

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 94-157

IN THE MATTER OF :
LEONARD T. BZURA, :
AN ATTORNEY AT LAW :

Decision
of the
Disciplinary Review Board

Argued: July 20, 1994

Decided: June 22, 1995

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

Respondent failed to appear.¹

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

This matter was before the Board on a Motion for Final Discipline filed by the Office of Attorney Ethics (OAE). That motion was based on respondent's conviction, following a jury trial, of theft by deception (N.J.S.A. 2C:20-4), theft by failure to make required deposition of property received (N.J.S.A. 2C:20-9), misapplication of entrusted property (N.J.S.A. 2C:21-15) and false swearing (N.J.S.A. 2C:28-2).

¹ Notice was provided to respondent at his last known address (888 Westfield Avenue, Elizabeth, New Jersey 07208). A letter, dated July 16, 1994, was received by the Office of Board Counsel on July 21, the day after the Board hearing. At that time, respondent indicated that he would not appear before the Board, claiming that his appearance would require him to "give up valuable constitutional rights" in light of a pending criminal matter.

Respondent was admitted to the New Jersey bar in 1978. He has been disciplined several times since that admission. He was first temporarily suspended by the Court on November 29, 1989 for failure to comply with a fee arbitration determination. On May 21, 1990, respondent was suspended for two years for unethical conduct, which included misrepresentation and pattern of neglect as well as a conviction for the unlawful possession of a weapon. In January 1991, the Board recommended that respondent receive a consecutive one-year suspension for his failure to cooperate with an ethics investigation as well as his misrepresentation to a trial judge that he had paid his Client Protection Fund assessment and was eligible to practice law when, in fact, he was not.

In addition, respondent has been the subject of a number of claims before the New Jersey Lawyers' Fund for Client Protection. The Fund advised that twelve claims were filed between 1987 and 1992. Of those, five claims were rejected. The remaining claims were settled for various amounts.

In the instant case, respondent was indicted in Union County, on January 5, 1990, by way of a five-count indictment, Indictment No. 90-01-004I, on charges of theft by deception, contrary to N.J.S.A. 2C:20-4; theft by failure to make required disposition of property received, in violation of N.J.S.A. 2C:20-9; misapplication of entrusted property, in violation of N.J.S.A. 2C:21-15; perjury, in violation of N.J.S.A. 2C:28-1; and false swearing, in violation of N.J.S.A. 2C-28-2. Following a jury trial, respondent was convicted, on April 5, 1991, of four of the five charges, with the

exception of the perjury charge. On June 14, 1991, he was sentenced to three years in prison and was ordered to pay restitution in the amount of \$7,637.50. A \$60 penalty was also assessed.

Thereafter, respondent appealed his conviction. The Appellate Division reversed the conviction for false swearing, based on the finding of an improper charge to the jury. The remaining convictions for theft were upheld. His subsequent petition for certification to the Supreme Court was denied on May 11, 1993. The Union County Prosecutor's Office advised the OAE that it did not intend to retry the charge of false swearing. Thus, the OAE's motion is based on respondent's convictions of theft by deception, theft by failure to make required disposition of property received and misapplication of entrusted property. The criminal charges arose from respondent's agreement to defend George Cannan in an action brought by E.I. DuPont DeNemours & Company, Inc. (DuPont). Although respondent did not perform the necessary legal work, he billed Cannan for legal services allegedly rendered and received more than \$9,000 in payment from Cannan. In addition, respondent knowingly disposed improperly of more than \$1,000 in trust funds belonging to Cannan. Cannan did not become aware of respondent's fraud until he learned that a judgment, in the amount of \$180,000, had been entered against him in favor of DuPont.

In addition to the criminal acts in the Cannan matter, the OAE relied on respondent's guilty plea to a charge of theft by deception, also made by way of indictment, docketed as 91-02-

00249I, in Union County. On December 19, 1991, respondent pleaded guilty to that charge. The charge related to respondent's acceptance of \$5,000 in legal fees from a client without performing any legal services. This "fee" was taken following respondent's suspension from the practice of law on November 29, 1989. On April 3, 1992, respondent was sentenced to three years' probation, mandatory participation in an outpatient drug program, attendance at Alcoholics Anonymous/Narcotics Anonymous meetings, random urine monitoring, a mental health evaluation and restitution of \$5,000. Respondent's subsequent appeal to the Appellate Division was found to be without merit. The conviction was affirmed on December 27, 1993.

In this case, respondent had agreed to represent Lilia Carreira's son in Florida on a legal matter. At the time, respondent gave Carreira the impression that he was a licensed attorney and able to practice law, when, in fact, he was under suspension. Although respondent was aware that Carreira had been misled, he never informed her that his license to practice law had been suspended. In December 1989, he collected \$3,000 from Carreira and then went to Florida. While in Florida, he rendered no legal services, filed no court papers and did not meet either Carreira's son or his local attorney. Following his return to New Jersey, respondent advised Carreira that he had to go back to Florida and collected another \$2,000 from Carreira at that time.

* * *

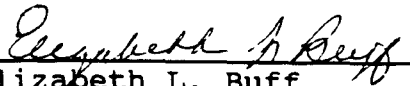
A criminal conviction is conclusive evidence of respondent's guilt. R. 1:20-6(c)(1) [(now R. 1:20-13(c)(1))]. An independent examination of the underlying facts is not necessary to ascertain guilt. In re Leahey, 118 N.J. 578 (1990). The sole issue for determination by the Board is the extent of final discipline to be imposed. R. 1:20-6(c)(2)(ii) [now R. 1:20-13(c)(2)ii]. Respondent's guilty plea established that he engaged in illegal conduct that adversely reflected on his fitness as a lawyer, as did his convictions for theft. RPC 8.4(b). In the Carreira matter, respondent has admitted that he stole \$5,000 from a client, while masquerading as an attorney, although under suspension from the practice of law. Similarly, in the Cannan matter, respondent accepted funds both as attorney's fees and in trust, apparently without any intention of performing work for Cannan. This is proved out by his convictions for theft by deception, theft by failure to make required disposition for property received and misapplication of entrusted funds.

Under New Jersey disciplinary law, disbarment is the only appropriate remedy for knowing misuse of client funds. In re Wilson, 81 N.J. 451, 455 (1979). Here, there can be no dispute that, individually, these offenses warrant disbarment, in light of the intentional nature of respondent's actions. Moreover, given respondent's extensive disciplinary history, there can be no question that disbarment is the only appropriate penalty. The maintenance of public confidence requires the strictest discipline in misappropriation cases. In re Wilson, supra, 81 N.J. 451 at

461. Accordingly, the Board has unanimously voted to recommend disbarment. Two members did not participate.

In addition, respondent is required to reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: June 22, 1995

By: 
Elizabeth L. Buff
Vice-Chair
Disciplinary Review Board