SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 08-225
District Docket No.XIV-07-416E

IN THE MATTER OF	
EDWARD J. KING	
AN ATTORNEY AT LAW	

Decision

Argued: October 17, 2008

Decided: December 17, 2008

Nitza I. Blasini appeared on behalf of the Office of Attorney Ethics.

Respondent appeared pro se.

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

This matter came before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics ("OAE"), following respondent's consent to a one-year suspension in Pennsylvania for violating RPC 8.1(a) (knowingly making a false statement of material fact on a bar admission application), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and RPC 8.4 (d) (conduct prejudicial to the administration of justice).

In its brief, the OAE recommended discipline in the range of a reprimand to a short suspension. At oral argument before us, the OAE noted that the "underlying misconduct constituted minor involvement of law," and stated that a suspension was not required in this case. We agree with the OAE that a suspension is not warranted and determine that a reprimand is adequate discipline for this respondent's ethics offenses.

Respondent was admitted to the New Jersey and the Pennsylvania bars in 2005. He has no history of discipline in New Jersey. The New Jersey Lawyers' Fund for Client Protection report shows that he has been ineligible to practice law since September 24, 2007.

On September 19, 2007, the Supreme Court of Pennsylvania issued an order adopting the Pennsylvania Disciplinary Board's recommendation for a consensual one-year suspension, retroactive to respondent's temporary suspension on August 1, 2007. Respondent's counsel promptly notified the OAE of respondent's temporary suspension.

Respondent's suspension followed a Joint Petition in Support of Discipline on Consent between respondent and the Pennsylvania Office of Disciplinary Counsel, filed on June 26, 2007. The joint petition outlined the factual circumstances leading to respondent's suspension.

On August 21, 1993, the North Wildwood Police arrested respondent for trespassing. The police officer issued a summons directing respondent to appear at the North Wildwood Municipal Court on August 23, 2003. On that day, respondent agreed to pay a $100 fine and court costs.

On May 29, 1994, two North Wildwood police officers arrested respondent for fighting. He was charged with violating N.J.S.A. 2C:12-1(a)1, a disorderly persons' offense. The officers issued a summons directing respondent to appear at the North Wildwood Municipal Court on May 31, 1994. For unspecified reasons, on June 21, 1994, the court dismissed the criminal case against respondent.

On January 5, 2002, respondent completed an application for admission to Villanova University School of Law. He certified that the information in the application was complete and accurate, but checked "No" in response to an inquiry of whether he had "ever been arrested, given a written warning, taken into custody, accused formally or informally, or convicted for violating the law for any offense other than a minor traffic violation."

Respondent was admitted to the law school in August 2002 and received his Juris Doctor degree in May 2005.

On April 13, 2005, respondent electronically filed with the Pennsylvania Board of Law Examiners an application to take the July 2005 Pennsylvania bar examination and for character and fitness determination. Respondent verified, on the application, that the statements he made were "true and correct," lest he be subject to the penalties of 18 Pa.C.S. §4904, "relating to unsworn falsification to authorities." Respondent further verified that he had not omitted any facts or matters pertinent to the Pennsylvania bar application.

In that bar application, respondent answered "No" in response to the inquiry about whether he had "ever altered or falsified any official or unofficial document or copy thereof (e.g., bar application or examination result letter, recommendation letter, transcript, report, law school application, etc.)." Respondent also answered "No" in response to whether he had

> ever been arrested, charged, cited, accused, or prosecuted for any crime by a law enforcement agency, or [had] . . . ever been the subject of any investigation by a law enforcement agency, professional organization, corporation, board, or any other agency (including, but not limited to the lawyer Disciplinary Board, Attorney General's Office, government entity, law firm, etc.).
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> [Ex.E12¶12b.]

The miscellaneous issues category warned respondent that, if there was

> any information (event, incident, occurrence, etc.) that was not specifically addressed and/or asked of you in the electronic application and/or in the instructions that could be considered a character issue, you are required to provide a detailed explanation for each event, incident/occurrence. Do you have any additional issues to disclose before submitting you application?
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> [Ex.E6¶12c.]

Here, too, respondent answered "No."

According to the joint petition, the omissions and representations were material to the Pennsylvania bar examination application and to respondent's qualifications to practice law.

On March 31, 2005, respondent filed with the New Jersey Committee on Character a certified statement of character in connection with his application to take the July 2005 bar examination. Respondent certified that his answers in the application were "true and correct." He checked "No" in response to whether he had ever been "charged with, taken into custody for, arrested for, indicted for, tried for, pled guilty to, or convicted of, the violation of any law (other than a minor traffic violation) or been the subject of a juvenile delinquent or youthful offender proceeding."

