Supreme Court of New Jersey
Disciplinary Review Board
Docket Nos. 19-460 and 19-458
District Docket Nos. XIV-2018-0490E and
XIV-2019-0158E

In the Matter of	:
Robert Patrick Hoopes	:
An Attorney at Law	:

Decision

Argued: June 18, 2020

Decided: November 18, 2020

Hillary K. Horton appeared on behalf of the Office of Attorney Ethics.

Respondent did not appear, despite proper notice.

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

These matters are consolidated for the imposition of a single form of discipline. DRB 19-460 was before us on a motion for final discipline filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-13(c)(2), following respondent's convictions, in the United States District Court for the Eastern

District of Pennsylvania (EDP), of one count of conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956(h), and four counts of extortion under color of official right, in violation of 18 U.S.C. § 1951(a). These offenses constitute violations of RPC 8.4(b) (criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

DRB 19-458 was before us on a certification of the record filed by the OAE, pursuant to R. 1:20-4(f). The formal ethics complaint charged respondent with violations of RPC 8.1(b) (failure to cooperate with disciplinary authorities) and RPC 8.4(d) (conduct prejudicial to the administration of justice), for his failure to file his R. 1:20-20 affidavit of compliance following his temporary suspension from the practice of law.

For the reasons set forth below, we determine to grant the OAE's motion for final discipline and recommend respondent's disbarment to the Court.

Respondent earned admission to the New Jersey bar in 1989 and to the Pennsylvania bar in 1990. At the relevant times, he maintained an office for the practice of law in Doylestown, Pennsylvania.

In 2009, respondent received an admonition for engaging in a concurrent conflict of interest (RPC 1.7(a)) and two improper business

transactions with a client (RPC 1.8(a)). In the Matter of Robert Patrick Hoopes, DRB 08-415 (March 27, 2009).

Effective October 16, 2018, respondent was temporarily suspended, based on his convictions underlying this matter, and remains suspended to date. In re Hoopes, 235 N.J. 335 (2018).

Since August 28, 2017, respondent has been administratively ineligible to practice law in New Jersey for failure to pay his annual assessment to the New Jersey Lawyers' Fund for Client Protection. Since November 5, 2018, he also has been ineligible to practice law for failure to comply with mandatory continuing legal education requirements.

On January 7, 2019, the Pennsylvania Supreme Court temporarily suspended respondent from the practice of law.

MOTION FOR FINAL DISCIPLINE (DRB 19-460 and District Docket No. XIV-2018-0490E)

On August 8, 2018, in the EDP, respondent entered guilty pleas to one count of conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956(h), and four counts of extortion under color of official right, in violation of 18 U.S.C. § 1951(a). Pursuant to their plea agreement, the United States Attorney's Office dismissed additional charges against respondent, who agreed not to contest the forfeiture of $40,000 implicated in the conspiracy to

commit money laundering scheme, plus $500 implicated in the extortion scheme.

Since his appointment on February 10, 2016, respondent served as the Director of Public Safety in Lower Southampton Township (LST), Pennsylvania, and exercised authority over all LST police, fire, and emergency operations. He further exercised "actual and perceived influence" over actions taken by LST's Board of Supervisors, its officers, its solicitor, and its employees. Respondent's co-defendants were John Waltman, a Magisterial District Judge in Bucks County, Bernard Rafferty, a Pennsylvania Deputy Constable, and other unnamed persons.[1]

The Conspiracy to Commit Money Laundering Count

In June 2015, Waltman, Rafferty, and respondent planned unlawful financial transactions with two individuals who turned out to be undercover law enforcement agents. The three defendants conspired to launder approximately $400,000 in cash for the agents. Respondent received approximately $40,000 in fees from the laundering and the other two defendants received approximately $20,000 each. Respondent believed that

[1] Waltman was sentenced to seventy-eight months in prison. Rafferty was sentenced to eighteen months in prison.

the funds to be laundered were the proceeds of health care fraud and illegal drug trafficking. He also was aware that the laundering transactions were designed to conceal or disguise the true nature, location, source, ownership, and control of those proceeds.

