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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 07-389  
District Docket No. XIV-07-493E

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IN THE MATTER OF  
JULIE ANN MARZANO  
AN ATTORNEY AT LAW

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Decision

Argued: February 21, 2008

Decided: April 8, 2008

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) pursuant to R. 1:20-14(a). The motion is based on respondent's nine-month suspension in the Commonwealth of Pennsylvania for practicing law while on inactive status. The OAE recommends the imposition of a reprimand. We agree that a reprimand is the appropriate form of discipline in this case.

Respondent was admitted to the Pennsylvania and to the New Jersey bars in 1991 and 1992, respectively. She has no ethics history.

On March 3, 2006, the Pennsylvania Office of Disciplinary Counsel (the ODC) filed a petition for discipline (formal ethics complaint) charging that respondent had represented three clients after August 15, 1998, the date that she was transferred to inactive status for failure to comply with her Continuing Legal Education (CLE) requirements.

On March 28, 2006, respondent filed an answer admitting all the allegations. In her pleadings and at the committee hearing, respondent explained that two of the three people whom she represented were her father and her nephew's fiancée, and that she had begun to represent the third individual before being placed on inactive status.

Specifically, respondent entered an appearance and filed a complaint in a suit in which her father was the plaintiff, filed a praecipe to reinstate the complaint, filed an affidavit of service of the complaint on the defendant, and finally notified the Philadelphia Arbitration Center that the case had been settled. In all of the pleadings, respondent identified a Pennsylvania office address, listing a New Jersey telephone number.

In the matter in which respondent represented her nephew's fiancée, respondent sent a letter to another attorney. Her letterhead indicated that she was a member of the Pennsylvania and New Jersey bars.

In the third matter, from November 1998 through July 2001, respondent entered an appearance, filed a complaint, filed a praecipe to transfer the case to arbitration, filed a reply to the other party's preliminary objections, filed a "reply to new matter," filed a Petition for Minor's compromise, and filed a praecipe to settle, discontinue and end.

Following a hearing, the Pennsylvania hearing committee issued a report finding respondent guilty of all charges and recommending a six-month suspension. The ODC had urged a suspension for one year and a day.<sup>1</sup>

On May 16, 2007, the Pennsylvania Disciplinary Board issued a decision recommending that respondent be suspended for nine months. The Board considered respondent's argument that she had been suffering from depression as a result of serious personal and family problems. The Board concluded, however, that the testimony of respondent's psychologist had established that her depression had been responsible for her failure to take CLE

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<sup>1</sup> Rule 218 of the Pennsylvania Rules of Disciplinary Enforcement provides that attorneys suspended for more than one year must petition the Supreme Court of Pennsylvania for reinstatement.

credits, but not for her unauthorized practice of law. The Board's Report and Recommendations states:

Dr. Gutterman's testimony established a causal connection between Respondent's depression and her failure to take CLE credits; however, it did not establish a causal connection between the depression and the unauthorized practice of law, which misconduct is the subject of these disciplinary charges. For these reasons the Board concludes that Respondent did not satisfy the requirements of Braun, as she did not demonstrate that her psychiatric disorder caused her unauthorized practice of law.

The Hearing Committee recommended a suspension of six months based upon its conclusion that Respondent met Braun and was entitled to mitigation. The Board's recommendation is that Respondent be suspended for a period of nine months . . .

[OAEbEx.H14.]<sup>2</sup>

The Board concluded that respondent had violated Pennsylvania RPC 5.5(a) and (b) (practicing in a jurisdiction where to do so violates the regulations of the profession in that jurisdiction), RPC 7.1 (making false and misleading communications about the lawyer's services), RPC 7.5(b) (failing to indicate the jurisdictional limitations on lawyers not licensed to practice in the jurisdiction where the office is

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<sup>2</sup> OAEb refers to the OAE's brief filed in support of its motion for reciprocal discipline.

located), RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation), RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice), and a number of sections of the Pennsylvania Rules of Disciplinary Enforcement.

On August 1, 2007, the Supreme Court of Pennsylvania adopted the Board's recommendation.

In recommending a reprimand, the OAE relied primarily on three recent cases in which the Court imposed reprimands, even though the attorneys had received long terms of suspension in Pennsylvania. In re Davis, N.J. (2007) (attorney suspended in Pennsylvania for one year and one day; for a period of three years, the attorney represented a client in Pennsylvania when he was admittedly ineligible to practice law in that jurisdiction as a non-resident active attorney, and later, as an inactive attorney; he also misrepresented his status to the court, to his adversary, and in filings with disciplinary authorities); In re Coleman, 185 N.J. 336 (2005) (attorney suspended in Pennsylvania for two years for practicing law during a nine-year period of ineligibility; the attorney signed hundreds of pleadings and received in excess of \$7,000 for those services); and In re Forman, 178 N.J. 5 (2003) (attorney suspended in Pennsylvania for one year and a day for

practicing law for a twelve-year period while on inactive status; besides other instances of unauthorized practice of law, the attorney regularly appeared before Pennsylvania courts).

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 a disciplinary proceeding in this state. We, therefore, adopt the findings of the Supreme Court of Pennsylvania, including as to the violated RPCs.

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:

(A) the disciplinary or disability order of the foreign jurisdiction was not entered;

(B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;

(C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;

(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

(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). As the OAE properly noted, however, subparagraph (E) applies.

