

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 05-064
District Docket No. XIV-05-009E

IN THE MATTER OF :
 :
JOSEPH J. HALDUSIEWICZ :
 :
AN ATTORNEY AT LAW :
 :

Dissent

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

We respectfully dissent from the majority's determination that respondent should receive a six-month suspension for his misconduct. Our disagreement with the majority is two-fold. First, we do not agree with the majority's premise that respondent's illegal conduct was not related to his duties as a public servant. Second, although disciplinary cases are fact-sensitive and must be decided on a case by case basis, possession of child pornography is a very serious offense that, absent special circumstances, should be met with a long-term suspension. In our view, the six-month suspension imposed by the majority is insufficient. In two child-pornography cases

decided by the Court in 2003, In re Rosanelli, 176 N.J. 275 (2003) and In re Peck, 177 N.J. 249 (2003), we expressed our opinion that at least a two-year suspension is warranted for this serious crime, which demeans and exploits children.

As to our first concern, respondent's illegal actions took place in a state office, on a state computer and during his workday. We are unable to see how the majority can determine that his actions were not work-related. The time he spent pursuing his prurient interests was time he should have spent on his job as a deputy attorney general. His actions were necessarily distracting and detrimental to his performance of his duties.

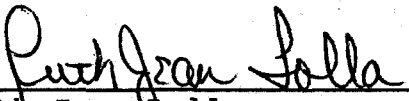
The discipline imposed in this case should be enhanced, as it has been in the past when attorneys who held public positions betrayed the trust of the people they committed to serving. In In re Hecker, 109 N.J. 539 (1988), the attorney received a six-month suspension for multiple ethics violations, including overcharging a municipal client, filing a meritless appeal for the purpose of delay, acquiring tax sale certificates while serving as a municipal attorney and without filing a disclosure statement required by a municipal code of ethics, withholding files for sixteen months after he "resigned" as municipal attorney, suing township officials just before an election to

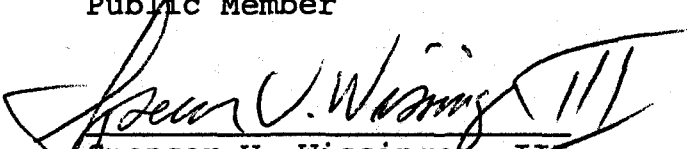
force them to rehire him, and hiding assets so that the municipality had difficulty recovering a \$110,000 judgment against him. The Court noted that, although generally this misconduct would merit a lengthy period of suspension, taking into account the delay in imposing discipline (fifteen years had passed since the underlying conduct), a six-month suspension was appropriate. In its decision, the Court, quoting In re Opinion No. 415, 81 N.J. 318 (1979), stated that "[p]ositions of public trust call for even more circumspect conduct." In re Hecker, supra, 109 N.J. 539 at 552. See also In re Jones, 131 N.J. 505 (1993), where the Court disbarred an attorney who accepted a bribe while employed as a deputy attorney general.

That respondent's actions did not take place in a courtroom or in the context of an attorney-client relationship is irrelevant. As a public official, he betrayed the trust that had been placed in him. As a public servant, respondent had a heightened duty to be above reproach.

As to our second concern -- the nature of respondent's criminal activity itself -- we have expressed to the Court in the past that we cannot accept a six-month suspension as sufficient discipline for crimes that perpetuate the child-pornography industry. Therefore, in light of the nature of

respondent's crime and his betrayal of the public trust, we determine that a two-year suspension is required in this case.


Ruth Jean Lolla
Public Member


Spencer V. Wissinger, III
Public Member