SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. 96-273

IN THE MATTER OF :
:
RAYMOND W. HOVSEPIAN :
:
AN ATTORNEY AT LAW :

Decision

Argued: September 18, 1996

Decided: January 27, 1997

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 the Board on a Motion for Reciprocal Discipline filed by the Office of Attorney Ethics ("OAE"), based upon respondent's disbarment by consent in the Commonwealth of Pennsylvania.

Respondent has been a member of the New Jersey bar since 1973 and of the Pennsylvania bar since 1971. On February 1, 1996, an information was filed against respondent in the United States District Court for the District of New Hampshire, charging him with conspiracy to commit mail fraud, in violation of 18 U.S.C.A. 371. Pursuant to a plea agreement, respondent pleaded guilty to the charge, which was based on his participation in a commercial bribery conspiracy. On September 8,

1995, respondent was sentenced to six months' imprisonment, to be followed by two years' supervised release, a $20,363.18 fine and a $50 special assessment.

On January 11, 1996, the Supreme Court of Pennsylvania accepted respondent's disbarment by consent. On March 20, 1996, respondent was temporarily suspended in New Jersey pursuant to R. 1:20-13(b). In re Hovsepian, 143 N.J. 413 (1996). That suspension remains in effect to date.

The facts of the instant misconduct are as in the presentence investigative report:

American Honda Motor Company, Inc. ("American Honda") is owned by Honda Motor Co., Ltd., a Japanese corporation. American Honda is in charge of establishing dealerships throughout the country for the sale of Honda and Acura automobiles. Whenever American Honda chooses a location where it believes a Honda dealership will be successful, it accepts applications from interested individuals. From those applications, American Honda is supposed to select the most qualified applicant. American Honda's policy prohibits employees from accepting any gifts or payment for the award of a dealership contract. Employees, too, are not allowed to own a significant financial interest in any American Honda dealership. Each employee is required to sign an agreement indicating that he or she understands this policy and agrees to adhere to it. A chosen applicant is given the exclusive right to sell Honda cars within a certain geographic zone.

During the late 1980s and 1990s, Honda dealerships were in high demand. In 1986, respondent met Dominic Rocco through Irving Laserow, a certified public accountant. Respondent became friendly with Rocco and represented him in the sale of an auto dealership in southern New Jersey. Thereafter, respondent was approached by Rocco for assistance in securing a Honda dealership, after being originally rejected on his application for ownership.

Respondent contacted Laserow and had Laserow form a corporation for the purpose of applying for a dealership. Respondent and Rocco each had a forty-five percent interest in the corporation. Laserow had a ten percent interest. After forming the corporation, Laserow submitted an application for a dealership to American Honda.

Respondent also contacted Robert Rivers, a member of American Honda management, and informed him that Rocco was interested in obtaining a dealership. Rivers indicated that this was a possibility as long as Rocco agreed to give Rivers and Stanley Cardiges, another member of American Honda management, a partial interest in the dealership. Respondent agreed to split his interest in the dealership with them. On October 1, 1996, a contract for a dealership was awarded to the corporation. For various reasons, the dealership turned out to be unprofitable. Rivers and Cardiges never received any profits from their hidden interests. Respondent negotiated a deal with Rocco whereby Rocco agreed to buy out his interest. When Cardiges learned of the deal, he became angry since he had not received any money. Cardiges contacted Rivers, who, in turn, contacted respondent. As a result, respondent sent Cardiges a check for $5,416.16.

The OAE urged the Board to suspend respondent from the practice of law for five years, the equivalent of disbarment in Pennsylvania.

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Upon review of the full record, the Board determined to grant the OAE's Motion for Reciprocal Discipline. The Board rejected, however, the OAE's recommendation for a five-year suspension.

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

> The 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;
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> (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.

There is nothing in the record to indicate any conditions that would fall within the ambit of subparagraphs (A) through (D). This action is based on a criminal conviction, which is conclusive proof of a respondent's guilt in disciplinary proceedings. R. 1:20-13(c)(1); In re Rosen, 88 N.J. 1,

3 (1981). Only the limited question of the quantum of discipline to be imposed remains at issue in such cases. R. 1:20-13(c)(2); In re Infinito, 94 N.J. 50, 56 (1983).

As to the relationship of subparagraph (E) to the instant matter, although respondent was disbarred in Pennsylvania, a disbarred Pennsylvania attorney may seek reinstatement five years after the effective date of disbarment. P.R.D.E. 218(b). The magnitude of respondent's crime, however, warrants more severe discipline in New Jersey than a five-year suspension. It warrants disbarment.

Bribery of a public official invariably results in disbarment. See, e.g., In re Jones, 131 N.J. 505, 513 (1993); In re Coruzzi, 98 N.J. 77, 81 (1984); In re Hughes, 90 N.J. 32, 38 (1982). The discipline for commercial bribery has not previously been considered, although other business-related criminal convictions normally result in a lengthy suspension. See, e.g., In re Meyer, 139 N.J. 466 (1995) (three-year suspension); In re Cooper, 139 N.J. 260 (1995) (three-year suspension); In re Solomon, 110 N.J. 56 (1988) (two-year suspension).

In imposing only a two-year suspension in Solomon, the Court stated:

> Because this is the first time that we have addressed [this problem], we shall concur in the discipline recommended by the Disciplinary Review Board. But we caution the Bar that such conduct manifests an indifference to the essence of the character that we have deemed essential to the licensure of every member of the Bar. In the future, such conduct will result in a lengthy suspension or disbarment. [Citation omitted].
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> [Id. at 57]

Respondent participated in a conspiracy to commit commercial bribery. His misconduct required significant planning and activity on his part and was motivated by personal greed. In light of the Court's pronouncement in Solomon, and in accordance with respondent's consent to disbarment in Pennsylvania, disbarment is the appropriate discipline here.

The Board unanimously recommends that respondent be disbarred.

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

Dated: 1/27/97

By: _____
LEE M. HYMERLING
Chair
Disciplinary Review Board