SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 05-201
District Docket No. XIV-03-360E

IN THE MATTER OF	:
SONIA D. HARRIS	:
AN ATTORNEY AT LAW	:

Decision

Argued: September 15, 2005

Decided: October 27, 2005

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

Respondent was incarcerated at the time of oral argument and, although properly served, did not appear.

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

This matter was before us on a recommendation for discipline filed by the Office of Attorney Ethics ("OAE")

financial facilitation (money laundering), in violation of N.J.S.A. 2C:5-2 and N.J.S.A. 2C:21-25(c); first-degree money laundering, in violation of N.J.S.A. 2C:21-25(b)(1) and N.J.S.A. 2C:20-6; second-degree conspiracy to commit theft by deception, in violation of N.J.S.A. 2C:20-4 and N.J.S.A. 2C:5-2; second-degree theft by deception, in violation of N.J.S.A. 2C:20-4 and N.J.S.A. 2C:2-6; and second-degree misapplication of entrusted property, in violation of N.J.S.A. 2C:21-15 and N.J.S.A. 2C:2-6.

Respondent was admitted to the New Jersey bar in 1987. She maintained a law practice in East Orange. She previously had served as an assistant prosecutor in Essex County.

On April 6, 2001, a state grand jury indicted respondent on the criminal charges listed above. On July 5, 2002, a jury in Union County found respondent guilty of all charges. The Honorable James C. Heimlich, J.S.C., sentenced respondent, on January 31, 2003, to an aggregate eighteen-year prison term, four years of which she has to serve without possibility of parole. Specifically, respondent received: a twelve-year term, with a four-year parole disqualifier on the charge of money

laundering;[1] a consecutive six-year term for theft by deception; and a concurrent six-year term for misapplication of entrusted property. Judge Heimlich merged the conspiracy counts with their respective substantive counts. In addition to imposing various fines and fees, Judge Heimlich ordered respondent to pay restitution of $100,000.

On November 29, 2004, the Superior Court of New Jersey, Appellate Division, affirmed respondent's conviction. On April 8, 2005, the Supreme Court denied respondent's petition for certification.

Respondent's convictions stem from her involvement in real estate closings in which she represented a real estate developer named George Shamond Scott. Using a company known as Ace Management Company ("Ace"), Scott engaged in the practice of "flipping" properties, or contracting to buy real estate and selling the property before buying it. In furtherance of his purpose, Scott paid a title agency employee to falsify title documents to indicate that no mortgages encumbered the properties and paid mortgage brokers to help him obtain

[1] Pursuant to N.J.S.A. 2C:43-6b, a defendant is not eligible for parole during a parole disqualifier period.

financing. The Appellate Division decision sets forth the relevant facts:

> Scott maintained separate identities, George Scott and Shamond Scott, to facilitate the fraudulent real estate transactions. Scott made nearly $1,000,000 in illicit proceeds from the transactions.
>
> Defendant[2] was the closing attorney in some of these transactions. Defendant failed to file and record title documents and failed to disclose pre-existing mortgages. Defendant also maintained an attorney trust account for the funds derived from the illicit transactions and drew checks to the order of Scott, to cash, or to another recipient. Scott paid defendant a total of $14,000 in legal fees.
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> This conviction arises out of the purchase, sale, and refinancing of two properties located at 11 East Greenbrook Road and 10 Lakeside Avenue, North Caldwell. In 1999 Scott, through Ace and while represented by defendant as his lawyer, entered into a contract to buy a house located at 11 East Greenbrook Road from the Gilligans, represented by Robert Candido, Esq., for $390,000. After the December 12, 1998 deposit check was returned for insufficient funds, defendant sent a replacement deposit check dated February 9, 1999 to Candido written on defendant's attorney trust account for $18,500. The proposed closing date was April 1, 1999. Over the following months, defendant did not respond to any of Candido's numerous attempts to arrange a closing date. On May 5, 1999, Candido wrote a letter to defendant

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[2] All references to "defendant" apply to respondent.

terminating negotiations for the sale of the house.

