

11/17/94

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 94-329

IN THE MATTER OF :
 :
PEDRO J. BATALLA, JR. :
 :
AN ATTORNEY AT LAW :

Decision of the
Disciplinary Review Board

Argued: November 16, 1994

Decided: October 2, 1995

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

Pedro J. Batalla, Jr. appeared pro se.

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), based upon respondent's guilty plea to a one-count felony information, charging him with income tax evasion, in violation of 26 U.S.C.A. § 7201.

Respondent has been a member of the New Jersey bar since 1987 and the New York bar since 1986. Respondent underreported his taxable income by approximately \$25,000 on his individual return for the year 1990 and by approximately \$100,000 on his partnership return for the year 1991, thereby evading \$39,066 in taxes. Respondent pleaded guilty to one count of income tax evasion, for which he was sentenced to one-year probation, fined \$2,000 and ordered to satisfy all debts owed to the Internal Revenue Service.

Respondent reported his conviction to the OAE, in accordance with R. 1:20-6(a) (now R. 1:20-13(a)(1)). He was temporarily suspended from the practice of law in New Jersey on August 5, 1994, pursuant to R. 1:20-6(b)(1) (now R. 1:20-13(b)).

The OAE requests that respondent receive a two-year suspension from the practice of law.

* * *

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

A criminal conviction is conclusive evidence of a respondent's guilt in disciplinary proceedings. R. 1:20-6(c)(1) (now R. 1:20-13(c)(1)); In re Rosen, 88 N.J. 1, 3 (1981). Once an attorney is convicted of a crime, the sole question remaining is the measure of discipline to be imposed. R. 1:20-6(c)(2)(ii) (now R. 1:20-13(c)(2)); In re Infinito, 94 N.J. 50, 56 (1983).

Though respondent's misconduct is not related to the practice of law, any misbehavior, whether private or professional, that reveals an absence of the good character and integrity essential for an attorney constitutes a basis for discipline. In re La Duca, 62 N.J. 133, 140 (1979). A violation of the federal tax law is viewed as a serious breach of ethics, In re Queenan, 61 N.J. 579, 580 (1972), which adversely reflects on respondent's honesty, trustworthiness or fitness as a lawyer, in violation of RPC 8.4(b). "[D]erelictions of this kind by members of the bar cannot be

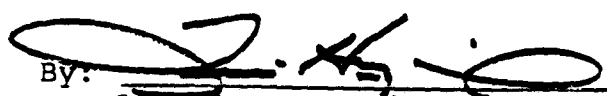
overlooked. A lawyer's training obliges him to be acutely sensitive of the need to fulfill his personal obligations under the federal income tax law." In re Gurnik, 45 N.J. 115, 116 (1965).

Respondent evaded federal income taxes, in violation of 26 U.S.C.A. § 7201, an offense that warrants a two-year suspension from the practice of law. See In re Nedick, 122 N.J. 96 (1991) (attorney pleaded guilty to one count of tax evasion for failing to include \$7,500 in cash legal fees in his taxable income of \$13,000 and received a two-year suspension); In re Tuman, 74 N.J. 143 (1977) (filing a false and fraudulent joint tax return merited a two-year suspension from the practice of law); In re Becker, 69 N.J. 118 (1976) (a plea of guilty to the filing of false and fraudulent tax returns warranted suspension from practice of law for a period of two years); In re Gurnik, supra, 45 N.J. 115 (1965) (attorney was suspended for a period of two years after he pleaded *nolo contendere* to a charge of tax evasion for one calendar year).

In light of the foregoing, the Board has unanimously determined to suspend respondent for two years, retroactive to the date of his temporary suspension in New Jersey, August 5, 1994. Two members did not participate.

The Board has also determined to require respondent to reimburse the Disciplinary Oversight Committee for appropriate administrative costs.

Dated: 10/2/95

By: 
Lee M. Hymerling
Chair
Disciplinary Review Board