SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 05-198
District Docket No. XIV-05-264E

IN THE MATTER OF	:
	:
THOMAS JOSEPH COLEMAN	:
	:
AN ATTORNEY AT LAW	:

Decision

Argued: July, 21, 2005

Decided: September 14, 2005

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

John D. Borbi appeared on behalf of respondent.

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

This matter was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics ("OAE") pursuant to R. 1:20-14(a), following respondent's two-year suspension in Pennsylvania for practicing while on inactive status.

Respondent was admitted to the New Jersey and the Pennsylvania bars in 1990, and to the District of Columbia bar in 1991. He has no history of discipline.

On January 24, 2005, the Disciplinary Board of the Supreme Court of Pennsylvania ("the Pennsylvania Board") issued a report finding respondent guilty of violations of numerous Pennsylvania Rules of Professional Conduct: RPC 1.16(a)(1) (a lawyer shall not represent a client or, if the representation has commenced, shall withdraw from the representation if it will result in a violation of the Rules of Professional Conduct or other law); RPC 5.5(b) (a lawyer shall not practice law in a jurisdiction where to do so would violate the regulations of the profession in that jurisdiction); RPC 7.1(a) (a lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services); RPC 7.5(a) (a lawyer shall not use a firm name, letterhead or other professional designation that violates RPC 7.1); RPC 7.5(b) (identification of lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located); RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), RPC 8.4(d) (conduct prejudicial to the administration of justice); Pa.R.D.E. 217(d) (a formerly admitted attorney transferred to inactive status shall not accept any new retainer or engage as an attorney for another in any new case or legal matter of any nature); and Pa.R.D.E. 217 (j) (a formerly admitted attorney is precluded from engaging in

law-related activities and representing himself or herself as a lawyer).

The Pennsylvania Board majority recommended to the Supreme Court of Pennsylvania ("the Pennsylvania Court") that respondent be suspended for one year and one day. Three members dissented, voting for a two-year suspension. The Pennsylvania Court agreed with the dissenting members. On April 19, 2005, the Pennsylvania Court suspended respondent for two years.

The Pennsylvania Board's report describes the conduct that gave rise to the disciplinary proceedings against respondent:

> 4. By Order dated November 22, 1993, the Supreme Court of Pennsylvania transferred Respondent to inactive status pursuant to Pa.R.D.E. 219, effective 30 days from the date of the Order.
>
> 5. By cover letter dated November 30, 1993, Elaine M. Bixler, Secretary of the Disciplinary Board, mailed to Respondent at his registration address the following:
>
> (a) A copy of the Order of the Supreme Court dated November 22, 1993.
>
> . . . .
>
> 7. Ms. Bixler's November 30, 1993 letter was signed for by Respondent's agent at his New Jersey law firm on or about December 2, 1993.[1]
>
> 8. Respondent has no present recollection of having received a letter from Ms. Bixler, but has no reason to think such documents

[1] At the time, respondent was employed by the Parker, McKay, Criscuolo law firm ("Parker McKay"), in Marlton, New Jersey.

were not received, and does not doubt the veracity of the allegations.

9. By Order dated June 17, 1994, the Supreme Court of Pennsylvania transferred Respondent to inactive status, pursuant to Rule 111(b), Pa.R.C.L.E., effective 30 days after the date of the Order. [2]

10. By cover letter dated June 22, 1994, Ms. Bixler mailed to Respondent at his registered address the following:

(a) A copy of the Supreme Court Order dated June 17, 1994.

. . . .

12. The letter was received by Respondent's agent at his New Jersey law firm.

13. Respondent has no present recollection of having received a letter from Ms. Bixler dated June 22, 1994, but has no reason to think that such a document was not received and does not doubt the veracity of the allegations.

14. Prior to August 1995, the Administrative Office of Pennsylvania Courts (hereinafter Lawyer Assessment) sent Respondent an Attorney's Annual Fee Form 1995-1996.

. . . .

