

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. 98-243

IN THE MATTER OF
DAVID J. ESKIN,
AN ATTORNEY AT LAW

Decision

Argued: July 23, 1998

Decided: December 17, 1998

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 the Board on a Motion for Reciprocal Discipline filed by the Office of Attorney Ethics ("OAE"), pursuant to R. 1:20-14, following respondent's six-month suspension in the State of New York.

Respondent has been a member of the New York and New Jersey bars since 1993.

In May 1996 Celine Maloul retained respondent to handle her personal injury case against the New York City Transit Authority ("NYCTA"). Under New York law, a claimant in a personal injury case against the NYCTA must serve a verified notice of claim within ninety days of the accident to avoid a finding that the claim is time-barred. Respondent had handled approximately six other tort cases against the NYCTA, before being retained by Maloul.

The ninety-day period expired on June 18, 1996. Respondent, however, inadvertently wrote on his calendar that the notice of claim was due on June 20, 1996. On the morning of June 20th, respondent realized his mistake. Respondent then prepared a notice of claim, signed Maloul's name in three places and affixed his notary stamp underneath her forged signatures. Respondent dated Maloul's signatures June 20, 1996 and dated his jurat June 13, 1996. Respondent made no attempt to inform Maloul of his actions. On June 27, 1996, respondent received a letter from the NYCTA informing him that the June 20th notice of claim was time-barred.

On or about July 16, 1996, respondent prepared a second, fraudulent notice of claim. Respondent photocopied the first notice of claim and changed the date of the accident to indicate that it had occurred on April 20, 1996. Additionally, respondent changed his notarization date from June 13 to June 20 to comport with the dates of his forgeries of Maloul's signatures.

On August 1, 1996, the NYCTA convened a hearing regarding Maloul's claim.

Respondent met with Maloul before the hearing, but did not inform her about his misconduct. After the NYCTA hearing, respondent did some further work on the case.

The New York Departmental Disciplinary Committee learned about respondent's misconduct from a NYCTA employee and notified respondent that it was commencing an investigation of his actions. On advice of counsel, respondent thereafter sent Maloul a letter revealing his misconduct to her.

On May 28, 1998, respondent received a six-month suspension in New York for forging and falsely notarizing his client's signature to a notice of claim served after the statute of limitations had expired and for serving a second notice of claim containing a material misrepresentation regarding the date of the accident.

The OAE urged the Board to suspend respondent for six months.

* * *

Upon a review of the full record, the Board 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), the Board adopted the findings of the New York Supreme Court, Appellate Division.

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:

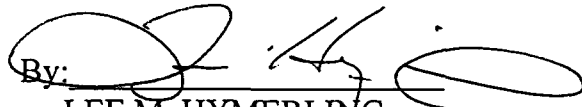
- (A) the disciplinary or disability order of the foreign jurisdiction was not entered;
- (B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;
- (C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect 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.

A review of the record does not reveal any conditions that would fall within the ambit of subparagraphs (A) through (E). In New Jersey, matters involving similar misconduct normally result in a short-term suspension. See In re Telson, 138 N.J. 47 (1994) (six-month suspension for altering a court document to conceal the fact that the complaint had been dismissed and denying misconduct when questioned by a judge); In re Jenkins, 151 N.J. 473 (1997) (six-month suspension for writing in a decedent's name on a medical authorization form and presenting it to a hospital, even though the decedent had died a year earlier); and In re Mark, 132 N.J. 268 (1993) (three-month suspension for fabricating two letters and

submitting them to a trial court in a litigated matter). Accordingly, the Board unanimously determined to impose a six-month suspension. The Board also determined that respondent should not be reinstated in New Jersey until he is eligible to be reinstated in New York.

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

Dated: 2/17/98

By: 
LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

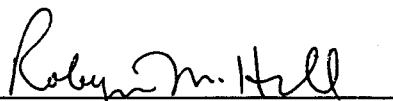
In the Matter of David J. Eskin
Docket No. DRB 98-243

Argued: July 23, 1998

Decided: December 17, 1998

Disposition: Six-Month Suspension

Members	Disbar	6 Month Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling		x					
Zazzali		x					
Brody		x					
Cole		x					
Lolla		x					
Maudsley		x					
Peterson		x					
Schwartz		x					
Thompson		x					
Total:		9					


Robyn M. Hill 12/30/98
Chief Counsel