

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 03-049

IN THE MATTER OF
JOHN F. RICHARDSON
AN ATTORNEY AT LAW

Decision

Argued: April 17, 2003

Decided: June 5, 2003

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

John P. McDonald appeared on behalf of respondent.

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

This matter was before us based on a motion for final discipline filed by the Office of Attorney Ethics (“OAE”), following respondent’s guilty plea to a one-count information charging him with a federal misdemeanor — knowing and wilful failure to

keep and maintain Internal Revenue Service ("IRS") form 8300, in violation of 26 *U.S.C.A.* 7203.

Respondent was admitted to the New Jersey bar in 1968. He has no disciplinary history.

In 1998 respondent represented the owners of a restaurant in a real estate closing. Respondent received a \$701 fee. These individuals received a substantial portion of their receipts in cash. On twenty-four occasions, between August 24, 1988 and December 31, 1998, they gave respondent cash amounts ranging from \$1,000 to \$10,000, for a total of \$164,546. Respondent failed to file and maintain IRS form 8300 because he suspected that his clients were trying to hide income.

On February 8, 2002 respondent appeared before the Honorable Stanley R. Chesler, U.S.M.J., in the United States District Court for the District of New Jersey and pleaded guilty to a violation of 26 *U.S.C.A.* 7203. Respondent admitted that (1) between September and December 1998 he received cash in excess of \$150,000 from clients in connection with a real estate transaction; (2) the cash was used by his clients to buy real property; (3) he acted as the closing attorney for the real estate transaction; and (4) he failed to report on IRS form 8300 cash payments in excess of \$10,000, despite his knowledge of such requirement.

On April 17, 2002 respondent received a sentence of probation for one year and was ordered to pay a \$2,500 fine.

In 1999 respondent was appointed a Superior Court judge in Somerset County. As a result of these events, he resigned from the bench, thereby forfeiting an annual salary of \$141,000.

The OAE urged us to impose a reprimand.

* * *

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 a one-count information charging him with a violation of 26 *U.S.C.A.* 7203 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). 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 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. 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).

Attorneys who have been guilty of similar transgressions have usually been suspended. *See, e.g., In re Chung*, 147 N.J. 559 (1997) (attorney suspended for eighteen months for failing to report the receipt of more than \$10,000 cash in a transaction, in violation of 26 U.S.C.A. 6050I and 7203, a felony); *In re Khoudary*, 167 N.J. 593 (2001) (attorney suspended for two years for structuring a financial transaction to evade federal reporting requirements, in violation of the felony offenses of 18 U.S.C.A. 2, 31 U.S.C.A. 5322(b) and 5324(a) and 31 C.F.R. 103.53; the attorney either received or expected to receive a “commission” for his participation in the transaction); *In re Maycher*, 172 N.J. 317 (2002) (three-month suspension imposed on attorney who arranged for an employee to make nineteen separate bank deposits of less than \$10,000 each, to avoid filing currency transaction reports, in violation of 12 U.S.C.A. 1956, a misdemeanor; the attorney expected to receive a \$100,000 fee upon completion of the transaction).

Unlike Chung and Khoudary, respondent committed a misdemeanor, not a felony. And unlike Maycher, he did not expect to receive a financial reward for his participation (other than a nominal legal fee), and did not engage in the sham of arranging for numerous bank deposits to avoid detection.

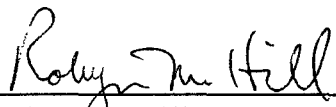
In *In re Rushfield*, 142 N.J. 617 (1995), a reprimand was imposed on an attorney who pleaded guilty to a violation of 29 U.S.C.A. 1023 and 1024, misdemeanor offenses. In that case, the attorney participated in the filing of false reports of a company’s medical benefits plan with the Department of Labor, in order to obtain medical benefits for his wife. The judge imposed the lightest possible criminal sentence on the attorney, after

considering his extraordinary cooperation with the government, which led to the convictions of eight other individuals on various other charges; his admission of wrongdoing, his offer to make restitution; and his genuine remorse.

Compelling mitigating factors are present here as well. Until this incident, respondent enjoyed an unblemished legal career of more than thirty years; as a result of his guilty plea, he had to resign from his position as a Superior Court judge; he was not motivated by pecuniary gain; and he has suffered enough for his wrongdoing. While, ordinarily, a suspension would be warranted for respondent's conduct, based on the strong mitigating circumstances present in this case, we were persuaded that a reprimand, as recommended by the OAE, sufficiently addresses the seriousness of respondent's actions and, at the same time, the maintenance of the public's confidence in the legal profession. We, therefore, determined to impose a reprimand. Two members did not participate.

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

Disciplinary Review Board
Mary J. Maudsley, Chair

By: 
Robyn M. Hill
Chief Counsel

**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

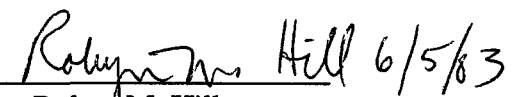
In the Matter of John F. Richardson
Docket No. DRB 03-049

Argued: April 17, 2003

Decided: June 5, 2003

Disposition: Reprimand

<i>Members</i>	<i>Disbar</i>	<i>Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Maudsley</i>			X				
<i>O'Shaughnessy</i>			X				
<i>Boylan</i>							X
<i>Holmes</i>			X				
<i>Lolla</i>			X				
<i>Pashman</i>			X				
<i>Schwartz</i>							X
<i>Stanton</i>			X				
<i>Wissinger</i>			X				
Total:			7				2


 Robyn M. Hill
 Chief Counsel