

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. 88-238

IN THE MATTER OF :
:
DENNIS J. IULO :
:
AN ATTORNEY-AT-LAW :
:
:

Decision and Recommendation
of the
Disciplinary Review Board

Argued: November 17, 1988

Decided: December 28, 1988

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

Miles Feinstein, Esq., appeared on behalf of the respondent.

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 conviction of two counts of misapplication of entrusted property belonging to clients, contrary to N.J.S.A. 2C:21-15.

On February 1, 1985, an 11-count indictment was returned against respondent by the Passaic County Grand Jury (Ind. No 128-85B). Counts one and three charged him with third degree misapplication of entrusted property having values of \$40,548.97 and \$30,802.59, contrary to the provisions of N.J.S.A. 2C:21-15; counts two and four charged him with third degree theft of entrusted property having values of \$40,548.97 and \$30,802.59, by

failing to make the required disposition, in violation of N.J.S.A. 2C:20-9; counts five through nine charged him with third degree uttering of forged documents, contrary to N.J.S.A. 2C:21-1a(3); count ten charged him with fourth degree falsification of a writing, contrary to N.J.S.A. 2C:21-4a, and count 11 charged him with third degree attempted witness tampering, in violation of N.J.S.A. 2C:28-5a(1).

Respondent's criminal trial lasted seven days. At the close of the state's case, the court denied respondent's motion for a judgment of acquittal as to counts one, two, three, four and ten and granted the motion as to the remaining counts. On April 28, 1987, respondent was found guilty of counts one and three (misapplication of entrusted property) and acquitted of the remaining charges.

The property which was misapplied consisted of clients' monies which had been deposited in respondent's trust account. On two separate occasions, March 23 and June 9, 1981, there were shortages in the trust account in the amounts of \$40,548.97 and \$30,802.59, respectively.¹

Following his conviction of misapplication of entrusted property, on June 9, 1987, respondent was placed on probation for a period of three years. He was also directed to pay \$50.00 to

¹In March 1981, respondent represented the buyers of certain property. The mortgage pay-off check in the amount of \$9,000.00, which was issued against respondent's trust account, was returned for insufficient funds. When the sellers' attorney filed a grievance against respondent, the district ethics committee demanded an accounting of respondent's trust account.

the Violent Crimes Compensation Board.

Respondent had been under a temporary suspension from the practice of law as a result of a Supreme Court Order dated December 17, 1982. Pursuant to a consent order entered on February 2, 1983, which remains in effect to date, respondent's suspension was continued. The Office of Attorney Ethics now requests that this Board recommend to the Supreme 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(b)^C(2)(ii). Respondent's conviction of misapplication of entrusted property established that he engaged in illegal conduct which adversely reflected on his fitness as a lawyer and in conduct involving dishonesty and fraud. DR 1-102(A)(3) & (4).

Respondent was convicted of misapplication of entrusted funds, contrary to N.J.S.A. 2C:21-15. This alone requires disbarment. In re Noonan, 102 N.J. 157, 160 (1986); In re Wilson, 81 N.J. 451, 455 (1979).

The Board finds no mitigating circumstances. The

maintenance of public confidence in the Supreme Court and the bar as a whole requires the strictest discipline in misappropriation cases. In re Wilson, supra, 81 N.J. at 461. Accordingly, the Board unanimously recommends that respondent be disbarred.

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

Dated 12/30/18

By: Raymond R. Trombadore
Raymond R. Trombadore
Chair
Disciplinary Review Board