16. On August 18, 1995, Respondent or his agent caused to be sent to Lawyer Assessment the Attorney Fee Form and check for $325.

17. By letter dated August 22, 1995, addressed to Respondent at his registered address, Suzanne E. Sipes, Attorney

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[2] According to the transcript of the Pennsylvania Hearing Committee, on November 22, 1993, respondent was placed on inactive status for failure to pay the annual attorney fee; on June 17, 1994, he was placed on inactive status for failure to comply with Continuing Legal Education ("CLE") requirements.

Registrar, advised that the CLE Board had not certified that Respondent had complied with his CLE requirements, his registration form was being processed as inactive, and his firm would be reimbursed the fee of $325.

18. Respondent was employed as an associate in the law firm of Montgomery McCracken, Walker & Rhoads (MMW&R) at the Cherry Hill, New Jersey office from October 9, 1995 to September 14, 2001.

. . . .

20. On May 21, 1996, Lawyer Assessment sent a 1996-1997 Attorney Annual Fee Form to Respondent at MMW&R.

21. Respondent's 1996-1997 form listed him as being on inactive status since December 1993.

22. On May 31, 1996, Respondent or his agent marked off the box on the form that indicated Respondent desired active status, enclosed payment of $325, and listed Respondent's office address as 123 South Broad Street, Philadelphia, PA 19109.

23. Respondent signed the 1996-1997 form.

24. Respondent or his agent sent the fee form and check to Lawyer Assessment.

25. By letter dated July 31, 1996, addressed to MMW&R, 123 South Broad Street, Philadelphia, PA 19109, Suzanne Sipes acknowledged receipt of Respondent's fee form and the $325 check, advised Respondent that the Continuing Legal Education Board had not certified that Respondent had complied with the CLE Rules, advised Respondent that his registration form would be processed as inactive and that his law firm would receive a refund of $325.

26. At some time in 1997, Lawyer Assessment sent a 1997-1998 Attorney Annual Fee Form addressed to Respondent at MMW&R in Cherry Hill, New Jersey.

27. Respondent or his agent forwarded the signed 1997-1998 fee form to Lawyer Assessment and indicated that Respondent desired to voluntarily assume inactive status and discontinue the practice of law in Pennsylvania.

28. On February 16, 1999, Respondent filed with the Disciplinary Board a Motion for Waiver of Disciplinary Board Rule Section 89.279(a) in conjunction with Petition for Reinstatement to Active Status, a Petition for Reinstatement from Inactive Status, and a Special Reinstatement Questionnaire.

. . . .

30. By Order dated March 15, 1999, the Disciplinary Board denied Respondent's Motion for Waiver and required Respondent to complete the current schedule of continuing legal education courses necessary for reinstatement.

31. By cover letter of March 15, 1999, Ms. Bixler transmitted the Board order to Respondent.

32. To date [January 24, 2005] Respondent has not been reinstated to active status in Pennsylvania.

. . . .

35. From January 2002 through October 18, 2002, Respondent signed numerous pleadings in mortgage foreclosure actions and allowed them to be filed in various Courts of Common Pleas in Pennsylvania by the law office of Michael J. Milstead.

. . . .

> 75. Michael J. Milstead is a licensed New Jersey attorney with a practice that concentrates on performing foreclosure and bankruptcy services for mortgage brokers and investors.
>
> 76. Mr. Milstead is not licensed to practice in Pennsylvania.[3]
>
> [OAEaEx.E.][4]

The Pennsylvania Board found that "Respondent signed hundreds of pleadings as an attorney of record in Pennsylvania when he was not licensed to do so." Respondent received more than $7,000 for the above services. The Pennsylvania Board found that respondent was aware of his inactive status:

> 83. Near the end of June 2002, Mr. Milstead learned by receiving certain responsive pleadings in the Munger matter . . . that there was a problem with Respondent's Pennsylvania license.
>
> 84. Mr. Milstead confronted Respondent about his license. Respondent advised Mr. Milstead that his license in Pennsylvania was compromised due to a deficiency in his CLE credits.
>
> 85. Respondent represented to Mr. Milstead that it was Respondent's understanding, based on a conversation with someone from the Pennsylvania bar or Board of Law Examiners, that he could still sign the Pennsylvania pleadings.

