SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 03-081

IN THE MATTER OF	:
	:
VINCENT C. UCHENDU	:
	:
AN ATTORNEY AT LAW	:

Decision

Argued: April 17, 2003

Decided: June 24, 2003

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

Respondent waived appearance for oral argument.

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

This matter was before us based on a motion for reciprocal discipline filed by the Office of Attorney Ethics ("OAE"), following respondent's thirty-day suspension in the District of Columbia.

Respondent was admitted to the New Jersey bar in 1990 and to the District of Columbia bar in 1991. He has not been previously disciplined in New Jersey.

On December 19, 2002, the District of Columbia Court of Appeals issued a decision suspending respondent for thirty days, effective January 18, 2003, for violations of District of Columbia Rule 3.3(a) (lack of candor toward a tribunal), Rule 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) and Rule 8.4(d) (conduct prejudicial to the administration of justice).[1] Specifically, respondent signed clients' names on documents filed with the Probate Division of the District of Columbia Superior Court and notarized some of his own signatures on these documents. The decision of the District of Columbia Court of Appeals set forth the facts that gave rise to this matter:

> Vincent Uchendu was admitted to the District of Columbia Bar in 1991. He also was commissioned as a Notary Public in the District of Columbia in 1990, and remained a Notary Public through at least 1998. A significant part of respondent's practice was the representation of individuals serving as guardians or personal representatives in matters before the Probate Division. In their role as court-appointed fiduciaries, respondent's clients were required on occasion to file verified documents with the Probate Division. These documents included Notices of Appointment pursuant to D.C. Code section 20-704 and Superior Court Probate Rule 403(b)(4); inventories of the decedent's property pursuant to D.C. Code section 20-711 and Probate Rule 109; and Certificates of Completion pursuant to D. C. Code section 20-735 and Probate Rule 426.
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> Between 1996 and 1998, respondent signed his clients' names on at least sixteen documents requiring verification and filed fifteen of these documents with the Probate Division.[2] On thirteen of the documents, respondent

[1]These rules correspond to New Jersey RPC 3.3(a), RPC 8.4(c) and RPC 8.4(d).

placed his initials next to the signature line, presumably to indicate that he had signed for his clients. For example, on a Certificate of Completion purportedly filed by his client Mildred Austin, Respondent signed 'Mildred P. Austin/VCU.' He also notarized four of the documents, although he had signed them himself and his clients had not affirmed the contents of the documents. The Board divided the sixteen documents into four categories. Category One encompasses one document that did not have respondent's initials next to the signature and was notarized by respondent [footnote omitted]. Category Two encompasses three documents that were not initialed but were not notarized [footnote omitted]. Category Three encompasses three documents that were initialed and were notarized [footnote omitted]. Category Four encompasses the remaining nine documents that were initialed and that were not notarized [footnote omitted].

During Bar Counsel's investigation, respondent admitted to signing his clients' names on these documents and to notarizing some of these signatures. Respondent claimed that he had his client's permission to verify documents on their behalf, and he presented affidavits of his clients asserting that he had their permission to sign for them. Respondent testified that he did not know that his conduct was improper. He testified that his practice was to include his initials on all documents he signed for his clients, and that he left his initials off four of the sixteen documents through inadvertence. He claimed that the Probate Division regularly accepted documents with his initials on the signature line and that he had signed documents for clients 'right in front of' Probate Division employees.

Before the Hearing Committee, Bar Counsel called several Probate Division employees who testified that the Probate Division did not knowingly accept documents without verifications signed by the personal representative. Indeed, two court employees testified that they had rejected documents filed by respondent in 1998 and in early 2000

[2] The sixteenth document, a settlement agreement, was not formally filed with the Probate Division, but was submitted by facsimile to a deputy auditor at the court. The auditor placed the settlement agreement in the court's file.

> because of improper signatures. (Respondent filed at least one document purportedly signed by a client in 1999, after he had received one of these warnings.) The Committee credited the testimony of the Probate Division employees that they did not knowingly accept documents not verified by the fiduciary and discredited respondent's contrary testimony.
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> [Exhibit A to OAE's brief at 2-4]

In imposing a thirty-day suspension, the Court of Appeals pointed to the aggravating and mitigating factors that the Board on Professional Responsibility ("BPR") had considered in recommending a thirty-day suspension. Specifically, the BPR considered that respondent's conduct did not involve serious misrepresentations warranting a lengthy suspension or disbarment, but was more egregious than "an isolated instance of dishonesty and/or false statements to a tribunal in a purely procedural matter." The BPR also considered that the clients authorized respondent to sign their names, that he did not falsify substantive information, that his conduct did not prejudice his clients or the court's decision-making, and that this was his first disciplinary infraction. In aggravation, however, the BPR noted respondent's persistence in making false signatures and notarizations, his regular notarizations, despite an unfamiliarity with the laws governing notaries, and his less than truthful recantation, before the hearing committee, of a stipulation he had made.

The OAE recommended that we impose a reprimand.

* * *

Upon a review of the record, we determined to grant the OAE's motion for reciprocal discipline.

