

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 94-416

IN THE MATTER OF :
:
LAWRENCE SCHECHTERMAN :
:
AN ATTORNEY AT LAW :
:

Decision of the
Disciplinary Review Board

Argued: February 1, 1995

Decided: October 2, 1995

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

Respondent waived appearance before the Board.

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 reciprocal discipline filed by the Office of Attorney Ethics (OAE), based upon the Supreme Court of Florida's June 16, 1994 Order accepting the resignation of respondent, in lieu of disciplinary proceedings, with leave to seek readmission after five years¹.

An audit conducted of respondent's attorney trust account revealed that "commencing in March 1993 and continuing through September, 1993, respondent engaged in a regular, sustained misappropriation of trust account funds, issuing to himself forty-four (44) trust account checks totaling \$107,960, such payments

¹In Florida, disbarments are for a term of five years; there is no functional difference between a five-year disciplinary resignation and a disbarment.

having no nexus to any of the funds entrusted to respondent and deposited by him to his trust account." Exhibit A to OAE letter brief and appendix, dated November 15, 1994, at 1.

Respondent claimed that he did not intentionally convert client funds, relying on the fact that "every client who reposed confidence and trust in [him] by depositing money in [his] trust account received that money back on the appointed date and time it was to be received." However, he does not deny that there were shortages in his trust account, nor does he deny that he was aware of these shortages. Respondent also recognized, in filing his Amended Petition for Disciplinary Resignation in Florida, that his conduct warranted discipline.

The OAE has requested that respondent be disbarred.

* * *

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

The Board has adopted the Florida Supreme Court's acceptance of respondent's disciplinary resignation, based upon his knowing misappropriation of funds, in violation of RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation).

Reciprocal disciplinary proceedings in New Jersey are governed by R. 1:20-7(d) (currently R. 1:20-14(a)(4)), which provides:

- (d) . . . [t]he Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record upon which the discipline in

another jurisdiction was predicated that it clearly appears that:

- (1) the disciplinary order of the foreign jurisdiction was not entered;
- (2) the disciplinary order of the foreign jurisdiction does not apply to the respondent;
- (3) the disciplinary order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;
- (4) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
- (5) the misconduct established warrants a substantially different discipline.

A review of the record does not reveal any conditions that would fall within the ambit of subparagraphs one through four. Based on subparagraph five, however, the Board believes that respondent's misconduct warrants permanent disbarment from the practice of law, a more severe discipline than disbarment with the possibility for reinstatement in five years, the disciplinary action taken in Florida.

In New Jersey, matters involving misappropriation of client funds have uniformly resulted in permanent disbarment, even in instances where clients were not adversely affected by the attorney's misconduct. See In re Devlin, 109 N.J. 135 (1988); In re Warhaftig, 106 N.J. 529 (1987); In re Fleischer, Schultz & Schwimer, 102 N.J. 440 (1986); In re Lennan, 102 N.J. 518 (1986).

The misappropriation that will trigger automatic disbarment under In re Wilson, 81 N.J. 451 (1979),

disbarment that is 'almost invariable,' id. at 453, consists simply of a lawyer taking a client's money entrusted to him, knowing that it is the client's money and knowing that the client has not authorized the taking. It makes no difference whether the money is used for a good purpose or a bad purpose, for the benefit of the lawyer or for the benefit of others, or whether the lawyer intended to return the money when he took it, or whether in fact he ultimately did reimburse the client; nor does it matter that the pressures on the lawyer to take the money were great or minimal. The essence of Wilson is that the relative moral quality of the act, measured by these many circumstances that may surround both it and the attorney's state of mind, is irrelevant: it is the mere act of taking your client's money knowing that you have no authority to do so that requires disbarment.

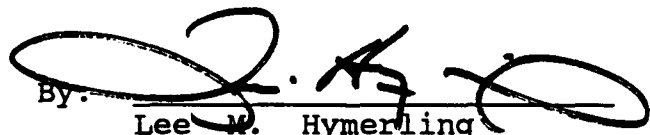
[In re Noonan, 102 N.J. 157, 159-160 (1986)].

In reciprocal discipline cases, the Court has not hesitated to hold a New Jersey attorney to the strict standards applied in this state, even when lesser discipline has been imposed by an initiating state. See In re Tumini, 95 N.J. 18 (1983).

In light of the foregoing, the Board unanimously recommends that respondent be disbarred for his misconduct.

The Board further recommends that respondent reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: 10/2/87

By: 
Lee W. Hymerling
Chair
Disciplinary Review Board