SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 02-105

IN THE MATTER OF :
:
JAY J. CHATARPAUL :
:
AN ATTORNEY AT LAW :

Decision

Argued: May 16, 2002

Decided: June 25, 2002

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 on a motion for reciprocal discipline filed by the Office of Attorney Ethics (OAE), pursuant to *R.*1:20-14, following respondent's three-year suspension in New York.

Respondent was admitted to the New Jersey bar in 1996. He has no disciplinary history. Effective May 24, 2002, he was suspended in New York for three years for conduct that adversely reflects on his fitness to practice law, failure to adequately supervise a non-lawyer, misconduct of non-lawyer employee of which he should have

known, failure to preserve the confidence and secrets of the client, conduct prejudicial to the administration of justice and conduct involving dishonesty, fraud, deceit or misrepresentation. The disciplinary rules violated were New York *DR*1-102(A)(8), *DR*1-104(C), *DR*1-104(D)(2), *DR*4-101(B), *DR*1-102(A)(5) and *DR*1-102(A)(4), corresponding to New Jersey *RPC* 8.4(b), *RPC* 5.1(a), *RPC* 5.3(c)(2), *RPC* 1.6(a), *RPC* 8.4(d) and *RPC 8*.4(c), respectively.

The factual basis for respondent's suspension is set forth in the OAE's brief as follows:

> On or about January 7, 1998, respondent sent or caused his office to send a letter to his client, Sulaiman Ahmad concerning a fee dispute. The letter was written on respondent's office letterhead, identified as 'The Law Offices of Jay Chatarpaul.' The purported signature on that letter was that of Robendranauth (Rob) Ramphul, who was identified in the letter as a law graduate. Mr. Ramphul had graduated from law school, but was not admitted to the practice of law in the State of New York. In an effort to collect payment for legal services purportedly rendered on Mr. Ahmad's behalf, the letter implied that confidences and privileged information would be used against Mr. Ahmad as follows:
>
> 'We will give you until January 15, 1998. This will be our last contact with you. We are trying to avoid you the pain and suffering of going through all of this. Mr. Ahmad, what you have done is very stupid. We are still your attorney. Your case is not over yet. Your case is still open. Your fingerprints will come to us within a few months. We have your rap sheet. We have your arrest record. We have your social security number. By the time you receive this letter, we will know where you work. We can subpoena your financial information from your credit card company. Where will you turn and hide. If you honestly believe that moving to another state will keep you safe, well you are really stupid.'
>
> At or about the same time, respondent's sister, Parbatie Ramdat, a non-lawyer employee in respondent's office, went to Mr. Ahmad's home address at the request of respondent. Mr.[sic] Ramdat affixed to Mr. Ahmad's door, an unsigned letter containing similar implied threats. On or about January 19, 1998, respondent sent a letter to Martha Sherman of the First Savings Bank to which respondent annexed documents pertaining to Mr. Ahmad's criminal court complaint, his interview prepared by the

Criminal Justice Agency (CJA), and motion papers pertaining to his criminal matter. Mr. Ahmad's case was still pending and was scheduled to be dismissed and the record sealed. On January 16, 1998 Mr. Ahmad filed a complaint against respondent with the petitioner Grievance Committee and enclosed the above mentioned January 7, 1998 letter. Respondent provided the petitioner Grievance Committee with a written answer dated January 24, 1998. He also enclosed a copy of the above mentioned January 19, 1998 letter. In respondent's answer to the petitioner Grievance Committee he stated that it was his employee, Mr. Ramphul, who sent the letter dated January 7, 1998 to Mr. Ahmad because Mr. Ramphul had been outraged by the client's failure to pay his fee. In an examination under oath before the petitioner Grievance Committee, on March 5, 1998, respondent testified that it was he and not Mr. Ramphul, who had drafted the January 7, 1998 letter and that respondent had directed Mr. Ramphul to sign it.

Arguing that respondent's conduct would not warrant a three-year suspension in New Jersey, the OAE urged us to impose a reprimand, citing *In re Weiner*, 140 *N.J.* 621 (1995) (reprimand for inadequate supervision of secretary who deducted fees from a client's settlement check without the client's consent); *In re Toronto,* 148, *N.J.* 85 (1997) (reprimand for misrepresentations to the district ethics committee); *In re McDermott*, 142 *N.J.* 634 (1995) (reprimand for filing a criminal complaint against a former client for non-payment of legal fees in an effort to obtain an improper advantage); *In re Hofing*, 139 *N.J.* 444 (1995) (reprimand for failure to supervise a bookkeeper who embezzled $750,000 from the attorney's trust account).

