SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 13-174
District Docket No. XIV-2009-0338E

IN THE MATTER OF	
PETER JAMES CAMMARANO, III	
AN ATTORNEY AT LAW	

Decision

Argued: October 17, 2013

Decided: December 17, 2013

Melissa Urban appeared on behalf of the Office of Attorney Ethics.

Joseph A. Hayden, Jr. appeared on behalf of respondent.

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

This matter came before us on a motion for final discipline filed by the Office of Attorney Ethics ("OAE"), following respondent's guilty plea to a one-count information charging him with conspiracy to obstruct interstate commerce by extortion under color of official right, in violation of 18 U.S.C. § 1951.

Respondent was admitted to the New Jersey bar in 2002 and to the New York bar in 2003. He has been temporarily suspended, since April 26, 2010, as a result of the criminal charges that are the subject of this motion for final discipline. In re Cammarano, 202 N.J. 8 (2010).

The OAE recommends disbarment. A four-member majority voted to impose a three-year prospective suspension. Two members voted for disbarment.

On April 20, 2010, respondent appeared before the Honorable Jose L. Linares, in the United States District Court, District of New Jersey, and entered a guilty plea to the information charging him with violating 18 U.S.C. § 1951, which provides:

> Interference with commerce by threats or violence
>
> (a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.
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> [OAEaEx.B.][1]

[1] "OAEa" refers to the appendix of the OAE's May 20, 2013 brief.

Respondent, who had been an at-large councilman in Hoboken, was elected mayor of Hoboken, on June 9, 2009, in a run-off election. The information charged as follows:

> 6. From in or about April 2009 to in or about July 2009, in Hudson County, in the District of New Jersey and elsewhere, defendant PETER CAMMARANO III did knowingly and willfully conspire and agree with Michael Schaffer [a commissioner on the North Hudson Utilities Authority and respondent's associate], Edward Cheatam [affirmative action officer for Hudson County and a commissioner of the Jersey City Housing Authority], the Consultant [Jack Shaw, deceased at the time of the information], and others to obstruct, delay and affect interstate commerce by extortion under color of official right — that is, by obtaining illicit cash campaign contributions that were paid and to be paid by another with that person's consent, in exchange for defendant PETER CAMMARANO III's future official assistance, action and influence in Hoboken Government matters.
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> 7. It was the object of the conspiracy that defendant PETER CAMMARANO III accepted and agreed to accept illicit cash campaign contributions from the CW [Cooperating Witness Solomon Dwek] in exchange for defendant PETER CAMMARANO III's future official assistance, action and influence in Hoboken Government matters pertaining to the CW's real-estate development projects.
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> 8. It was part of the conspiracy that defendant PETER CAMMARANO III accepted a total of approximately $25,000 ($5,000 on or about April 27, 2009, $5,000 on or about May 8, 2009, $5,000 on or about May 19, 2009, and $10,000 on or about July 16, 2009) in illicit cash campaign contributions from the CW, which were paid to defendant PETER CAMMARANO III through Michael Schaffer, Edward Cheatam

> and the Consultant, in exchange for defendant PETER CAMMARANO III'S future official assistance, action, and influence in Hoboken Government matters pertaining to the CW's real-estate development projects.
>
> In violation of Title 18, United States Code, Section 1951(a).
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> [OAEaEx.A.]

In entering the guilty plea, respondent acknowledged that, as a convicted felon, he would lose certain civil rights, including the right to hold public office. He agreed to forfeit the $25,000 that he had derived from the commission of the crime. The plea document provided that, in exchange for the guilty plea, the United States Department of Justice agreed to refrain from filing further criminal charges against respondent for other conduct that took place between April and July 2009.

The charges against respondent stemmed from telephone calls that the Federal Bureau of Investigation ("FBI") intercepted, beginning in mid-April 2009. During those telephone calls, an April 27, 2009 meeting was arranged, at a Hoboken diner, where the cooperating FBI witness, Dwek, offered cash campaign contributions, in exchange for respondent's support for future, non-specific real estate development projects. Respondent told Dwek that he would be "treated like a friend." Upon Dwek's assertion that he would provide $5,000 immediately and $5,000 after the election, respondent replied, "Okay. Beautiful." Dwek

emphasized that he did not want his name used nor "any conflict issues." When they left the diner, Dwek provided Schaffer, respondent's associate, with an envelope containing $5,000 in cash.

