SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 07-403
District Docket No. XIV-06-0530E

IN THE MATTER OF	
JONATHAN SAINT-PREUX	
AN ATTORNEY AT LAW	

Decision

Argued: March 20, 2008

Decided: May 7, 2008

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

Respondent did not appear.*

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) pursuant to R. 1:20-13(c). The motion stems from respondent's guilty plea to immigration fraud, a violation of 18 U.S.C.A. 1546(a) and (2).

* Proper service has been made. Respondent is incarcerated in the Federal Correctional Institution at Fort Dix.

The OAE recommends that respondent be disbarred. We agree with that recommendation.

Respondent was admitted to the New Jersey bar in 1992. In 2004, he was admonished for misconduct in two immigration matters. In the first matter, respondent lacked diligence in advancing the client's interests and failed to communicate with the client, who was seeking political asylum. As a result of respondent's inaction, the immigration court ordered the client's deportation. Respondent did not notify the client of this critical event. In the second matter, also addressing a petition for political asylum, neither respondent nor the client appeared at a hearing. The court, therefore, entered an order for the client's deportation. In the Matter of Jonathan Saint-Preux, DRB 04-174 (July 19, 2004).

Three months later, respondent received a reprimand for failure to inform his immigration client of important developments in the case, including a hearing date, an order of deportation, and a warrant for the client's arrest. He also lacked diligence in representing the client. An aggravating factor was respondent's failure to cooperate with the ethics investigator. In re Saint-Preux, 181 N.J. 332 (2004).

In May 2007, respondent was temporarily suspended after he pleaded guilty to the conduct that is the subject matter of this motion for final discipline.

On October 5, 2006, an eight-count federal indictment was filed against respondent, his wife (Michele Saint-Preux), who was his office manager, and Naranjan Patel, who referred illegal aliens to respondent's law firm. Seven counts of the indictment charged respondent with immigration fraud. One count charged him with conspiracy to defraud the United States.

In April 2007, respondent pleaded guilty to one count of immigration fraud, a violation of 18 U.S.C.A. 1546(a) and (2).[1] Respondent admitted that, from September 2004 through February 2006, he knowingly and willfully caused his office to file hundreds of forms with the Department of Homeland Security Citizenship and Immigration Services, falsely stating that certain illegal aliens had lived unlawfully in the United States from January 1982 through May 1988. The purpose of the forms was to qualify the individuals for legal residency under an amnesty immigration program sponsored by the federal government. In

[1] On the same day that respondent entered his guilty plea, his wife pleaded guilty to one count of immigration fraud. She was sentenced to a five-year term of probation. Patel was tried and convicted of conspiracy to defraud the United States and one count of immigration fraud. He was sentenced to thirty-seven months in prison, followed by supervised release for two years. He has appealed his conviction and sentence.

return for filing the false forms, respondent's office collected hundreds of thousands of dollars from illegal aliens.

In October 2007, respondent was sentenced to fifty-seven months in prison, followed by a two-year term of supervised release. The court "waived the imposition of a fine in consideration of family needs that will become acute upon [respondent's] incarceration." In sentencing respondent, the judge was troubled by his lack of recognition of wrongdoing and his apparent lack of remorse. The court was particularly disturbed by respondent's statement that "every attorney was doing the same thing. If someone comes to you and wants to file, you file it." The court noted:

> There is a lot of disturbing information in that sentence. If someone comes to you and wants to file, you file it . . . .
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> . . . .
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> And the ruthlessness and coldness of that kind of conduct and the absolute insincerity, or insincerity of that remark that every attorney is doing the same thing, it is just such at odds with what was really going on and completely at odds with acceptance of responsibility . . . .
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> . . . .
>
> [Respondent] was not a mere ministerial actor here. He was the Jonathan Saint-Preux law firm. He was the one who got this done, whether or not he signed the application or not. And [respondent] knows perfectly well, we all know that if other people used his

signature, that was in and of itself wrong. But to claim after this criminal trial that Patel fraudulently forged the Saint-Preux signature and somehow we're supposed to believe all by himself created the chain of events client by client over the 100 that [respondent] accepted responsibility for, just flies in the face of credibility.[2]

. . . .

And I have to say that if you stop me at the point of the presentence report statements, I would have to make that finding, that [respondent] could say to Probation, this proves everything and everyone is doing it after he put on the table the 400,000 applications that were being filed under the amnesty program. I just filed them. The government would investigate and deny it, the application had no merit. That just simply doesn't square with accepting responsibility for fraudulently filing applications.

