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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 07-103  
District Docket No. XIV-07-060E

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IN THE MATTER OF  
KENNETH STANFORD WARD  
AN ATTORNEY AT LAW

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Decision

Argued: July 19, 2007

Decided: October 2, 2007

Richard J. Engelhardt appeared on behalf of the Office of Attorney Ethics.

Respondent did not appear, despite proper service.

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), after the Maryland Court of Appeals indefinitely suspended respondent and later disbarred him.<sup>1</sup>

Two separate disciplinary matters led to the Maryland sanctions. In the first, respondent violated rules corresponding to New Jersey RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(b) (failure to communicate with client), RPC 1.5(a) (unreasonable fee), RPC 5.3(c) (responsibilities regarding non-lawyer assistant), and RPC 8.4(d) (conduct prejudicial to the administration of justice). In the second disciplinary matter, respondent violated rules corresponding to New Jersey RPC 1.1(a), RPC 1.3, RPC 1.4 (b), RPC 1.4(c) (failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation, and RPC 8.4(d).

The OAE recommends a one-year suspension for the totality of respondent's conduct. We agree with that recommendation.

Respondent was admitted to the New Jersey bar in 2001, and to the Maryland bar in 2000. He has no history of discipline in New Jersey. The New Jersey Lawyers' Fund for Client Protection

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<sup>1</sup> In Maryland, disbarment is not permanent. On reapplication, a disbarred attorney has the burden of showing, by clear and convincing evidence, rehabilitation and legal competence, borne out by the applicant's conduct over a long period of time. In re Murray, 316 Md. 303, 304-05 (1989).

report shows that he was ineligible from September 2005 to October 2006, for failure to pay the annual attorney assessment. He has not yet paid the 2007 assessment.

In its August 2, 2006 opinion, the Maryland Court of Appeals quoted the lower court's factual findings that eventually led to respondent's indefinite suspension:

**Complaint of Albert Jenkins**

Mr. Jenkins, who was incarcerated at the Montgomery County Detention Center, retained Respondent on August 6, 2003, to arrange bail for him and his friend, Thomas Shea. Mr. Jenkins executed a retainer agreement and also a Power of Attorney for Respondent to access Mr. Jenkin's [sic] . . . account. The Power of Attorney required notarization and, since Respondent was not a notary, he requested that his secretary, Ms. Tyner, notarize the document outside the presence of Mr. Jenkins. Ms. Tyner was not coerced into notarizing the document but did so using her own notarial discretion. Because Respondent was aware that Ms. Tyner was notarizing a document with the signatory absent, Respondent, as her supervisor, should have taken action to disallow it. Respondent's failure to so do is a violation of Rules 5.3(c) and 8.4.

Mr. Jenkins gave Respondent permission, using the Power of Attorney, to withdraw \$20,000 from Mr. Jenkins's bank account. The \$20,000 was meant to pay for Respondent's flat fee of \$5,000, \$15,000 to secure Mr. Jenkins's release, and \$500 for Mr. Shea's release. On August 7, 2003, Respondent withdrew \$20,000 from Mr. Jenkins's account and obtained a \$15,000 cashiers check for Main Street Bail Bonds. When Respondent realized that he would not have the \$500 needed for Mr. Shea's release, Respondent, on August 8, 2003,

redeposited the \$15,000 back into Mr. Jenkins's account. Respondent then withdrew [\$20,000] in the form of a cashier's check and paid Main Street Bail Bonds for both Mr. Jenkins's and Mr. Shea's release.

Mr. Jenkins was released on or about August 10, 2003. He discharged Respondent and requested that Respondent provide a statement for the retainer and refund sums not earned. In response to this request, Respondent sent Mr. Jenkins a statement, dated September 20, 2003, showing an additional \$585.00 due over and above the \$5,000 flat fee agreement.

