

**Matter of Autman, Jr.**  
**Del. Supr. Nos. 434, 2001 and 152, 2002 (6/3/02)**  
**Board Case Nos. 46, 2000; 8, 27, 28, and 30, 2001**

**Disciplinary Rules:** DLRPC 1.1, 1.2(a), 1.3, 1.4(a), 1.5(f), 1.15(b), 1.15(d), 1.15(d)(10), 3.2, 8.4(c), 8.4(d); DLRDP 7(c), 7(4), 7.5(d)

**Sanctions Imposed:** Three-Year Suspension

On June 3, 2002, the Delaware Supreme Court ordered that W. Lee Autman, Jr., Esquire, a private practitioner in Wilmington, Delaware, be suspended from the practice of law in the State of Delaware, effective June 17, 2002, for a period of three years. The Court approved the findings of the Board on Professional Responsibility ("Board") that Autman had committed numerous violations of the Delaware Lawyers' Rules of Professional Conduct ("Rules") in five disciplinary matters. The first Supreme Court case (Del. Supr. No. 434, 2001) concerned a September 2001 report from a panel of the Board, recommending that Autman be publicly reprimanded and placed on public probation for two years for Rules violations in two disciplinary matters. In October 2001, the Court stayed further proceedings in that case until the resolution of charges in three new disciplinary matters against Autman pending before another panel of the Board.

In March 2002, the second panel of the Board filed its report and recommendation (Del. Supr. No. 152, 2002). In that case, the panel recommended that Autman be suspended from the practice of law for three years for numerous violations of the Rules. Subsequently, in April 2002, counsel for Autman advised the Court that he could not take a position on Autman's behalf with regard to the panel's report because he had not received any directive from Autman on how to proceed. Previously, in March 2002, counsel had filed a motion to withdraw in Del. Supr. No. 434, 2001 because he and Autman could not agree on the scope and nature of counsel's continued representation in that matter. The Clerk of the Court directed Autman to respond to his counsel's position in both cases. Autman failed to respond to either of the Court's directives. Accordingly, the Court found that Autman's counsel should be permitted to withdraw in both pending matters, and that, given Autman's failure to respond to his former counsel or to the Court, Autman had waived his right to file objections to the panel's report and recommendation in Del. Supr. No. 152, 2002.

Del. Supr. No. 434, 2001 (Board Case Nos. 46, 2000; 8, 2001)  
Board Case No. 46, 2000 was based upon Autman's failures to comply with the conditions of a private admonition issued in Board Case No. 85, 1995, in violation of Rule

7(c) of the Delaware Lawyers' Rules of Disciplinary Procedure ("Procedural Rules") and former Board Rule 7(4). These failures included Autman's failure, in violation of Rule 1.3, to take affirmative steps on behalf of John and Margarita White (the "Whites") in support of their petition for refund of Pennsylvania realty transfer tax, and his failure to reimburse the Whites for their payment of the taxes, a condition of the private admonition. Autman also violated Rule 1.4(a) by failing to keep the Whites reasonably informed about the status of the Petition for Refund filed in 1996. In further violation of Procedural Rule 7(c), Autman's conduct violated a condition of a public reprimand in Board Case No. 36, 1999, which required Autman to "cooperate with ODC's investigation of unprofessional conduct which may come or have already come to the attention of the ODC." Also in violation of Procedural Rule 7(c) was Autman's failure to comply with a condition of his public reprimand in Board Case No. 36, 1999, requiring him to provide the ODC with a written report concerning the outcome of his consultation with a Professional Guidance Committee mentor. Autman failed both to provide the report in a timely manner and to provide information relating to his consultation in response to the ODC's reasonable requests.

Del. Supr. No. 152, 2002 (Board Case Nos. 27, 28, and 30, 2001)

Board Case No. 27, 2001 involved Autman's representation of Christina Paoli in connection with disputes involving her home. In particular, Paoli consulted with Autman about a potential lawsuit against the building of her home because of disputes over the builder's performance. Paoli also had not been making payments to her mortgage company, resulting in action by the company against Paoli, and, ultimately, the pursuit of foreclosure litigation against her. Autman violated Rules 1.1, 1.2(a), 1.3, and 3.2, in connection with his failures to file an answer in a foreclosure action and to take action in connection with Paoli's property dispute; Rule 1.4(a), by failing to keep Paoli informed about the status of the matter; Rule 1.5(f), by failing to provide written explanations to Paoli in connection with advanced fees; and Rule 1.15(b), by failing promptly to deliver an accounting of funds received from Paoli. Moreover, as a result of the complaint, the ODC requested an audit by the Lawyers' Fund for Client Protection ("LFCP"). That audit uncovered numerous Rule violations, including Rule 1.15(b), for failure to file or pay various law practice employer and employee payroll taxes owed to federal, state and city tax authorities for 1997, 1998, 1999, 2000, and 2001; Rule 1.15(d), for failure to maintain books and records as required from December 1997 on, and Rule 1.15(d)(10) for failure to maintain and preserve on a monthly basis hard copy records printed out from his computer of required law practice bank account-related financial information; Rule 7.5(d), for using the firm name "Autman & Bredt, P.A." signifying that he practiced in a partnership where in fact he did not; Rules 8.4(c) and 8.4(d), for dishonest conduct and conduct prejudicial to the administration of justice in making false representations on his certificates of compliance for 1999-2001 regarding the maintenance of required books and records, in 1998-2001 relating to the filing and payment of payroll taxes, in 1999-2001 relating to the filing of corporate income taxes, and in 2000 and 2001 relating to the payment of personal income taxes; and Rule 8.4(d) for failure to file or pay various taxes and tax returns during the years 1997-2000.

