

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 02-104

IN THE MATTER OF :
:
JOHN R. MAGUIRE :
:
AN ATTORNEY AT LAW :
:

Decision

Argued: June 20, 2002

Decided: August 23, 2002

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

Respondent failed to appear, despite proper notice.¹

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

This matter was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (“OAE”), based on respondent’s disbarment in New York.

¹This matter was originally scheduled for oral argument on May 16, 2002. After receiving our materials, respondent requested an adjournment to the following month, which was granted.

Respondent was admitted to the New Jersey bar in 1976. In 1987 he was temporarily suspended in New York following allegations of eleven instances of misconduct, including conversion of client funds. Because his whereabouts were unknown at the time, the New York disciplinary authorities took no further action. On January 17, 1989 respondent was temporarily suspended in New Jersey, after the OAE filed a motion for reciprocal discipline. Respondent remains suspended to date.

Respondent's New York disbarment stemmed from criminal conviction in the United States District Court for the Southern District of New York for the crimes of conspiracy to defraud the United States (18 U.S.C.A. §371), obstruction of justice (18 U.S.C.A. §1603), and tax fraud [26 U.S.C.A. §7206 (1)].

The facts that form the basis for respondent's criminal conviction are laid out in a March 21, 2000 "Affirmation of Grievance," as follows:

In or about the years 1988-1989 Respondent worked for a company named PC&J Company, Inc. ('PC&J'). In 1988, PC&J was barred from direct federal procurement contracts after its vice-president was convicted of giving a gratuity to an EPA inspector on one of the contracts. Thereafter, Respondent and others created a new company called National Abatement Contracting Corp., which was maintained and utilized as a pretense to fraudulently obtain federal contracts and earn millions of dollars for PC&J without disclosing its connection. In furtherance of this scheme to defraud, and in an effort to conceal it, Respondent and his co-conspirators created and submitted false business records and documents to a grand jury in response to a subpoena. [Count I] [] In addition, Respondent and his co-conspirators failed to produce documents called for

by the subpoena, documents later discovered to be concealed in the trunk of Respondent's car. [Count II] Finally, the tax count [Count III] is based on Respondent's failure to report income of \$14,873.12 for the year 1991.

In his plea allocation, Respondent admitted that he and others conspired to form National Abatement as an 'alter ego' of PC&J to bid on and obtain federal contracts; that in response to a Grand Jury subpoena he and others conspired to prepare and did submit false documents such as 'backdated invoices, contracts and other agreements' that would 'foster the belief that there was an arms-length transaction between National Abatement and PC&J, and that they were separate and distinct' corporations; that he failed to produce documents that were required by subpoena; and finally that he failed to report the income as alleged in Count III.

[Exhibit C at 3-5]

On April 8, 1999 respondent was sentenced to a two-year term of probation, ordered to perform one hundred hours of community service and to pay a \$3000 fine.

The OAE urged us to recommend respondent's disbarment.

* * *

Upon review of the full record, we determined to grant the OAE's motion. We adopted the findings of the New York disciplinary authorities, which determined to disbar respondent based on his conviction in the United States District Court for the Southern District of New York for the crimes of conspiracy to defraud the United States, obstruction of justice and tax fraud.

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

... The Board shall recommend 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:

- (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 matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
- (E) the misconduct established warrants substantially different discipline.

A review of the record does not reveal any conditions that would fall within the ambit of subparagraphs (A) through (D). As to subparagraph E, however, a disbarred New York attorney may seek reinstatement seven years after the effective date of disbarment. See 22 N.Y.C.R. 603.14. In contrast, a disbarred New Jersey attorney is permanently prohibited from practicing law in this state.

In New Jersey, attorneys convicted of analogous crimes have been disbarred. See, e.g., In re Braun, 149 N.J. 414 (1997) (disbarment where the attorney pled guilty in the United States District Court for the Eastern District of Pennsylvania to one count of income tax evasion, in violation of 26 U.S.C.A. §7201); In re Marcus, 134 N.J. 119 (1993) (disbarment where the attorney pled guilty in the United States District Court in Miami, Florida to wire fraud, in violation of 18 U.S.C.A. §1342, arising out of a scheme to defraud a client insurance company); In re Druck, 163 N.J. 81 (2000) (disbarment where the attorney pled guilty in the United States District Court for the District of Minnesota to aiding and abetting wire fraud, in violation of 18 U.S.C.A. §1343; the attorney sent a letter falsely assuring a commercial borrower that \$2,500,000 had been transferred to respondent's trust account); In re Chucas, 156 N.J. 542 (1999) (disbarment where the attorney was found guilty in the United States District Court for the Eastern District of Pennsylvania of two counts of conspiracy to commit wire fraud and engaging in unlawful monetary transactions, in violation of 18 U.S.C.A. §371; thirty-one counts of wire fraud, in violation of 18 U.S.C.A. §1343; and fourteen counts of engaging in unlawful monetary transactions, in violation of 18 U.S.C.A. §1957(a)). Although respondent may eventually be reinstated from disbarment in New York, in accordance with that state's procedural rules, there is no basis to suggest that a crime similar to respondent's would result in anything less than permanent disbarment in New Jersey. An attorney convicted of a serious crime may be deemed incorrigible and,

accordingly, deserving of disbarment. The common thread that runs through cases resulting in disbarment is that the conduct is so offensive and obnoxious both to common decency and to principles of justice that there can be no other result:

Disbarment is reserved for the case in which the misconduct of an attorney is so immoral, venal, corrupt or criminal as to destroy totally any vestige of confidence that the individual could ever again practice in conformity with the standards of the profession. Disbarment is a guarantee to the public that the attorney will not return to the profession.

[In re Templeton, 99 N.J. 365 (1985)]

We unanimously determined that the seriousness of respondent's crimes compels his disbarment. We so recommend. Two members did not participate.

We also required respondent to reimburse the Disciplinary Oversight Committee for administrative expenses.



ROCKY L. PETERSON
Chair
Disciplinary Review Board

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

In the Matter of John R. Maguire
Docket No. DRB 02-104

Argued: June 20, 2002

Decided: August 23, 2002

Disposition: Disbar

<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>Peterson</i>	X						
<i>Maudsley</i>	X						
<i>Boylan</i>	X						
<i>Brody</i>	X						
<i>Lolla</i>							
<i>O'Shaughnessy</i>	X						
<i>Pashman</i>							X
<i>Schwartz</i>							X
<i>Wissinger</i>	X						
<i>Total:</i>	7						2

Robyn M. Hill 8/15/02
Robyn M. Hill
Chief Counsel