Specifically, the defendants attempted to broker the sale of a bar to the agents, who purportedly would use it to launder additional proceeds from unlawful activities. On April 11, 2016, law enforcement recorded respondent stating, "[t]echnically, [Undercover Number 1] doesn't need a thriving business, he just needs a business to wash it." The defendants sought a broker's fee of at least ten percent of the sale price. The sale never occurred, but respondent agreed, during his plea allocution, that these facts established the factual basis for his guilty plea to conspiracy to commit money laundering.

The Extortion Counts

Between July 2014 and July 2015, respondent and Waltman sought to convince a local business owner to sell his firm's commercial property in LST to a buyer with whom respondent and Waltman had a financial arrangement. During at least one telephone call, respondent impersonated LST's solicitor and threatened the business owner that, if his firm did not

sell the property to the buyer, his firm would encounter regulatory and zoning obstacles in LST in connection with any attempted redevelopment of the property. Respondent agreed, during his plea allocution, that these facts established the factual basis for his guilty plea to one count of extortion.

In August 2015, respondent and Waltman, in anticipation of respondent's becoming the new Director of Public Safety for LST, met with and offered an unnamed individual a new towing contract with LST, to replace the current towing vendor, in exchange for a "kickback" of future towing income. As Director of Public Safety, respondent would have the authority to select the towing company for LST and its police department. Respondent agreed, during his plea allocution, that these facts established the factual basis for his guilty plea to an additional count of extortion.

On September 30, 2016, a cooperating witness informed respondent and Waltman that the Pennsylvania State Police had issued a traffic citation to an associate of one of the undercover agents within Waltman's jurisdiction. Respondent and Waltman, both public officials at the time, agreed to "fix" the traffic case for the associate, in exchange for cash bribes. They agreed that Waltman would dismiss the citation during court

proceedings in exchange for approximately $1,000 in cash, and that the agents would pay to the defendants future laundering fees and broker fees funded with health care fraud and illegal drug trafficking proceeds. After the summary trial, respondent sent the cooperating witness a text message and called him to confirm that Waltman had dismissed the citation, pursuant to their agreement. During the call, respondent asked when the next money laundering transactions were scheduled. Respondent agreed, during his plea allocution, that these facts established the factual basis for his guilty plea to an additional count of extortion.

Between November 8 and December 16, 2016, respondent and Waltman, in their official public capacities, entered into an unlawful transaction with Salesman Number 1 (SN1). They agreed to solicit and accept bribes from Company Number 1 (CN1), in exchange for influencing LST's Board of Supervisors, officers, and Solicitor Number 1 to accept CN1's lease offer for its proposed billboard in LST. During their several phone conversations, SN1 asked respondent whether he or someone else could influence LST's Board of Supervisors to accept CN1's increased lease offer, $60,000 per year for thirty years, for the proposed billboard. Respondent stated, "I'll make it happen," and added, "there is a trickle-down, right? . . . [w]e were going to get money if we make it happen."

On November 9, 2016, respondent, Waltman, and Solicitor Number 1 met to discuss the amount of the payment they expected from SN1 and CN1. On December 2, 2016, respondent met with Solicitor Number 1 to discuss CN1's payments to Rafferty's consulting agency, and the pending federal investigation of respondent, Waltman, and others. Ultimately, LST took no action to approve the proposed terms of the billboard lease. Respondent agreed, during his plea allocution, that these facts established the factual basis for his guilty plea to the final count of extortion.

On June 13, 2019, the Honorable Gene E.K. Pratter, U.S.D.J. sentenced respondent to five concurrent, fifty-four-month terms of imprisonment, followed by five concurrent, eighteen-month periods of supervised release, plus fifty hours of community service on each count. Judge Pratter required respondent to comply with the following special conditions during supervision: the above-detailed forfeitures; payment of a $10,000 fine and a $500 special assessment; compliance with certain financial restrictions; and participation in an alcohol treatment and monitoring program. In crafting the sentence, the judge considered respondent's military service as a veteran of the Vietnam War, and his community service, weighed against his exploitation of his public office.

Respondent currently is incarcerated in a federal correctional institution in Maryland.

