

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 03-111

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IN THE MATTER OF  
THOMAS Q. HARRIGAN  
AN ATTORNEY AT LAW

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Decision

Argued: May 15, 2003

Decided: August 1, 2003

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

Respondent appeared pro se.

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

This matter was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics ("OAE"), based on respondent's one-year and one-day suspension in Pennsylvania, on December 25, 2002. R.1:20-4.

Respondent was admitted to the New Jersey bar in 1982 and the Pennsylvania bar in 1981. He has no prior discipline in New Jersey.<sup>1</sup>

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<sup>1</sup> On September 30, 2002, respondent was placed on the Supreme Court's list of ineligible attorneys.

Respondent's suspension in Pennsylvania was based on a Report and Recommendation of the Disciplinary Board of the Supreme Court of Pennsylvania.

The facts set forth in that report are as follows:

By Order dated March 18, 1999, effective April 17, 1999, the Supreme Court of Pennsylvania transferred respondent to inactive status, pursuant to Pa.C.L.E. 111(b), for failure to meet his Continuing Legal Education requirements due August 31, 1998.

By certified letter dated March 18, 1999, with enclosures, the Executive Director & Secretary of the Disciplinary Board notified respondent of the entry of the transfer Order and his obligation to comply with the rules pertaining to attorneys transferred to inactive status.

Respondent received the letter on March 24, 1999.

By letters dated May 28, 1998, October 23, 1998, and January 26, 1999, the Continuing Legal Education Board had notified respondent that he was not in compliance with the Pa.C.L.E.

Respondent received the letters.

By letter dated June 2, 2000, the Continuing Legal Education Board notified respondent that his Pa.C.L.E. status was 'inactive'.

During the term of inactive status, respondent failed to withdraw his appearance in the case of Branche v. Philadelphia Management Company, April Term 1999, No. 770 (CCP Phila. Co.).

Respondent failed to advise his client, Audrey Branche, that he was on inactive status, that he was unable to continue to represent her, and that she should retain new counsel immediately.

Respondent continued to represent Ms. Branche.

Respondent failed to inform Barbara E. Brigham, Esquire, attorney for the defendant in the Branche matter that he had been transferred to inactive status.

Respondent negotiated and settled the Branche matter with Attorney Brigham.

On September 1, 1999, respondent signed and filed with the Court a Praecepto to Settle, Discontinue and End.

On September 3, 1999, respondent picked up the settlement check, which was made payable to 'Audrey T. Branche and Thomas Q. Harrigan, Esq.' and signed an 'Acknowledgment of Receipt of Settlement Draft'.

Respondent failed to file a Statement of Compliance with the Board Secretary within ten days after the effective date of the transfer to inactive status Order.

During the term of inactive status, respondent failed to take action to have his name removed from his law firm letterhead; respondent's name continued to appear on the letterhead of the Law Office of Stack & Stack.

Respondent held himself out as an attorney eligible to practice law in Pennsylvania.

Respondent has been previously disciplined, having received an Informal Admonition in 1995 and an Informal Admonition in 1997.

The Admonition in 1997 was based on respondent's practice of law while on inactive status.

Beginning in 1987, respondent was transferred to inactive status six times for failing to pay his attorney's annual assessment or failing to comply with CLE requirements.

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On October 20, 2000, respondent became CLE compliant.

On November 7, 2000, respondent resumed active status. (Exhibit D, pp. 4-7).

Based upon the stipulated factual record, the Disciplinary Board concluded as follows:

Respondent failed to comply with a March 18, 1999 Order of the Supreme Court of Pennsylvania transferring him to inactive status for failure to meet his Continuing Legal Education Requirements. This Order was effective April 17, 1999. Respondent admitted that he received all of the communications from the Disciplinary Board of the Supreme

Court of Pennsylvania which stated what he was required to do to comply with his transfer to inactive status by the Supreme Court of Pennsylvania. Once transferred to inactive status, respondent's obligations were clear under the Pennsylvania rules of Disciplinary Enforcement:

- he had to withdraw from pending matters, and notify clients and opposing counsel of his transfer and his attendant inability to practice law;
- he had to file a verified statement of compliance with the Disciplinary Board on a form supplied to him by the Disciplinary Board, and
- he had to withdraw from all cases he was then handling. Pa.RDE.217(b),(c),(d),(e).

Respondent ignored these obligations and despite his transfer to inactive status, respondent continued to receive mail and fax communications at his law office, including communications with the Philadelphia Court of Common Pleas regarding pretrial and settlement matters, communications with opposing counsel to negotiate, conclude and effectuate a case settlement. (Exhibit D, pp. 11-12).