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#### **Complaint of Daryl Lamont Torain**

On January 7, 2002, Mr. Torain retained Respondent to represent him in a District Court action brought by Maryland Apartment, Inc. involving a landlord-tenant matter. The trial was initially scheduled for February 11, 2002, but was postponed to May 6, 2002. Mr. Torain was notified of the initial trial date by the court; however, after Respondent entered his appearance in the case on January 28, 2002, Mr. Torain was not notified by the court of the postponement to May 6. Respondent requested a continuance of the case and notified Mr. Torain of his request by letter dated April 29, 2002, but also advised Mr. Torain that he should appear May 6. Even though Respondent did not receive a continuance of the May 6 date, he failed to communicate this to Mr. Torain. Since Respondent had to represent another client, Tyree Woodson, in the Circuit Court for Baltimore City on May 6, 2002, he arranged for a stand-in attorney to appear in District Court for Mr. Torain. Respondent also failed to communicate this arrangement to Mr. Torain. Mr. Torain did not show up on May 6, and, in his absence, Maryland Apartment, Inc., was granted a default judgment of

\$1,511.03. Mr. Torain only became aware of the judgment when he received a collection notice from Maryland Apartment, Inc.

The default judgment against Mr. Torain was entered on May 6, 2002. Respondent filed a Motion to Vacate Judgment on October 24, 2002, incorrectly stating that Mr. Torain was in court on May 6. The Motion was denied because it was not timely filed. Respondent told Mr. Torain that he had followed up his April 29, 2002, letter to the court for a continuance with a telephone call on May 5, 2002, to the clerk at the District Court and was told that Mr. Torain's case had been continued.

In his complaint to Petitioner, Mr. Torain charged that he had asked Respondent for copies of pleadings filed in his case but that Respondent did not provide them. In addition, Mr. Torain requested Respondent to refund the retainer fee of \$300 and to pay for the default judgment. Respondent has paid Mr. Torain \$1,000 as of the date of Bar Counsel's petition.

Respondent was notified by letter dated February 12, 2003, of the pending complaints against him and his response was due within ten days. Respondent requested a 15-day extension on March 8, 2003, in order that he could serve as counsel for another client in a jury trial. A provisional extension was granted on March 12, 2003, provided that Respondent provide the case number and information on the duration of the jury trial. Instead of providing the requested information, Respondent answered Petitioner's initial letter and attached a copy of the Motion to Vacate Judgment in Mr. Torain's case which incorrectly stated that Mr. Torain was in court on May 6. Petitioner further expressed concern to Respondent regarding the discrepancy that Respondent was claiming to believe that Mr. Torain's case had been

postponed but had, nevertheless, sent a stand-in attorney for the scheduled trial on May 6.

[OAEbEx.A at 5 to 8.]<sup>2</sup>

In imposing an indefinite suspension, the Court of Appeals found the following:

In the present case, Respondent violated Rules 1.5, 5.3(a) and 8.4 (d) in his representation of Mr. Jenkins.<sup>3</sup> He violated Rules 1.1, 1.3, 1.4, and 8.4 (d) in his representation of Mr. Torain.<sup>4</sup> The hearing court concluded, and we agree, that Respondent's misconduct was the result of inexperience, incompetency, and an inability to balance his work schedule. [footnote in original - At the time of Respondent's representation of Mr. Jenkins and Mr. Torain, Respondent had been a member of the Bar for less than two years and after working in the State's Attorney's Office for less than one year, he set up a private practice.] Respondent's violations concerning Mr. Torain stemmed mainly from overcommitting

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

<sup>3</sup> The Court of Appeals' reference to subsection (a) of RPC 5.3 appears to be a typographical error. The complaint charged respondent with a violation of subsection (c); the lower court found respondent guilty of violating subsection (c); and the Court of Appeals found that respondent "order[ed] his assistant to obtain the notarization of a document where the signer was not present." (Emphasis added). Subsection (c) is violated when an attorney "orders or, with the knowledge of the specific conduct, ratifies the conduct involved." It is, therefore, the applicable subsection in this case.