On May 6, 2009, the FBI intercepted another telephone call in which "the consultant," Shaw, told Schaffer that Dwek would like to invest more money in respondent. Another meeting was then arranged at the same diner, on May 8, 2009. During that meeting, Dwek referred to properties that he was developing, declared that he wanted respondent's support, and asked respondent to expedite his "stuff." Respondent replied, "I'll be there." Again, after leaving the diner, Dwek gave Schaffer an envelope with $5,000 in cash. Upon reentering the diner, Dwek told respondent that he had given the envelope to Schaffer. Respondent replied, "Excellent."

At another meeting, held on May 19, 2009, at a Hoboken diner, respondent indicated that he would accept from Dwek another $5,000, through his "good friends," motioning toward Schaffer. Respondent assured Dwek that he would expedite his "stuff," adding that Dwek was with him "early and often." Respondent told Dwek that he sees the world in three categories: the people who were with him, like Dwek; those that climbed on board in the runoff election, who can "get in line;" and those

who were against him the whole way, who "get ground into powder." After respondent left the diner, Dwek gave Schaffer an envelope containing $5,000 in cash.

On June 23, 2009, after the June 9, 2009 run-off election that respondent won, he met with Dwek and others, at a Hoboken diner. Respondent indicated that he had obtained a bridge loan for $20,000 to reimburse those who had received campaign checks from him that had been dishonored. Dwek offered $10,000 toward respondent's campaign debt. During that meeting, Dwek told respondent to make sure that he did not forget him. Respondent replied that he and Dwek were "going to be friends for a good long time."

At a final meeting, on July 16, 2009, respondent told Dwek that he needed all the help he could get. Dwek replied that he would give Schaffer $10,000. Dwek later stated that he would provide another $10,000 the following week. Dwek then gave Schaffer $10,000 in cash.

Respondent was arrested, along with Schaffer, on July 23, 2009. After having served as mayor less than one month, he resigned from that post.

On August 5, 2010, Judge Linares sentenced respondent to incarceration for twenty-four months, followed by two years of supervised release. The sentencing guidelines for respondent's

offense level called for incarceration for twenty-four to thirty months. Although the probation department's pre-sentence report calculated the guidelines offense level as nineteen, the Assistant United States Attorney ("AUSA") and respondent's counsel agreed to, and Judge Linares accepted, a level of seventeen, based on respondent's assistance to the government.

At the sentencing proceeding, respondent's counsel argued that respondent suffered the following collateral consequences: after the publicity surrounding his arrest, respondent was unemployed and unable to find employment; his wife divorced him; he was separated from his young daughter; and he has forever forfeited the right to hold public office, a particularly difficult circumstance, given the fact that he had been involved in politics since the age of fifteen.

Also at the sentencing hearing, counsel advanced the following mitigating factors: respondent accepted responsibility for his actions; he experienced a difficult childhood, having received physical and mental abuse from his father, who suffered from a drug addiction; during his four-year tenure as councilman, he served without "even a hint of scandal;" he had no prior experience with political fundraising and committed a "mistake of judgment;" he had not reached out to Dwek, but was targeted with overtures from the government; he did not profit personally

because the cash payments went into his campaign; the promises of assistance were made for an unspecified project that, according to his counsel, gave the promises an "aura of unreality" because the project might never happen; after his arrest, he volunteered at the Hoboken Lunchtime Ministry, serving meals to the homeless; he is remorseful about how he embarrassed his family, friends, supporters, and the people of Hoboken; and his conduct was aberrational.

In turn, the AUSA argued that the videotape evidence showed "no hesitation on the defendant's part to trade official influence and action for bribes, no reluctance to accept illicit cash contributions through straw donors, [and] to conceal the true source of the contributor ultimately from the people of Hoboken and the New Jersey Election Commission." The AUSA further contended that respondent promised to use his official influence to exact retribution on those who did not support him. The AUSA also pointed out that, based on respondent's comment that he and Dwek would be friends for a long time, respondent intended to maintain dealings with a person whom he believed to be a "corrupt and crooked developer."