The OAE argued that respondent should be disbarred due to his guilty pleas to one count of conspiracy to commit money laundering and four counts of extortion. The OAE relied primarily on two disbarment cases, In re Cammarano, 219 N.J. 415 (2014), and In re Ferriero, 239 N.J. 567 (2019), which are discussed below. Further, the OAE remarked that respondent did not report his indictment or guilty plea to the OAE, as R. 1:20-13(a)(1) requires. The OAE contended that respondent used his public position to achieve "his own personal gain in a prolonged campaign of corruption and extortion . . . [and as] a retired law enforcement officer, and attorney, 'betrayed his badge' and his status as an officer of the court," and, therefore, should be disbarred.

Respondent made no submission for our consideration.

DEFAULT (DRB 19-458 and District Docket No. XIV-2019-0158E)

Service of process was proper. During its investigation, the OAE determined that respondent neither resided at his home address of record nor maintained an office at his office address of record. Accordingly, on August 26, 2019, prior to respondent's temporary suspension, the OAE

sent a copy of the formal ethics complaint, by certified and regular mail, to a new address that the United States Postal Service (USPS) had provided. The certified mail return receipt was returned to the OAE showing delivery on October 4, 2019, and bearing an illegible signature. The regular mail was not returned.

On October 8, 2019, the OAE sent a letter to respondent, by certified and regular mail, to the same address, informing him that, unless he filed a verified answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the record would be certified to us for the imposition of discipline, and the complaint would be deemed amended to charge a willful violation of RPC 8.1(b). The certified letter was returned to the OAE marked "unclaimed." The regular mail was not returned.

As of December 5, 2019, respondent had not filed an answer to the complaint, and the time within which he was required to do so had expired. Accordingly, the OAE certified this matter to us as a default.

We now turn to the allegations of the complaint.

As previously mentioned, effective October 16, 2018, respondent was temporarily suspended from the practice of law in New Jersey, and remains suspended to date. The Court's October 16, 2018 Order suspending respondent

required him to comply with R. 1:20-20, obligating respondent, within thirty days, to file with the Director of the OAE "a detailed affidavit specifying by correlatively numbered paragraphs how the disciplined attorney has complied with each of the provisions of this rule and the Supreme Court's order." As detailed below, respondent failed to file the affidavit.

On March 29, 2019, the OAE sent a letter to respondent, by certified and regular mail, to his home and office addresses of record, informing him of his obligation to file the R. 1:20-20 affidavit and requesting a reply by April 12, 2019. On May 6 and May 10, 2019, respectively, the certified letters were returned to the OAE marked "unclaimed." The letters sent by regular mail also were returned, unable to be forwarded. A handwritten note from the USPS indicated respondent's new address, as of April 3, 2019.

On June 18, 2019, the OAE left a voice message on respondent's home telephone, requesting the status of his affidavit, and confirmation of his forwarding address. The OAE attempted to call respondent at his firm, but the telephone number was no longer in service.

On June 20, 2019, the OAE mailed respondent a second letter, by certified and regular mail, at his new address, warning him that his failure to file the R. 1:20-20 affidavit by July 3, 2019 may result in the OAE's filing of a disciplinary complaint against him. On July 1, 2019, respondent called the

OAE and confirmed that he had received the OAE's correspondence, but noted that there was no form of affidavit enclosed. Also on July 1, 2019, it appears that, in a subsequent call, someone from the OAE explained to respondent that the OAE does not provide a form of affidavit, and that the only enclosure with the letter was a copy of R. 1:20-20. Again, on July 1, 2019, respondent confirmed his new address, acknowledged his responsibility for filing the affidavit, and requested a copy of the non-compliance notice, by fax, which was provided that day, with another copy of R. 1:20-20. Respondent, however, failed to file his affidavit.

On July 26, 2019, the OAE received the certified mail return receipt, which Lynne Hoopes signed on June 24, 2019, for the June 20, 2019, second non-compliance notice.

The complaint, thus, alleged that respondent neither replied to the OAE's letters, nor filed his R. 1:20-20 affidavit. Further, he "failed to take the steps required of all suspended or disbarred attorneys," such as notifying courts, clients and adversaries of his suspension, or providing his clients with their files.