<sup>4</sup> The violation of RPC 8.4(d) was based on the finding that a default judgment would not have been entered against Mr. Torain, had respondent properly communicated with him. Both the hearing court and the Court of Appeals found that, in this regard, "respondent's conduct was ineffective and prejudicial to the administration of justice."

himself and his lack of communication with his client. Despite his shortcomings, he has made an effort to repay Mr. Torain for the default judgment entered against him as well as refunding his retainer fee. In addition, there was no history of prior disciplinary offenses. Respondent's misdeeds did not rise to the level of a misappropriation of client funds or intentional dishonesty.

We do not condone Respondent's actions. Although the representation he agreed to provide would have been considered routine for an experienced practitioner, Respondent was unfamiliar with the basic procedures for obtaining his client's release on bail or [in]experienced in how to maneuver his way through a civil proceeding in the District Court. Even if Respondent's knowledge, skill, thoroughness, and preparation was lacking in an area of law, he was still required to be [sic] provide competent representation. See Rule 1.1 and accompanying comments. Respondent's actions resulted in a default judgment entered against one of his client's [sic], Mr. Torain. Additionally, the other complaint filed against Respondent involved his failure to adequately supervise his employee, Ms. Tyner. Mr. Jenkins was in jail at the time he signed the power of attorney that Respondent prepared for his signature, and Mr. Jenkins signed the document in Respondent's presence. The Respondent returned to his office with the un-notarized document and directed Ms. Tyner "to take care of it." Ms. Tyner notarized the power of attorney without having witnessed Mr. Jenkins signature, and Respondent knew at the time he obtained Mr. Jenkins' signature that the document was not notarized. Respondent's actions, under the circumstances, reflected negatively on the administration of justice and the Bar.

A reprimand . . . would be too lenient a sanction because Respondent's violations are

neither limited to a single rule violation nor to one client.

. . . .

The attorney in *Dworkin* [indefinite suspension], like Respondent, was negligent, incompetent and dilatory in representing a client. . . . Similarly, *Dworkin's* conduct, like Respondent's, was prejudicial to the administration of justice and the bar. Although *Dworkin* was an experienced practitioner and Respondent is inexperienced, that is a distinction without a difference considering the prejudicial impact on the client, the administration of justice, and the Bar.

Therefore, we impose as a sanction in this case an indefinite suspension with the right to apply for reinstatement after 60 days. . . .

[OAEbEx.A at 38 to 40.]

On December 18, 2006, respondent was disbarred for misconduct in another matter. That misconduct is summarized in the Court of Appeals' decision:

The respondent was retained, on October 31, 2002, by the complainant, Soraya Thompson-Brashears, whom he agreed to represent, in connection with the estate of her great aunt, the decedent. The complainant had consulted other attorneys, but chose the respondent because "he represented that he was able to proceed without assistance in Maryland and the District of Columbia." In return for opening an estate, the value of which was \$210,000.00, \$200,000.00 representing the approximate value of real estate titled in the decedent's name, and filing an action against the decedent's neighbor for fraudulently pledging the decedent's property as security for lines of credit, in the



amount of \$50,000.00, he established for his own, and not her, benefit, the complainant agreed to pay, and did pay, the respondent a \$3,000.00 retainer, which was to cover the first twenty (20) hours of work at the rate of \$150.00 per hour. The respondent intended, as he informed the complainant, to open the estate first and then proceed immediately against the decedent's neighbor.

