SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 00-392

IN THE MATTER OF

STEVEN T. SELTZER

AN ATTORNEY AT LAW

Decision

Argued: February 8, 2001

Decided: May 7, 2001

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 us on a motion for final discipline filed by the Office of Attorney Ethics ("OAE"), based upon respondent's February 14, 1997 guilty plea to one count of conspiracy to commit mail fraud, in violation of 18 *U.S.C.A.* 371, two counts of mail fraud, in violation of 18 *U.S.C.A.* 1341 and one count of conspiracy to defraud the Internal Revenue Service, in violation of 18 *U.S.C.A.* 371.

Respondent was admitted to the New Jersey bar in 1985. He was temporarily suspended by the Court on October 16, 2000 following his disbarment in New York based on the above criminal conduct. *In re Seltzer,* 165 *N.J.* 507 (2000).

Respondent was a licensed public adjuster for Goldstein Affiliates, a public adjusting firm in which he, his father and others were principals. He, as well as others in the firm, committed insurance fraud by receiving bribes for submitting falsely inflated claims to insurance companies. Respondent did not report these payments as income on his tax returns. During his plea hearing, respondent testified as follows:

> While working at Goldstein Affiliates, there were occasions when I agreed with the insured that the insured would pay me cash for various insurance industry professionals, including general adjusters, independent adjusters, salvors, and accountants, who were in a position to inflate the value of the insured's losses.
>
> Upon the approval of a settlement of a claim, I would receive a dual signature check from the insurer on behalf of the insured, for the settlement amount. I would provide the check to the insured, as final settlement of the insured's claim of loss, and, in return, receive the public adjustment fee by check.
>
> On occasion I would receive an additional fee from the insured in cash. Part of this additional fee was given to the insurance company individual, and part of it was divided between myself and other principals of Goldstein Affiliates Incorporated.
>
> The additional fees were not reported as income on the tax returns filed by Goldstein Affiliates Incorporated, nor were they reported as income on my individual tax returns.

On February 9, 1999 respondent was sentenced to a sixteen-month term of imprisonment followed by three years of supervised release and was ordered to pay restitution of $514,000 to six insurance companies. On April 6, 1999 respondent was disbarred in New York. He did not notify the OAE of his indictment or his conviction, contrary to the requirements of *R.*1:20-13(a).

The OAE urged us to recommend disbarment. Respondent maintained that a two-year suspension was warranted.

* * *

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 guilty plea to one count of conspiracy to commit mail fraud, two counts of mail fraud and one count of defrauding the Internal Revenue Service constituted a violation of *RPC* 8.4(b) (commission of a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer) and of *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). Only the quantum of discipline to be imposed remains at issue. *R.*1:20-13(c)(2); *In re Lunetta, supra*, 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 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.

Although respondent's criminal conduct did not involve the practice of law, attorneys involved in serious criminal activity have been disbarred, even when that activity has not involved their law practice. *See, e.g., In re Lurie*, 163 *N.J.* 83 (2000) (attorney disbarred after conviction of eight counts of scheming to commit fraud, nine counts of intentional real estate securities fraud, six counts of grand larceny and one count of offering a false statement for filing); *In re Goldberg*, 142 *N.J.* 557 (1995) (attorney disbarred following two separate convictions for mail fraud and conspiracy to defraud the United States). Ordinarily, repeated criminal conduct, as opposed to one or two isolated instances, results in disbarment. *See, e.g., In re Chucas*, 156 *N.J.* 542 (1999) (attorney disbarred after a criminal conviction for wire fraud, unlawful monetary transactions and conspiracy to commit wire fraud where attorney and co-defendant collected $238,000 from numerous victims by telling them that the funds would be used to buy stock when respondent and his co-defendant never intended to buy stock and used the money for their own purposes); *In re Messinger*, 133 *N.J.* 173 (1993) (disbarment imposed where attorney was convicted of conspiracy to defraud the United States by engaging in fraudulent securities transactions to generate tax losses, aiding in the filing of false tax returns for various partnerships and filing a false personal tax return; the attorney was involved in the conspiracy for three years, directly benefitted from the false tax deductions and was motivated by personal gain); *In re Mallon*, 118 *N.J.* 663 (1990) (attorney disbarred following conviction of conspiracy to defraud the United States and aiding and abetting the submission of false tax returns where the attorney directly

participated in laundering of funds to fabricate two transactions totaling $541,000 in capital gains reported on his clients' tax returns).

Here, respondent participated in a scheme to defraud insurance companies over a period of time. Although the length of time over which respondent's misconduct occurred is not clear from the record, respondent testified that there were "occasions" when he received cash from insureds to pay others to inflate the value of the insureds' losses and that "on occasion," he received an additional fee in cash from the insured. Moreover, in sentencing respondent, the judge stated: "He knew what was going on . . . It's going on for years and he went along with it and he made all that money during that period of time." Respondent's criminal activity, thus, constituted a pattern of misconduct, not an isolated incidence. In addition, he profited from the scheme by receiving the bribes and by failing to report them on his personal income tax returns and on the corporation's income tax returns.

We unanimously determined that disbarment was mandated to address the seriousness of respondent's misconduct and to preserve the public's confidence in the disciplinary system. Two members did not participate.

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

Dated: May 7 2001

By: _____
ROCKY L. PETERSON
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Steven T. Seltzer
Docket No. DRB 00-392

Argued: February 8, 2001

Decided: May 7, 2001

Disposition: Disbar

Members	Disbar	Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling	X						
Peterson	X						
Boylan							X
Brody	X						
Lolla							X
Maudsley	X						
O'Shaughnessy	X						
Schwartz	X						
Wissinger	X						
Total:	7						2

Robyn M. Hill 7/16/01
Robyn M. Hill
Chief Counsel