

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. 03-158

IN THE MATTER OF
STEVEN CLARK FORMAN
AN ATTORNEY AT LAW

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Decision

Argued: June 19, 2003

Decided: August 27, 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”), pursuant to R. 1:20-14, following respondent’s one year and one day suspension in Pennsylvania.

Respondent was admitted to the New Jersey and the Pennsylvania bar in 1985. He has no disciplinary history in New Jersey.

On December 29, 1988, the Pennsylvania Supreme Court transferred him to inactive

status because he did not file his annual attorney registration form or pay the corresponding fee. The Court's transfer order was sent to the residential address shown on respondent's initial registration form, but was returned marked "unclaimed" or "unknown." Respondent remained on inactive status because he never filed the required registration forms or paid the fees. Furthermore, starting in 1993, he failed to comply with Pennsylvania's continuing legal education requirements.

* * *

Between 1988 and early 1997, respondent worked for the law firm of Stuart Fiel, who had offices in Pennsylvania and New Jersey. Respondent regularly appeared in Pennsylvania courts.

In 1997, respondent 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. Nor did he file his annual attorney registration forms or pay the corresponding fee. However, he continued to represent clients in Pennsylvania. He ceased practicing in Pennsylvania in February 2000, when he learned of the disciplinary investigation.

Respondent admitted that he practiced law in Pennsylvania while on the inactive list. He testified, however, that he was unaware that he was on the list and believed that the law firm had been filing his attorney registration forms and paying the fees. He explained that he was responsible for an "extremely heavy" plaintiff's personal injury practice and was

“oblivious” to the fact that the law firm was not handling his attorney registration requirements, because he did not receive any orders or notices from Pennsylvania. Respondent 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.

According to respondent, it was Fiel’s custom to pay for its attorneys’ expenses incident to the practice of law, including the annual fees and continuing legal education expenses. Respondent added that Fiel paid his New Jersey annual fees.

The OAE urged us to suspend respondent for three months because of the length of time that respondent practiced while on the inactive list and the fact that he failed to correct his status after he started his own practice.

Respondent, on the other hand, contended that a reprimand is sufficient discipline because (1) he has no history of discipline; (2) he is a sole practitioner and his inability to practice would adversely affect his clients and his support staff; (3) he is recovering from a heart attack, which caused him to “vastly curtail” his practice; (4) his violations did not involve dereliction of duty, negligence or dishonesty; (5) he has “at all times unhesitatingly cooperated with all investigation”; (6) he has shown remorse and presented “strong evidence of his character and ability to practice which has been acknowledged by the Pennsylvania Disciplinary Board”; and (7) he has accepted responsibility for his misconduct.

* * *

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 the Board rests for purposes of a disciplinary proceeding), we adopted the findings of the Supreme Court of Pennsylvania.

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

We agree with the OAE that subsection (E) is applicable here, namely, that

respondent's misconduct warrants substantially different discipline in New Jersey.

In New Jersey, practicing law while ineligible generally results in an admonition or a reprimand. Even if that misconduct is accompanied by other violations of the Rules of Professional Conduct, a reprimand is frequently imposed. See In the Matter of Joseph V. Capodici, Docket No. DRB 00-294 (November 21, 2000) (admonition where the attorney took on the representation of a client when he had been declared ineligible to practice); In the Matter of Peter E. Hess, Docket No. DRB 96-262 (September 24, 1996) (admonition where the attorney practiced law while ineligible and failed to maintain a bona fide office); In re Hess, 174 N.J. 346 (2002) (reprimand in a default matter where the attorney practiced law while ineligible and failed to cooperate with disciplinary authorities; attorney had previously been admonished for the same type of misconduct); In re DeLaurentis, 172 N.J. 035 (2002) (reprimand where the attorney was guilty of practicing law while ineligible, gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, failure to expedite litigation, and failure to cooperate with disciplinary authorities); In re Farkas, 166 N.J. 220 (2001) (reprimand in a default matter where the attorney practiced law while ineligible; attorney had been privately reprimanded for lack of diligence and failure to communicate with a client).

Short terms of suspensions have been imposed where the circumstances are particularly egregious or the attorney has a disciplinary history. See In re Van Wart, 162 N.J.

102 (1999) (three-month suspension in default matter for representing an estate while ineligible to practice law, failing to deliver property to which a third party was entitled, and failing to cooperate with disciplinary authorities); In re Levy, 155 N.J. 594 (1998) (three-month suspension where the attorney filed 607 collection cases over a period of three years while ineligible to practice, failed to maintain appropriate business and trust accounts, and did not have a bona fide office in New Jersey).

We considered the OAE's position that a three-month suspension might be appropriate, given the length of time that respondent practiced while on the inactive list and the fact that he failed to correct his status after he started his own practice. On the other hand, we also considered respondent's unblemished eighteen-year legal career in New Jersey. Furthermore, he has greatly curtailed his practice since suffering a heart attack. He advised us that he presently has only four active cases for relatives and friends. Finally, as noted by the Pennsylvania hearing committee, respondent "has been a busy and hardworking litigator," who "was respected by his colleagues."

Based on the foregoing, we determined that a reprimand is sufficient discipline for respondent's misconduct.

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

Disciplinary Review Board
Mary J. Maudsley, Chair

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

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

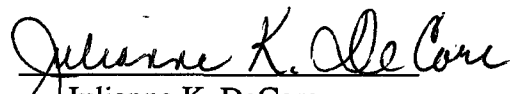
In the Matter of Steven Clark Forman
Docket No. DRB 03-158

Argued: June 19, 2003

Decided: August 27, 2003

Disposition: Reprimand

<i>Members</i>	<i>Disbar</i>	<i>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				
Total:			9				


Julianne K. DeCore
Acting Chief Counsel