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[3] There are no allegations that Milstead engaged in the unauthorized practice of law in Pennsylvania or that respondent assisted Milstead in the unauthorized practice of law in Pennsylvania.

[4] OAEa refers to the appendix to the OAE's brief.

86. Although Respondent was on notice no later than June 2002 that there was a problem with his continued signing of Pennsylvania pleadings, Respondent continued to sign such pleadings and did not withdraw his appearance in the Pennsylvania cases where he was attorney of record until September 2002.

. . . .

88. Respondent testified that he did not withdraw his appearance in the Pennsylvania cases after he received the pleadings in the Munger matter because he was busy and Mr. Milstead was out of the office.

89. In September 2002 Respondent brought to Mr. Milstead's attention the allegations of misconduct from the Office of Disciplinary Counsel and it was mutually agreed that Respondent's signing of Pennsylvania pleadings should stop.

90. Mr. Milstead had his staff prepare substitutions for every active matter in the approximately 300 Pennsylvania matters filed for which Respondent was counsel of record and Respondent's involvement with Mr. Milstead's office ceased.

91. Respondent signed the pleadings under the belief that he was allowed to do so even though he was on inactive status. He thought that it was permissible as long as he did not take a more active role in the representation.

92. Respondent understands now that his beliefs were incorrect.

[OAEaEx.E.]

The Pennsylvania Board found fault with respondent's failure to verify the propriety of signing pleadings while he was on inactive status:

> Respondent believed he could sign Pennsylvania pleadings as an inactive attorney, yet never affirmatively verified his belief by calling the Disciplinary Board or otherwise checking.
> Respondent was aware that he was on inactive status and aware that he needed to complete CLE credits. He also became aware in June 2002 that there were problems with his signatures on Pennsylvania pleadings. This was specifically brought to his attention in the Munger matter by the opposing attorney, who filed Preliminary Objections and a Motion to Strike on the basis that Respondent was not licensed in Pennsylvania. In spite of this knowledge, Respondent still took no action to determine for himself the strictures on his activities as an inactive attorney. He continued to sign documents for Attorney Milstead after June 2002 until September 2002.
> There is no question that Respondent engaged in serious misconduct by signing hundreds of pleadings in knowing violation of a Supreme Court Order prohibiting him from the practice of law. This warrants a suspension of one year and a day.
>
> . . . .
>
> There are numerous disciplinary cases concerning attorneys who continue to practice law after being transferred to inactive status for failing to fulfill their CLE credits or pay their annual fee. Generally, these attorneys are suspended from the practice of law. The principal rationale for this discipline is that fulfilling continuing legal education requirements, filing the annual fee form and paying the annual fee are not mere

> ministerial acts. Rather, an attorney has an affirmative duty to know the status of his professional license and to comply with professional requirements. [Citation omitted.] Moreover, if there are aggravating factors or additional charges of misconduct, the Supreme Court has suspended attorneys for more than one year.
>
> . . . .
>
> Even when an attorney claims he never received notice of his transfer to inactive status, the Court has imposed a suspension of one year and one day.
>
> . . . .
>
> Application of this strong line of precedent leads to the conclusion that Respondent should be suspended for one year and a day.
>
> [OAEaEx.E21-OAEaEx.E24.]

The Pennsylvania Board found that respondent violated all of the RPCs charged in the complaint.

Three members of the Pennsylvania Board dissented, believing that respondent's conduct warranted a two-year suspension:

> As the Court is aware, violations of Pa.R.D.E. 217 are unfortunately brought on a regular basis before the Disciplinary Board. The recommendation that is almost always seen appears to be for a suspension of one year and a day no matter if the violation is for one occurrence or as in this case, over two hundred and fifty. It also appears to make little difference if the violations occur over a short period of time or over an extended period of time, and that is why this dissent is made.

