SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 01-302 and 01-312

IN THE MATTER OF :
:
ALFRED A. PORRO, JR. AND :
:
JOAN A. PORRO :
:
ATTORNEYS AT LAW :

Decision

Argued: November 15, 2001

Decided: February 15, 2002

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

Respondents, who are currently incarcerated, 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 motion for final discipline filed by the Office of Attorney Ethics ("OAE"), based upon respondents' federal convictions. Respondent Alfred Porro was convicted of three counts of mail fraud (18 U.S.C.A. §§341 and 2), one count of conspiracy to obstruct justice (18 U.S.C.A. §371), nine counts of false statements to a financial institution (18 U.S.C.A. §1014) and three counts of false subscription on a tax

return (26 U.S.C.A. §7206 (1)). Respondent Joan Porro was convicted of three counts of mail fraud (18 U.S.C.A. §§1341 and 2), one count of conspiracy to obstruct justice (18 U.S.C.A. §371), one count of tax evasion (26 U.S.C.A. §7201) and four counts of false subscription on a tax return (26 U.S.C.A. §7206 (1)). Respondents had also been convicted of one count of money laundering. The United States Court of Appeals for the Third Circuit reversed the conviction on that charge, but affirmed the lower court's findings in all other respects.

Alfred was admitted to the New Jersey bar in 1959. He was reprimanded in 1993 for conflict of interest. Joan was admitted to the New Jersey bar in 1980. She has no disciplinary history. On March 23, 1999, the Court temporarily suspended both respondents, pending the final resolution of these matters.

Respondents are married and, until their suspension, practiced law together at their firm, Porro & Porro. They also, jointly or singly, had interests in a number of businesses and real estate projects, which they used in the commission of their crimes. Among those businesses was Riverview Associates, a real estate development partnership. Alfred, who had a ten to fifteen percent interest in the partnership, controlled its business affairs.

The building that housed Porro & Porro was owned by J.P. Investments, Inc., a corporation owned by respondents. In 1986, Joseph Holl, respondents' client, purchased the stock of J.P. Investments, Inc. for $1,130,000, paying approximately $650,000 in cash and assuming the outstanding mortgage. The purchase agreement gave Holl the right to

retransfer the stock to respondents after one year and required respondents to return the $650,000 plus interest.

When Holl exercised his right to retransfer the stock, respondents did not have the $650,000 to remit to him. Instead, respondents stole trust funds. They took $176,000 from the trust accounts of Richard and Bradley Galofaro, who were minors.[1] Joan was the trustee of the trust. In her annual accountings to the guardian for the Galofaro brothers, Joan misrepresented that the $176,000 was invested in Riverview Associates, that the investment was as safe as a certificate of deposit and that the investment was earning interest. Based on Joan's misrepresentations, the guardian included the alleged interest on the tax returns filed on behalf of the Galofaro brothers.

In 1991, respondents were again in need of funds because another of their ventures, a driving range owned by their corporation, L.T./A.P., Inc., was in financial trouble. On July 31, 1991, Joan issued two checks, totaling $100,000, from the Galofaro brothers' trust account, payable to L.T./A.P.[2] In the memo section of the checks, she wrote "purchase of

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[1] According to the United States' brief to the Third Circuit, respondents also took $100,00 from funds given to them by other clients, the Helstoskis, that were to be used to pay the IRS. When the Helstoskis complained that respondents had not released the funds, respondents claimed that the $100,000 represented legal fees and manufactured bills to support the alleged fees. That theft was not included in the indictment. However, as part of their sentences, respondents were required to pay $100,000 restitution to Margaret Helstoski.

[2] According to the United States' brief, respondents also took $25,000 from a trust fund for Mary Galofaro. Mary, a deaf, elderly widow, was the grandmother of the Galofaro brothers. That theft was not included in the indictment and the record is not clear as to Joan's relationship to Mary. According to Joan's brief, the money was taken from an "ITF"checking account that she kept for Mary "as an accommodation." In any event, as part of her sentence, Joan was required to pay $25,000 restitution to Mary.

convertible bonds." The funds were used to pay the general contractor for the driving range. Joan did not advise the Galofaro brothers' guardian of the $100,000 withdrawal until 1995, after a grand jury had issued subpoenas and respondents' offices had been searched. Joan advised the guardian that she had invested the funds and that the investment had "paid off." In fact, Joan repaid the money from her and her husband's personal funds.

In May and June 1994, respondents were served with grand jury subpoenas requiring the production of all documents related to the Galofaro brothers' trust fund, Mary Galofaro's trust fund, Riverview Associates and L.T./A.P. In response to the grand jury subpoenas, respondents not only withheld, but also fabricated documents. They also made numerous false statements to federal investigators.

Between 1987 and 1992, Alfred submitted five false personal financial statements to Midlantic Bank to induce Midlantic to continue to provide a revolving line of credit for Porro & Porro. Alfred also submitted false personal financial statements to Midlantic, in 1990 and 1992, to induce Midlantic to make a $200,000 loan and to renew the loan to Dineco, Inc., another corporation in which Alfred had an interest. Alfred was a personal guarantor of the credit line and the loan. When Midlantic requested that Joan also guarantee the credit line, Alfred forged Joan's signature on the guarantee.

