

Book

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 96-081

IN THE MATTER OF :
 :
JOHN G. TAKACS :
 :
AN ATTORNEY AT LAW :

Decision

Argued: May 15, 1996

Decided: September 16, 1996

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

Respondent appeared pro se.

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 filed by the Office of Attorney Ethics (OAE), based upon respondent's guilty plea to two counts of mail fraud, in violation of 18 U.S.C.A. § 1341.

Respondent was admitted to the bar of the State of New Jersey in 1985. On May 23, 1989, he was involved in a car accident in Philadelphia, Pennsylvania. Respondent went to see Dr. DeLia for treatment and thereafter agreed to file a report containing false claims. The report was subsequently mailed from Dr. DeLia's office to Aetna Insurance. This conduct formed the basis for count one of the information filed against respondent.

Count two was based on respondent's knowledge of a client's fraudulent medical report. Respondent suggested that his client, Carolyn Warchol, visit Dr. DeLia for treatment. After the treatment, respondent submitted a purposely inflated claim to Warchol's insurance company.

Respondent was sentenced to probation for three years, including a three-month term of home detention, ordered to perform 500 hours of community service and ordered to pay \$7,000 in fines and a \$100 special assessment fee. He was given credit for prior restitution in the amount of \$10,500 (Exhibits D and E to OAE's brief).

Respondent did not advise the OAE of his criminal conviction, as required under R. 1:20-13(a)(1). Respondent was temporarily suspended on August 11, 1995. In re Takacs, 141 N.J. 473 (1995).

The OAE requested that respondent receive a three-year suspension from the practice of law.

* * *

Upon review of the full record, the Board has determined to grant the OAE's Motion for Final Discipline.

Respondent was convicted of two counts of mail fraud, in violation of 18 U.S.C.A. § 1341. The existence of a 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 remaining issue is the quantum of discipline to be imposed.

R. 1:20-13(c)(2); In re Infinito, 94 N.J. 50, 56 (1983). Respondent's criminal conviction clearly and convincingly demonstrates that he has committed an act that reflects adversely on his fitness as a lawyer. RPC 8.4(b).

Respondent committed two criminal acts, one of which directly involved his practice of law. These acts are as serious in nature as those meriting lengthy suspensions from the practice of law. See, e.g., In re Konigsberg, 132 N.J. 263 (1993) (thirty-three-month time-served suspension for making a false statement to an agency of the United States and for backdating a contract for a client in order to obtain insurance proceeds); In re Giordano, 123 N.J. 362 (1991) (three-year suspension for an attorney convicted of attempting to tamper with public records by participating in a scheme to furnish an illegal driver's license in exchange for sexual favors); In re Power, 90 N.J. 540 (1989) (three-year suspension for an attorney who pleaded guilty to charge of obstructing administration of law).

In light of respondent's serious misconduct, the Board unanimously determined to suspend him for three years, retroactive to the date of his temporary suspension in New Jersey, August 11, 1995. Two members did not participate.

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

Dated: _____

9/16/96



LEE M. HYMERLING
Chair
Disciplinary Review Board