It's almost saying the United States passes really dumb laws and heck if they have it out there and it gets things done for a while and everybody has found out about it, why not get them in on the act . . . .

. . . .

[W]e are talking about [respondent] almost being teflon-like in terms of not accepting responsibility.

And just by way of example, I think [respondent], who is a very bright man was making the point, these guys got $20,000. I only got paid $2500.

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[2] The court was referring to Patel's trial.

Now, the cynics among us might say that it is ludicrous that you would put that out there as a way of defending yourself. But what I think he was trying to say was, they're more culpable than I am and you should understand that when you're considering my sentence.

But I don't think that [respondent] understands that I'm not here weighing his badness against everybody else's badness. I am weighing whether or not he understands that what he did was wrong, that when he undergoes punishment for what he did, there is the ability to be rehabilitated from it, that is the purposes of deterrence are carried out and the purposes of having a sense that someone who is returned to society is returned, a person is chastened because, in fact, he accepts responsibility.

. . . .

And whether or not [respondent] wants to believe that he was somewhat inarticulate in mounting a defense against information that came out of it at the trial that should, in fact, influence me, I see something much more pernicious and much more to the point here, and that is, that [respondent] cut a deal and, whether he believed it then, certainly lost sight of it and lost sight of the purpose for qualifying for those additional points by failing to acknowledge, accept the consequences and forthrightly understand what this guilty plea means and why that leniency has been awarded.

. . . .

So he got the benefit of a significantly lesser sentencing exposure and he comes to court today acting as if the jury foolishly convicted him and that I should consider him alongside these other folks who made a lot of money from the clients than he did. It's

> misguided. It's bad thinking and it's not the thinking of a person for whom this exercise in leniency was created.
>
> [OAEbEx.I at 49-54.][3]

> To afford adequate deterrence to criminal conduct, I wish I could say that [respondent] will be deterred by any sentence that he gets. His statements here today and his conduct here today suggest that's probably not in the future of [respondent] until a lot of change of mind has gone on and that takes a lot of time.
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> [OAEbEx.I at 76.]

In urging respondent's disbarment, the OAE noted that, although lengthy suspensions have been imposed for crimes involving violation of immigration laws, "none of the previous matters involved the magnitude of respondent's violations. It is also significant to note that none of the previous matters involved misconduct occurring subsequent to September 11, 2001." The OAE pointed out that "the lengthy prison sentenced imposed [in this case] serves notice as to just how seriously the courts view the threat posed to our national security by document fraud in violation of immigration laws."

Based on the gravity of respondent's conduct, his disciplinary record, and his failure to cooperate with the OAE

[3] OAEb refers to the OAE's brief in support of its motion for final discipline.

by not providing that office with a copy of his presentence report, as requested, the OAE urged us to recommend his disbarment.

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

A criminal conviction is conclusive evidence of guilt in a disciplinary proceeding. R. 1:20-13(c)(1); In re Maqid, 139 N.J. 449, 451 (1995); In re Principato, 139 N.J. 456, 460 (1995). Respondent's guilty plea to immigration fraud establishes his violation of RPC 8.4(b). Pursuant to that rule, it is professional misconduct for an attorney to "commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer." Hence, the sole issue is the extent of discipline to be imposed. R. 1:20-13(c)(2); In re Maqid, supra, 139 N.J. at 451-52; In re Principato, supra, 139 N.J. at 460.

In determining the appropriate measure of discipline, the interests of the public, the bar, and the respondent must be considered. "The primary purpose of discipline is not to punish the attorney but to preserve the confidence of the public in the bar." In re Principato, supra, 139 N.J. at 460 (citations omitted). Fashioning the appropriate penalty involves a consideration of many 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, 118 N.J. 443, 445-46 (1989).

In applying the above principles to this case, we considered that respondent's conduct was of extreme severity and capable of placing national security at great risk; that he was twice disciplined for conduct involving immigration clients, thereby demonstrating his unwillingness -- worse yet, refusal -- to ensure that his immigration practices were beyond reproach; that he was incapable of recognizing his wrongdoing; and that not a speck of mitigation could be unearthed from the record.

The following cases provide some guidance in gauging the suitable penalty for respondent's criminal offenses. In In re Vargas, 170 N.J. 255 (2002), the attorney pleaded guilty to a one-count information charging him with making false statements on immigration and naturalization documents, in violation of 18 U.S.C.A. 1001. He was sentenced to a three-year term of probation and ordered to perform 200 hours of community service.

