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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 05-022
District Docket Nos. XIV-02-005E

IN THE MATTER OF :
VINCENT E. BEVACQUA :
AN ATTORNEY AT LAW :
:

Decision

Argued: March 17, 2005

Decided: May 12, 2005

Walton W. Kingsbery, III appeared on behalf of the Office of Attorney Ethics.

Through counsel, 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 disciplinary stipulation between respondent and the Office of Attorney Ethics ("OAE").

Respondent was admitted to the New Jersey bar in 1990. In 2002, respondent was reprimanded for misconduct in three matters, including gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, failure to explain matters to the extent reasonably necessary to permit

clients to make informed decisions about the representation, failure to set forth in writing the basis or rate of his fee, failure to promptly return a client's file, and assistance in the unauthorized practice of law (respondent allowed a lawyer not admitted in New Jersey to conduct a deposition in New Jersey). In re Bevacqua, 174 N.J. 296 (2002). On June 15, 2004, he was suspended for six months for recordkeeping violations, which resulted in the negligent misappropriation of client funds; respondent also made false statements of material fact to the OAE in its investigation; in another client matter, respondent engaged in a conflict of interest by representing the driver and passenger in an automobile accident. In re Bevacqua, 180 N.J. 21 (2004).

According to the stipulation, on November 30, 2001, Old Bridge Township police were dispatched to the Old Bridge K-Mart store because of a suspected credit card theft. K-Mart security personnel advised police that respondent, posing as someone else, had attempted to purchase a Sylvania television and a Sony Playstation with fraudulent credit cards.¹ Respondent signed a

¹ The police were also advised that, two days earlier, on November 28, 2001, respondent had attempted to purchase electronics products at the same K-Mart, using "fabricated credit cards." Because the credit transaction was declined, respondent left the store that day without completing the purchase.

credit card slip claiming to be "Vincent Jones." The MasterCard account belonged to an entity, "Dunhill & Jones." Respondent's purchase totaled \$519.15.

During the purchase, K-Mart security personnel approached respondent and requested identification. Respondent claimed to be Vincent Jones and gave K-Mart officials a wallet containing a "Net1st" National Bank MasterCard in the name of Vincent Jones, a BankDirect MasterCard, in the name of Dunhill & Jones, Inc., a FirstPlus Bank MasterCard, in the name of Dunhill & Jones, a Southern Pacific Bank Visa card in the name of Dunhill & Jones, a Providian Bank Visa Platinum card in the name of Dunhill & Jones, and an Allegiance Community Bank Visa Check card in the name of Vincent Jones. The wallet also contained a New Jersey driver's license bearing respondent's picture and the name "Vincent Jones."

With K-Mart security at his side, respondent then attempted to slip a second wallet to an unidentified man next to him. K-Mart security personnel intercepted respondent's attempt. There is no information in the record about the contents of that wallet. Respondent was asked to accompany security personnel to the K-Mart security office. Once there, respondent admitted that he was Vincent Bevacqua, not Vincent Jones, and was placed under arrest.

As a result of the K-Mart incidents, the Middlesex County Prosecutors' Office charged respondent with three crimes: (1) identity theft (N.J.S.A. 2C:21-17A (2)); (2) credit card fraud (N.J.S.A. 2C:21-1A (2)); and (3) theft (N.J.S.A. 2C:20-4A).

At some undisclosed time thereafter, respondent was enrolled in a pre-trial intervention program ("PTI"). The PTI agreement is not a part of the record. The record does not reveal if respondent pleaded guilty to the charges, as is sometimes the case in PTI matters.

Respondent stipulated, however, that his conduct violated RPC 8.4(b), in that he committed, or attempted to commit, the above crimes, which reflected adversely on his honesty, trustworthiness or fitness as a lawyer.

In addition, respondent stipulated that his conduct violated RPC 8.4(c), in that he had engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

The OAE recommended a one-year suspension.

After an independent review of the record, we are satisfied that the stipulation contains clear and convincing evidence of unethical conduct.

Respondent stipulated that his conduct was criminal in nature and, as such, was in violation of statutes prohibiting identity theft, credit card fraud, and theft. Respondent also

stipulated that his conduct reflected adversely on his honesty, trustworthiness or fitness as a lawyer, a violation of RPC 8.4(b), and constituted conduct involving dishonesty, fraud, deceit or misrepresentation, a violation of RPC 8.4(c).

