration, permitted her to withdraw, ordered Bradford to retain new counsel or appear pro se, directed respondent to return the file to him, and adjourned the trial from January 19 to February 22, 2010.[7]

Attorney Francis T. Gleason, Jr., who represented one of the defendants in the Gleason matter, testified that respondent's actions in the Gleason matter were "appropriate." According to Gleason, respondent did all that she was required with respect to the prosecution of the first appeal.

The DEC found that respondent had violated RPC 3.3(a)(1) and RPC 8.4(c). With respect to RPC 3.3(a)(1), the DEC noted that respondent had falsely certified to the Court that she had "notified all clients for whom I have performed any professional

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[7] As of September 12, 2013, the Gleason matter was once again pending appeal, after the trial court again dismissed it on summary judgment.

services or by whom I have been retained of my pending resignation and have complied with RPC 1.16."

The DEC found that, although respondent had notified Bradford of her pending resignation, through her certification in support of her motion to withdraw, in which she had stated that she was in the process of resigning from the New Jersey bar, she had not complied with RPC 1.16, because her representation of Bradford in the Gleason matter had not been "properly terminated in accordance with such Rule." According to the DEC, the resignation form's requirement that an attorney certify to having complied with RPC 1.16 "suggests that representation has already been properly terminated under such Rule – not that the process for withdrawal has merely begun." The DEC found that respondent's failure to inform the Supreme Court that she was still counsel of record in the Gleason matter was an omission of material fact. The DEC concluded that this omission was a violation of RPC 3.3(a)(1), by reading it "in pari materia" with RPC 3.3(a)(5) and RPC 3.3(d).

The DEC found that respondent violated RPC 8.4(c), based on the same reasoning, that is, respondent's failure to inform the Court that she still was counsel of record in the Gleason matter was an omission that precluded the Court from making "an informed decision" with respect to her resignation.

In the DEC's view, however, the record did not support a finding that respondent had violated RPC 1.16(d) or RPC 8.4(d). As to RPC 8.4(d), the DEC found that not only had Bradford not suffered any "material harm," between the original September 2009 return date for the motion to withdraw and December 2009, when respondent was finally allowed to withdraw, but that respondent had not misled the trial court.

As to RPC 1.16(d), the DEC found that respondent had given Bradford notice of her intention to withdraw from the representation on August 14, 2009, the date of the fee arbitration, but that she had continued to represent him until December 18, 2009, when the trial court finally permitted her to withdraw. Thus, "Bradford had had a reasonable amount of notice and time to employ replacement counsel, and in fact Bradford did obtain replacement counsel without undue effort or expense."

The DEC found no aggravating factors and cited, as mitigation, (1) respondent's "prompt attention to the Trial Court Matter and notice to the Trial Court following the Supreme Court's vacation of Respondent's resignation from the New Jersey bar," (2) the "trying" attorney-client relationship between respondent and Bradford, which the trial court determined was a valid ground for her to withdraw from the representation, and (3) her "good faith attempt to comply with the proper procedures

for withdrawing from representation and resignation from the New Jersey bar."

The DEC viewed the OAE's recommended six-month suspension as "unduly harsh under the circumstances" and recommended the imposition of a reprimand instead.

Following a de novo review of the record, we are satisfied that the DEC's finding that respondent's conduct was unethical is fully supported by clear and convincing evidence. We are unable to agree, however, with the DEC's dismissal of the RPC 1.16(d) and RPC 8.4(d) charges.

We begin with RPC 1.16(d). As stated previously, RPC 1.16(d) requires an attorney, upon termination of the representation of a client, to take certain steps to protect the client's interests. Here, Bradford would not agree to the termination of the representation, leaving respondent with no choice but to seek leave to withdraw from the Gleason matter. We do not fault her for this. However, by tendering her resignation from the bar on the day after she filed the motion, rather than waiting for the motion to be decided in her favor, respondent violated RPC 1.16(d). By tendering her resignation, respondent did not give Bradford sufficient time to retain a new lawyer. Also, by tendering her resignation, respondent violated RPC 8.4(d) because she sought to force the trial judge to grant

her motion to withdraw. This fact is evident in the language of her certification in support of the motion, stating that she was "in the process of resigning from the New Jersey Bar."

