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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. 96-387

IN THE MATTER OF :
LOUIS A. EGNASKO :
AN ATTORNEY AT LAW :

Decision

Argued: November 20, 1996

Decided: March 25, 1997

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

Respondent failed to appear despite proper notice.¹

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 respondent's disbarment by consent in New York for knowing misappropriation of trust funds.

Respondent has been a member of the New Jersey and the New York bars since 1987. On June 16, 1996, respondent submitted to the New York disciplinary authorities an affidavit of resignation in which he admitted that he could not successfully defend himself against charges of "failure to account for, or pay to the appropriate parties funds entrusted to [him] as a fiduciary." This misconduct involved twenty matters and the amount involved may have exceeded one million dollars.

¹Notice of the Board hearing was sent by certified and regular mail. Respondent submitted a duly completed oral argument form, evidencing proof of service.

On August 12, 1996, by Order of the Supreme Court of New York, Appellate Division, Second Judicial Department, respondent was disbarred.

In October 1995, the OAE notified respondent of its intention to conduct a demand audit of his practice. Respondent failed to appear for the demand audit despite three adjournments at respondent's request due to either his wife's illness, inclement weather or real estate closing commitments. Also, respondent failed to submit to the OAE pertinent documents, despite assurances that he would do so. On February 14, 1996, respondent was temporarily suspended in New Jersey. That suspension remains in effect.

The OAE urged the Board to recommend respondent's disbarment.

* * *

Upon review of the full record, the Board determined to grant the OAE's Motion for Reciprocal Discipline. The Board adopted the factual findings of the Supreme Court of New York, Appellate Division, Second Judicial Department. In re Pavidonis, 98 N.J. 36, 40 (1984); In re Tumini, 95 N.J. 18, 21 (1979); In re Kaufman, 81 N.J. 300, 302 (1979).

Reciprocal disciplinary proceedings in New Jersey are governed by R. 1:20-14(a), which directs that

[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:

- (A) the disciplinary or disability order of the foreign jurisdiction was not entered;

(B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;

(C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;

(D) 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

(E) the misconduct established warrants substantially different discipline.

There is nothing in the record to indicate any conditions that would fall within the ambit of subparagraphs (A) through (D). As to subparagraph (E), although respondent was disbarred in New York, a disbarred New York attorney may seek reinstatement seven years after the effective date of disbarment. 22 N.Y.C.R. 603.14. The magnitude of respondent's misconduct in New York, however, warrants more severe discipline in New Jersey than a seven-year suspension. It warrants disbarment.

Knowing misappropriation of trust funds requires disbarment. "[M]aintenance of public confidence in this Court and in the bar as a whole requires the strictest discipline in misappropriation cases." In re Wilson, 81 N.J. 451, 461 (1979). See also In re Barlow, 140 N.J. 191 (1995) (disbarment for knowing misappropriation of \$2,800); In re Noonan, 102 N.J. 157 (1986) (disbarment for knowing misappropriation involving nine matters); In re Hein, 104 N.J. 267 (1986) (disbarment for knowing misappropriation of about \$1,400).

Accordingly, the Board unanimously recommends that respondent be disbarred. One member did not participate.

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

Dated: _____

3/25/97

By: 

LEE M. HYMERLING
Chair
Disciplinary Review Board