According to the joint petition, respondent's omissions and representations were material to the New Jersey bar application and to respondent's qualifications to practice law.

The joint petition listed, as mitigating factors, respondent's admission that he engaged in misconduct and violated the Rules of Professional Conduct; his cooperation with the Pennsylvania disciplinary authorities; the lack of a disciplinary record; his remorse for his misconduct; and the fact that he reported his misconduct to the Pennsylvania disciplinary authorities.

Respondent also submitted a certification explaining his personal circumstances. According to the certification, since respondent's admission in New Jersey he has neither appeared in any New Jersey state or federal court nor, to the best of his knowledge, performed legal services in connection with any New Jersey matter.

Following his graduation from law school, respondent was employed by the law firm of Duane Morris LLP, in Philadelphia, Pennsylvania, until October 24, 2006, when he and his immediate supervisor "discussed certain omissions [he] made on [his] bar application(s)." They determined that he would be "best served to leave the firm and focus [his] attention on resolving this issue." At the time, there were no disciplinary matters pending

against him in any jurisdiction, but respondent believed it was best to "self-report to the Disciplinary Board." Respondent requested that his attorneys contact the Pennsylvania Disciplinary Board to negotiate an appropriate form of discipline and to contact the OAE about the Pennsylvania matter.

Respondent stated that he left a $125,000 per year job, has not practiced law since leaving the firm in October 2006, and has had difficulty finding employment, despite contacting numerous temporary legal staffing agencies.

Respondent added that he has been married for ten years and has three children, aged eight, five, and three months. His wife had to take a leave from her $40,000 per year teaching job because of her pregnancy with their third child. Their poor financial circumstances led respondent to turn to his family for financial assistance to pay for legal costs, medical insurance, a mortgage, real estate taxes, and law school loans.

On September 25, 2007, after notifying the Pennsylvania Disciplinary Board, respondent began working as a law clerk for a Pennsylvania attorney, in accordance with Rule 217(j) of the PA Rules of Disciplinary Enforcement relating to suspended attorneys working on law-related activities. Respondent earns approximately $1,000 every two weeks. His poor financial circumstances required that he refinance his mortgage because he

was unable to make the monthly payments and to obtain an economic-hardship deferment on his student loans.

According to respondent, his suspension in Pennsylvania has greatly affected his family and caused them extreme hardship. He regrets having omitted the information from his applications, but takes full responsibility for the incident.

Respondent submitted "character letters," one of which was from a former law school professor, who attested to his integrity and good character and noted that the underlying criminal incidents occurred when respondent was younger.[1] Respondent's current employer also submitted a "character letter" stating that respondent's position is in compliance with the Pennsylvania Rules of Disciplinary Enforcement and is in full compliance with the rules that apply to suspended attorneys. The attorney added that respondent has the "personality, intelligence and work ethic to become an excellent attorney." In addition, after closely supervising him for three months, the attorney believes that the circumstances surrounding his suspension are not indicative of him as an individual or an attorney. The attorney added that respondent realizes that what

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[1] Respondent's two arrests occurred when he was approximately eighteen and nineteen years old, respectively.

he did was wrong and has accepted responsibility for his conduct.

Respondent's father-in-law, a retired attorney whose professional career spanned thirty-three years, stated that respondent's suspension was devastating to respondent and his family. He asked that respondent and his family not be punished any more than they have been. He added that respondent

> is a bright, articulate attorney. His graduation at the top of his Villanova Law School class and membership in its Law Review attest to that fact. He made a mistake of judgment in his application for admission to practice law before the Pennsylvania and New Jersey courts. He has grown and learned from this experience. Increased punishment beyond that already meted out would accomplish very little other than to add additional suffering for this man and his family.
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> [Ex.O.]

Following a review of the record, we determine to grant the OAE's motion for reciprocal discipline. Pursuant to R. 1:20-14(a)(5), another jurisdiction's finding of misconduct shall establish conclusively the facts on which it rests for purposes of disciplinary proceedings. Therefore, we adopt the findings of the Supreme Court of Pennsylvania and find that respondent's misrepresentations on his law school application and bar examination applications violated RPC 8.1(a), RPC 8.4(c), and RPC 8.4(d).

Reciprocal disciplinary proceedings in New Jersey are governed by R. 1:20-14(a)(4), which provides:

> The Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record on which the discipline in another jurisdiction was predicated that it clearly appears that:
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> (A) the disciplinary or disability order of the foreign jurisdiction was not entered;
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> (B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;
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> (C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;
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> (D) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
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> (E) the unethical conduct established warrants substantially different discipline.