We reject respondent's defense, that is, her reliance on the Court employee's statement that the Court would not act on the resignation for at least thirty days. Although the thirty-day period would extend beyond the original September 11, 2009 return date, respondent still had a duty to be truthful in connection with the resignation process. She was not. Moreover, as a lawyer, it was unreasonable for respondent to rely on the employee's prediction. The motion to withdraw could have been denied or adjourned or, as it turned out, both.

Respondent's failure to inform the Supreme Court that the return date of the motion to withdraw had been adjourned from September 11 to September 25, 2009 is additional proof that she intended the resignation to influence the outcome of the motion. Clearly, the September 25 date was beyond the thirty-day period within which the Supreme Court could have acted on the resignation, as respondent understood from the Clerk's Office. Moreover, in her reply certification in further support of the motion to withdraw, respondent was sure to inform the trial court that she had "received a notice from the Bar stating that [her] resignation is pending confirmation."

Also, respondent's representation to the Supreme Court, in the resignation, that she had complied with RPC 1.16(d) was untrue and her failure to inform the Supreme Court that a motion to withdraw from the Gleason matter was pending constituted a misrepresentation by silence.

We find, thus, that respondent violated RPC 1.16(d), RPC 3.3(a)(1), RPC 8.4(c), and RPC 8.4(d).

Attorneys who make misrepresentations to a court, under oath, are subject to a broad range of discipline. See, e.g., In the Matter of Richard S. Diamond, DRB 07-230 (November 15, 2007) (admonition imposed on attorney, who, in a matrimonial matter, filed with the court certifications making numerous references to "attached" psychological and medical records, whereas the attachments were merely billing records from the client's insurance provider; in mitigation, this was the attorney's first encounter with disciplinary system in a twenty-year career); In re McLaughlin, 179 N.J. 314 (2004) (reprimand imposed on attorney who had been required by the New Jersey Board of Bar Examiners to submit quarterly certifications attesting to his abstinence from alcohol and who falsely reported that he had been alcohol-free during a period within which he had been convicted of driving while intoxicated; in mitigation, after the false certification was submitted, the attorney sought the

advice of counsel, came forward, and admitted his transgressions); In re Manns, 171 N.J. 145 (2002) (reprimand for misleading the court in a certification in support of a motion to reinstate a complaint as to the date the attorney learned that the complaint had been dismissed, as well as lack of diligence, failure to expedite litigation, and failure to communicate with the client; although the attorney had received a prior reprimand for pattern of neglect, lack of diligence, and failure to communicate with the client, we noted that the conduct in both matters had occurred during the same time frame and that the misconduct in the second matter may have resulted from the attorney's poor office procedures); In re Monahan, 201 N.J. 2 (2010) (censure imposed on attorney for making misrepresentations in two certifications submitted to a federal court in support of a motion to extend the time within which an appeal could be filed; the attorney falsely represented that he was ill, confined to his bed and therefore unable to work; we rejected the proffered mitigating factors; the attorney also practiced while ineligible); In re Clayman, 186 N.J. 73 (2006) (censure imposed on attorney who misrepresented the financial condition of a bankruptcy client in filings with the United States Bankruptcy Court in order to conceal information detrimental to his client's Chapter 13 bankruptcy petition; in

mitigation, we observed that, although the attorney had made a number of misrepresentations in the bankruptcy petition, he was one of the first attorneys to be reported for his misconduct by a new Chapter 13 trustee who had elected to enforce the strict requirements of the bankruptcy rules, rather than permit what had been the "common practice" of bankruptcy attorneys under the previous trustee; we also noted that the attorney had an unblemished disciplinary history, was not motivated by personal gain, and had not acted out of venality); In re Trustan, 202 N.J. 4 (2010) (three-month suspension imposed on attorney who submitted to the court a client's case information statement, falsely asserting that the client owned a home and drafted a false certification for the client, which was submitted to the court in a domestic violence trial; in addition, the attorney entered into an improper business relationship with her client and, after their attorney-client relationship ended, attempted to inflict harm on her former client by seeking to assist her client's former husband in seeking custody of their children in exchange for the withdrawal of his grievance); In re Perez, 193 N.J. 483 (2008) (on motion for final discipline, the attorney was suspended for three months for false swearing; the attorney, then Jersey City Chief Municipal Prosecutor, lied under oath at a domestic violence hearing that he had not asked that the