In cases dealing with theft, discipline has ranged from a reprimand to disbarment. In less serious theft matters, the discipline has ranged from a reprimand to a short suspension. See, e.g., In re Butler, 152 N.J. 445 (1998) (reprimand for attorney who sold a computer that belonged to his law firm; the attorney had unsuccessfully argued that the computer had been given to him in lieu of salary) and In re Birchall, 126 N.J. 344 (1991) (reprimand for attorney who twice entered his former wife's home without permission and removed property to use as a negotiating tool to obtain more favorable visitation rights with his children; attorney suffered from alcoholism).

More serious thefts have resulted in three-year suspensions and disbarment. See, e.g., In re Meaden, 165 N.J. 22 (2000) (three-year suspension for attorney who, while on vacation in California, stole a credit card number while in a camera store and then attempted to commit theft by using the number to purchase \$5,800 worth of golf clubs, which he had delivered to a New Jersey address; the attorney also made multiple misrepresentations on fire-arms purchase identification cards

and handgun permit applications by failing to disclose his psychiatric condition and his involuntary psychiatric commitment as required by law; the attorney had a prior reprimand for making direct, in person contact with victims of the Edison New Jersey Pipeline Explosion Mass Disaster) and In re Hasbrouck, 152 N.J. 366 (1998) (disbarment for attorney convicted of theft by unlawful taking and of burglary of doctors' homes to obtain keys to their offices to have access to prescription drugs; the attorney had a prior one-year suspension for obtaining a controlled dangerous substance by fraud and for uttering a forged prescription; the Court found that the attorney's pattern of illegal conduct demanded stronger discipline than would an isolated criminal incident).

Factually, this case most closely resembles In re Meaden, supra, 165 N.J. 22, wherein the attorney devised a scheme to fraudulently obtain golf clubs with a stolen credit card number. In both cases, the attorneys possessed the mens rea to steal with bogus credit cards, and each attorney set in motion a plan to accomplish it. In respondent's case, he possessed not one or two, but six fraudulent credit cards at the time of his arrest. Respondent also had a second wallet and a phony driver's license bearing his picture.

This case is more serious, however, than Meaden. After coming up empty-handed in his first attempt to use a bogus credit card, respondent boldly returned two days later to try again. It is this final act - respondent's return to K-Mart to take a second crack at his task - that makes this case so egregious. Like attorney Hasbrouk, respondent made more than one attempt to steal, and is, thus, guilty of a pattern of criminal conduct.

Despite the notion that criminal conduct by attorneys demeans every lawyer in our state, sometimes the conduct may be tempered by mitigation - additional factors such as mental illness or addiction. There are no such mitigating factors in the matter before us - nothing to indicate that respondent was somehow in the grip of a problem that clouded his judgment. There is no sense that his character is salvageable, if something were to be corrected.

We conclude that respondent's pattern of illegal conduct, when juxtaposed with his prior six-month suspension and reprimand, warrants the harshest of sanctions.

In In re Templeton, 99 N.J. 365, 376 (1985), the Court stated that

[d]isbarment is reserved for the case in which the misconduct of an attorney is so immoral, venal, corrupt or criminal as to destroy totally any vestige of confidence

that the individual could ever again practice in conformity with the standards of the profession. Disbarment is a guarantee to the public that the attorney will not return to the profession.

So, too, disbarment is appropriate for conduct "involving the commission of crimes that directly poison the well of justice." In re Verdiramo, 96 N.J. 183, 186 (1984).

We find that, for all of the above reasons, respondent is unfit to practice law and must be disbarred. We so recommend to the Court. Members Matthew Boylan, Esq. and Robert Holmes, Esq. did not participate.

We also require respondent to reimburse the Disciplinary Oversight Committee for administrative expenses.

Disciplinary Review Board
Mary J. Maudsley, Chair

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

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

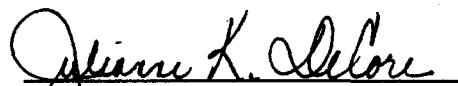
In the Matter of Vincent E. Bevacqua
Docket No. DRB 05-022

Argued: March 17, 2005

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Disposition: Disbar

Members	Disbar	Suspension	Reprimand	Dismiss	Did not participate
Maudsley	X				
O'Shaughnessy	X				
Boylan					X
Holmes					X
Lolla	X				
Pashman	X				
Schwartz	X				
Stanton	X				
Wissinger	X				
Total:	7				2


Julianne K. DeCore
Chief Counsel