> In this matter, Mr. Coleman was inactive for about nine years. He was notified in 1993, 1994, 1995 and 1996 that he was on inactive status. Apparently, in 1997 Mr. Coleman requested he be allowed to resume active status and in 1999 he requested a waiver from the rules and petitioned for reinstatement. Despite all of the knowledge of his status, Mr. Coleman continued to represent himself as a licensed attorney and to sign legal documents.
>
> . . . .
>
> [E]ven after Mr. Coleman knew in 2002 there was a question as to his ability to practice, he continued to sign legal documents.
> The Hearing Committee and the Board found nine violations of the Rules of Professional Conduct. In addition, the Hearing Committee found Mr. Coleman was less than candid about receiving compensation and what the fees were given to him for.
> At sometime a suspension of more than one year and a day needs to be recommended and the undersigned respectfully represents this is an appropriate case.
> Considering the length of time involved, the number of violations, the acknowledgement that he knew he was on inactive status and his lack of candor with the Hearing Committee, it is respectfully recommended the suspension be for two years.
>
> [OAEaEx.E.]

The dissenting members' reference to lack of candor was based on the Hearing Committee's finding that

> Respondent was been less than candid throughout the disciplinary process which has affected his credibility and therefore, the recommended discipline in this case. In his answer and response to D.B. 7 Request for statement of Respondent's position,

> Respondent declared that he never received any benefit from his misconduct [citation omitted]. Yet, through stipulations of facts and his evasive admissions at the hearings, he had "no reason to dispute" that he received over $7,000.00 from Mr. Milstead for signing hundreds of pleadings and documents [citation omitted]. Respondent stated, however, that he could not remember receiving his money.
> Respondent's memory difficulties continued not only in his Statement of Position and Answer but also in his testimony at the hearing. Respondent's inability to recollect and recall numerous incidents have seriously undermined his credibility.
>
> [OAEaEx.D32 to OAEaEx.D33.]

The Hearing Committee cited as examples of unrecalled incidents (1) respondent's receipt of the Supreme Court Order transferring him to inactive status; (2) his receipt of Bixler's and Sipes' letters; (3) his receipt of the annual fee form for years 1995 through 1998; (4) his filing of a Motion for Waiver of Disciplinary Board Rule Section 89.279(a) and of a Petition for Reinstatement from inactive status; (5) his discussions with Milstead concerning money; and (6) his receipt of any checks from Milstead.

Furthermore, the Hearing Committee found that

> Respondent's lack of knowledge concerning his ability to sign Pennsylvania documents while on inactive status is belied by the Respondent's Motion for Waiver [citation omitted] wherein he specifically states:
>
> > While not having the ability to sign correspondence directed to our Pennsylvania clients, I am extremely

> familiar with everyday Pennsylvania practice.
>
> It is incomprehensible that while Respondent knew he could not sign correspondence, he would argue that he honestly believed he could sign Pennsylvania pleadings.
>
> Another example of Respondent's ill-disguised attempt to mitigate his responsibility is his failure to acknowledge that he even read the documents he was signing.
>
> . . . .
>
> [W]hile Respondent states he accepts responsibility for his actions and is remorseful for what he has done, his answers are contradictory. These statements, in the opinion of the hearing committee, are insincere and completely self-serving.
>
> [OAEaEx.D33 to OAEaEx.D34.]

As stated above, the Pennsylvania Supreme Court agreed with the Pennsylvania Board dissenting members that respondent's conduct should be met with a two-year suspension.

The OAE, however, recommends the imposition of only a reprimand, relying primarily on In re Forman, 178 N.J. 5 (2003) (reprimand for attorney suspended for one year and a day in Pennsylvania for practicing law while ineligible).

Following a review of the record, we determine to grant the OAE's motion for reciprocal discipline. For the reasons detailed below, however, we find that respondent's conduct requires more than the reprimand recommended by the OAE, but less than the two-year suspension imposed in Pennsylvania.

