

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 93-386

IN THE MATTER OF :
CECELIA F. COOK, :
AN ATTORNEY AT LAW :

Decision and Recommendation
of the
Disciplinary Review Board

Argued: December 15, 1993

Decided: July 1, 1994

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

Respondent did not appear for oral argument, despite proper notice of the hearing.

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 based upon respondent's guilty plea to two counts of second degree theft by failure to make required disposition of property received, contrary to N.J.S.A. 2C:20-9; two counts of third degree theft by failure to make required disposition of property received, contrary to N.J.S.A. 2C:20-9; one count of third degree failure to pay State of New Jersey transfer inheritance taxes on an estate, contrary to N.J.S.A. 54:52-9; and one count of the third degree offense of filing a false State of New Jersey inheritance tax return, contrary to N.J.S.A. 54:52-10.

In March 1991, the Office of Attorney Ethics ("OAE") received a grievance that alleged possible trust account improprieties on

respondent's part. When respondent failed to appear at a demand audit, the OAE filed a petition for her temporary suspension. Respondent was suspended by Order dated April 17, 1991. In re Cook, 123 N.J. 460 (1991). Shortly thereafter, the Union County Prosecutor's Office initiated an investigation that resulted in an indictment. The indictment charged respondent with one count of second degree theft of property in excess of \$75,000 from Dexter and Felicia Sellars and/or Mountain Mortgage Company, between the dates of December 28, 1990 and January 31, 1991 (Exhibit B to OAE's Brief). The alleged impropriety involved respondent's failure to forward funds held in trust for the Sellars that were necessary to pay off a mortgage on real estate.

On June 14, 1993, respondent pleaded guilty to the indictment. At the same time respondent also pleaded guilty to a five-count accusation that charged her with the following:

- (1) Second degree offense of theft by failure to make required disposition of property in excess of \$75,000 received from William Copeland.
- (2) Third degree offense of filing a false State of New Jersey inheritance tax return in connection with the estate of William Copeland.
- (3) Third degree offense of failure to pay State of New Jersey transfer inheritance taxes in connection with the estate of William Copeland.

- (4) Third degree offense of theft by failure to make required disposition of property in excess of \$500 received from Charles Hester.
- (5) Third degree offense of theft by failure to make required disposition of property in excess of \$500 received from Catherine and Foster Moore (Exhibit D to OAE's Brief).

Specifically, respondent admitted that she knowingly misappropriated client funds in excess of \$350,000 in order to finance a gambling habit (Exhibit C to OAE's Brief at 5). On August 27, 1993, she was sentenced to four years' imprisonment and ordered to make restitution of the stolen funds.

The OAE requested that the Board recommend to the Supreme Court that respondent be disbarred.

CONCLUSION AND RECOMMENDATION

A criminal conviction is conclusive evidence of respondent's guilt. R.1:20-6(b)(1). Accordingly, there is no need to make an independent examination of the underlying facts to ascertain guilt. In re Bricker, 90 N.J. 6, 10 (1982). The only issue to be determined is the extent of the final discipline to be imposed. R. 1:20-6(b)(2)(ii). Respondent's guilty pleas established that she engaged in illegal conduct that adversely reflected on her fitness as a lawyer. RPC 8.4 (b).

Respondent was admitted, inter alia, to four counts of theft by failure to make required disposition of property received, in

violation of N.J.S.A. 2C:20-9. Respondent has admitted to knowingly misappropriating over \$350,000 from her clients. This alone requires disbarment. In re Noonan, 102 N.J. 157, 160 (1986); In re Wilson, 81 N.J. 451, 455 (1979). The maintenance of public confidence in the Supreme Court and the bar as a whole requires the strictest discipline in misappropriation cases. In re Wilson, supra, 81 N.J. at 461. Accordingly, the Board unanimously recommends that respondent be disbarred. Three members did not participate.

The Board further recommends that respondent be required to reimburse the Ethics Financial Committee for administrative costs.

Dated: _____

7/1/94

By: _____

Raymond R. Trombadore
Chair
Disciplinary Review Board