

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 94-190

IN THE MATTER OF	:	
	:	
MICHAEL G. MARINANGELI	:	Decision of the
	:	Disciplinary Review Board
AN ATTORNEY AT LAW	:	

Argued: July 20, 1994

Decided: June 22, 1995

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

Respondent 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 one count of theft of mail, contrary to 18 U.S.C.A. 1708.

Respondent was admitted to the New Jersey and New York bars in 1984. In 1992, respondent was charged, by way of a six- count federal indictment, with possession of forged instruments, bank fraud and related charges. Respondent entered a guilty plea to count one of the indictment, which charged theft of mail, in violation of 18 U.S.C.A. 1708. He admitted that, between August

and October 1991, he removed approximately four credit cards and two checks from mailboxes in the building in which his mother resided. As articulated during the plea hearing, respondent knew when he stole the mail from those mailboxes that he was violating the law. On July 31, 1992, respondent pleaded guilty to a violation of 18 U.S.C.A. 1708. He was not sentenced until December 10, 1992. At that time, he was sentenced to three years' probation and was required to undergo urinalysis testing, treatment of his narcotics addiction, if necessary, and restitution. The ordered restitution was to cover repayment of money that respondent obtained from the illegal use of the various credit cards (two Mastercards, one Visa, and one Discover card) and two bank checks, which he used to support his addictions to alcohol and crack cocaine. The amount involved totalled \$21,734.21.

On July 13, 1993, respondent was temporarily suspended in New York as a result of his criminal conviction. Similarly, on August 19, 1993, respondent was temporarily suspended in New Jersey, pursuant to R. 1:20-6(b) [currently R. 1:20-13(b)]. These suspensions continue to date.

* * *

Conviction in a criminal matter, including a conviction based on a guilty plea, is conclusive evidence of a respondent's guilt in a disciplinary proceeding. In re Goldberg, 105 N.J. 278, 280 (1987); In re Tusso, 104 N.J. 59, 61 (1986); In re Rosen, 88 N.J.

1,3 (1981); R. 1:20-6(c)(1) [now R. 1:20-13(c)(1)]. An independent examination of the underlying facts is, therefore, unnecessary to ascertain guilt. In re Bricker, 90 N.J. 6,10 (1982). The quantum of discipline to be imposed is the sole issue remaining. In re Goldberg, supra, 105 N.J. at 280; In re Kauffmann, 104 N.J. 509, 510 (1986); In re Kushner, 101 N.J. 397, 400 (1986). It is clear from this record that respondent's illegal activity is not related to the practice of law. See In re Kinnear, 105 N.J. 391, 395 (1987). Nonetheless, good moral character is a basic condition for membership in the bar. In re Gavel, 22 N.J. 248, 266 (1956). Any misbehavior, whether private or professional, which reveals lack of the good character and integrity that is essential for an attorney constitutes a basis for discipline. In re LaDucca, 62 N.J. 133, 140 (1973).

Respondent's conviction clearly and convincingly demonstrates that he has committed "a criminal act that reflects adversely on [his] honesty, trustworthiness or fitness as a lawyer in other respects and that he has engaged in conduct involving dishonesty, fraud, deceit or misrepresentation." RPC 8.4 (b) and (c). Respondent's criminal activity seriously detracts from the "honesty, integrity and dignity that are the hallmarks of the legal profession." In re Mintz, 101 N.J. 527, 536 (1986).

The Board is aware of respondent's drug and alcohol addictions and of the problems he experienced during the period of time covered by these offenses. The Board is also aware that the misconduct was of a somewhat short duration, spanning only a two-to

three month period in the fall of 1991. Contrary to respondent's contention, however, a time-served suspension would be inappropriate in this case. Although respondent claimed that his addictions caused him to have no control, it is clear that respondent was aware of the wrongfulness of his acts at the time that they were committed. See Transcript of Plea of July 21, 1992, Exhibit B-2, Brief and Appendix in Support of Motion for Final Discipline upon Criminal Conviction. Moreover, where cocaine addiction is involved in criminal conduct, an attorney's conduct is not excused thereby. See, e.g., In re Zauber, 122 N.J. 87 (1981).

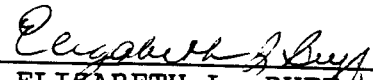
The OAE has requested a term of suspension in this matter. See In re Ragucci, 112 N.J. 40 (1988) (where a two-year suspension resulted from an attorney's theft of a pension check found on floor of lobby in his building); In re McNally, 81 N.J. 304 (1979) (two-year suspension for an attorney's forgery of the county sheriff's name on a deed); In re Yacavino, 100 N.J. 50 (1985) (where forgery by an attorney of court papers in an adoption proceeding resulted in a suspension for three years).

A six-member majority of the Board has determined that a three-year suspension, retroactive to respondent's temporary suspension in New Jersey on August 19, 1993, is the appropriate discipline in this case. In addition, prior to readmission to New Jersey, respondent must be reinstated in New York. He must also demonstrate, at the time of reinstatement, that he is drug-free. In addition, he must provide drug screening follow-up for a period of one year subsequent to his reinstatement to the practice of law.

Furthermore, at the time of reinstatement, respondent is to provide proof of completion of the core courses of the skills training series provided by the Institute for Continuing Legal Education. One member dissented, voting for disbarment. Two members did not participate.

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

Dated: June 22, 1995



ELIZABETH L. BUFF
Vice-Chair
Disciplinary Review Board