Alfred also submitted false financial information to National Community Bank ("NCB") to induce NCB to loan $850,000 to Riverview Associates. In order to convince NCB not to foreclose on the loan in 1991, Alfred misrepresented that Lawrence Taylor, the

football player, was a partner in the project, forged Taylor's signature on a loan guarantee and submitted it to NCB.

Joan was also convicted of failure to pay approximately $25,000 in income tax due for 1989. Apparently, only Joan signed respondents' 1989 joint income tax return. After the IRS requested payment, Joan paid their personal expenses from the law firm's bank account, in order to hide the money from the IRS. When the IRS levied against her personal accounts, Joan opened a nominee account in her sister's name and deposited her funds in that account to hide the money from the IRS.

Both respondents filed fraudulent income tax returns for 1990 through 1992. In 1990 alone, respondents failed to report $183,000 in income. They also paid hundreds of thousands of dollars in personal expenses from the law firm's bank account and failed to report the payments as income on their personal returns. Finally, Joan filed a fraudulent partnership return for Porro & Porro for 1990, in which she did not report all of the firm's income.

On March 18, 1999, a jury found respondents guilty on all counts of the indictment. On October 14, 1999, Alfred was sentenced to seventy months' imprisonment and ordered to pay $333,633 in restitution. Joan was sentenced to fifty-seven months' imprisonment and ordered to pay $125,000 in restitution. As set forth above, the Third Circuit reversed respondents' conviction on the one count of money laundering. Because their conviction on that count did not affect their sentences, the Third Circuit affirmed the district court in all other respects, including the sentences.

On February 20, 2001, the United States Supreme Court denied respondents' petition for writ of certiorari.

The OAE urged us to recommend that respondents be disbarred.

* * *

After the OAE filed its motion for final discipline, respondents requested that the hearing be adjourned, pending their appeal to the United States District Court for the District of New Jersey, pursuant to 28 U.S.C.A. §2255. We denied respondents' adjournment request. R. 1:20-13(c)(2) states that the OAE may file a motion for final discipline at "the conclusion of all criminal matters...or at the conclusion of all direct appeals." Respondents exhausted all of their direct appeals, prior to the filing of the OAE's motion. Since their appeal pursuant to 28 U.S.C.A. §2255 is in the nature of a collateral attack on their sentence, we determined to hear the OAE's motion.

Respondents also requested that the proceeding before us be postponed until they were released from prison so that they could attend oral argument. We denied that motion, but adjourned the hearing to November 2001 so that respondents could either retain counsel to represent them at the hearing or apply for the appointment of counsel, pursuant to R.1:20-4(g)(2). Respondents did neither.

* * *

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

A criminal conviction is conclusive evidence of guilt in a disciplinary proceeding. R. 1:20-13(c)(1); In re Gipson, 103 N.J. 75, 77 (1986). Respondents' convictions established violations of RPC 8.4(b) (commission of a criminal act that reflects adversely on his or her honesty, trustworthiness or fitness as a lawyer). The sole issue to be determined is the quantum of discipline to be imposed. 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.

In In re Goldberg, 142 N.J. 557 (1995), the Court, in disbarring an attorney who had been convicted of mail fraud and conspiracy to defraud the United States, emphasized that, "when a criminal conspiracy evidences 'continuing and prolonged, rather than episodic, involvement in crime,' is 'motivated by personal greed,' and involved the use of the lawyers' skills 'to assist in the engineering of the criminal scheme,' the offense merits disbarment." Id. at 567 (citations omitted). Respondents committed numerous serious crimes, starting in 1987 and continuing until 1994, when they lied to the federal agents investigating them and

fabricated documents in response to a grand jury subpoena. Furthermore, respondents used their positions as attorneys to commit and to conceal their crimes. Finally, their crimes were motivated by personal greed. Therefore, disbarment is the appropriate sanction.

Moreover, some of the crimes of which respondents were convicted were predicated upon the theft of trust funds. Disbarment for stealing funds entrusted to a lawyer is required even when the funds do not belong to a client. In In re Williamson, 162 N.J. 9 (1997), friends of the attorney, the Thompsons, gave him funds to purchase investment property on their behalf. The property was to be purchased in the name of a corporation, in order to protect the Thompsons from personal liability, and the funds were deposited in a brokerage account in the name of the corporation. The attorney did not disclose to the Thompsons that he and his partner were the only shareholders of the corporation. Instead of applying the funds toward the purchase, the corporation financed the transaction with a mortgage loan. The funds in the brokerage account were dissipated. Although it was not clear that the Thompsons were clients of the attorney, it was held that the attorney nevertheless had a fiduciary duty to safekeep funds entrusted to him for specific purposes. The attorney was disbarred for knowing misappropriation of escrow funds. See, also, In re Imbriani, 149 N.J. 521 (1997), In re Siegel, 133 N.J. 162 (1993), In re Spina, 121 N.J. 378 (1990).

In light of the above, we unanimously determined to recommend that respondents be disbarred from the practice of law. On member did not participate.

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

By: _____
ROCKY L. PETERSON
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Alfred A. Porro, Jr. and Joan A. Porro
Docket Nos. DRB 01-302 and 01-312

Decided: February 15, 2002

Disposition: Disbar

Members	*Disbar*	*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 3/25/02
Robyn M. Hill
Chief Counsel