A review of the record does not reveal any conditions that fall within the scope of subparagraphs (A) through (D).

Subparagraph (E) applies, however, because respondent's misconduct does not warrant a one-year suspension in New Jersey. Cases in which attorneys have made misrepresentations on their bar applications or in other similar instances have resulted in a broad range of discipline, depending on the circumstances of the misrepresentation and mitigating or aggravating factors.

In In re Tan, 188 N.J. 389 (2006) the attorney was reprimanded for falsely representing to the Board of Bar

Examiners that he had earned a Bachelor's degree, when he was one course shy of doing so. Notwithstanding, he attended law school without revealing the deficiency, obtained a Juris Doctor degree in 1996, and was admitted to the New Jersey bar in 1998. Tan explained that he feared that, if his failure to earn a bachelor's degree surfaced, he would not be permitted to practice law and would be unable to support his wife and child. He twice attempted to remedy the situation, in 1993 and in 2000. Tan's problem came to light when a secretary at his former law firm found a July 5, 2000 letter from him to New York University's dean of academic affairs, attempting to resolve the issue.

In imposing only a reprimand, we considered that Tan was not without a conscience because he had attempted to correct the situation, having failed to bring his attempts to fruition for fear of being discovered. We found that Tan's misrepresentations were made under pressure and were the result of poor judgment and inexperience, as opposed to a lack of scruples; that he accepted responsibility for his wrongdoing; that he recognized the impropriety of his conduct; that he was remorseful; that he had no history of discipline; that his offense occurred more than eight years earlier and that, in the intervening years, he had achieved a certain degree of professionalism; and that he had given back to the Filipino community, of which he was a member.

Like Tan, respondent made misrepresentations on his law school application and on his applications to the Pennsylvania and New Jersey bars. Later, he reported his misconduct to the Pennsylvania and New Jersey ethics authorities.

More serious cases have resulted in the revocation of the license to practice law. The attorney in In re Scavone, 106 N.J. 542 (1987), misrepresented on his law school application, that he was a member of a minority group. After he completed one year of law school, he altered his grades on his transcript and falsified his résumé to show that he had achieved a higher score on the Law School Aptitude Test, all in an effort to obtain employment. After the law school discovered the misrepresentations, it offered Scavone the option of withdrawing or being expelled. Scavone chose to withdraw, signing an agreement that, if he failed to do so, the law school would immediately convene a disciplinary committee to hear charges against him. Scavone subsequently graduated from another law school and applied to take the New Jersey bar examination. In his certified statement of candidate, he failed to disclose that he had withdrawn from another law school under the threat of disciplinary charges.

At a hearing conducted by the Committee on Character, Scavone maintained that his answer on the certified statement was correct because his withdrawal from law school had been

voluntary. He also asserted that he believed that the second law school would provide the information to the Committee on Character. At the hearing, Scavone showed no remorse and demonstrated that he still had no regard for the truth. He testified that he would still complete the application in the same way and that, if he answered differently, it would only be to "appease" the Committee on Character.

In revoking Scavone's license to practice law, the Court concluded that he was not fit to practice because of his concealment of material facts from the Committee on Character. The Court noted that

> [c]andor and honesty are a lawyer's stock and trade. Truth is not a matter of convenience. Sometimes lawyers may find it inconvenient, embarrassing, or even painful to tell the truth. Nowhere is this more important than when an applicant applies for admission to the bar.
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> [Id. at 553.]

The Court found that Scavone's inability to tell the truth about himself demonstrated a lack of good moral character and unfitness to practice law. The Court was particularly troubled by his failure to rehabilitate himself. The Court, nevertheless, did not foreclose the possibility that, at some future time, Scavone might be able to demonstrate his fitness to practice law.

Another attorney who exhibited dishonesty not only on his bar application but also during his ethics proceedings had his license revoked and was precluded from seeking readmission for two years. In re Czmus, 170 N.J. 195 (2001). Prior to becoming an attorney, Czmus was a licensed physician in California. In his application for privileges to two local hospitals, he misrepresented that he was board-certified. After that misrepresentation was discovered, he signed a stipulation providing for the stay of the revocation of his medical license for five years and probation during that time period. Thereafter, Czmus surrendered his California license and, ultimately, his New York license, when additional charges of gross negligence and other professional misconduct came to light.

