

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 03-193

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IN THE MATTER OF :  
JOHN P. GROSS :  
AN ATTORNEY AT LAW :

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Decision

Argued: September 11, 2003

Decided: September 25, 2003

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

Respondent, who is currently incarcerated, did not appear 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 motion for final discipline filed by the Office of Attorney Ethics (“OAE”), based upon respondent’s conviction for one count of second degree theft of movable property, in violation of N.J.S.A. 2C:20-3b; one count of third degree tampering with public records, in violation of N.J.S.A. 2C:28-7a(1); two counts of second degree theft by failure to make required disposition of property received, in violation of N.J.S.A. 2C:20-9; and three counts of third degree theft by failure to make

required disposition of property received, in violation of N.J.S.A. 2C:20-9.

Respondent was admitted to the New Jersey bar in 1975. On September 19, 2000, the Court temporarily suspended him for failure to appear for an OAE demand audit. In re Gross, 165 N.J. 481 (2000).

In September 2002, respondent pleaded guilty to seven counts of an eight-count indictment. All of respondent's crimes were committed while he was acting as an attorney and/or a trustee.

In 1996, respondent was the trustee of a trust established for Caroline Schurman by her father's will. In February 1996, Schurman purchased a house for \$120,000 from the trust funds. Respondent titled the deed in his name as trustee for Schurman. In July 1998, without Schurman's knowledge or consent, respondent filed a new deed transferring ownership of the house from him as trustee to him personally. He then obtained two loans, for \$46,999.66 and \$92,230.05, secured by mortgages on the house. Respondent used the loan proceeds for personal expenses.

In July 1999, Mary Blechar retained respondent to administer her late husband's estate, including the sale of a house. From the sale proceeds, respondent was to pay off Blechar's credit card debt and remit the remaining proceeds to her. However, respondent never paid Blechar's credit card debt and never remitted any monies to her. Respondent kept approximately \$29,000 of Blechar's monies.

In 1999, Florence Hale retained respondent to administer her late husband's estate.

From her inheritance, Hale gave respondent \$170,000 to invest for her. Instead of investing the funds, respondent used them for personal expenses.

In September 2000, respondent represented Ronald Frank in the purchase of a house from Betty Kohler. Respondent was supposed to pay off Kohler's mortgage from the sales proceeds. However, he only paid part of the mortgage and kept \$68,000. Respondent also failed to pay \$2,065 from the closing proceeds to the title insurance company for the title insurance premium

Finally, respondent received \$5,000 from Andie Miller as a deposit on the purchase of a house from respondent's client. Because Miller could not obtain a mortgage, the contract was cancelled. However, respondent did not return Miller's deposit.

Respondent blamed his misappropriations on his gambling addiction. He was sentenced to eight years imprisonment and required to pay \$425,525.70 restitution to his victims.

The OAE urged us to recommend respondent's disbarment.

Upon a de novo review of the full record, we determined to grant the OAE's motion for final discipline.

A criminal conviction is conclusive evidence of guilt in a disciplinary proceeding. R. 1:20-13(c)(1); In re Gipson, 103 N.J. 75, 77 (1986). Respondent's conviction established a violation of RPC 8.4(b) (commission of a criminal act that reflects

adversely on his honesty, trustworthiness or fitness as a lawyer). The sole issue to be determined is the quantum of discipline to be imposed. R. 1:20-13(c)(2); In re Lunetta, 118 N.J. 443, 445 (1989).

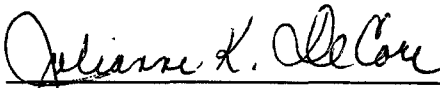
The level of discipline imposed in disciplinary matters involving the commission of a crime depends on numerous factors, including the “nature and severity of the crime, whether the crime is related to the practice of law, and any mitigating factors such as respondent’s reputation, his prior trustworthy conduct, and general good conduct.” In re Lunetta, supra, 118 N.J. at 445-46.

It is well-settled law in New Jersey that the knowing misappropriation of client funds or escrow funds will result in permanent disbarment. In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985).

Therefore, we unanimously determined to recommend that respondent be disbarred from the practice of law. One member did not participate.

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

Disciplinary Review Board  
Mary J. Maudsley, Chair

By:   
Julianne K. DeCore  
Acting Chief Counsel

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DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

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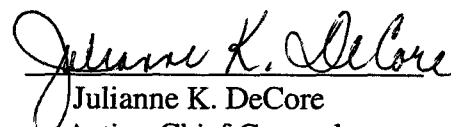
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Disposition: Disbar

<i>Members</i>	<i>Disbar</i>	<i>Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Maudsley</i>	X						
<i>O'Shaughnessy</i>	X						
<i>Boylan</i>							X
<i>Holmes</i>	X						
<i>Lolla</i>	X						
<i>Pashman</i>	X						
<i>Schwartz</i>	X						
<i>Stanton</i>	X						
<i>Wissinger</i>	X						
<b>Total:</b>	8						1

  
 Julianne K. DeCore  
 Acting Chief Counsel