The complainant initially tried contacting the respondent for updated information concerning his progress with the legal matters in December and had trouble doing so. When she did reach him, he advised her that he had filed in court and "was waiting to get a date." On December 26, 2002, the respondent received a letter from the Register of Wills of Anne Arundel County informing him of that Office's receipt of the decedent's Last Will and Testament and a petition to open an estate in her name under a Will of No Estate and asking for additional information, i.e. a Waiver of Bond, a Death Certificate, clarification of the unsecured debts schedule and a complete list of interested persons. The respondent did not respond to the letter or take any action with regard to it or the estate. Nor did he inform his client, who had heard nothing of the matters during January and February, 2003, except from the mortgage lender, who was inquiring about the status of the estate. The mortgage lender filed, in the Circuit Court of Anne Arundel County, a Petition for Judicial Probate on March 31, 2003, to protect its interest.

The respondent filed a civil action in the Superior Court of the District of Columbia against the decedent's neighbor. The complaint, which was signed by the respondent and Will Purcell, a lawyer admitted to practice in the District of Columbia, but not by the client, alleged fraud and conversion. The complainant

also was unaware that Purcell had been "directed" to file the action on her behalf.

Because he was not admitted to practice in the District of Columbia, prior to filing the complaint, the respondent moved, through Mr. Purcell, to appear Pro Hac Vice in the Superior Court. In that motion, he represented that he was in good standing in, and that "there [were] no disciplinary complaints pending against [him] for a violation of the rules" of, the Courts, the Supreme Court of New Jersey and the Court of Appeals of Maryland, to which he was admitted to practice. The motion was filed April 4, 2003. On February 21, 2003, Bar Counsel had notified the respondent of a disciplinary complaint against him then pending in Maryland.

The District of Columbia action was dismissed without prejudice on two occasions, each time for failure to effect service on the defendant, as required by D.C. Rule 4(m). The first occasion was on June 18, 2003. Shortly after that dismissal, the complainant, who had been notified of a scheduling conference in the case, went to the Superior Court on the designated date, August 1, 2003, only to discover that the respondent did not appear. When contacted by the complainant as to why he failed to respond, the respondent advised her that the case had been continued; he did not inform her that the case had been dismissed. The fraud case was refiled by the respondent, with the assistance of Mr. Purcell, on May 5, 2004 and it was once again dismissed for failure of service on the defendant, on July 14, 2004.

The probate case was filed in the wrong court, the Orphans' Court for Anne Arundel County concluded. The decedent was domiciled in Montgomery County. Accordingly, the court ordered, on July 15, 2003, the case transferred to the Montgomery County Orphans' Court "for administration and

further action." That was accomplished on July 28, 2003, when the Montgomery County Register of Wills docketed the Anne Arundel County Orphans' Court's order. Subsequently, after a hearing, the complainant was appointed personal representative.

The probate matter did not proceed smoothly. The inventory for the estate was not timely filed, even after a delinquency notice advised the complainant and the respondent of that fact and of the due date to avoid referral for hearing. The inventory was filed by the respondent more than ten days after the designated "due" date. Subsequently, on October 12, 2004, the failure to file a final inventory resulted in a show cause referral to the Orphans' Court. Another show cause was issued six days later, this one to the complainant and the respondent, asking why the complainant, as personal representative, should not be removed "for failure to perfect an inventory." Still later, on December 7, 2004, "another delinquent notice was posted to the Respondent notifying him that the Interim Account of the Estate of Catherine Parker was past due on November 29, 2004 and that failure to file the account within twenty (20) days may result in the personal representative's removal." This apparently prompted the complainant to get new counsel, who effected the transfer of the probate matter to the District of Columbia, the situs of the decedent's property and her domicile and residence for more than a year prior to her death.

While the respondent was representing the complainant, the indebtedness charged against the decedent's estate by her neighbor increased from a principal amount of \$50,000.00 to "an aggregate amount of \$57,000.00 and increasing due to unpaid interest."

[OAEbEx.B at 3 to 6.]

