

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 01-150

IN THE MATTER OF :
MARC ROY LEVENTHAL :
AN ATTORNEY AT LAW :

Decision

Argued: June 21, 2001

Decided: October 26, 2001

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

Respondent did not appear for oral argument, despite proper notice.

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 upon respondent’s disbarment in the State of New York.

Respondent was admitted to the New Jersey bar in 1976. He has no disciplinary history.

On March 8, 2001 respondent was disbarred in New York after he failed to appear or apply for a hearing or reinstatement within six months of his April 4, 2000 suspension from the practice of law. The suspension, in turn, was based on respondent’s failure to

cooperate with disciplinary authorities and on uncontested evidence that, on March 28, 1999 he had been convicted in Israel of the offense of stealing by agent in the amount of \$35,000 and had been disbarred in Israel on July 26, 1998. The New York suspension followed a complaint that respondent had knowingly misappropriated client escrow funds.

The April 4, 2000 decision of the First Judicial Department of the Appellate Division of the Supreme Court of New York temporarily suspending respondent revealed that, in July 1997, a client filed a complaint alleging that she retained respondent in 1996 to represent her in the sale of real property in Israel. The client asserted that respondent failed to return about \$30,000 due her from the buyers' \$70,000 down payment that respondent had received and was required to hold in escrow. Although the Departmental Disciplinary Committee ("the Committee") sent several letters to respondent enclosing the complaint, notifying him that he had failed to register with the Office of Court Administration and advising him that failure to reply could result in his temporary suspension, respondent did not answer. He also failed to reply to the Committee's later correspondence warning him that, based on his disbarment and criminal conviction in Israel, on his failure to cooperate with the Committee's investigation and on his failure to register as an attorney in New York, he faced suspension or disbarment if he did not respond within thirty days.

After the expiration of six months from the date of respondent's suspension, the Committee moved for his disbarment, pursuant to 22 *N.Y.C.R.R.* 603.4(g), which provides that a suspended attorney, who does not appear or apply in writing for a hearing or for

reinstatement for six months from the date of suspension, may be disbarred. On March 8, 2001 respondent was disbarred in New York.

The OAE urged us to recommend respondent's disbarment.

* * *

Following a review of the full record, we determined to grant the OAE's motion for reciprocal discipline and to recommend respondent's disbarment.

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

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:

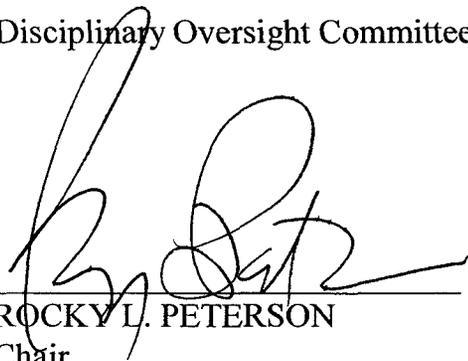
- (A) the disciplinary or disability order of the foreign jurisdiction was not entered;
- (B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;
- (C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect 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;
- (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). With respect to subparagraph (E), although respondent was disbarred in New York, a disbarred New York attorney may seek reinstatement seven years after the effective date of disbarment, pursuant to 22 *N.Y.C.R.* 603.14. In effect, thus, disbarment in New York is equivalent to a seven-year suspension. New Jersey attorneys who knowingly misappropriate client funds are also disbarred, but in our state disbarment is permanent. Accordingly, the imposition of discipline different from that imposed in New York is warranted: the discipline in New Jersey should not be a seven-year suspension, as in New York, but permanent disbarment.

Respondent knowingly misappropriated client escrow funds. Knowing misappropriation of escrow funds mandates disbarment. *In re Hollendonner*, 102 *N.J.* 21 (1985); *In re Wilson*, 81 *N.J.* 451 (1979). We, thus, unanimously recommend that respondent be disbarred. One member did not participate.

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

Dated: 10/26/01

By: 
ROCKY L. PETERSON
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of Marc Roy Leventhal
Docket No. DRB 01-150**

Decided: October 26, 2001

Disposition: disbar

Members	Disbar	Three-month suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not participate
Peterson	X						
Maudsley	X						
Boylan	X						
Brody	X						
Lolla	X						
O'Shaughnessy	X						
Pashman	X						
Schwartz							X
Wissinger	X						
Total:	8						1

Robyn M Hill 12/13/01
Robyn M. Hill
Chief Counsel