Board Case No. 28, 2001 involved Autman's failure to submit a verified signed

transcript of his Continuing Legal Education (“CLE”) credits to the CLE Commission for the period ending December 31, 2000 by February 1, 2001 as required. He repeatedly failed to respond to follow up from the CLE Commission.

Board Case No. 30, 2001 involved Autman’s representation of Jean Dawson Savoy in an estate planning matter, beginning in 1993. Autman violated **Rules 1.1, 1.2(a), and 1.3** in connection with his failure to take action to prepare and record a deed in 1993 or thereafter transferring Savoy’s real property to the partnership he had set up for her, as was necessary to make the partnership an effective estate planning vehicle, and his failure to advise Savoy to obtain appraisals of the value of the property after 1993. Autman also violated Rule 1.4(a) by failing to respond to Savoy’s inquiries about real estate tax bills she was receiving in her name (rather than the partnership’s name) and failing to inform her that the property had not been transferred; Rule 8.4(c) by falsely notarizing Savoy’s signature on agreements of gift; and Rule 8.4(c) by writing a letter to the City of Rehoboth Beach requesting parking permits based upon the false assertion that there was a 1996 deed transferring the property to Savoy and her daughter and son-in-law individually, when in fact, Autman had not prepared or recorded such a deed and had no intention of doing so.

Sanctions:

In making its sanctions recommendation to the Court in Del. Supr. No. 152, 2002, the Board considered (1) the nature of the ethical duties violated by Autman; (2) Autman’s mental state; (3) the actual or potential injury caused by Autman’s misconduct; and (4) the existence of aggravating and mitigating factors.

The Board considered that the ethical duties violated by Autman were “many and serious,” including duties owed to his clients, obligations of his legal practice (e.g., to maintain books and records), and duties owed to the public (including the filing of tax returns and payment of taxes) and the legal system. However, the Board noted that there were no allegations of efforts for personal financial gain at the expense of clients, such as misappropriation of client funds. The Board also found that Autman’s mental state was knowing or intentional with respect to all of the violations of the Rules he committed. With regard to actual or potential injury, the Board considered that Autman had injured Paoli’s interests by virtue of failing to file an answer to a foreclosure action in a timely manner, and allowing the entry of a default judgment; had exposed her to the risk that an action on a potential breach of contract claim relating to her house would now be untimely or limited; and that there was at least potential injury to Paoli by virtue of Autman’s failure properly to account for her fees. Moreover, by failing to maintain adequate books and records for his law practice, Autman caused potential injury to clients and actual injury to Paoli in that he was unable to give her a proper accounting of her fees. Also, by failing to file and pay payroll taxes, Autman caused at least potential injury, in particular with regard to the Form W-3’s for employees who have not had the reporting made to the Social Security

Administration to credit their earnings for purposes of Social Security. Finally, the Board noted that there was at least potential injury to Savoy from the lost opportunity to reduce the size of her taxable estate.

As aggravating factors, the Board considered (1) Autman's prior disciplinary offenses, including three private admonitions (in 1985, for failure to file timely registration statements; in 1995 for failure to comply with the CLE rules; and in 1996 for lack of diligence and failure to communicate with a client); a public reprimand in 2000, involving lack of diligence and failure to communicate; and the matter which was stayed by the Court (Del. Supr. No. 434, 2001), which involved admissions to violations involving lack of diligence, communication, and failure to comply with the terms and conditions of disciplinary orders; (2) dishonest or selfish motive, including knowing and intentional false representations to the Court on his certificates of compliance to keep the problems with his books and records from being discovered; false representations to the City of Rehoboth Beach; and false certification to the ODC in October 2000 that he had missed no deadlines for the filing of pleadings when in fact the deadline for the filing the answer to the foreclosure in the Paoli matter had run in August 2000; (3) pattern of misconduct in terms of failures to act with diligence and competence, failures to communicate with clients, and dishonest conduct involving false certifications to the Court; (4) multiple offenses, involving 23 violations of the Rules in Del. Supr. No. 152, 2002; and (5) substantial experience in the practice of law, insofar as Autman had practiced continuously since being admitted to the Delaware Bar in 1978 and to the Pennsylvania Bar in 1972.

In mitigation, the Board considered Autman's cooperation in the proceeding before the Board in Del. Supr. No. 152, 2002. The Board also noted that Autman's counsel had asked that Autman's testimony as to remorse be considered in mitigation. However, the Board observed that Autman had also expressed remorse at the June 2001 Board hearing in Del. Supr. No. 434, 2001, and yet even then he did not take the kind of steps that he should have to deal with all of his problems after that time.

Upon consideration of the four factors and the pertinent Delaware precedents, the Board recommended that Autman be suspended for a period of three years. In its order, the Court accepted the Board's findings of fact in both Del. Supr. No. 434, 2001 and 152, 2002. It then concluded that "given Autman's many and serious violations of his professional duties, his knowing misconduct, the risk of serious injury created by his misconduct, his pattern of misconduct, and his significant prior disciplinary record," suspension for a period of three years was appropriate. The Court also directed the ODC to file a petition in the Court of Chancery for the appointment of a receiver for Autman's law practice. On June 4, 2002, the Court of Chancery appointed Robert D. Goldberg, Esquire, of the law firm of Biggs & Battaglia, as the receiver for Autman's law practice.