The Court of Appeals concluded that, because neither respondent nor the petitioner (the Attorney Grievance Committee of Maryland) had filed exceptions to the lower court's findings of fact or conclusions of law, for purposes of determining the appropriate sanction the facts were treated as established. Like the hearing court, thus, the Court of Appeals found that respondent had violated rules corresponding to New Jersey RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.4(c), RPC 1.5(a)<sup>5</sup>, RPC 8.4(a) (violation or attempt to violate the Rules of Professional Conduct), RPC 8.4(c), and RPC 8.4(d). As to the latter two violations, the Court of Appeals quoted the following from the hearing court's decision:

This Court finds the Petitioner proved by clear and convincing evidence that the Respondent misrepresented to his client the status of the Green case. . . . Ms. Brashears testified that she traveled to the Superior Court of the District of Columbia for a scheduled Conference Hearing, but the Respondent never arrived at the courthouse, later claiming that the meeting was cancelled. . . . Ms. Brashears then requested an update on the status of the case, and the Respondent replied that the case was continued, when it was actually dismissed. . . . The Respondent never revealed the dismissal to the client, nor did he indicate that he intended to re-file the case against Mr. Green. . . . This was a blatant misrepresentation of facts by Respondent and a failure to provide accurate information concerning a case to Respondent's client.

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<sup>5</sup> The basis for the finding that respondent's fee was unreasonable was that he received a fee and then performed no work in furtherance of the case.

This Court further finds that the Petitioner proved by clear and convincing evidence that the Respondent made misrepresentations to the Superior Court of the District of Columbia in his Motion to Appear Pro Hac Vice. Respondent knowingly and falsely stated that there were no disciplinary complaints pending against him and did so under oath and/or affirmation. . . . [T]he Respondent, in this case, admitted that he knew of a pending disciplinary action in Maryland before filing his pro hac vice motion. Therefore, this was an egregious false statement in his application to the Superior Court of the District of Columbia.

Evidence presented at trial showed that on February 2, 2003 a letter was sent by the Attorney Grievance Commission detailing a complaint from Daryl Lament Torain. . . . In addition, on March 9, 2003, Respondent sent a letter to the Attorney Grievance Commission denying the allegations, and on March 29, 2003, Respondent addressed the complaints of Mr. Torain in writing. . . . Clearly, on April 4, 2003, the Respondent filed his application for admission Pro Hac Vice knowing of the Torain allegation pending with Attorney Grievance Commission.

. . . .

Respondent's testimony at trial explaining his actions lack credibility, candor and truthfulness.

. . . .

This Court finds by clear and convincing evidence that the Respondent's actions were prejudicial to the administration of justice. .

. . The Respondent's dilatory and incompetent representation, and his failure to act to preserve the Estate of Catherine Parker, harmed his client's interests and created a further indebtedness against the decedent's property from the principal amount of \$50,000.00 to an aggregate amount of \$57,000.00 and growing with unpaid interest. . . .

. . . .

These actions impair the public's confidence in the entire legal profession, and as such are prejudicial to (the administration of) justice and violate Rule 8.4(d).

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This Court finds that the Petitioner has proven by clear and convincing evidence that the Respondent violated the following rules thus causing a violation of Rule 8.4(a): 1.1, 1.3, 1.4(a) & (b), 1.5(a), and 8.4(c) & (d). Rule 8.4(a) is violated in regards to the attorney's conduct concerning other charges of the MRPC. . . . The Respondent was required to provide Ms. Brashears with competent, diligent representation, which he did not do. The Respondent did not communicate to his client necessary information so she could make appropriate decisions concerning representation. The Respondent failed to perform legal services of any reasonable value, but retained a fee. Furthermore, Respondent intentionally made misrepresentations to his client and the Superior Court of the District of Columbia, and engaged in conduct prejudicial to the administration of justice.

[OAEbEx.B at 12 to 15.]

The Court of Appeals noted the hearing court's observation that respondent could have avoided many of the violations if he had admitted to his client his lack of experience and/or qualifications. The hearing court also remarked:

With each mistake the Respondent reached the point of falsehoods and misrepresentations which were identified in the end. This is similar to the facts in Att'y Grievance Comm'n v. Finnesey, 283 Md. At 456, where an attorney did not intend to cheat his client, but deliberately lied to cover up his neglect and mistakes by assuring the client that the case was running smoothly when, in fact, it was rapidly deteriorating.

