

B

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. 99-365

IN THE MATTER OF :
: ANTHONY CARROZZA, III :
: AN ATTORNEY AT LAW :
:

Decision

Argued: November 18, 1999

Decided: May 22, 2000

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

Respondent waived appearance for oral argument.

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

This matter was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (“OAE”), pursuant to R. 1:20-14, following respondent’s August 25, 1999 disbarment by consent from the bar of the Commonwealth of Pennsylvania.¹

¹ Respondent did not notify the OAE of his disbarment, as required by R. 1:20-14(a)(1). The OAE learned of the disbarment from the Pennsylvania Office of Disciplinary Counsel.

Respondent was admitted to the New Jersey bar in 1985. He has no disciplinary history.

* * *

In respondent's statement, submitted with his consent to disbarment in Pennsylvania, he admitted that he failed to remit escrow funds to clients for "a few months" and, in the meantime, used the funds "for other transactions."

Respondent arranged business loans between clients, using his "attorney escrow account" for the transactions. After respondent brokered the loan, he deposited its proceeds in his "escrow account" and then remitted them to the borrower client from that account.² When the borrower client made the loan payments to respondent, respondent deposited the payments in the escrow account. However, he did not immediately remit the payments to the lender client. In the interim, respondent used the funds for other unspecified transactions.

Furthermore, according to respondent, when the borrowers failed to make their loan payments, he used funds "that were in [his] escrow account to make loan repayments to the lending clients." Although it is not entirely clear from respondent's statement, presumably the escrow account funds that he used for the loan payments belonged to other clients.

Respondent also admitted that he directly benefitted from the loan transactions

² While it is impossible to ascertain from the record how many loans were involved, it is clear that it was more than one.

because he received fees from the borrowers for his “services” in connection with the loan transactions. Moreover, he failed to disclose to the lenders that he received those fees.

The OAE urged us to recommend respondent’s disbarment.

* * *

Upon a de novo review of the full record, we determined to grant the OAE’s motion for reciprocal discipline. Pursuant to R. 1:20-14(a)(5) (another jurisdiction’s finding of misconduct shall establish conclusively the facts on which the Board rests for purposes of a disciplinary proceeding), we adopted the findings of the Supreme Court of Pennsylvania.

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.

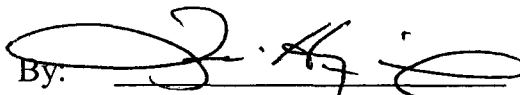
We agree with the OAE that subsection (E) is applicable here; namely, that respondent's misconduct warrants substantially different discipline in New Jersey. In Pennsylvania, a disbarred attorney may apply for reinstatement after five years. In New Jersey, however, disbarment is permanent.

Respondent admitted that he knowingly misappropriated trust funds. It is well-settled law in New Jersey that the knowing misappropriation of client trust funds or of escrow funds will result in permanent disbarment. In re Hollendonner, 102 N.J. 21 (1985) and In re Wilson, 81 N.J. 157 (1979).

Therefore, we unanimously determined to recommend that respondent be disbarred from the practice of law. One member did not participate.

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

Dated: 5/22/00

By: 
LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of Anthony Carrozza, III
Docket No. DRB 99-365**

Argued: November 18, 1999

Decided: May 22, 2000

Disposition: Disbar

Members	Disbar	Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling	x						
Cole	x						
Boylan	x						
Brody	x						
Lolla	x						
Maudsley	x						
Peterson							x
Schwartz	x						
Wissinger	x						
Total:	8						1

Robyn M. Hill 6/5/00
Robyn M. Hill
Chief Counsel