

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 07-278
District Docket No. XIV-05-148E

IN THE MATTER OF
MICHAEL A. SZEGDA
AN ATTORNEY AT LAW

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Decision

Argued: November 15, 2007

Decided: December 18, 2007

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

Respondent waived appearance.

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

This matter came before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (OAE), following respondent's disbarment in New York for his guilty

plea to second degree grand larceny, a class C felony. The OAE recommends respondent's disbarment. We agree with that recommendation.

Respondent was admitted to the New York bar in 1973, and to the New Jersey bar in 1983. Since September 2003, he has been on the Supreme Court's list of ineligible attorneys for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection. He has been temporarily suspended since May 30, 2007. In re Szegda, 191 N.J. 157 (2007).

On December 13, 2006, respondent pleaded guilty to second degree grand larceny, a class C felony. The charge and the plea were based on respondent's theft of his client's "escrowed real estate downpayment funds." He was sentenced to a probationary term of five years and ordered to perform one hundred hours of community service.

On May 24, 2007, respondent was disbarred in New York, effective December 13, 2006, as his conviction of grand larceny was "grounds for automatic disbarment."

Respondent did not notify the OAE of either his criminal conviction or his disbarment.

Following a review of the record, we determine 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 it rests for purposes of a disciplinary proceeding in this state. We, therefore, adopt the findings of the Appellate Division of the Supreme Court of New York. Thus, "[t]he sole issue to be determined . . . shall be the extent of final discipline to be imposed." R. 1:20-14(b)(3).

Reciprocal disciplinary proceedings in New Jersey are governed by R. 1:20-14(a)(4), which provides:

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 on 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 unethical conduct established warrants substantially different discipline.

A review of the record does not reveal any conditions that fall within the ambit of subparagraphs (A) through (D). Subsection (E), however, is applicable because respondent's misconduct is worthy of disbarment in New Jersey, which is different from disbarment in New York. Disbarment in New Jersey is permanent. In New York, however, a disbarred attorney may seek reinstatement after seven years. 22 N.Y.C.R.R. 603.14.

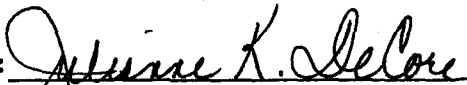
Respondent admitted that he stole more than \$50,000 in client funds. The theft of client funds constitutes knowing misappropriation, a disbarable offense. In re Wilson, 81 N.J. 451, 455 n.1, 461 (1979) (misappropriation "means any unauthorized use by the lawyer of clients' funds entrusted to him, including not only stealing, but also unauthorized temporary use for the lawyer's own purpose, whether or not he derives any personal gain or benefit therefrom"); In re Larosee, 122 N.J. 298, 309 (1991) (noting that the Court has "consistently held that when an attorney has knowingly misappropriated clients' trust funds, no matter for what

purpose, the result will be disbarment"). Because we determine to recommend respondent's disbarment, we need not consider what the appropriate discipline for the balance of respondent's infractions would be.

Member Lolla did not participate.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
William J. O'Shaughnessy
Chair

By: 
Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

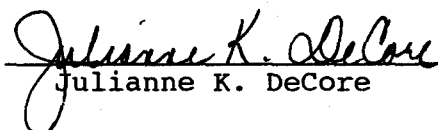
In the Matter of Michael A. Szegda
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Disposition: Disbar

Members	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
O'Shaughnessy	X					
Pashman	X					
Baugh	X					
Boylan	X					
Frost	X					
Lolla						X
Neuwirth	X					
Stanton	X					
Wissinger	X					
Total:	8					1


Julianne K. DeCore