

Matter of Howard (Rodriguez)  
Del. Supr. No. 701, 2002 (1/27/03)

**Disciplinary Issues:**            Reinstatement

By Order dated January 27, 2003, the Delaware Supreme Court reinstated Elizabeth K. Howard (formerly, Elizabeth K. Rodriguez) as a member of the Delaware Bar. The reinstatement is effective immediately. The Court imposed conditions and a four-year probation on Ms. Howard. The probationary period begins when Ms. Howard returns to the active practice of law.

Ms. Howard was admitted to the Delaware Bar in 1985 and had been a solo practitioner in Georgetown, Delaware. The Court had placed Ms. Howard on disability inactive status effective April 16, 1996 “due to a severe cocaine addiction” during the pendency of many disciplinary matters. By Order dated July 16, 1997, Ms. Howard was suspended from the practice of law on an interim basis pending the resolution of the disciplinary matters pending against her. Ten disciplinary matters were heard by a panel of the Board on Professional Responsibility (the “Board”) at a hearing on September 12, 1997. Prior to the Court’s consideration of the Board’s Report and Recommendation in those matters, Ms. Howard was arrested on drug-related charges. By Order dated January 23, 1998, the Court placed Ms. Howard on Supplemental Interim Suspension and remanded the disciplinary matters to the Board for further hearing. By Order dated March 14, 2002, all disciplinary matters were disposed of and Ms. Howard was suspended from the practice of law for four years, retroactive to April 16, 1996. The sanction of suspension was imposed on Ms. Howard based on her ethical misconduct in violation of twenty-two Rules of the Delaware Lawyers’ Rules of Professional Conduct (the “Rules”). The Court found that Ms. Howard’s misconduct implicated the Rules involving diligence; communication; fees; failure to protect a client’s interest upon termination of the representation; dishonest conduct by directing a client to sign several blank affidavit forms to be used in litigation; failure to maintain her law office books and records and misrepresentations regarding the existence of these books and records; and engaging in criminal conduct. These violations were found to have occurred during a period of active drug addiction.

The Board has determined, and the Court has affirmed, that Ms. Howard is fit to return to the practice of law. The Board found that Ms. Howard remains in active recovery from her substance abuse addiction, has complied with the terms of her suspension order, recognizes the wrongfulness and seriousness of the misconduct upon which her suspension was predicated, and exhibits the requisite competence and professional integrity to resume

the practice of law. Ms. Howard's reinstatement is subject to various conditions, as follows:

- First, Ms. Howard is prohibited from engaging in the solo practice of law and from forming a professional association with Kevin M. Howard, Esquire during her four-year probationary period. (Mr. Howard is Ms. Howard's husband.)
- Second, Ms. Howard must remain in active recovery from her drug addiction and must self-report any illegal drug use to the Office of Disciplinary Counsel. This condition is NOT limited to the probationary period. It will remain in effect for as long as Ms. Howard remains a member of the Delaware Bar.
- Third, Ms. Howard must have a practice monitor approved by the Office of Disciplinary Counsel. It will be necessary for Ms. Howard to meet monthly with the practice monitor through the first six months of her probation and then quarterly thereafter for the duration of the four-year probationary period to discuss Ms. Howard's work and practice. Reports will be due to the Office of Disciplinary Counsel from the practice monitor following each meeting with Ms. Howard.
- Fourth, Ms. Howard must maintain her relationship with a member of the Lawyers' Assistance Committee (This Committee of the Delaware Bar Association, created in 1985, is available to provide assistance to any and all members of the Delaware Bar having difficulties with alcohol and/or drugs.) It will be necessary for Ms. Howard to meet monthly with this member of the Lawyers' Assistance Committee for the first six months of her probationary period and then quarterly thereafter for the duration of the probationary period. Ms. Howard should discuss her recovery and rehabilitative efforts. The Lawyers' Assistance Committee will provide reports to the Office of Disciplinary Counsel following each required meeting with Ms. Howard. These reports will outline Ms. Howard's compliance, or lack thereof, with respect to her rehabilitation efforts throughout her probationary period. This member of the Lawyers' Assistance Committee will have authority to request random drug screens and MUST request random drug screens monthly, for the first six months following Ms. Howard's reinstatement to the practice of law, and then quarterly through the duration of Ms. Howard's probationary period.
- Fifth, Ms. Howard must repay the costs of her disciplinary proceedings and those of her reinstatement proceedings at the rate of \$100.00 per month until she obtains employment in the legal profession, at which time her payments shall be increased. All costs shall be repaid in full within 10 years of Ms. Howard's reinstatement to the practice of law.

- Sixth, Ms. Howard must make diligent efforts to obtain malpractice insurance. She shall make application to at least three malpractice insurance carriers and provide documentation of same to the Office of Disciplinary Counsel. If insurable, Ms. Howard is required to carry this insurance throughout the duration of her probationary period. However, should the cost of malpractice insurance be excessive (the definition of excessive is to be agreed upon by Ms. Howard and the Office of Disciplinary Counsel), such that it is unobtainable, Ms. Howard is required to inform each client of the fact that she does not carry malpractice insurance and each client shall sign a written waiver to that effect.
- Finally, Ms. Howard must cooperate fully with the Office of Disciplinary Counsel in its efforts to monitor compliance with her probation.

Ms. Howard's four-year probationary period does not begin until she re-enters the active practice of law. It will end four years from that date.