Moreover, in response to counsel's recitation of collateral consequences, the AUSA asserted that there were collateral consequences to

> the people of Hoboken who had their interest take a back seat to corrupt dealings and arrangements with someone who the defendant understood to be a crooked developer . . . to the political candidates out there who play by the rules and don't seek to further their campaigns through corrupt arrangements . . . to all people of the State of New Jersey because it affects public citizens, and . . . this type of conduct causes at least some good people to turn away from entering public service because while they want to make a difference, they don't want to participate in the system that they can see as corrupt, dishonest and unethical.
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> [OAEaEx.D,27.]

In imposing the sentence, Judge Linares acknowledged defendant's remorse and the devastation to his legal career, his political career, and his family situation, all resulting from his crime. The judge then considered the issue of deterrence:

> [W]hen one goes through all of the fallout that a defendant like this goes through, including the loss of ever being able to be involved in politics again, or potentially losing his ability to practice law, and all of that, that certainly provides a level of deterrence, but there also has to be a message to other people as well who may not have the same type of fallout consequences that they, too, need to be deterred from this type of criminal conduct, and there is obviously the need to protect the public and our political system from this type of crime.
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> [OAEaEx.C32.]

The OAE asserted that, based on respondent's guilty plea, he violated RPC 8.4(b) (criminal act that reflects adversely on

a lawyer's honesty, trustworthiness, or fitness as a lawyer) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). As indicated previously, the OAE urged us to recommend respondent's disbarment.

Respondent, in turn, contended that caselaw supports the imposition of a retroactive suspension, rather than disbarment. He advanced the following mitigating factors, some of which had been presented at the sentencing hearing:

1. Respondent's relative youth
2. Respondent's unblemished disciplinary history
3. No personal enrichment
4. No initiation or design of a scheme
5. Limited time span of events/aberrational conduct
6. Respondent's admission of guilt
7. Respondent's cooperation
8. Crime did not touch upon the practice of law
9. Respondent's voluntary suspension[2]
10. Respondent's prior public and civic involvement
11. Passage of time (three years since guilty plea)

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[2] Respondent asserted, in his brief, that his license was "voluntarily suspended via Court order upon the entry of his guilty plea in April 2010." The temporary suspension order indicates that respondent's suspension resulted from his guilty plea and that he will remain suspended until the final resolution of this ethics matter. The order does not indicate that the suspension was voluntary.

12. Respondent's good character and professional reputation

13. Respondent's remorse

14. Collateral consequences/punishment already inflicted and

15. Respondent's charitable work.

In addition, respondent submitted fifteen "character" letters from attorneys, members of the community, and those involved in running the charities for which he volunteered, all attesting to his good character and integrity.

Following a review of the full record, we determine to grant the OAE's motion for final discipline.

The existence of a criminal conviction is conclusive evidence of respondent's guilt. R. 1:20-13(c)(1); In re Gipson, 103 N.J. 75, 77 (1986). Respondent's conviction of conspiracy to obstruct interstate commerce by extortion under color of official right is violative of RPC 8.4(b) and (c). Only the quantum of discipline to be imposed remains at issue. R. 1:20-13(c)(2); In re Lunetta, 118 N.J. 443, 445 (1989).

The level of discipline imposed in disciplinary matters involving the commission of a crime depends on numerous factors, including the "nature and severity of the crime, whether the crime is related to the practice of law, and any mitigating factors such as respondent's reputation, his prior trustworthy

conduct and general good conduct." In re Lunetta, supra, 118 N.J. at 445-46.

Essentially, respondent pleaded guilty to accepting bribes during a political campaign, as well as after a successful election, in exchange for promising favorable treatment to an individual whom he believed to be a real estate developer. Although we recognize that, in many cases, attorneys who have paid or accepted bribes have been disbarred, we are persuaded that, in this case, respondent should be spared that sanction, for the reasons expressed below.

In several cases, attorneys who were public officials and who were convicted of serious crimes of dishonesty received lengthy suspensions. In In re Braunstein, 210 N.J. 148 (2012), the attorney was convicted of attempted criminal coercion by an official. Braunstein, an attorney employed as Assistant Corporation Counsel for the City of Newark, threatened to sue Julien Neals (the Director of Corporation Counsel and Braunstein's superior), unless he paid Braunstein $750,000 and granted him a job promotion. Braunstein's threat consisted of an allegation that Neals had improperly awarded a city contract to a law firm with which Neals had been associated and that Neals had engaged in workplace discrimination. Likening Braunstein's

conduct to attempted theft by extortion, we determined that a one-year suspension was warranted. The Court agreed.