Respondent received a thirty-day suspension in the District of Columbia for signing his clients' names on documents filed with the Probate Division of the District of Columbia Superior Court and, in some instances, notarizing his own signature on these documents, in violation of District of Columbia and New Jersey RPC 3.3(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 directs 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:
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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

(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), because we do not have thirty-day suspensions in New Jersey, the OAE urged us to impose a reprimand, a form of discipline that ordinarily results when attorneys commit infractions analogous to respondent's. The OAE cited a number of cases in support of that proposition: In re D'Alessandro, 169 N.J. 470 (2001) (reprimand for attorney who witnessed and notarized an executed deed and notarized two affidavits of title, purportedly signed by four individuals, three of whom had not signed the documents in the attorney's presence; moreover, the signatures had been forged and the individuals who actually owned the property were unaware that their property was being sold); In re Izzo, 156 N.J. 375 (1998) (reprimand for attorney who prepared a deed on behalf of a grantee of real property; when the grantee returned with the deed and falsely represented to the attorney that the grantor had executed the deed, the attorney witnessed the grantor's signature and also notarized the deed; mitigating factors included the attorney's unawareness of a possible forgery of the deed, his lack of benefit from the misconduct and, when the property was reconveyed, his agreement to pay all attorney fees incurred by the grantor); In re Brunson, 155 N.J. 591 (1998) (reprimand for attorney who, in one matter, improperly notarized a release in the absence of the person who signed it and who, in another matter, failed to act with diligence and failed to communicate with his client in a personal injury and property damage claim); In

re Robbins, 121 N.J. 454 (1990) (reprimand for attorney who signed a deed purporting to bear the signatures of the parties in interest, completed the acknowledgement, executed the jurat and submitted the deed to a planning board for the purpose of accomplishing the memorialization of a land sub-division; the attorney claimed that he intended to "white-out" the illegitimate signatures and obtain proper signatures prior to recording the deed; there was no clear and convincing evidence that the attorney's acts were undertaken with the grantors' acquiescence; aggravating factors included the attorney's personal stake in the transaction and a prior six-month suspension in 1971).

Discipline in cases dealing with the improper execution of jurats, without more, is ordinarily an admonition or a reprimand. When the attorney witnesses and notarizes a document that has not been signed in the attorney's presence, but is signed by the legitimate party, the discipline is usually an admonition. See In the Matter of Stephen H. Rosen, Docket No. DRB 96-070 (1996) (admonition where the attorney witnessed and notarized the signature of an individual on closing documents signed outside of his presence; in addition, he failed to cooperate with disciplinary authorities). In 1990, we imposed a private reprimand – now admonition – where the attorney witnessed and notarized a client's signature on a deed signed outside his presence. In a 1989 case, a private reprimand – now admonition – was imposed where the attorney executed a jurat on an affidavit not signed in his presence, after he read the contents of the affidavit to the affiant and inquired whether he had signed the document in the presence of a third party.

If there are aggravating factors, such as the attorney's personal stake in the transaction, or the direction that a secretary sign the party's name on a document that the

attorney then notarizes, or a pattern of practice, then the appropriate discipline is a reprimand. See, e.g., In re Giusti, 147 N.J. 265 (1997) (reprimand for attorney who forged the signature of his client on a medical release form, forged the signature of a notary public to the jurat and then used the notary's seal); In re Spagnoli, 89 N.J. 128 (1982) (public reprimand where the attorney signed his client's name on three affidavits, which he then conformed and filed with the court); and In re Conti, 75 N.J. 114 (1977) (public reprimand where the attorney's clients told his secretary that it was impossible for them to come to the attorney's office to sign a deed and instructed her to do "whatever had to be done" to record the deed; the attorney had the secretary sign the clients' names on the deed and then witnessed the signatures and took the acknowledgment).

Suspensions are imposed where the conduct is viewed as more serious. See, e.g., In re Lolio, 162 N.J. 496 (2000) (three-month suspension for attorney who, in more than 200 wills, had witnesses subscribe their names to the wills as being present, even though they did not see the testator/testatrix sign the wills); In re Surgent, 79 N.J. 529 (1979) (six-month suspension for attorney who took improper jurats for various clients who had signed verified complaints and affidavits filed with the court; the attorney was also found guilty of a conflict of interest).

We concur with the OAE that respondent's conduct did not rise to the level requiring a suspension. Respondent had no nefarious motive, but intended to accommodate his clients. Furthermore, no harm befell the clients due to his actions.

Accordingly, we determined that a reprimand is sufficient discipline for his conduct. Two members did not participate.

We further determined to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

Disciplinary Review Board
Mary J. Maudsley, Chair

By: Robyn M. Hill
Robyn M. Hill

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Vincent C. Uchendu
Docket No. DRB 03-081

Argued: April 17, 2003

Decided: June 24, 2003

Disposition: Reprimand

Members	***Disbar***	***Suspension***	***Reprimand***	***Admonition***	***Dismiss***	***Disqualified***	***Did not participate***
Maudsley			X				
O'Shaughnessy			X				
Boylan							X
Holmes			X				
Lolla			X				
Pashman			X				
Schwartz							X
Stanton			X				
Wissinger			X				
Total:			7				2

Robyn M. Hill
Chief Counsel