Ace, not disclosing that it did not own the property, sold the house to Robert Arangeo for $430,000. Scott helped Arangeo obtain a $300,570 mortgage and told Arangeo that Ace would manage the property for a fee. Scott showed Arangeo and the mortgage company fabricated title work indicating that he purchased the property from the Gilligans. Defendant prepared the closing documents and represented both Ace and Arangeo at the closing. The proceeds of the sale were deposited into defendant's trust account. Arangeo believed that his purchase of the property was an investment and that Ace was managing the property and making the mortgage payments. Arangeo visited the house for the first time approximately one year later, only to discover that the house had been demolished and that he never actually owned the house. At the time of trial, Arangeo remained obligated to the mortgage company.

On April 14, 1999, after the property was purportedly transferred from Ace to Arangeo, Scott used a falsified title indicating that Ace was the owner of the property to obtain a $360,000 mortgage. Ace sold the property to George Scott for $480,000. Defendant was the closing attorney. On June 2, 1999, the Gilligans, the actual owners, sold the property to a third party for $422,000. Candido recorded the deed.

On June 4, 1999 Ace, without ever having owned the property, purportedly sold the house to "Shamond Scott" for $389,000. Defendant asked a professional acquaintance, Athena Alsobrook, Esq., to represent Ace at the closing because defendant was representing Scott, the buyer. Defendant told Alsobrook that Ace owned the

property, and Alsobrook relied on the representation when reviewing the title certificate. Defendant prepared the closing statement stating that Ace owned the property. Defendant represented "Shamond Scott" at the June 4, 1999 closing, notarizing a document used to obtain a $311,200 mortgage that George Scott signed as "Shamond Scott." The mortgage company was lead [sic] to believe that the mortgage was the first mortgage on the property.

On August 27, 1998, defendant, on behalf of Ace, entered into a contract of sale with Henry and Roseann Capozzi, represented by Anthony Colasanti, Esq., to purchase a residential property located at 10 Lakeside Avenue, North Caldwell, for $535,000. On September 30, 1998, Ace, without having title to the property, sold the residence to George Scott for $725,000. Defendant prepared the closing statement and obtained the title documents indicating that Ace purchased the property from the Capozzis on January 8, 1998 even though no such sale ever occurred. Scott, using the fraudulent closing documents drafted by defendant, obtained a $471,250 mortgage. The mortgage permitted Scott to ultimately purchase the property from the Capozzis.

On October 30, 1998, the Capozzis sold the property to George Scott for $535,000. Defendant paid part of the purchase price by writing a $25,000 deposit check against her attorney trust account. Defendant was the closing attorney. On December 9, 1988, George Scott obtained a $100,000 second mortgage.

On June 23, 1999, George Scott purportedly conveyed the property to "Shamond Scott" for $725,000. Defendant was the closing attorney. Scott signed the contract for both himself

> and "Shamond Scott." Shamond Scott sent the mortgage company a title report, signed by defendant, indicating that he was the owner of the property. Scott obtained a $580,000 refinance mortgage to pay off the two outstanding mortgages of $471,250 and $100,000. Defendant did not pay off the two mortgages but, instead, deposited the proceeds into her attorney trust account. Defendant wrote checks on her attorney trust account, at Scott's direction, for unrelated matters, including a check to Scott for $400,000. Scott paid defendant $5000 for the closing of the Lakeside Avenue property.
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> [OAEaEx.D3 to D7.][3]

In rejecting respondent's argument that she had not violated the money laundering statute, the Appellate Division made the following findings:

> Under the plain language of the statute, the indictment and conviction of defendant for money laundering was appropriate. Defendant engaged in transactions involving property known by her to be derived from criminal activity and engaged in transactions with the intent to facilitate or promote further criminal activity. She participated in the underlying criminal activity. She possessed the proceeds from George Scott's illicit real estate transaction in her trust account, and she assisted her accomplices in using those proceeds to fund further fraudulent transactions. Clearly, she knew that the funds were derived from criminal activity because she was a participant. Defendant

[3] OAEa refers to the appendix of the OAE's June 16, 2005 brief.

committed theft by deception by preparing fraudulent documents that created the false impression on buyers and mortgage companies that Scott owned the properties and that no prior mortgages existed on the properties. As a result of these false representations, defendant received illicit funds from the deceived buyers and mortgage companies.