In another case, a three-year retroactive suspension was imposed. In re Caruso, 172 N.J. 350 (2002). The attorney in that case was the municipal prosecutor for the City of Camden. The mayor indicated that he intended to reappoint the Camden municipal public defender, contingent on the public defender's $5,000 contribution to a political committee. Agreeing to act as the mayor's intermediary, Caruso solicited and received the $5,000. Although another attorney had been nominated as municipal public defender, Caruso informed the current public defender that the other attorney's nomination would be removed from the city council agenda upon payment of the $5,000 contribution. During his conversation with the public defender, Caruso stated that he was not comfortable discussing the matter on the telephone because he knew that the exchange of the political contribution for the reappointment was illegal.

In a case not involving a public official, but in which the Court questioned whether the attorney's conduct fell "within the four corners of the bribery statute," the Court imposed a three-year retroactive suspension. In In re Mirabelli, 79 N.J. 597 (1979), the attorney concocted a scheme to obtain a fee from a client. Mirabelli represented a client in a criminal matter for

a fee of $10,000 to $15,000. Although the client paid only $1,500, Mirabelli performed substantial services, achieving an agreement from the county prosecutor to a non-custodial sentence. Concerned that the client would not pay his fee, Mirabelli represented to the client that he could obtain a non-custodial sentence, if the client paid the assistant prosecutor $2,500.

We are mindful that the Court has often disbarred attorneys who pay or receive bribes. See, e.g., In re Izquierdo, 209 N.J. 5 (2012) (the attorney pleaded guilty to knowingly and willfully making materially false, fictitious, and fraudulent statements to the FBI, after giving payments to a member of a municipal zoning board in exchange for favorable treatment; the Court equated his conduct to bribery, notwithstanding the fact that the attorney did not plead guilty to bribery; the Court quoted and approved our finding in In the Matter of Bernard Meiterman, DRB 09-160 (Supplemental Decision April 22, 2010) (slip op. at 8), that "bribery of a public official is a criminal offense that generally requires disbarment"); In re Meiterman, 202 N.J. 31 (2010) (attorney and his brother were developers who devised a scheme to "attempt to coax, influence and reward" the executive director of a utility authority to grant approvals that the attorney and his brother required in order to develop

property; they funded corrupt personal financial benefits to the executive director, including free and discounted home improvements and surveys, and intentionally concealed from the utility authority and the public material information regarding the executive director's receipt of the benefits; in addition to bribing a public official, Meiterman counseled another party to lie to law enforcement and/or a federal grand jury about the benefits and the source of the funding); In re Treffinger, 181 N.J. 390 (2004) (attorney, the Essex County Executive, pleaded guilty to conspiracy to obstruct justice and mail fraud in connection with no-bid contracts awarded to a sewer repair firm; he admitted that he had coached aides to lie to federal investigators and to create spurious documents to conceal thousands of dollars received in contributions for his Senate campaign from the sewer repair firm; he also placed campaign workers on the county payroll, without disclosing that circumstance to federal election officials); In re Fox, 140 N.J. 614 (1995) (attorney failed to file two personal injury complaints within the two-year statute of limitations; he then bribed a court clerk to backdate the filing of both complaints to make it appear that he had not missed the filing deadline; Fox was charged with conspiracy to commit official misconduct and bribery, was admitted into the pre-trial intervention

program, and succeeded in having his criminal record expunged); In re Jones, 131 N.J. 505 (1993) (a deputy attorney general entered a guilty plea to the third-degree crime of soliciting a gift while a public servant; the attorney, who represented professional boards, solicited a payment in the form of a loan from a doctor who had filed a complaint seeking the revocation of a psychologist's license; at the time, Jones was under severe emotional and financial stress – his father had passed away, leaving behind excessive debts that threatened the loss of his mother's house; Jones' car had been stolen and the insurance company had reimbursed only a small portion of the loss; Jones' recent discharge from personal bankruptcy prevented him from borrowing money from more conventional sources; in disbarring Jones, the Court found that "[b]ribery of a public official 'is a blight that destroys the very fabric of government'"); In re Tuso, 104 N.J. 59 (1986) (attorney was convicted of conspiracy to commit bribery and solicitation of misconduct and two counts of offering a bribe; he was sentenced to three concurrent prison terms of twelve to eighteen months; Tuso, who represented an architect who had bid on a contract with a school board, offered to share his legal fee with a school board official, who reported the incident to the county prosecutor); In re Coruzzi, 98 N.J. 77 (1984) (a superior court judge accepted, or agreed to