In New Jersey, practicing law while ineligible, absent egregious circumstances, does not warrant a one-year suspension. Ordinarily, either an admonition or a reprimand is the appropriate degree of discipline. If the attorney is unaware of ineligibility or advances compelling mitigating factors, an admonition is imposed. See, e.g., In the Matter of William C. Brummel, DRB 06-031 (March 21, 2006) (attorney practiced law during a four-month period of ineligibility; the attorney was unaware of his ineligible status); In the Matter of Frank D. DeVito, DRB 06-116 (July 21, 2006) (attorney practiced law while ineligible, failed to cooperate with the OAE, and committed recordkeeping violations; compelling mitigating factors justified only an admonition, including the attorney's lack of knowledge of his ineligibility); In the Matter of Richard J. Cohen, DRB 04-209 (July 16, 2004) (attorney practiced law during nineteen-month ineligibility; the attorney did not know that he was ineligible); In the Matter of William N. Stahl, DRB 04-166 (June 22, 2004) (attorney practiced law while ineligible when he filed a complaint on behalf of a client and made a court appearance on behalf of another client; mitigating factors were

the attorney's lack of knowledge of his ineligibility, his prompt action in correcting his ineligibility status, and the absence of self-benefit; in representing the clients, the attorney was moved by humanitarian reasons; the attorney also failed to maintain a trust and a business account); In the Matter of Samuel Fishman, DRB 04-142 (June 22, 2004) (while ineligible to practice law, attorney represented one client in a lawsuit and signed a retainer agreement in connection with another client matter; the attorney also failed to maintain a trust and a business account; mitigating factors were the attorney's lack of knowledge of his ineligibility, his contrition at the hearing, his quick action in remedying the recordkeeping deficiency, and the lack of disciplinary history); In the Matter of Douglas F. Ortelere, DRB 03-377 (February 11, 2004) (attorney practiced law while ineligible during periods ranging from one day to eleven months; the attorney also failed to communicate with the client, and delayed the payment of the client's medical expenses as well as the disbursement of the client's share of settlement proceeds; in mitigation, the attorney was suffering from depression at the time of the misdeeds and had no disciplinary history since his admission to the bar in 1983); In the Matter of Juan A. Lopez, Jr., DRB 03-353 (December 1, 2003) (attorney practiced law while ineligible



for nine months; the attorney was not aware that he was ineligible); and In the Matter of Judith E. Goldenberg, DRB 01-449 and 01-450 (March 22, 2002) (while ineligible to practice law, attorney made two appearances before an immigration court; the attorney also lacked diligence in handling one matter; the attorney was unaware of her ineligibility).

A reprimand is usually imposed when the attorney has an extensive ethics history, has been disciplined for conduct of the same sort, has also committed other ethics improprieties, or is aware of the ineligibility and practices law nevertheless. See, e.g., In re Davis, supra, N.J. (motion for reciprocal discipline; the attorney represented a client in Pennsylvania when the attorney was ineligible to practice law in that jurisdiction as a non-resident active attorney, and later, as an inactive attorney; the attorney also misrepresented his status to the court, to his adversary, and to disciplinary authorities; extensive mitigation considered); In re Kaniper, 192 N.J. 40 (2007) (attorney practiced law during two periods of ineligibility; although the attorney's employer gave her a check for the annual attorney assessment, she negotiated the check instead of mailing it to the Fund; later, her personal check to the Fund was returned for insufficient funds; the attorney's excuses that she had not received the Fund's letters about her

ineligibility were deemed improbable and viewed as an aggravating factor); In re Coleman, 185 N.J. 280 (2005) (motion for reciprocal discipline; the attorney was ineligible to practice law in Pennsylvania for nine years but signed more than 250 pleadings and received over \$7,000 for his services); In re Perrella, 179 N.J. 499 (2004) (attorney advised his client that he was on the inactive list and then practiced law; the attorney filed pleadings, engaged in discovery, appeared in court, and used letterhead indicating that he was a member in good standing of the Pennsylvania bar); In re Forman, 178 N.J. 5 (2003) (for a period of twelve years, the attorney practiced law in Pennsylvania while on the inactive list; compelling mitigating factors considered); 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); and In re Ellis, 164 N.J. 493 (2000) (one month after being reinstated from an earlier period of ineligibility, 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).

Here, respondent was aware of her ineligibility and practiced nevertheless. Although she advanced, in mitigation, a psychological disorder, her psychologist did not establish a causal link between her condition and her unauthorized practice of law. Therefore, under established precedent, an admonition would be insufficient discipline.

That respondent violated multiple RPCs should not require stronger discipline. All the violations stem from the same conduct -- her unauthorized practice of law. In both Coleman and Davis, the attorneys violated the same RPCs as respondent and reprimands were imposed. In fact, Coleman's and Davis' offenses were more serious than respondent's. Coleman displayed a lack of candor during the Pennsylvania disciplinary proceedings. Davis filed false certifications with the CLE, stating that he had not represented any Pennsylvania clients and had no cases pending in Pennsylvania.

Notwithstanding that respondent's conduct was less serious than Coleman's and Davis', a reprimand is still required by precedent because she was aware of her eligibility and because her conduct was not mitigated by compelling circumstances.

Members Lolla, Neuwirth, and Baugh 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  
William J. O'Shaughnessy, Chair

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

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**SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

In the Matter of Julie Ann Marzano  
Docket No. DRB 07-389

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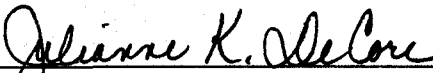
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Argued: February 21, 2008

Decided: April 8, 2008

Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
O'Shaughnessy			X			
Pashman			X			
Baugh						X
Boylan			X			
Frost			X			
Lolla						X
Neuwirth						X
Stanton			X			
Wissinger			X			
<b>Total:</b>			6			3

  
Julianne K. DeCore  
Chief Counsel