Specifically, in the course of his representation of two individuals who wished to establish permanent residence in the United States, Vargas submitted to the Immigration and Naturalization Service (INS) two Notices of Action bearing the

individuals' names. In reality, the Notices of Action had been issued for prior clients of Vargas. In falsifying the forms, Vargas' purpose was to further his misrepresentation that he had previously forwarded them to the INS.

Initially, Vargas lied to ethics investigators about forging the INS documents, claiming that a paralegal in his office had done so. He later admitted that he had falsified the documents.

Vargas was suspended for three years.

A three-year suspension was also imposed in In re Silverblatt, 142 N.J. 635 (1995). There, the attorney was disbarred in New York, after he pleaded guilty to one count of a federal indictment charging him with ten counts of willfully and knowingly presenting documents containing false statements of material fact to the INS, a violation of 18 U.S.C.A. 1001. Silverblatt misrepresented to the INS the reasons for changes in a number of clients' official alien status. As a result, the INS issued employment authorization forms to those clients.

Silverblatt was sentenced to two years' probation and fined $5,000.

In re Brumer, 122 N.J. 294 (1991), also led to a three-year suspension. Brumer pleaded guilty to a two-count federal information charging him with knowingly and willfully

encouraging and inducing aliens to reside in the United States, violations of 8 U.S.C.A. 1324(a)(1)(D) and 18 U.S.C.A. 2. He was sentenced to five years' probation, fined $50,000, and ordered to perform 1,000 hours of community service.

Specifically, Brumer agreed to apply for labor certificates for eleven aliens who were working as undercoaters for Elite Undercoating Services. Brumer knew that the aliens were working for Elite at the time and knew that it was unlawful for them to work prior to authorizations issued by the INS. Yet, Brumer informed Elite's owner that the aliens could work during the pendency of their applications.

When Brumer became the target of an INS investigation, he advised the clients that they had the right not to speak with the investigators and that, if they did, they would probably be detained at a detention center. He told them that they were better off not being located by the investigators. He counseled them to either skip work or to relocate, in order to avoid detection and detention by the INS.

In the disciplinary proceedings that ensued, Brumer also admitted that, in three other cases, he collected substantial retainers from immigration clients and then failed to perform the requested services.

See also In re Biederman, 134 N.J. 217 (1993) (eighteen-month suspension for assisting ten Philippine nationals gain entry into the United States to enter the country with fake passports; Biederman received a five-year term of probation and was ordered to pay a $1,000 fine; in mitigation, we considered that Biederman had enjoyed an illustrious career, spanning three decades).

Here, respondent's conduct was much more egregious than that of Vargas, Silverblatt, and Brumer, who received three-year suspensions. Vargas inserted the names of two existing clients on forms that had been issued for two prior clients. Unlike respondent's, Vargas' main purpose was not to obtain unlawful results for the new clients, but to cover up his inaction in the two matters. Moreover, his conduct was confined to two instances of forgery, contrasted to respondent's hundreds of false forms.

In forging immigration documents in ten instances, Silverbaltt did intend to illegally secure employment authorizations for the clients, but there, too, the conduct did not reach the proportion of respondent's wrongdoing.

Finally, the crux of Brumer's improper actions -- applying for labor certificates for eleven clients, knowing that it was unlawful for them to work during the application period, failing

to advise the employer of this prohibition, and abandoning three other clients -- does not come close to the magnitude of respondent's submissions of hundreds of false applications to the government.

The disparity between the sentences imposed in Vargas (three years' probation), Silverblatt (two years' probation) and Brummer (five years' probation) and the sentence imposed in this case (fifty-seven months' imprisonment) further highlights the gravity of respondent's criminal activities, as compared to the offenses committed by the other three attorneys.

That respondent willfully jeopardized the country's security and has twice been disciplined are aggravating factors. His refusal to accept responsibility for his actions was especially troubling. The sentencing judge saw not an ounce of mea culpa or regret on his part. In fact, she found no imminent prospects of redemption for him.

In view of the foregoing, we conclude that disbarment is the only appropriate sanction this case. We recommend that the Court disbar respondent.

Member Neuwirth 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
William O'Shaughnessy, Chair

By: Julianne K. DeCore
Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Jonathan Saint-Preux
Docket No. DRB 07-403

Argued: March 20, 2008

Decided: May 7, 2008

Disposition: Disbar

Members	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
O'Shaughnessy	X					
Pashman	X					
Baugh	X					
Boylan	X					
Frost	X					
Lolla	X					
Neuwirth						X
Stanton	X					
Wissinger	X					
Total:	8					1

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