Respondent stipulated the following violations: RPC 5.5 (b), RPC 8.4(c) and RPC 8.4(d) "by knowingly and intentionally representing his client Ms. Audrey Branche while he was on inactive status"; RPC 7.1(a) by using his attorney letterhead to create the false impression that he was eligible to practice law; as well as the rule governing suspended attorneys in Pennsylvania, which comports with New Jersey R. 1:20-20, governing suspended attorneys.

The OAE urged us to impose a six-month suspension, retroactive to respondent's December 25, 2002 suspension in Pennsylvania.

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Upon a de novo review of the full record, we determined 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 adopted the findings of the Supreme Court of Pennsylvania.

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

. . . The Board shall recommend imposition of the identical action or discipline unless the Respondent demonstrates, or the Board finds on the face of the record upon 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 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 paragraph (E), similar misconduct in New Jersey would warrant significantly less discipline. Indeed, practicing law while ineligible,

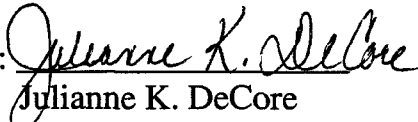
without more, will generally yield an admonition. See, e.g., In the Matter of Edward Wallace, III, DRB 97-381 (1997) (admonition where attorney appeared twice in court in a criminal matter while ineligible to practice law); In the Matter of Peter E. Hess, DRB 96-262 (1996) (admonition where attorney filed a lawsuit and continued to represent the client after the attorney became ineligible to practice law for failure to pay the annual assessment and who also failed to maintain a bona fide office). Reprimands have been imposed where attorneys have committed other ethics violations, in addition to practicing law while ineligible. See, e.g., In re Namias, 157 N.J. 15 (1999) (reprimand where attorney practiced law while ineligible, displayed lack of diligence, and failed to communicate with a client); In re Alston, 154 N.J. 83 (1998) (reprimand where attorney practiced law while ineligible, failed to maintain a bona fide office, and failed to cooperate with disciplinary authorities); In re Armoror, 153 N.J. 359 (1998) (reprimand where attorney practiced law while ineligible and failed to maintain a bona fide office; the attorney also committed gross neglect and failed to communicate with a client). Finally, attorneys who have practiced law while ineligible can receive more serious discipline, where aggravating factors are present. See In re Van Sciver, Jr., 158 N.J. 4 (1999) (three-month suspension imposed where the attorney practiced law while ineligible and failed to cooperate with disciplinary authorities, by representing clients in three matters over a period of a six-month ineligibility); and In re Schwartz, 163 N.J. 501 (2000) (three-month suspension where the attorney practiced law for seven years while on the New Jersey Lawyers' Fund for Client Protection list of ineligible attorneys, failed to maintain a bona fide office and misrepresented to a court that she was in good

standing). Here, in addition to practicing law while ineligible, in violation of RPC 5.5 (b), respondent violated RPC 8.4(c) (misrepresentation), RPC 8.4(d) (conduct prejudicial to the administration of justice), and RPC 7.1(a) (false or misleading communications about the lawyer or the lawyer's services). Moreover, respondent has a disciplinary history in Pennsylvania that includes admonitions in 1995 and 1997. The latter admonition was for the same misconduct as that herein — practicing law while ineligible. We determined that, for these reasons, respondent's behavior is more akin to that contained in In re Lewinson, 157 N.J. 627 (1999) (six-month suspension imposed for attorney who consented to disbarment in Pennsylvania; the attorney had represented two clients while ineligible to practice law for failure to comply with that state's continuing legal education requirements and for misrepresentation of her status to a judge; the attorney had a prior reprimand in New Jersey for recordkeeping violations).

Based on all of the foregoing, we determined to impose a six-month suspension, retroactive to December 25, 2002, the date of respondent's suspension in Pennsylvania.

We also required respondent to reimburse the Disciplinary Oversight Committee for administrative expenses.

Disciplinary Review Board  
Mary J. Maudsley, Chair

By:   
Julianne K. DeCore  
Acting Chief Counsel

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

In the Matter of Thomas Q. Harrigan  
Docket No. DRB 03-111

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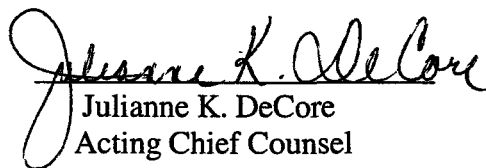
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Argued: May 15, 2003

Decided: August 1, 2003

Disposition: Six-month suspension

<i>Members</i>	<i>Disbar</i>	<i>Six-month Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Maudsley</i>		X					
<i>O'Shaughnessy</i>		X					
<i>Boylan</i>		X					
<i>Holmes</i>		X					
<i>Lolla</i>		X					
<i>Pashman</i>		X					
<i>Schwartz</i>		X					
<i>Stanton</i>		X					
<i>Wissinger</i>		X					
<b>Total:</b>		9					

  
 Julianne K. DeCore  
 Acting Chief Counsel