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

> [t]he 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 misconduct established warrants substantially different discipline.

A review of the record does not reveal any conditions that would fall within the ambit of subparagraphs (A) through (D). As to subparagraph (E), the sort of conduct displayed by respondent does not result in a two-year suspension in New Jersey.

In New Jersey, practicing law while ineligible, without more, is generally met with an admonition if the attorney is unaware of the ineligibility or advances compelling mitigating factors. See In the Matter of Richard J. Cohen, DRB 04-209 (July 16, 2004) (admonition for practicing law during nineteen-month ineligibility; the attorney was unaware of his ineligibility);

In the Matter of William N. Stahl, DRB 04-166 (June 22, 2004) (admonition for practicing law while ineligible and failing to maintain a trust and a business account; specifically, the attorney 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); In the Matter of Samuel Fishman, DRB 04-142 (June 22, 2004) (admonition for attorney who, while ineligible to practice law, 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 Juan A. Lopez, Jr., DRB 03-353 (December 1, 2003) (admonition for attorney who practiced law while ineligible for nine months; the attorney was not aware that he was ineligible); In the Matter of David S. Rudenstein, DRB 02-426 (February 4, 2003) (admonition by consent for attorney who, for a period of eleven months, practiced law while ineligible); In the Matter of Judith E. Goldenberg, DRB 01-449 and 01-450

(March 22, 2002) (admonition by consent for attorney who, while ineligible to practice law, made two appearances before an immigration court; the attorney also lacked diligence in handling one matter; the attorney was unaware that she was ineligible); In the Matter of Joseph V. Capodici, DRB 00-294 (November 21, 2000) (admonition for accepting, during the period of ineligibility, a $100 payment toward a $200 fee); In the Matter of Jerald D. Baranoff, DRB 00-258 (October 25, 2000) (admonition for making one appearance at an administrative hearing while ineligible to practice; the attorney also violated RPC 8.1(b) for failing to reply, in writing, to the Office of Attorney Ethics' requests for an explanation for his conduct); and In the Matter of Kevin B. Thomas, DRB 00-161 (July 26, 2000) (admonition for appearing in court twice while ineligible to practice law; in mitigation, the Disciplinary Review Board considered that the attorney was closing down his practice and no longer had any staff who was responsible for paying the annual assessment).

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 In re Perrella, 179 N.J. 499 (2004) (attorney reprimanded for advising his client that he was on the inactive list and

then practicing 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 Lucid, 174 N.J. 367 (2002) (reprimand for practicing law while ineligible; the attorney had been disciplined three times before: a private reprimand in 1990, for lack of diligence and failure to communicate with a client; a private reprimand in 1993, for gross neglect, lack of diligence, conduct prejudicial to the administration of justice, and failure to cooperate with disciplinary authorities; and a reprimand in 1995, for lack of diligence, failure to communicate with a client, and failure to prepare a written fee agreement); In re Hess, 174 N.J. 346 (2002) (reprimand, in a default matter, for practicing law while ineligible and failing to cooperate with disciplinary authorities; the attorney had received an admonition for practicing law while ineligible and failing to maintain a bona fide office in New Jersey); In re Ellis, 164 N.J. 493 (2000) (reprimand for attorney who, one month after being reinstated from an earlier period of ineligibility, was notified of his 1999 annual assessment obligation, failed to make timely payment, was again declared ineligible to practice law, and continued to perform legal work for two clients; he had received a prior reprimand for unrelated violations); In re Namias, 157 N.J. 15 (1999) (reprimand for attorney who displayed lack of

diligence, failed to communicate with a client, and practiced law while ineligible); In re Alston, 154 N.J. 83 (1998) (reprimand for attorney who practiced law while ineligible, failed to maintain a bona fide office, and failed to cooperate with disciplinary authorities); In re Armorer, 153 N.J. 359 (1998) (*reprimand for attorney who exhibited gross neglect*, failed to communicate with a client, failed to maintain a bona fide office, and practiced law while ineligible); and In re Maiorello, 140 N.J. 320 (1995) (reprimand for attorney who practiced law while ineligible, failed to maintain proper trust and business account records in nine matters, and exhibited a pattern of neglect, lack of diligence, and failure to communicate with clients in six of the matters).

