

Book

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 91-377

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IN THE MATTER OF :  
:   
TODD E. BLUMENFELD, :  
:   
AN ATTORNEY AT LAW :  
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Decision and Recommendation  
of the  
Disciplinary Review Board

Argued: February 26, 1992

Decided: May 29, 1992

Richard J. Engelhardt appeared on behalf of the Office of Attorney Ethics.

Respondent did not appear.<sup>1</sup>

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

This matter is before the Board based upon a Motion for Reciprocal Discipline filed by the Office of Attorney Ethics (OAE) pursuant to R.1:20-7. That motion resulted from respondent's disbarment on consent from the practice of law in the Commonwealth of Pennsylvania for knowing misappropriation.

Respondent was admitted to the practice of law in New Jersey in 1983 and in Pennsylvania in 1981.

On October 31, 1991, the Supreme Court of Pennsylvania entered an order disbaring respondent on consent. In his letter of

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<sup>1</sup>Notice of the Board hearing was sent to respondent at his last known address via regular and certified mail. The certified mail was returned to the Office of Board Counsel unclaimed. The regular mail was not returned. In addition, notice was made by publication in the New Jersey Law Journal and the Philadelphia Inquirer.

resignation to the Supreme Court of Pennsylvania, dated May 1, 1991, respondent conceded that the material facts upon which the allegations of misconduct were based were true. (See Letters of Inquiry, Exhibits A through D.) Respondent admitted the following acts of misappropriation and misconduct:

- (a) Pellegrino - misappropriation of \$4,660.40 intended for payment on behalf of a client to the Internal Revenue Service;
- (b) Brown - misappropriation of \$1,500 provided to respondent by a client to be used as a partial settlement in an ongoing matter;
- (c) Storm Weather Products, Inc. - respondent received a \$1,000 payment on behalf of his client to which he was entitled to only a one-third share. Nevertheless, he kept the entire amount, thus misappropriating some \$667 due the client;
- (d) Respondent acknowledged that he had failed to pay the Internal Revenue Service in excess of \$56,000 in payroll taxes.

The OAE now requests that reciprocal discipline issue and that respondent be disbarred.

#### CONCLUSION AND RECOMMENDATION

Upon a review of the full record, the Board recommends that the OAE's motion be granted and that respondent be disbarred. In the Pennsylvania proceedings, respondent admitted to the numerous charges of serious misconduct. He has not recanted those admissions in the New Jersey proceedings - indeed, he has failed to communicate with the Board in any way. Hence, the Board adopts the Pennsylvania findings. In re Pavilonis, 98 N.J. 36, 40 (1984); In

re Tumini, 95 N.J. 18, 21 (1979); In re Kaufman, 81 N.J. 300, 302 (1979).

Reciprocal disciplinary proceedings in New Jersey are governed by R.1:20-7(d), which directs that:

(d) 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:

(1) the disciplinary order of the foreign jurisdiction was not entered;

(2) the disciplinary order of the foreign jurisdiction does not apply to the respondent;

(3) the disciplinary order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;

(4) 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

(5) the misconduct established warrants substantially different discipline [Emphasis added.]

In Pennsylvania, a disbarred attorney may seek reinstatement five years after the effective date of disbarment. P.R.D.E. Rule 218(b). Disbarment in New Jersey, however, is permanent, a "substantially different discipline" from Pennsylvania's.

In the Pennsylvania proceedings, respondent admitted taking his clients' money for his own purposes. The misconduct involved three instances of theft of client funds, totaling over \$6,800. In addition, respondent failed to pay the Internal Revenue Service in excess of \$56,000 in payroll taxes.

The OAE requested disbarment in New Jersey under R.1:20-7(d)(5) because the facts of this case demonstrate a knowing misappropriation of client funds, which mandates permanent disbarment in New Jersey. In re Wilson, 81 N.J. 451 (1979).

In reciprocal discipline cases, the Court has not hesitated to hold a New Jersey attorney to the strict standards applied in this state, even where lesser discipline has been imposed by the initiating state. See In re Tumini, supra; In re Keesal, 76 N.J. 227 (1978). "[M]aintenance of public confidence in this Court and in the bar as a whole requires the strictest discipline in misappropriation cases." Wilson, supra, 81 N.J. at 461.

The Board, therefore, unanimously recommends that respondent be disbarred for his knowing misappropriation of client funds.

The Board further recommends that respondent be required to reimburse the Ethics Financial Committee for administrative costs.

Dated: 5/29/92

By: 

Raymond R. Trombadore  
Chair  
Disciplinary Review Board