Any subsequent financial transaction involving these proceeds that promoted or facilitated the illegal real estate business constituted money laundering. Defendant used the illicit funds generated from the false representations to actually purchase the property from the owner, in the case of Lakeside Avenue, and then secured numerous mortgages by her involvement in the sale of the property between Ace, George Scott, and Shamond Scott. Defendant also wrote checks on her attorney trust account at Scott's direction when she represented to mortgage companies that prior mortgages would be paid off with the proceeds.

[OAEaEx.D17 to D18.]

. . . .

Defendant's allegiance to George Scott's directives in disbursing funds, contrary to her legal obligations as a closing attorney, facilitated George Scott's illegal real estate transactions. Without defendant's assistance, George Scott would not have been able to deceive buyers and mortgage companies by creating the false impression that he, Ace, or Shamond Scott owned the property when, in fact, such was not the case.

[OAEaEx.D19-D20.]

Judge Heimlich offered the following comments during the sentencing hearing:

> Ms. Harris closed on closings where the title work was clearly fraudulent. She knew the title work was fraudulent. In fact, she knew that some of the owners didn't exist. She knew that Mr. Scott used fictitious names and that money was sent to Mr. Scott who was the centerpiece of this illegal transaction.
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> She had an obligation to disclose to the lenders and the title companies even if they were involved in the fraud because without her position of trust none of this could happen. Ms. Harris received and proceeded to receive in excess of two and a half million dollars of fraudulently obtained loans in approximately six real estate transactions.
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> She did not pay off any of the liens. Rather, she gave all the money to Mr. Scott or as Mr. Scott directed it illegally. Sonia Harris permitted her very good reputation and her position as a closing attorney to be used to bring in cash flow to what I perceived to be a struggling solo practice. In fact, it's somewhat similar to what Ms. Harris told us in her allocution arguments.
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> She closed her eyes to the illegality of these fraudulent real estate transactions to keep her practice afloat. Now even the very uneducated know that you cannot sell something that you don't own. Sonia Harris' actions have a cancerous effect upon the public trust in that the legal system is affected in that people don't know whether they can trust whether they are getting ownership that they bargained for.

> She should have had the moral courage to tell Mr. Scott no as opposed to just turning the blind eye.
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> [OAEaEx.G54-G55.]

In its brief, the OAE asserted that respondent violated RPC 4.1 (false statement of material fact or law to a third person or failure to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client), RPC 8.4(a) (violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another), RPC 8.4(b) (criminal act that reflects adversely on a lawyer's honesty, trustworthiness, or fitness as a lawyer), and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). The OAE contended that, after receiving funds as an escrow agent for the mortgage company and her client, respondent misappropriated those funds, in violation of the principles of In re Wilson, 81 N.J. 431 (1979) and In re Hollendonner, 102 N.J. 21, 26 (1985). The OAE urged us to recommend respondent's disbarment based on both the knowing misappropriation of escrow funds and her convictions of misapplication of entrusted funds, money laundering, theft, and conspiracy.

At sentencing, respondent asserted that she relied on the honesty of other individuals, stating that "if you tell me A is A then I believe that. I don't have any reason to believe that the individuals that I had dealt with and had dealt with them in the past, would have any reason to be dishonest with me . . . ."

Following a review of the full record, we determined to grant the OAE's motion for final discipline.

The existence of a criminal conviction is conclusive evidence of respondent's guilt. R. 1:20-13(c)(1); In re Gipson, 103 N.J. 75, 77 (1986). Respondent's conviction of money laundering, conspiracy to commit money laundering, theft by deception, conspiracy to commit theft by deception, and misapplication of entrusted property constituted a violation of RPC 4.1 and RPC 8.4(b) and (c).[4] Only the quantum of discipline to be imposed remains at issue. R. 1:20-13(c)(2); In re Lunetta, 118 N.J. 443, 445 (1989).