An attorney who, aware of her seven-year ineligibility in New Jersey, handled approximately ten cases in this state received a three-month suspension. In re Schwartz, 163 N.J. 501 (2000). The attorney also failed to maintain a bona fide office. In re Schwartz, Docket No. 99-084 (November 17, 1999)(slip. op. at 5). In addition, the attorney violated RPC 8.4(c) by appearing in court in a bankruptcy matter, thereby misrepresenting to the court that she was an attorney in good standing. Ibid. The attorney had no prior discipline. In re Schwartz, supra, at 1. Although the Disciplinary Review Board

believed that a reprimand was adequate discipline, the Court imposed a three-month suspension.

In recommending a reprimand in this case, the OAE relied mainly on In re Forman, supra, 178 N.J. 5, where the attorney was reprimanded in New Jersey after being suspended for one year and one day in Pennsylvania for practicing law during a twelve-year ineligibility period.

In that matter, the attorney did not file his annual registration form or pay the corresponding fee. In re Forman, Docket No. 03-158 (DRB August 27, 2003) (slip op. at 2). The Pennsylvania Supreme Court's order transferring him to inactive status in 1988 was sent to the residential address shown on the attorney's initial registration form, but was returned marked "unclaimed" or "unknown." Ibid. Starting in 1993, the attorney failed to comply with Pennsylvania's continuing legal education requirements. Ibid. Nevertheless, between 1988 and early 1999, he worked for a law firm with offices in both Pennsylvania and New Jersey. Ibid. In 1997, the attorney opened his own firm, with offices in Pennsylvania and New Jersey. He did not advise the Pennsylvania Disciplinary Board of his new address, as required, and did not file his annual attorney registration forms or paid the corresponding fees. Ibid. He practiced law in Pennsylvania until 2000, when he was advised of the disciplinary investigation against him. Ibid.

The attorney claimed that he was unaware of his inactive status, believing that his law firm had been filing his annual registration forms and paying the fees. Ibid. He explained that he was responsible for an "extremely heavy" personal injury practice and that, because he had not received any notices or orders from Pennsylvania, he was "oblivious" to the fact that his law firm was not handling his attorney registration requirements. In re Forman, supra, at 2-3. The attorney also stated that his address was easily ascertainable, as he regularly appeared in the Court of Common Pleas of Philadelphia County and his name regularly appeared on trial lists in the Legal Intelligencer. In re Forman, supra, at 3.

The OAE urged us to impose a three-month suspension in that case because of the length of time that the attorney practiced while on inactive status and his failure to correct his status after he started his own law firm. Ibid. Although we considered the aggravating factors presented by the OAE, we also took into account the attorney's unblemished legal career of eighteen years, the fact that he had curtailed his practiced since suffering a heart attack, and the Pennsylvania Hearing Committee's finding that the attorney had been "a busy and hardworking litigator" who "was respected by his colleagues." In re Forman, supra, at 6. We, therefore, determined that a

reprimand was the appropriate measure of discipline. Ibid. The Court agreed.

One crucial aspect of this case distinguishes it from Forman: unlike this respondent, Forman was unaware that he was ineligible, having received no notices or orders from Pennsylvania disciplinary authorities and having relied on his employer's practice to pay for its attorneys' annual fees. Respondent, on the other hand, knew of his inactive status, as found by the Pennsylvania Board. At least since June 1994, he was aware that he had been transferred to the inactive list for failure to comply with CLE requirements; notice of such transfer was sent to his law firm. In addition, in the 1996-1997 form, respondent (or his agent) marked off the box indicating that he desired active status and sent the required $325 payment. Respondent signed that form. In July 1996, the check was returned because of respondent's failure to comply with CLE requirements. The following year, respondent indicated on the 1997-1998 form that he wished to voluntarily assume inactive status. In 1999, he filed a Motion for Waiver and a Petition for Reinstatement, in which he admitted that his ineligibility precluded him from signing even correspondence to Pennsylvania clients. The motion and the petition were denied. Thereafter, respondent remained on inactive status. As of the date of the

Pennsylvania Board report, January 2005, he had not been reinstated.

