

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 91-028

IN THE MATTER OF :
:
BRIAN A. BOYD, :
:
AN ATTORNEY AT LAW :
:

Decision and Recommendation
of the
Disciplinary Review Board

Argued: March 20, 1991

Decided: June 28, 1991

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

Respondent waived appearance for oral argument.

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

This matter is before the Board on a Motion For Final Discipline, filed by the Office of Attorney Ethics, based on respondent's guilty plea to grand larceny in the second degree, in violation of §155.40 of the New York Penal Law.

A twenty-four-count New York indictment was returned against respondent charging him with one count of grand larceny in the second degree, in violation of §155.40 of the New York Penal Law; one count of criminal possession of stolen property in the second degree, in violation of §165.52 of the New York Penal Law; one count of engaging in a scheme to defraud in the first degree, in violation of §190.65 of the New York Penal Law; and twenty-one

counts of criminal possession of a forged instrument in the second degree, in violation of §170.25 of the New York Penal Law.

On November 29, 1989, respondent pleaded guilty to the first count of the indictment, grand larceny in the second degree, which charged respondent with stealing in excess of \$77,000 from the estate of a client of the New York law firm with which he was associated. The plea exposed respondent to a possible fifteen-year term of incarceration. On September 12, 1990, respondent was sentenced to five-years' probation in order to make full restitution in the amount of \$84,000.

On December 27, 1989, respondent was temporarily suspended from the practice of law, pursuant to R.1:20-6(a)(1). The suspension remains in effect as of this date. On May 10, 1989, respondent was disbarred in the State of New York.

The Office of Attorney Ethics requested that the Board recommend to the Court that respondent be disbarred.

CONCLUSION AND RECOMMENDATION

A criminal conviction is conclusive evidence of respondent's guilt. R.1:20-6(b)(1). Accordingly, there is no need to make an independent examination of the underlying facts to ascertain guilt. In re Bricker, 90 N.J. 6, 10 (1982). The only issue to be determined is the extent of the final discipline to be imposed. R.1:20-6(c)(2)(ii). Respondent's guilty plea established

that he engaged in illegal conduct that adversely reflects on his fitness as a lawyer, and was the result of dishonesty, fraud, deceit and misrepresentation. RPC 8.4(b) and (c). Respondent pled guilty to grand larceny in the second degree, by knowingly misappropriating client funds in excess of \$77,000. This alone requires disbarment. In re Noonan, 102 N.J. 157, 160 (1986); In re Wilson, 81 N.J. 451, 455 (1979).


In view of the foregoing, the Board unanimously recommends that respondent be disbarred. Two members did not participate.

The Board further recommends that respondent be required to reimburse the Ethics Financial Committee for appropriate administrative costs.

Date: _____

6/28/91

By: _____


Raymond R. Trombadore
Chair
Disciplinary Review Board