municipal prosecutor request a bail increase for the person charged with assaulting him); In re Chasar, 182 N.J. 459 (2005) (three-month suspension for attorney who, in her own divorce proceedings, filed with the court a false certification in which she denied having made cash payments to her employees; she also filed a certification on behalf of her secretary, in which the secretary falsely claimed not to have received cash payments; we rejected as mitigation the attorney's claims that the litigation was contentious, that she was using steroids, painkillers, and sleeping pills as the result of a neck injury, and that her former husband had wrongfully denied her visitation with their children for a three-month period); In re Coffee, 174 N.J. 292 (2002) (on motion for reciprocal discipline in a matter where the attorney received a one-month suspension in Arizona, three-month suspension imposed for his submission of a false affidavit of financial information in his own divorce case, followed by his misrepresentation under oath that he had no assets other than those identified in the affidavit); In re Lyle, 172 N.J. 563 (2002) (three-month suspension imposed on attorney who falsely stated in his complaint for divorce that he and his wife had been separated for eighteen months; we rejected as a mitigating factor the attorney's purported treatment for depression at the time of the misconduct); In re Brown, 144 N.J.

580 (1996) (three-month suspension imposed on attorney who, during the trial in the plaintiff-hospital's collection suit for recovery of expenses incurred in the treatment of attorney's drug and alcohol dependency, testified untruthfully that he had never used cocaine, had never been treated for cocaine dependency, that his treatment at the hospital was limited to alcoholism, and that the treatment was fewer than the number of days billed; we noted that the attorney's misrepresentations at trial were made nearly five years after his alleged successful completion of a rehabilitation program; we rejected the attorney's claim that his untruthful denial of drug use was the result of the shock, fear, and shame he experienced as a result of the court's questioning of him about his drug use); In re Mark, 132 N.J. 268 (1993) (three-month suspension for attorney's oral misrepresentations and fabrication of two letters, which were submitted to the trial court and his adversary; the attorney attached the letters to a false certification to the court); In re Kernan, 118 N.J. 361 (1990) (three-month suspension imposed on attorney who "knowingly made a false certification" in his own matrimonial matter, by failing to amend his case information statement to reflect that he had transferred to his mother ownership of an unimproved lot that had been identified as an asset on that document; the attorney's

claimed history of psychiatric difficulties was insufficient to demonstrate "a lack of volition or moral awareness"); and In re Cillo, 155 N.J. 599 (1998) (one-year suspension where, after falsely certifying to a judge that a case had been settled and that no other attorney would be appearing for a conference, the attorney obtained a judge's signature on an order dismissing the action and disbursing all escrow funds to his client; the attorney knew that at least one other lawyer would be appearing at the conference and that a trust agreement required that at least $500,000 of the escrow funds remain in reserve; two prior private reprimands in two matters for failure to communicate with a client and for entering into an improper business relationship with a client).

Here, it is our conviction that respondent's conduct warrants a three-month suspension. Although she has a clean fourteen-year disciplinary record, in our view, this is not sufficient to overcome the serious nature of her conduct, that is, misrepresenting to the Supreme Court that she had complied with RPC 1.16(d) and failing to disclose the pending motion to withdraw from the representation of Bradford in the Gleason matter. Further, we find, in aggravation, that, when she learned that the motion to withdraw had been adjourned, she failed to notify the Supreme Court, thereby leaving the trial

court with no choice but to permit her withdrawal because she would no longer be a member of the bar. She also failed to promptly inform the Supreme Court that the motion was denied and played fast and loose with her obligations under the rules and with her representations to the Supreme Court.

Finally, respondent's stated refusal to pay the fee award to Bradford, in the face of Court orders compelling her to do so, is so troubling that nothing short of a three-month suspension would be adequate in this case.

Member Gallipoli voted to impose a six-month suspension. Member Singer abstained. Members Rivera and Yamner 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 Carole King Boyd
Docket No. DRB 14-141

Argued: September 18, 2014

Decided: December 4, 2014

Disposition: Three-month suspension

Members	Six-month Suspension	Three-month Suspension	Reprimand	Dismiss	Abstained	Did not participate
Frost		X				
Baugh		X				
Clark		X				
Gallipoli	X					
Hoberman		X				
Rivera						X
Singer					X	
Yamner						X
Zmirich		X				
Total:	1	5			1	2

Ellen A. Brodsky
Chief Counsel