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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 96-144

IN THE MATTER OF

AARON D. DENKER

AN ATTORNEY AT LAW

Decision

Argued: June 19, 1996

Decided: November 18, 1996

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

Carl D. Poplar 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 Motion for Final Discipline filed by the Office of Attorney Ethics (OAE), following respondent's criminal conviction. R. 1:20-13(c)(2).

Respondent was admitted to the bar of New Jersey in 1976. In an Information filed in the United States District Court for the District of New Jersey, respondent was charged with one count of money laundering, in violation of 18 U.S.C.A. § 1956(a)(3). Exhibit A to OAE's brief. On October 27, 1995, respondent pleaded guilty to the charge. Exhibit B to OAE's brief. The Information charged as follows:

4. On or about July 16, 1993, at a location in Pennsauken, New Jersey, a client (the 'client') of the defendant AARON DENKER represented to the defendant that he had $50,000 that were proceeds of drug trafficking and that he wanted those funds laundered. The defendant agreed to launder the Client's purported drug proceeds by converting them into various negotiable instruments, each in a denomination less than $10,000, in return for a $3,500 fee. In this fashion, the defendant AARON DENKER sought to avoid the CTR [Currency Transaction Reporting] requirement relating to these funds, and to conceal the source of these funds. Unbeknownst to the defendant AARON DENKER at the time, the Client was cooperating with law enforcement authorities.

5. As a result, on or about July 23, 1993, at a hotel in Philadelphia, Pennsylvania, the Client delivered to the defendant AARON DENKER $50,000 in cash. The Client also paid the defendant AARON DENKER $1,500 as partial payment of the defendant's fee for laundering the purported drug proceeds.

6. On or about July 18, 1993, at a restaurant in Pennsauken, New Jersey, the defendant AARON DENKER delivered to the Client 53 blank American Express and Merchant Express money orders totalling $12,000, three Midlantic Bank cashier's checks totalling $24,000, and two personal checks totalling $14,000. The Client paid the defendant AARON DENKER $2,000 to satisfy the balance due to the defendant for laundering the purported drug proceeds.

7. On or about October 13, 1993, at the Law Office, a purported associate of the Client met with the defendant AARON DENKER and delivered to the defendant $50,000, after advising him that the funds were proceeds of drug trafficking. The defendant AARON DENKER agreed to launder these funds by converting them into negotiable instruments in return for a $3,000 fee.

8. On or about October 20, 1993, at a location in Pennsauken, New Jersey, the defendant AARON DENKER delivered to the Client 54 blank American Express and Merchant Express money orders totalling $15,000, one personal check for $3,000, and four cashier's checks from Midlantic Bank totalling $32,000. In return, the Client paid the defendant $3,000 for laundering the purported drug proceeds.

On February 5, 1996, respondent was sentenced to a term of twenty-seven months' imprisonment and fined $20,000. He was also required to serve a two-year term of probation upon his release from imprisonment. Exhibits D and E to OAE's brief.

Pursuant to R. 1:20-13(b)(1), respondent was placed on temporary suspension by the New Jersey Supreme Court on November 15, 1995. In re Denker, 143 N.J. 33 (1995). Respondent's temporary suspension remains in effect.

The OAE urged the Board to recommend disbarment.

* * *

Respondent's criminal conviction clearly and convincingly demonstrates that he has committed "a criminal act that reflects adversely on (his) honesty, trustworthiness or fitness as a lawyer..." and that he has engaged "in conduct involving dishonesty, fraud, deceit or misrepresentation." RPC 8.4(b) and (c).

The existence of the criminal conviction constitutes conclusive proof of respondent's guilt. R. 1:20-13(c)(1); In re Gipson, 103 N.J. 75, 77 (1986). The only issue that remains is the extent of discipline to be imposed. R. 1:20-13(c)(2); In re Infinito, 94 N.J. 50, 56 (1983).

The OAE contended that respondent's activity directly involved the practice of law, pointing to a statement made by respondent's counsel at sentencing. In the statement, counsel admitted that respondent agreed to launder money in hopes of widening his client base and building his criminal practice. Exhibit E to OAE's brief. Respondent's counsel, in turn,

claimed that the activity was not related to the practice of law, since respondent was not representing the informant in an ongoing legal matter.

Although, in the Board's view, respondent's activity was related to the practice of law, the Board need not reach that issue because the severity of the criminal activity is such that disbarment is the only appropriate discipline. Good moral character is a basic condition for membership in the bar. In re Gavel, 22 N.J. 248, 266 (1956). Any misbehavior, private or professional, that reveals lack of good character and integrity essential for an attorney constitutes a basis for discipline. In re La Duca, 62 N.J. 133, 140 (1973). An attorney is bound even in the absence of the attorney-client relation to a more rigid standard of conduct than required of laymen. To the public he is a lawyer whether he acts in a representative capacity or otherwise. In re Gavel, supra, 22 N.J. at 265.

In this case, respondent's laundering of drug money was a serious crime. The laundering activity took place on two different occasions, three months apart. In the first instance, on July 16, 1993, respondent agreed to launder a client/informant's purported drug proceeds. Less than one week later, respondent received $50,000, as well as $1,500 as partial payment of a fee. Five days later, respondent issued, or caused to be issued, numerous negotiable instruments, each less than $10,000 in order to avoid the Currency Transaction Reporting requirements. On this occasion respondent gave the informant fifty-eight separate negotiable instruments, including blank American Express and Merchant Express money orders, Midlantic Bank cashier's checks and personal checks. For this laundering scheme, respondent received a total of $3,500 as a cash fee.

In the second instance, on October 13, 1993, a purported associate of the client/informant delivered another $50,000 to respondent, after advising him that the funds were proceeds of drug trafficking. One week later, on October 20, 1993, respondent issued, or caused to be issued, numerous negotiable instruments, each less than $10,000 in order to avoid the Currency Transaction Reporting requirements. On this occasion, respondent gave the informant fifty-nine separate negotiable instruments, including blank American Express and Merchant Express money orders, a personal check and Midlantic cashier's checks. Respondent was paid a $3,000 cash fee for laundering the purported drug money.

Respondent's actions were unconscionable: not only did he willfully engage in the illegal activity of avoiding the Currency Transaction Reporting requirements, but he did so knowing the funds were proceeds from drug activity. In total, respondent wrote 117 separate negotiable instruments. He personally benefitted from the illegal activity by demanding and receiving a $6,500 fee for his participation.

In In re Lunetta, 118 N.J. 443 (1989), the attorney pleaded guilty to a criminal information charging him with knowingly and willfully conspiring to receive, sell and dispose of stolen securities in violation of 18 U.S.C. § 317 and 18 U.S.C. § 2315. He agreed to deposit checks from the sale of stolen bonds into his trust account. Even though Lunetta laundered the money through his trust account, his conduct was no more serious than respondent's and no more likely to undermine the confidence of the public in the profession. As the Court stated in Lunetta, before determining to disbar the attorney, "respondent laundered and shielded funds from known criminal activities." In re Lunetta, supra, 118 N.J. at 450.

The Board unanimously determined to recommend respondent's disbarment. As in Lunetta, respondent's "behavior in furthering a complex criminal scheme so impugned 'the integrity of the legal system that disbarment is the only appropriate means to restore public confidence.'" (Citations omitted). Two members did not participate.

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

Dated: 11/18/96

By: _____
LEE M. HYMERLING
Chair
Disciplinary Review Board