

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 97-147

IN THE MATTER OF :
 :
JAMES R. LISA :
 :
AN ATTORNEY AT LAW :
 :

Decision

Argued: June 19, 1997

Decided: November 18, 1997

John McGill, III appeared on behalf of the Office of Attorney Ethics.

Angelo R. Bianchi appeared on behalf of respondent.

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

This matter was before the Board based on a disciplinary stipulation signed by respondent and the Office of Attorney Ethics ("OAE"), arising out of respondent's violation of RPC 8.4(b) (criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects).

Respondent was admitted to the New Jersey bar in 1984 and maintained an office in Jersey City, Hudson County.

By letter dated May 23, 1995 respondent was admonished for using a trust account as a personal business account, which caused three overdrafts. A fourth overdraft occurred in connection with a second trust account as a result of a deposit of a client's check that was not backed by sufficient funds. In addition, following a demand audit conducted by the OAE, several recordkeeping deficiencies were discovered. Despite the OAE's numerous requests that respondent certify that the deficiencies had been corrected and that his records were in compliance with the rules, respondent supplied only a partial reply.

* * *

On July 3, 1996, while conducting surveillance of a Bayonne, New Jersey motel, two police detectives arrested respondent and two female companions after the execution of a search warrant and the seizure of various controlled dangerous substances ("CDS") and drug paraphernalia. Respondent was charged with being under the influence of a CDS, cocaine, in violation of N.J.S.A. 2C:35-10b; possession of CDS, cocaine and heroin, in violation of N.J.S.A. 2C:35-10(a)(1); and possession of drug paraphernalia, in violation of N.J.S.A. 2C:36-2. The forensic laboratory analysis of the confiscated CDS revealed 0.73 grams of cocaine and 0.05 grams of heroin.

On October 22, 1996 respondent was admitted into a Pre-Trial Intervention Program ("PTI"), pursuant to specific conditions, including community service, urine monitoring and outpatient drug counseling.

Respondent stipulated being under the influence of a CDS, cocaine; having unlawful constructive possession of a CDS, 0.73 grams of cocaine, and unlawful possession of drug paraphernalia. Respondent, however, denied unlawful possession and/or use of heroin, maintaining that this drug belonged to one of his female companions.

Respondent agreed that his conduct violated RPC 8.4(b), in that his conduct constituted a criminal act that reflected adversely on his fitness to practice law. It is the OAE's position that caselaw warrants a three-month suspension for respondent's misconduct, according to In re Nixon, 122 N.J. 290 (1991), and its progeny.

* * *

Following a de novo review of the record, the Board is satisfied that the facts in the stipulation sufficiently establish that respondent's conduct was unethical. Hence, the sole issue before the Board is the appropriate quantum of discipline to be imposed for respondent's criminal conduct.


The Court has consistently ordered a three-month suspension for violations similar to respondent's. See, e.g., In re Benjamin, 135 N.J. 461 (1994) (three-month suspension imposed on attorney charged with the indictable third-degree offense of unlawful possession of a CDS, cocaine, the disorderly persons' offense of unlawful possession of a CDS, under fifty grams of marijuana, and the disorderly persons' offense of unlawfully possessing narcotic paraphernalia); In re Sheppard, 126 N.J. 210 (1991) (three-month suspension imposed where an attorney pleaded guilty to two disorderly persons' offenses of possession of under fifty grams of marijuana, in violation of N.J.S.A. 2C:35-10(a)(4), and failure to deliver a CDS, cocaine, to a law enforcement officer, a violation of N.J.S.A. 2C:35-10(c)); and In re Nixon, supra, 122 N.J. 290 (1991) (three-month suspension imposed on attorney who was indicted for the third-degree crime of possession of a CDS, cocaine, in violation of N.J.S.A. 2C:35-10(a)(1). Nixon successfully completed the PTI program, whereupon the criminal complaint was dismissed).

Respondent admitted that he was guilty of possession of cocaine, of being under the influence of cocaine and of possession of drug paraphernalia.

There are no factors in this record to warrant deviation from the standard measure of discipline imposed for similar misconduct. Although respondent's prior discipline is an aggravating factor, his earlier misconduct was unrelated to illegal drug activity. Thus, enhancement of the level of discipline is unnecessary. The Board unanimously determined to impose a three-month suspension. Two members did not participate.

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

Dated: 11/18/97

By: 
Lee M. Hymerling
Chair
Disciplinary Review Board