accept, bribes in three criminal matters, in exchange for imposing favorable sentencing; in that case, the Court stated that "[b]ribery is so reprehensible as almost invariably to call for disbarment;" the Court rejected, as mitigation, Coruzzi's years of public service); and In re Friedland, 95 N.J. 170 (1984) (attorney, a state senator, was convicted in federal court of seven counts of conspiring to solicit and receive kickbacks and soliciting and receiving a total of $360,000 in kickbacks, in return for influencing decisions on the investment of the assets of his client, the pension fund of a local office of the Teamsters union; although Friedland was also convicted of income tax violations and attempting to influence a witness, we determined that his bribery conviction alone warranted disbarment; the Court agreed with our disbarment recommendation, finding that Friedland's misconduct reflected a disregard for the public trust).

Here, substantial mitigating factors convince us to spare respondent from the ultimate sanction of disbarment. In our view, it is significant that respondent was the target of a government operation. The federal government's cooperating witness approached respondent, pretended to be a real estate developer, and offered to compensate him for future favorable treatment. Respondent was a passive, not an active, participant

in the bribe. To be sure, we do not excuse respondent's conduct. He agreed to accept funds, knowing that he would be required, at some point, to reciprocate by inappropriately using his political office to benefit the purported real estate developer. We find, however, that, because he did not orchestrate the scheme, his actions were less serious than those of the attorneys in the disbarment cases discussed above, who were the instigating parties in the payment of the bribes.

Moreover, we take into account respondent's relative youth and lack of experience at the time of these events. He had been an attorney for approximately seven years when, in 2009, he was offered improper campaign contributions. Furthermore, it was his first experience as a campaign fund-raiser.

Also, respondent substantially cooperated with the government, as evidenced by the AUSA's agreement to reduce respondent's offense level by two points, from nineteen to seventeen, based on his assistance to the prosecution. Judge Linares accepted the reduction, when he imposed the minimum term of incarceration.

We also considered the relatively short duration of respondent's misconduct, all of which took place during the four-month period between April and July 2009.

Finally, we noted that the events that formed the basis of respondent's criminal and disciplinary proceedings occurred more than three years ago. The passage of time has been accepted as a mitigating factor. In re Verdiramo, 96 N.J. 183,187 (1984).

Given all of the mitigating circumstances, we essentially find that there is room for redemption and that, therefore, respondent should be given an opportunity to remain as a member of the bar. We agree with the sentiments expressed by Justice Zazzali, in his concurring and dissenting opinion in In re Convery, 166 N.J. 298 (2001), when he opined that a less severe discipline than the one imposed by the Court "serves the dual purpose of punishment and deterrence. Such a result does not strain mercy – or justice – beyond reasonable limits." Id. at 317. We believe that the same principle applies here.

We, thus, determine that a three-year suspension is sufficient in this case. Because of the severity of respondent's conduct, however, we determine that the suspension should be served prospectively, not retroactively.

Chair Frost and Member Gallipoli voted to recommend respondent's disbarment. Relying on In re Coruzzi, supra, 98 N.J. 77, 81 ("Bribery is viewed as so reprehensible as almost invariably to call for disbarment"), those members could not reconcile respondent's acceptance of bribes with his fitness to

practice law. They noted that "[a]ttorneys who hold public office are invested with a public trust and are thereby . . . held to the highest of standards." In re Magid, 139 N.J. 449, 455 (1995). Finding that respondent's conduct in this case fell woefully short of those standards, they determined that disbarment is the only possible sanction in this case.

Member Zmirich did not participate.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Edna Y. Baugh, Vice-Chair

By: Isabel Frank
Isabel Frank
Acting Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Peter J. Cammarano, III
Docket No. DRB 13-174

Argued: October 17, 2013

Decided: December 17, 2013

Disposition: Three-year prospective suspension

Members	Disbar	Three-year Prospective Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Frost	X					
Baugh		X				
Clark		X				
Doremus		X				
Gallipoli	X					
Yamner		X				
Zmirich						X
Total:	2	4				1

Isabel Frank
Acting Chief Counsel