The level of discipline imposed in disciplinary matters involving the commission of a crime depends on numerous factors, including the "nature and severity of the crime, whether the

[4] Although the OAE suggested that respondent also violated RPC 8.4(a), that rule appears cumulative and unnecessary in this matter.

crime is related to the practice of law, and any mitigating factors such as respondent's reputation, his prior trustworthy conduct and general good conduct." In re Lunetta, supra, 118 N.J. at 445-46 (1989). Discipline is imposed even when the attorney's offense is not related to the practice of law. In re Kinnear, 105 N.J. 391 (1987).

Here, respondent knowingly assisted George Scott in his fraudulent real estate transactions. Ace, with respondent's help, sold the property at 11 East Greenbrook Road, North Caldwell three times without ever owning it. First, Ace sold the property to Robert Arangeo, an innocent purchaser; next, Ace sold the property to George Scott; finally, Ace sold the property to Shamond Scott. In the first transaction, respondent prepared the closing documents and represented both the buyer and seller at the closing. Respondent was the closing attorney in the Ace sale to Scott and she represented Ace in the sale to Shamond Scott. From these transactions, Scott received approximately one million dollars in mortgage proceeds.

Similarly, Ace sold the property located at 10 Lakeside Avenue, North Caldwell to George Scott, although Ace had not acquired title to the property. Respondent prepared the closing statement and obtained fraudulent title documents indicating

that Ace had bought the property. Using the proceeds from a mortgage obtained in the fraudulent purchase, Scott bought the property from the actual owners, and then obtained a second mortgage. George Scott then sold the property to Shamond Scott. Respondent was the closing attorney and signed a false title report, which was sent to a mortgage company, showing that Shamond Scott owned the property. George Scott received a $580,000 refinance mortgage with which to repay the first two mortgages encumbering the property. Although respondent deposited the mortgage proceeds into her attorney trust account, she did not satisfy the outstanding mortgages, but issued checks, including a $400,000 check to George Scott, at Scott's direction. Respondent received a $5,000 fee for this closing. Again, with respondent's assistance, Scott fraudulently acquired about one million dollars in mortgage loans for this property.

In finding respondent guilty, the jury rejected her claims that she was not aware of Scott's wrongdoing and found, beyond a reasonable doubt, that she knowingly participated in the fraudulent real estate transactions. Respondent's contention, at sentencing, that she was too naive and trusting is particularly suspect because of her prior position as an assistant prosecutor. In that capacity, respondent must have been exposed to many

situations requiring her to deal with dishonest people. Thus, any naiveté that respondent may have had would have been reduced, if not completely eliminated, by her prior experience as an assistant prosecutor.

Respondent was found guilty of misapplication of entrusted property, among other crimes. The Court has equated the misapplication of entrusted funds with knowing misappropriation. In In re Iulo, 115 N.J. 498 (1989), the attorney failed to satisfy an outstanding mortgage in connection with a real estate transaction. Id. at 499. When the other attorney in the transaction brought the matter to Iulo's attention, Iulo issued a check, which was returned for insufficient funds. Ibid. After the county prosecutor's office investigated, other misconduct was discovered and the attorney was convicted of two counts of misapplication of entrusted funds, in violation of N.J.S.A. 2C:21-15. Ibid. Analyzing that statute in the attorney disciplinary context, the Court stated:

> The specific offense, *N.J.S.A.* 2C:21-15, provides, in pertinent part, that
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> > [a] person commits a crime if he applies or disposes of property that has been entrusted to him as a fiduciary * * * in a manner *which he knows* is unlawful and involves substantial risk of loss

> or detriment to the owner of the property or to a person for whose benefit the property was entrusted *whether or not the actor has derived a pecuniary benefit.* (Emphasis added.)
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> . . . .
>
> The essential elements of this offense, that the defendant knowingly misused entrusted property, track in many ways our understanding of a Wilson violation.
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> . . . .
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> In view of our conclusion that the jury verdict established that respondent knowingly misappropriated client funds, we order that he be disbarred.
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> [In re Iulo, supra, 115 N.J. at 502-04.]