Although aware of his inactive status, respondent signed in excess of 250 pleadings from January through October 2002, for which he received $7,000 in compensation. Even when his status was challenged in a motion from his adversary in the Munger matter and when he was confronted by Milstead, respondent insisted that he was allowed to sign pleadings, having never consulted with the Pennsylvania Board to verify the propriety of his actions. Only when notified of allegations of misconduct by the Pennsylvania Office of Disciplinary Counsel did respondent withdraw as counsel of record in hundreds of matters.

Moreover, as found by Pennsylvania disciplinary authorities, respondent's conduct was aggravated by his lack of candor in the course of the disciplinary proceedings. Among other instances, the Hearing Committee pointed to two uncandid representations by respondent: his initial statement that he had not received any benefit from signing the pleadings when, later on, he stipulated that he had no reason to dispute Milstead's payment of $7,000, and his avowed lack of knowledge of not being able to sign Pennsylvania documents while on inactive status, when in his Motion for Waiver he admitted that he was unable to sign even correspondence.

As noted earlier, although both the Hearing Committee and the Pennsylvania Board recommended a suspension of one year and one day, the Pennsylvania Supreme Court agreed with the Pennsylvania Board dissenting members that the totality of the circumstances called for more severe discipline, namely, a two-year suspension.

Under the appropriate subsection of the New Jersey reciprocal discipline rule (R. 1:20-14(a)(4)(E)), however, if the misconduct established warrants substantially different discipline in New Jersey, then New Jersey disciplinary authorities will not impose the same discipline meted out in the sister jurisdiction. The above-cited New Jersey cases make it clear that a two-year suspension is excessive discipline for the sort of conduct exhibited by respondent. On the other hand, a reprimand *does not adequately* address the severity of respondent's ethics offenses, as seen by cited precedent. More appropriately, a term of suspension is required in this matter, as in In re Schwartz, supra, 163 N.J. 501, where the attorney was suspended for three months for practicing law during a seven-year period of ineligibility, knowing that she was ineligible. The attorney also failed to maintain a bona fide office. Like this respondent, Schwartz was aware that she was not an attorney in good standing. Her conduct, however, was confined to ten matters, while respondent signed hundreds of

pleadings. In addition, he displayed a lack of candor during the disciplinary proceedings. Therefore, more severe discipline is required. For respondent's violations of the RPCs in effect at the time of his misconduct, RPC 1.16(a)(1), RPC 5.5(a), RPC 7.1(a), RPC 7.5(a), RPC 7.5(b), RPC 8.4(c), and RPC 8.4(d), we determine that a one-year suspension, retroactive to the date of respondent's suspension in Pennsylvania – April 19, 2005 – is the appropriate quantum of discipline.

Members Louis Pashman, Reginald Stanton, and Robert Holmes did not participate.

We also require respondent to reimburse the Disciplinary Oversight Committee for administrative costs incurred in the prosecution of this matter.

Disciplinary Review Board
Mary J. Maudsley, Chair

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

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Thomas Joseph Coleman
Docket No. DRB 05-198

Argued: July 21, 2005

Decided: September 14, 2005

Disposition: One-year suspension

Members	Disbar	One-year Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Maudsley		X				
O'Shaughnessy		X				
Boylan		X				
Holmes						X
Lolla		X				
Neuwirth		X				
Pashman						X
Stanton						X
Wissinger		X				
Total:		6				3

Julianne K. DeCore
Chief Counsel