* * *

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 established conclusively the facts on which the Board rests

for purposes of a disciplinary proceeding), we adopted the findings of the Supreme Court of the State of New York, Appellate Division, Second Judicial Department.

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.

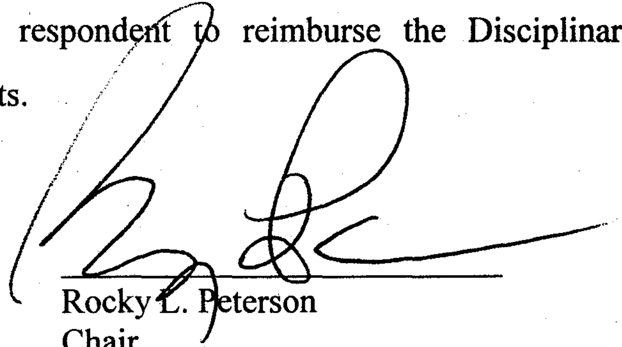
We agree with the OAE that subsection (E) is applicable here, namely, that respondent's misconduct in New York warrants substantially different discipline in New Jersey. As the OAE correctly pointed out, respondent's actions would not result in a three-year suspension in New Jersey. *See, e.g., In re Sunberg*, 156 *N.J.* 396 (1998) (reprimand for failing to consult with a client concerning the representation, fabricating an arbitration award to mislead his partner and maintaining to the district ethics committee that the award was legitimate); *In re Brown*, 148 *N.J.* 83 (1997) (three-month

suspension in a default matter where attorney, a retired police officer, used obscene and inappropriate language in a letter to a judge who had assigned him a *pro bono* case; the letter also indicated that the attorney could greatly injure the judge if the attorney were not relieved as assigned counsel; after the attorney's various letters and applications were forwarded to the assignment judge, the attorney wrote a letter to that judge containing language and allegations impugning the judge's motives; the letter also made personal attacks upon the judge).

Although we were troubled by respondent's conduct, we were not persuaded that a suspension is required in this case. Compelling mitigating circumstances convinced us that a reprimand adequately addresses the seriousness of respondent's ethics transgressions and, at the same time, preserves the confidence of the public in the profession. Specifically, as pointed out in respondent's February 25, 2002 letter to the OAE, respondent was a new and inexperienced attorney at the time, whose "young hot-bloodedness" motivated his actions. Respondent has expressed regret for "each and every single act with respect to that client" and acknowledged that "he threw away all my humbleness and humanitarian beliefs out the window. I shamed myself, my client, and caused great grief to my self [sic] and those in this great profession." Respondent claimed that, since these incidents, he has learned a lot and has become a mature individual. We also noted his recent humanitarian efforts toward police officers and firefighters following the tragic events of September 11, 2001.

After balancing the extent of respondent's actions with the above compelling mitigating factors, we unanimously determined that a reprimand is sufficient in this case. One member did not participate.

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



Rocky L. Peterson
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

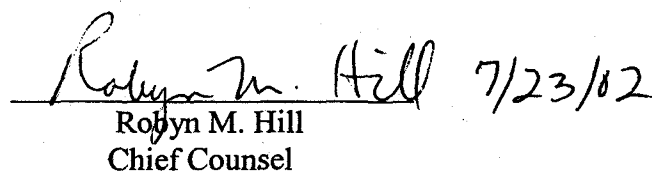
In the Matter of Jay J. Chatarpaul
Docket No. DRB 02-105

Argued: May 16, 2002

Decided: June 25, 2002

Disposition: Reprimand

Members	***Disbar***	***Suspension***	***Reprimand***	***Admonition***	***Dismiss***	***Disqualified***	***Did not participate***
Peterson			X				
Maudsley			X				
Boylan							X
Brody			X				
Lolla			X				
O'Shaughnessy			X				
Pashman			X				
Schwartz			X				
Wissinger			X				
Total:			8				1



Robyn M. Hill
Chief Counsel