[OAEbEx.B at 16.]

The Court of Appeals also noted that the hearing court had expressly rejected respondent's proffered mitigation and that he had been disciplined that same year (the indefinite suspension). In disbaring respondent, the court pointed out that

"[u]nlike matters relating to competency, diligence and the like, intentional dishonest conduct is closely entwined with the most important matters of basic character to such a degree as to make intentional dishonest conduct by a lawyer almost beyond excuse" [citation omitted]. Thus, like in the case of a misappropriation of entrusted funds, [citation omitted], in the absence of compelling extenuating circumstances justifying a lesser sanction, intentional dishonest conduct by a lawyer will result in disbarment.

[OAEbEx.B at 18.]

Two additional aggravating factors in this case are respondent's failure to notify the OAE of both his indefinite suspension and disbarment in Maryland, as required by R. 1:20-14(a), and his failure either to appear before us or to waive oral argument.

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 Maryland Court of Appeals.

In the Jenkins matter, respondent violated RPC 5.3(c) and RPC 8.4(d), when he directed his secretary to notarize a document signed outside of her presence. His conduct also violated RPC 1.5(a), when he submitted an additional bill to his client, over and above his flat fee, after his client requested a statement and a refund of the unearned fees.

In the Torain matter, respondent mishandled the landlord-tenant case, allowed a default judgment to be entered against his client, did not file a timely motion to vacate the judgment (causing the motion to be denied), and did not comply with his client's requests for copies of the pleadings. Altogether, his conduct in Torain violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), and RPC 8.4(d).



In Thompson-Brashears, respondent lacked diligence in and grossly neglected the probate case: he filed it in the wrong county, did not reply to a letter from the register of wills asking for additional information about the estate, filed the inventory more than ten days after the due date, and failed to timely file a final inventory and an interim account. Respondent also failed to communicate with Thompson-Brashears about the estate. Respondent's inaction forced his client to retain new counsel.

In the civil action against the decedent's neighbor, too, respondent exhibited lack of diligence and gross neglect by allowing the complaint to be dismissed twice for failure to serve the defendant-neighbor. Furthermore, respondent did not apprise Thompson-Brashears of these dismissals and, in fact, misrepresented to her, on one occasion, that the case had been continued. He also accepted a retainer and did not perform the work for which he had been hired. Finally, he failed to properly communicate with his client. Respondent's conduct in the probate and civil matters violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.4(c), RPC 1.5(a), RPC 8.4(a), RPC 8.4(c), and RPC 8.4(d).

In addition, when respondent filed a motion to appear pro hac vice before the District of Columbia Superior Court, he misrepresented to the court that there were no disciplinary complaints pending against him. In fact, he had already received a

letter from the Attorney Grievance Commission detailing a complaint by Torain, and had addressed it in writing. Here, too, respondent violated RPC 8.4(c) and RPC 8.4(d).

Altogether, thus, respondent violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.4(c), RPC 1.5(a), RPC 5.3(c), RPC 8.4(c), and RPC 8.4(d). In addition, by violating or attempting to violate the Rules of Professional Conduct, respondent violated RPC 8.4(a).

In mitigation, the Maryland Court of Appeals considered that respondent's conduct in Jenkins and Torain was the product of "inexperience, incompetency, and an inability to balance his work schedule," and that he made an effort to pay the judgment entered against Torain and to refund his retainer. The Court of Appeals found no mitigation in the Thompson-Brashears disciplinary matter.

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). Paragraph (E) applies, however, because similar misconduct does not warrant disbarment in New Jersey.