Based on the above allegations, the complaint charged respondent with failure to cooperate with disciplinary authorities (RPC 8.1(b)) and conduct prejudicial to the administration of justice (RPC 8.4(d)).

* * *

Following a review of the record, we determine to grant the OAE's motion for final discipline. Final discipline proceedings in New Jersey are governed by R. 1:20-13(c). Under that Rule, a criminal conviction is conclusive evidence of guilt in a disciplinary proceeding. R. 1:20-13(c)(1); In re Magid, 139 N.J. 449, 451 (1995); In re Principato, 139 N.J. 456, 460 (1995).

Respondent's convictions for one count of conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956(h), and four counts of extortion under color of official right, in violation of 18 U.S.C. § 1951(a), thus, establish five violations of RPC 8.4(b) and five violations of RPC 8.4(c). Pursuant to RPC 8.4(b), it is professional misconduct for an attorney to "commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer." Moreover, pursuant to RPC 8.4(c), it is professional misconduct for an attorney to "engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

In respect of the default matter, the facts recited in the complaint support the charges of unethical conduct. Respondent's failure to file an answer to the complaint is deemed an admission that the allegations of the complaint are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).

Specifically, R. 1:20-20(b)(15) requires a suspended attorney, within thirty days of the order of suspension, to "file with the Director [of the OAE] the original of a detailed affidavit specifying by correlatively numbered paragraphs how the disciplined attorney has complied with each of the provisions of this rule and the Supreme Court's order." In the absence of an extension by the Director of the OAE, failure to file an affidavit of compliance pursuant to R. 1:20-20(b)(15) within the time prescribed "constitute[s] a violation of RPC 8.1(b) . . . and RPC 8.4(d)." R. 1:20-20(c). Thus, respondent's failure to file the affidavit is a per se violation of RPC 8.1(b) and RPC 8.4(d).

In sum, we find that respondent violated RPC 8.1(b); RPC 8.4(b) (five instances); RPC 8.4(c) (five instances); and RPC 8.4(d).

In respect of the motion for final discipline, which clearly encompasses the crux of respondent's misconduct, the sole remaining issue is the extent of discipline to be imposed. R. 1:20-13(c)(2); In re Magid, 139 N.J. at 451-52; and In re Principato, 139 N.J. at 460.

In determining the appropriate quantum of discipline, we considered the interests of the public, the bar, and the respondent. "The primary purpose of discipline is not to punish the attorney but to preserve the confidence of the public in the bar." Ibid. (citations omitted). Fashioning the appropriate penalty

involves a consideration of many 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, 118 N.J. 443, 445-46 (1989).

The Court has noted that, although it does not conduct "an independent examination of the underlying facts to ascertain guilt," it will "consider them relevant to the nature and extent of discipline to be imposed." Magid, 139 N.J. at 452. In motions for final discipline it is acceptable to "examine the totality of the circumstances" including the "details of the offense, the background of respondent, and the pre-sentence report" before "reaching a decision as to [the] sanction to be imposed." In re Spina, 121 N.J. 378, 389 (1990). The "appropriate decision" should provide "due consideration to the interests of the attorney involved and to the protection of the public." Ibid.

The quantum of discipline for an attorney convicted of a serious criminal offense ranges from lengthy suspensions to disbarment. See, e.g., In re Mueller, 218 N.J. 3 (2014) (three-year suspension) and In re Goldberg, 142 N.J. 557 (1995) (disbarment). In Goldberg, the Court discussed aggravating factors that normally lead to disbarment in criminal cases:

> Criminal convictions for conspiracy to commit a variety of crimes, such as bribery and official

> misconduct, as well as an assortment of crimes related to theft by deception and fraud, ordinarily result in disbarment. We have 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 lawyer's skills "to assist in the engineering of the criminal scheme," the offense merits disbarment. (citations omitted).
>
> [In re Goldberg, 142 N.J. at 567.]

