SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. 02-217

IN THE MATTER OF

HARVEY L. LASKEY

AN ATTORNEY AT LAW

Decision

Argued: July 18, 2002

Decided: October 15, 2002

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

Respondent did not appear for oral argument, despite proper notice.

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, based on respondent's six-month suspension in Florida. Respondent did not notify the OAE of the suspension, as required by R.1:20-14(a)(1).

Respondent was admitted to the New Jersey bar in 1968. He has no disciplinary history. He has been ineligible to practice law in New Jersey since September 1999, due to

his failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection.

In 1994, respondent was a director of Movemor, Inc., with the same address as that of his law office. Movemor owned Eau Gallie Property Land Trust ("Eau Gallie").

On November 29, 1994, Vincent DeVita contracted to sell property to Eau Gallie for $65,000. On December 15, 1994, Eau Gallie granted an option for the purchase of the property to Spring Creek Medical and Professional, Inc. ("Spring Creek"). Kenneth Field was the president of Spring Creek.

On March 2, 1995, Eau Gallie's trustee executed a power-of-attorney designating respondent as his agent for the sale of the property. Respondent prepared second and third purchase money mortgages from Spring Creek to Eau Gallie, purportedly securing $80,000 and $150,000 promissory notes, respectively. Respondent notarized Field's signature on the notes and mortgages.

On March 10, 1995, respondent executed a deposit confirmation stating that he had received a $124, 901 deposit. That was false and respondent knew it to be false.

The real estate closing took place on March 10, 1995. Fidelity National Title ("Fidelity") was the settlement agent. Fidelity prepared the closing documents based upon the fraudulent deposit confirmation. The closing documents showed DeVita as the seller and Spring Creek as the buyer/borrower. The purchase price was $500,000. Spring Creek obtained a $170,000 first mortgage from Sheldon Fruchtman, as trustee of the Sheldon Fruchtman Trust, and Vincenza Fruchtman ("the Fruchtmans").

Fidelity's closing statement showed that the funds for the closing came from the following sources:

Deposit held by respondent	$124,901
First mortgage from the Fruchtmans	170,000
Second and third mortgages	230,000
Total	524,901

In fact, the only funds provided for the closing was the $170,000 from the Fruchtmans. Respondent signed the closing statement and certified that "it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction."

After all closing costs were disbursed, $136,657.06 remained. At Field's direction, respondent deposited those funds in his trust account. Respondent then disbursed $36,054.02 to Spring Creek and $46,847.60 to DeVita. The disbursement to DeVita was pursuant to the original $65,000 sales contract between DeVita and Eau Gallie. The record does not reveal what respondent did with the remaining $53,755.44.

On July 28,1995, the trustee of Eau Gallie assigned the $80,000 note and second mortgage to Philip Puleo for $25,000. On that same date, Harold Smith paid $70,000 to Puleo for an assignment of the $80,000 note and second mortgage. Smith relied upon the closing statement in determining that the assignment was worth $70,000.

In 1996, Smith learned that the Fruchtmans were about to foreclose on the property. Again, relying upon the closing statement and to protect his interest as the second mortgagee, Smith purchased the first mortgage for $200,000. The record does not reveal what occurred after that purchase.

According to the report of the Florida referee, there was no evidence that respondent was "part of an ongoing scheme to defraud investors, as alleged by The Florida Bar, and he did not receive monetary compensation other than his attorney's fees." However, the report concluded that (1) respondent "did provide false information to Fidelity in order that the closing take place" and (2) that the Fruchtmans and Smith relied upon that false information. In recommending a six-month suspension, the referee took into consideration (1) respondent's previously unblemished legal career; (2) the absence of a personal motive; (3) respondent's cooperation with and "full disclosure to" the Florida committee; and (4) the testimony of several witnesses that respondent was "truthful, honest, and [] of good moral character."

In April 2000, the Supreme Court of Florida approved the "uncontested report" of the referee and suspended respondent for six months. The Court also placed him on probation for three years and required him to complete fifteen hours of ethics courses and 250 hours of community service.

* * *

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 it rests for purposes of a disciplinary proceeding"), we adopted the findings of the Supreme Court of Florida.

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 a review of the record does not reveal any conditions that would fall within the ambit of subparagraphs (A) through (E).

"Ordinarily, acts of dishonesty, such as the falsification of public documents or lending documents, warrant a period of suspension." In re Alum, 162 N.J. 213, 315 (2000) (citations omitted). See In re Newton, 159 N.J. 526 (1999) (attorney suspended for one year for concealing the true nature of eight real estate transactions through misrepresentations on closing documents and affidavits of title; the attorney also took one false jurat); In re Fink, 141 N.J. 231 (1995) (attorney suspended for six months for failing to reveal secondary financing on real estate closing documents in five transactions, and taking a false jurat and

making a false statement to the prosecutor's office; no clear and convincing evidence of any scheme to defraud the lenders); In re Telsen, 138 N.J. 47 (1994) (six-month suspension where the attorney altered a document to conceal the fact that a divorce complaint had been dismissed, submitted the uncontested divorce to another judge, who granted the divorce, and then denied to a third judge that he had altered the document); In re Nowak, 159 N.J. 520 (1999) (attorney suspended for three months for misstatements on two settlement statements and conflict of interest).

Here, respondent signed a false deposit confirmation stating that he had received a $124,901 real estate deposit. Thereafter, he signed a closing statement, which he certified was correct, showing the deposit. The closing agent and a subsequent purchaser of the second mortgage relied on those documents. We see no reason, therefore, to deviate from R.1:20-14(a), mandating identical discipline to that imposed in the foreign jurisdiction. We, thus, unanimously determined to suspend respondent for six months. One member did not participate.

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

By: _____
ROCKY L. PETERSON
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Harvey L. Laskey
Docket No. DRB 02-217

Argued: July 18, 2002

Decided: October 15, 2002

Disposition: Six-month suspension

Members	*Disbar*	*Six-month suspension*	*Reprimand*	*Admonition*	*Dismiss*	*Disqualified*	*Did not participate*
Peterson		X					
Maudsley		X					
Boylan		X					
Brody		X					
Lolla		X					
O'Shaughnessy		X					
Pashman							X
Schwartz		X					
Wissinger		X					
Total:		8					1

Robyn M. Hill 10/21/02
Robyn M. Hill
Chief Counsel