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SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
DOCKET NO. DRB 99-052

IN THE MATTER OF

RAYMOND K. HSU,

AN ATTORNEY AT LAW

Decision

Argued: March 18, 1999

Decided: December 6, 1999

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

Respondent waived appearance before the Board.

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

This matter was before us on a motion for final discipline filed by the Office of Attorney Ethics (OAE), based upon respondent's criminal conviction for grand larceny in the fourth degree, in violation of New York Penal Law section 155.30.

Respondent was admitted to practice in New Jersey and New York in 1990. By order dated September 24, 1996 respondent was suspended from the practice of law by the Supreme Court of New York, Appellate Division, First Judicial Department, based on his admission that he had misappropriated client funds and was actively addicted to cocaine.

When notified of respondent's suspension by New York disciplinary authorities, the OAE filed a petition for respondent's immediate temporary suspension in New Jersey on September 30, 1996. Respondent was temporarily suspended on October 16, 1996. In re Hsu, 146 N.J. 486 (1996). The suspension remains in effect.

In April 1998 a two-count indictment in New York charged respondent with grand larceny in the third degree, in violation of New York penal law §155.35 and with criminal possession of a forged instrument in the second degree, in violation of New York penal law §170.25. On November 4, 1998, respondent entered a guilty plea to grand larceny in the fourth degree, in violation of New York penal law §155.30. That section states in relevant part that "[a] person is guilty of grand larceny in the fourth degree when he steals property and when [t]he value of the property exceeds one thousand dollars. . . ."

During the plea hearing, the following factual basis for the plea was elicited:

> THE COURT: All right. You are pleading guilty to the crime grand larceny in the fourth degree committed as follows: You in the County of New York, which means in Manhattan, on or about March 28, 1996 stole property having a value in excess of $1,000 from Quan Xing Chen; is that charge true?
>
> THE DEFENDANT: Yes.
>
> THE COURT: And tell me what happened.
>
> THE DEFENDANT: I had my client's money and I didn't give him back [sic].
>
> [OAE's brief, exhibit D]

As part of the plea agreement, respondent agreed to execute affidavits of confession

of judgment in favor of the victims of his actions. On December 10, 1998, the date he was sentenced, respondent executed affidavits in favor of Chau Shing Wong, Quan Xing Chen and the New York Lawyers' Fund for Client Protection.

As to the Chau Shing Wong matter, respondent acknowledged that he accepted $23,655 from his client to cover mortgage payments and that he converted them to his own use. In the Quan Xing Chen matter, respondent admitted that he knowingly misused $18,000 belonging to his client. Finally, in the Lawyers' Fund for Client Protection of the State of New York affidavit (Client Protection Fund), respondent recognized his responsibility for the conversion of escrow funds from his clients, five of whom were reimbursed by the Client Protection Fund in the total amount of $12,950.

After the affidavits of confession of judgment were executed, the New York criminal court sentenced respondent to "time served."

* * *

Upon a de novo review of the record, we determined 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 grand larceny in the fourth degree is clear and convincing evidence that he violated RPC 8.4(b) (commission of a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or

misrepresentation). Only the quantum of discipline to be imposed remains at issue. R.1:20-13(c)(2)(ii); In re Goldberg, 105 N.J. 278, 280 (1987).

The OAE argued that a criminal conviction of this nature leaves no option but disbarment, pointing to In re Iulo, 115 N.J. 498 (1989) (attorney disbarred after criminal conviction of misapplication of entrusted funds in attorney trust account) and In re Wilson, 81 N.J. 451 (1979).

In his brief, respondent urged us to find that the cause of his misconduct was his cocaine addiction, which became "unmanageable and uncontrollable beginning in the latter part of 1995." Although he had twice checked himself into treatment facilities, in 1993 and 1995, he was unable to complete the treatments when his insurance carrier refused to continue to pay the costs. According to respondent, in 1996 he disclosed his drug addiction to the New York disciplinary authorities and shortly thereafter entered a residency program, which he completed in 1997. Respondent completed the subsequent after care program in June 1998, and claimed that he has remained drug free since that time.

In addition, respondent stated that he has returned to his clients more than $25,000 of the $40,000 in question and pointed to his executed confessions of judgment for the balances owed to clients and to the New York Client Protection Fund.

Although we are impressed by respondent's attempt toward rehabilitation, his recognition of wrongdoing and his restitution efforts, we cannot avoid recommending his disbarment. In re Wilson, 81 N.J. 451 (1979); In re Hollendonner, 102 N.J. 21 (1985). As

the Court previously stated with regard to cocaine addiction, "[i]f anything, it should be considered an aggravating factor because this Respondent, while a member of the Bar, committed a crime by the illegal acquisition of controlled substances." In re Terner, 120 N.J. 706, 716-717 (1990), citing In re Stein, 97 N.J. 550, 556 (1984).

For his knowing misappropriation of trust funds, respondent must be disbarred. We unanimously so recommend.

Three members did not participate.

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

Dated: 12/6/99

By: _____
LEE M. HYMERLING
CHAIR
DISCIPLINARY REVIEW BOARD

SUPREME COURT OF NEW JERSEY

DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Raymond K. Hsu
Docket No. DRB 99-052

Argued: March 18, 1999

Decided: December 6, 1999

Disposition: Disbar

Members	Disbar	Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling	x						
Zazzali							x
Brody	x						
Cole	x						
Lolla	x						
Maudsley							x
Peterson	x						
Schwartz	x						
Thompson							x
Total:	6						3

By Robyn M. Hill 12/15/99
Robyn M. Hill
Chief Counsel