In addition, any attorney who is convicted of official bribery or extortion should expect to lose his or her license to practice law in New Jersey. Cammarano, 219 N.J. at 423. In Cammarano, the attorney was in the midst of a 2009 campaign for the mayoral election in Hoboken, New Jersey. On several occasions between May and July 2009, he met with Solomon Dwek, a cooperating federal government witness posing as a real estate developer who sought to purchase influence in the form of expedited zoning approvals for land-development matters in Hoboken. He did so through a series of contributions to Cammarano's mayoral campaign. In all, Cammarano accepted $25,000 from Dwek, including funds to bring the campaign out of debt after Cammarano won a run-off election in June 2009. On July 23, 2009, about a month into his tenure as mayor, the FBI arrested Cammarano, Id. at 417.

A week later, Cammarano resigned, and later was convicted of one count of conspiracy to obstruct interstate commerce by extortion under color of

official right, a violation of 18 U.S.C.A. § 1951(a). He was sentenced to a two-year federal prison term and two years of supervised release thereafter, and ordered to pay $25,000 in restitution. In mitigation, Cammarano had an unsullied ethics history, performed service to the community, provided fifteen letters attesting to his good character, and expressed remorse. Although we voted to suspend Cammarano for three years, finding that he had been the target of a government operation, and that his character was redeemable, the Court disbarred him, due to the effect of his conviction on public confidence in members of the bar and attorneys who serve as public officials. Id. at 423-24.

Likewise, in Ferriero, the attorney was convicted of bribery, racketeering, and wire fraud, committed while he chaired the Bergen County Democratic Organization. Ferriero, 239 N.J. at 567-68; In the Matter of Joseph Anthony Ferriero, DRB 18-343 (May 1, 2019) (slip op. at 2). Specifically, Ferriero pressured municipal officials in several Bergen County municipalities, over whom he had political influence, to enter into government software contracts with a particular company, in exchange for a percentage of gross revenue from the contracts. Id. (slip op. at 2-3). Although the attorney had no ethics history in thirty-six years at the bar, offered pro bono legal services, was a firefighter, and provided numerous testimonials of his good character and service, he was disbarred. Ferriero, 239 N.J. at 567-68.

Like the attorneys in Cammarano and Ferriero, respondent was serving in his official capacity when he committed the crimes of conspiracy to commit money laundering and extortion. Further, as in Goldberg, respondent's crimes were related to fraud, lasted over a period of years, and were motivated by personal gain.

Moreover, to craft the appropriate discipline in this case, we considered both mitigating and aggravating factors. In mitigation, respondent is a Vietnam War veteran, and has performed many acts of community service. However, in the disbarment cases discussed herein, attorneys with compelling mitigation were disbarred for their involvement in official bribery.

In aggravation, respondent committed multiple crimes which occurred over a period of more than two years, while he was a public official and lawyer. Respondent used his position as the Director of Public Safety to improperly influence others for his own pecuniary gain. Respondent should have had a heightened awareness of his criminal conduct, based on his experience in law enforcement, and his status as an attorney. Also, respondent failed to report his indictment or guilty plea to the OAE.

Respondent's mitigation is insufficient to overcome the gravity of his crimes. As the Court has stated, "[s]ome criminal conduct is so utterly incompatible with the standard of honesty and integrity that we require of

attorneys that the most severe discipline is justified by the seriousness of the offense alone." In re Hasbrouck, 152 N.J. 366, 371-72 (1998).

Consistent with precedent from thirty years of jurisprudence, we determine that respondent must be disbarred to protect the public and preserve confidence in the bar. Therefore, we need not address the proper quantum of discipline for his failure to file the R. 1:20-20 affidavit in the default matter.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Bruce W. Clark, Chair

By: **/s/ Ellen A. Brodsky**
Ellen A. Brodsky
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Robert Patrick Hoopes
Docket Nos. DRB 19-458 and 19-460

Argued: June 18, 2020 (19-460)

Decided: November 18, 2020

Disposition: Disbar

Members	Disbar	Recused	Did Not Participate
Clark	X		
Gallipoli	X		
Boyer	X		
Hoberman	X		
Joseph	X		
Petrou	X		
Rivera	X		
Singer	X		
Zmirich	X		
Total:	9	0	0

/s/ Ellen A. Brodsky
Ellen A. Brodsky
Chief Counsel