Although Czmus disclosed, in his law school application, that he had been a licensed physician, he failed to do so in his New Jersey bar application. In the bar application, Czmus lied about his education, employment, other licenses, disciplinary proceedings, and legal proceedings. We noted, in our decision:

> [Czmus's] pattern of deception continued throughout the ethics investigation. He made [among others] the following misrepresentations during the OAE interview: (1) he did not disclose that he had a medical degree because he had misunderstood the bar application question about education, believing that it addressed only undergraduate education; (2) he did not disclose his employment history as a physician because he worked for a [lab] and did

> not have his own practice; (3) he did not disclose that he had been disciplined as a physician or that he was involved in legal proceedings because, at the time that he completed the bar application, he was advised by his California attorney . . . that the medical disciplinary matter had been administratively expunged and that disclosure was not required; (4) he did not disclose that he had been licensed as a physician because the question addressed licenses in which proof of good character had been required and, since he had completed the application twenty-five years earlier, he did not recall that proof of good character was required; and (5) [his California attorney] was ill, was of retirement age and could not be contacted because his telephone number was not known.
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> [In the Matter of Akim F. Czmus, DRB 00-384 (August 2, 2001) (slip op. at 19).]

Czmus made similar misrepresentations in his answer to the formal ethics complaint. In addition, he made misrepresentations to his medical experts about the circumstances surrounding his medical discipline and the bar application; was not forthcoming with his own attorney; and misrepresented to his character witnesses the reason for the ethics hearing, informing them that it was for renewal of his law license. We found it ironic that "[Czmus] lied to the same people he was counting on to testify to his veracity and good character."

Czmus refused to accept responsibility for his actions, blaming his mental state, his employer, or others for his problems. See also In re Guilday, 136 N.J. 215 (1993) (six-month suspension

for attorney who failed to disclose five arrests for DWI in his application to the bar).

In another context, an attorney received a three-month suspension for altering his grades on his law school transcript and misrepresenting his credentials on his résumé to try to impress prospective employers. In re Hawn, 198 N.J. 588 (2008). Hawn's conduct went beyond misrepresentations about his achievements. After his false résumé failed to impress any prospective employers, he embarked on a scheme to alter an official law school document. In addition, he involved a "head-hunter" in his scheme by supplying him with his false résumés. Hawn tried to justify his actions under the guise of an experiment to determine whether his inability to obtain employment was based on his GPA.

Hawn added to his problems after his deception was discovered. In reply to the law school dean's inquiry, he wrote that the transcript discrepancies may have been caused by a malfunction in the electronic transmittal of his transcript to him and suggested that the dean investigate the problem. Later, after Hawn retained counsel, he confessed his fabrications. Hawn engaged in a pattern of deceit and misrepresentations.

A different offense involving the alteration of a court document merited a six-month suspension. In In re Telson, 138 N.J.

47 (1994), the attorney altered a court document to conceal the fact that a divorce complaint had been dismissed. Thereafter, he submitted the uncontested divorce to another judge, who granted the divorce. Telson denied to a third judge that he had altered the document. Telson later admitted to the judge that he had lied because he was scared. But see In the Matter of Lawrence J. McGivney, 171 N.J. 34 (2002) (attorney admonished for improperly signing the name of his superior on an affidavit in support of an emergent wiretap application moments before it was reviewed by the court, knowing that the judge may have been misled; we considered, as mitigation, that his superior had authorized the application, that the omission of his signature was an oversight, that he was pressured by the moment, rather than moved by venality, and that he brought the matter to the attention of the court within one day of his misconduct; we also noted his otherwise unblemished record).

Here, respondent's misconduct does not rise even near the level of the outrageous misconduct found in the Scavone and Czmus matters. Morever, respondent's conduct was not as serious as Hawn's (three-month suspension), who engaged in a carefully planned pattern of deception and fraud and was guilty of altering his law school transcript and lying about his qualifications to prospective employers. In our view, the mitigating circumstances

surrounding this respondent's misconduct are analogous to those found in the Tan case (reprimand).

Once respondent determined to report his misrepresentations, he cooperated fully with the ethics authorities in both states. He has paid a stiff penalty for his mistakes. He lost a lucrative job that forced him to borrow funds, refinance his mortgage, and defer payment on his student loans. Clearly, respondent, his wife and three young children have suffered the consequences of his youthful indiscretions and his later attempts to hide them. In his appearance before us, respondent expressed genuine remorse for his wrongdoing.

In view of the above, we find that a reprimand is sufficient discipline for respondent's transgressions.

Member Wissinger would have imposed an admonition. Member Doremus 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 Edward J. King
Docket No. DRB 08-225

Argued: October 17, 2008

Decided: December 17, 2008

Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Admonition	Disqualified	Did not participate
Pashman			X			
Frost			X			
Baugh			X			
Boylan			X			
Clark			X			
Doremus						X
Lolla			X			
Stanton			X			
Wissinger				X		
Total:			7	1		1

Julianne K. DeCore
Julianne K. DeCore
Chief Counsel