Iulo was disbarred. Id. at 504.

Attorneys in the following cases either pleaded guilty or were found guilty of similar crimes and were disbarred. In In re Scola, 175 N.J. 58 (2002), the attorney pleaded guilty to one count of third-degree theft by deception and one count of third-degree witness tampering. In the Matter of Mark M. Scola, Docket No. 02-121 (DRB 2002) (slip op. at 1). Scola became involved in a check-kiting scheme that his law partner had planned and acknowledged that he had received $4,000 from that scheme. Id. at 2. The attorney in In re Villoresi, 163 N.J. 85 (2000), was

convicted of one count of second-degree misapplication of entrusted property, and two counts of second-degree theft by failure to make required disposition of property received. In the Matter of Alfred J. Villoresi, Docket No. 99-087 (DRB 1999) (slip op. at 1). In one matter, Villoresi retained the $200,000 proceeds from the sale of his client's mortgage, disbursing most of the funds for his own purposes. Id. at 2. In a second matter, the attorney received more than $563,000 from his clients with which to establish a trust fund for their children. Id. at 3. Although duty-bound to invest and maintain those monies to benefit the client, he used those funds for his own benefit. Id. at 3 to 4.

In In re Denker, 147 N.J. 570 (1997), the attorney pleaded guilty to one count of money laundering. In the Matter of Aaron D. Denker, Docket No. 96-144 (1996) (slip op. at 1). The activity took place on two occasions, three months apart. Id. at 4. In the first instance, Denker agreed to launder a client's drug proceeds. Ibid. He received $50,000 and then issued numerous negotiable instruments, each less than $10,000, to avoid reporting requirements for currency transaction. Ibid. The attorney received a total of $3,500 as a fee. Ibid. In the second instance, Denker received another $50,000 to issue

instruments to avoid the same requirements. Id. at 5. He was paid a $3,000 fee. Ibid. The attorney in In re Bzura, 142 N.J. 478 (1995) was found guilty of theft by deception, theft by failure to make required disposition of property, and misapplication of entrusted property. In the Matter of Leonard T. Bzura, Docket No. 94-157 (DRB 1995) (slip op. at 1). In one matter, although Bzura did not perform the necessary legal services, he billed a client and received more than $9,000 for legal services, and improperly disposed of $1,000 in trust funds belonging to that client. Id. at 3. In a second matter, after he had been suspended from the practice of law, the attorney accepted legal fees of $5,000. Id. at 4. In our analysis, we asserted that disbarment is the only appropriate remedy for the knowing misuse of client funds. Id. at 5. Finally, in In re Lunetta, supra, 118 N.J. at 445 (1989), the attorney pleaded guilty to a charge of conspiracy to receive, sell, and dispose of stolen securities. The attorney agreed to deposit checks from the sale of stolen bonds into his trust account. Id. at 447. Lunetta did not participate in the theft of the securities or in structuring the scheme, readily admitted his participation in the crime, and testified against his co-conspirators. Id. at 447-48. Nevertheless, he was disbarred. Id. at 450.

Based on both the knowing misappropriation of escrow funds and the criminal convictions, we recommend that respondent be disbarred. See In re Hollendonner, 102 N.J. 21 (1985) (knowing misuse of escrow funds warrants disbarment). Vice-Chair William O'Shaughnessy did not participate.

We further require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

Disciplinary Review Board
Mary J. Maudsley, Chair

By: Julianne K. DeCore
Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Sonia D. Harris
Docket No. DRB 05-201

Argued: September 15, 2005

Decided: October 27, 2005

Disposition: Disbar

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

Julianne K. DeCore
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Chief Counsel