To recap respondent's violations: he lacked diligence in and grossly neglected three cases (the Torain landlord-tenant case and the Thompson-Brashears probate and civil cases); failed properly to communicate with the clients in the same cases; attempted to collect or collected an unreasonable fee from two clients (Jenkins and Thompson-Brashears); allowed a default judgment to be entered against Torain; misrepresented to Thompson-Brashears the status of the civil case; directed his secretary to perform an improper notarization in Jenkins; and misrepresented to a court that there were no pending disciplinary matters against him.

We now address the issue of the appropriate level of sanction for respondent's overall conduct.

One of respondent's more serious offenses was his misrepresentation to the District of Columbia Superior Court that there were no pending disciplinary complaints against him. For that infraction alone, at least a reprimand is required and a

suspension warranted. We are guided by the following caselaw and other relevant considerations.

In In re Greenberg, 175 N.J. 103 (2003), the attorney was suspended for three months for misrepresenting to a court that she was an attorney in good standing in New Jersey when, in fact, she was ineligible to practice law in this State for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection. Specifically, the attorney lied to the court that she had a New Jersey office and that her name did not appear on the New Jersey Lawyers' Diary because she had not completed the necessary forms. The attorney also gave the court what she represented to be her New Jersey telephone number, which turned out to be inoperative. The discipline for this attorney was enhanced from a reprimand to a three-month suspension because the disciplinary matter proceeded on a default basis.

In a similar case, In re Schwartz, 163 N.J. 501 (2000), the attorney, aware of her seven-year ineligibility, handled approximately ten cases. By appearing in court in a bankruptcy matter, the attorney misrepresented to the court that she was an attorney in good standing. She also failed to maintain a bona fide office. The attorney received a three-month suspension.

Finally, in In re Strupp, 147 N.J. 267 (1997), the attorney was reprimanded for falsely representing to a court that he was a member of a New Jersey law firm that did not exist. The attorney never took steps to formalize what he hoped to be a partnership with another lawyer. In addition, the attorney failed to maintain a bona fide office in New Jersey and was ineligible to practice law because he had represented in the New Jersey Lawyers' Fund for Client Protection forms that he was retired. Our decision stated that "[r]espondent's failure to pay the Fund and to properly establish a law firm appears to be more a lack of experience with and knowledge of the New Jersey rules than the product of an intent to deceive." In the Matter of Andrew D. Strupp, DRB 96-205 (September 18, 1996) (slip op. at 7).

For respondent's direction to his secretary that she notarize a document not signed in her presence, that too, requires at least a reprimand. See, e.g., In re Weiner, 140 N.J. 621 (1995) (reprimand for delegating excessive authority to non-lawyer staff and condoning staff's signing on clients' names on documents); In re Rinaldo, 86 N.J. 640 (1981) (reprimand for attorney who permitted his secretaries to sign two affidavits and a certification in lieu of oath); and In re Conti, 75 N.J. 114 (1977) (reprimand for attorney who had his secretary sign client's names on a deed; the attorney then witnessed the

signatures and took the acknowledgement; the clients had informed the secretary that they were unable to come to the attorney's office to sign the deed and had instructed her to do "whatever had to be done" to record the deed).

But respondent has more to answer for. He lacked diligence in and grossly neglected three client cases, failed to communicate with those clients, and lied to one of those clients about the status of her matter. Similar combinations of such violations ordinarily merit a reprimand, if it is confined to one or two matters and if the attorney has no disciplinary history. See, e.g., In re Wiewiorka, 179 N.J. 225 (2004) reprimand for attorney who took no action in the client's behalf, did not inform the client about the status of the matter and the expiration of the statute of limitations, and misled the client that a complaint had been filed); In re Onorevole, 170 N.J. 64 (2001) (reprimand for attorney who grossly neglected a matter, failed to act with diligence, failed to reasonably communicate with the client, and made misrepresentations about the status of the case); In re Till, 167 N.J. 276 (2001) (reprimand for attorney who engaged in gross neglect and misrepresentation; for over a nine-month period, the attorney lied to the client about the status of the case); and In re Riva, 157 N.J. 34 (1999) (reprimand for attorney who grossly neglected a matter, thereby

causing a default judgment to be entered against the clients, failed to take steps to have the default vacated, and misrepresented the status of the case to the clients). Here, the combination of those infractions encompassed three matters. Therefore, discipline more severe than a reprimand is required for those transgressions alone.

