

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 01-360

IN THE MATTER OF :
:
JAMES D. COFFEE :
:
AN ATTORNEY AT LAW :
:

Decision

Argued: November 15, 2001

Decided: May 15, 2002

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 was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (OAE), pursuant to R.1:20-14, following respondent's thirty-day suspension in Arizona for violations of Arizona ER 3.3, ER 4.1, ER 8.4(c) and ER 8.4(d), which correspond to New Jersey RPC 3.3, RPC 4.1, RPC 8.4(c) and RPC 8.4(d).

Respondent was admitted to the New Jersey bar in 1965 and to the Arizona bar in 1976. He has been ineligible to practice law in New Jersey since 1997 for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection. He has no

prior discipline.

In the Amended Tender of Admissions and Agreement for Discipline by Consent, filed with the Disciplinary Commission of the Supreme Court of Arizona, respondent stipulated the facts that gave rise to his suspension. Specifically, in his own domestic relations proceeding, respondent filed an Affidavit of Financial Information. On or about November 10, 1993, he was questioned at a hearing, under oath, about his assets. Respondent was specifically asked if he had any assets that were not listed in the affidavit. He replied that he had not. In fact, respondent had an out-of-state bank account worth approximately \$50,000, which he had not disclosed.

The court ordered respondent to pay the other party's attorney fees, finding that respondent's willful failure to disclose certain assets and to update his pleadings and Affidavit of Financial Information directly resulted in an increase in the petitioner's counsel fees, by increasing her attorney's time. As noted earlier, respondent was suspended for a thirty-day period in Arizona for violating the disciplinary rules.

The OAE urged us to impose a three-month suspension. By letter dated September 25, 2001, respondent informed us that "[i]f the action to be taken is limited to the one set out in [the OAE's] Motion, I do not intend to contest it."

* * *

Following a de novo review of the 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 the Board rests for purposes of a disciplinary proceeding), we adopted the findings of the Supreme Court of

Arizona.

Reciprocal discipline 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 subsection (E) is applicable here, namely, that respondent's misconduct warrants substantially different discipline in New Jersey. The OAE urged us to impose a three-month suspension, citing In re D'Arienzo, 157 N.J. 32 (1999) (three-month suspension for misrepresentations to municipal court judge about the attorney's whereabouts); In re Poreda, 139 N.J. 435 (1995) (three-month suspension for presenting forged insurance identification card to police officer and to court with the specific intent to mislead both); In re Mark, 132 N.J. 268 (1993) (three-month suspension for oral and written misrepresentations to the court and adversary) and In re Johnson, 102 N.J. 504 (1986) (three-month suspension for misrepresenting facts to a trial court in order

to secure an adjournment).

Our independent review of the record persuades us that a three-month suspension is the appropriate discipline for respondent's ethics infractions. In a similar case, In re Kernan, 118 N.J. 381 (1990), the Court suspended for three months an attorney who, in his own matrimonial matter, transferred to his mother, for no consideration, property that had been previously certified to the court as an asset. The attorney admitted that he wanted to exclude this asset from the marital property that would otherwise be subject to a judgment for distribution in favor of his wife. The attorney did not inform the court, opposing counsel or his ex-wife about the transfer. The attorney failed to disclose the conveyance at a settlement conference and to amend the certification of assets that he had previously submitted to the court as part of the case information statement.

Here, too, respondent's conduct involved deceit and misrepresentation to a court and conduct prejudicial to the administration of justice, in violation of RPC 3.3, RPC 4.1, RPC 8.4(c) and RPC 8.4(d). Accordingly, we unanimously determined to impose a three-month prospective suspension for respondent's misconduct. One member did not participate.

We also required respondent to reimburse the Disciplinary Oversight Committee for administrative expenses.

By: 

ROCKY L. PETERSON
Chair
Disciplinary Review Board

*SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD*

In the Matter of James D. Coffee
Docket No. DRB 01-360

Argued: November 15, 2001

Decided: May 15, 2002

Disposition: Three-month suspension

<i>Members</i>	<i>Disbar</i>	<i>Three-month Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Peterson</i>		X					
<i>Maudsley</i>		X					
<i>Boylan</i>		X					
<i>Brody</i>		X					
<i>Lolla</i>		X					
<i>O'Shaughnessy</i>		X					
<i>Pashman</i>		X					
<i>Schwartz</i>							X
<i>Wissinger</i>		X					
Total:		8					1

Robyn M. Hill 5/21/02
Robyn M. Hill
Chief Counsel