Finally, respondent either collected or attempted to collect an unreasonable fee from two clients, conduct that ordinarily deserves an admonition or a reprimand if it is limited to one incident. See, e.g., In the Matter of Angelo Bisceglie, Jr., DRB 98-129 (September 24, 1998) (admonition for attorney who billed a Board of Education for work not authorized by the Board, although it was authorized by its president; the fee charged was unreasonable, but did not reach the level of overreaching) and In the Matter of Robert S. Ellenport, DRB 96-386 (June 11, 1997) (admonition for attorney who received \$500 in excess of the contingent fee permitted by the rules). Here, respondent's conduct spanned three matters, a circumstance that could raise the usual admonition to a reprimand.

A significant aggravating factor here is respondent's failure to learn from his prior mistakes. In February 2003, The Maryland Attorney Grievance Committee, through Bar Counsel, notified him of the Torain disciplinary complaint. He knew,

therefore, that his conduct was under review by the Maryland disciplinary authorities. Yet, he continued to ignore his responsibilities: in June 2003, his failure to serve the defendant in the Thompson-Brashears civil action caused the complaint to be dismissed; in August 2003, he failed to appear in court for a scheduling conference in that same case, did not disclose to Thompson-Brashears that the case had been dismissed, and misrepresented to her that the case had been continued; almost a year later, in July 2004, the civil complaint was once again dismissed for failure to serve the defendant; and, in late 2004, respondent either untimely filed documents in the Thompson-Brashears probate matter or did not file them at all, despite the court's several notices of delinquency.

Overall, respondent showed an indifference to his client's interests -- and to the legal system -- that cannot be tolerated. That he did not notify the OAE of his indefinite suspension and of his disbarment in Maryland, as required by R. 1:20-14(a) shows an unconcern for his professional responsibilities to the New Jersey disciplinary authorities as well. Significantly, too, one would think that respondent would appear before us to attempt to explain his conduct in Maryland or, at a minimum, to demonstrate regard for his right to practice law in this State. We find that these serious aggravating factors cannot be offset by the two mitigating



circumstances considered in the first Maryland case, that is, respondent's efforts to satisfy the Torain default judgment and to refund the \$300 retainer.

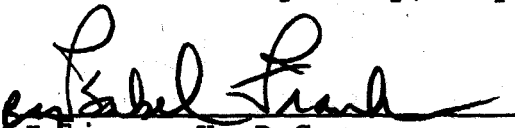
Although disbarment would be too severe a sanction had respondent's offenses occurred in New Jersey, we believe that, in light of the totality of respondent's conduct in the Jenkins, Torain, and Thompson-Brashears matters, his unwillingness -- or refusal -- to abide by the standards of the profession, even after he was notified of the Torain disciplinary complaint, the one-year suspension urged by the OAE is proportionate to the nature of respondent's misconduct.

Vice-Chair Pashman and Member Boylan 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, Esq.

By:

  
Julianne K. DeCore  
Chief Counsel

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

In the Matter of Kenneth Stanford Ward  
Docket No. DRB 07-103

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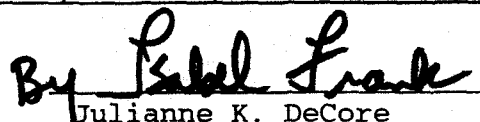
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Argued: July 19, 2007

Decided: October 2, 2007

Disposition: One-year suspension

Members	Disbar	One-year 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>		7				2

By   
Julianne K. DeCore  
Chief Counsel