

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 16-378
District Docket No. XIV-2013-0708E

IN THE MATTER OF
JOSEPH I. ROSENZWEIG
AN ATTORNEY AT LAW

Decision

Argued: February 16, 2017

Decided: June 28, 2017

Christina Blunda Kennedy appeared on behalf of the Office of Attorney Ethics.

Respondent, through counsel, waived his 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), following an order from the Appellate Division of the Supreme Court of New York suspending respondent for six months, effective July 16, 2012. Respondent was found guilty of violating the equivalents of New Jersey RPC 8.4(b) (commission

of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

The OAE recommended a six-month suspension, with no objection to the retroactive application of that discipline. Respondent agreed with the OAE's recommendation and requested that the suspension be retroactive to July 16, 2012, the date he was suspended in New York.

For the reasons set forth below, we determine to impose a six-month suspension, retroactive to July 16, 2012.

Respondent earned admission to the New Jersey and New York bars in 1987. He has no history of discipline in either jurisdiction, but was declared ineligible to practice law in New Jersey on August 24, 2015, based on his non-compliance with New Jersey Continuing Legal Education requirements. According to Client Protection Fund records, respondent retired from the practice of law as of February 16, 2017.

The facts underlying respondent's misconduct are largely undisputed, as he admitted the majority of facts set forth in the August 12, 2011 Statement of Charges filed by New York

disciplinary authorities and conceded that his behavior constituted ethics violations.

Respondent married Theresa Wong in 1985, and, in 1995, began an extramarital affair with Radiah Givens, an exotic dancer he met at a "strip club" called "New York Dolls." Nine years later, in 2004, respondent and Givens traveled to the country of Jamaica, where respondent intended to marry her. In order to convince a Jamaican government official to effectuate their marriage, respondent falsely represented that he was a "bachelor." Jamaican authorities accepted respondent's misrepresentation, and he and Givens completed their wedding ceremony at a hotel resort. The pair received a wedding certificate, signed by a duly-authorized government official, that stated that their marriage was "solemnized" on August 13, 2004.

At the time he married Givens, respondent was aware that he was still married to Wong. Respondent's marriage to Givens while he was married to Wong constituted bigamy under Jamaican law, specifically Section 71 of the Offences Against the Person Act, a felony offense. In his August 24, 2011 Answer to the Statement of Charges, respondent admitted that he traveled with Givens to

Jamaica to "engage in a symbolic marriage-like ceremony," but denied that he intended to marry her in a "legal and practical sense." He further admitted that he "falsely and improperly advised a Jamaican government official that he was a 'bachelor,'" but asserted that "he never intended to commit bigamy under Jamaican law." He conceded, however, that his conduct violated the New York equivalents of New Jersey RPC 8.4(b) and RPC 8.4(c).

On July 16, 2012, the Appellate Division of the Supreme Court of New York issued an opinion concluding that respondent had violated the New York equivalents of New Jersey RPC 8.4(b) and RPC 8.4(c) and, further, finding the following mitigating factors applicable: respondent had no prior discipline; he fully cooperated with New York disciplinary authorities; he fully accepted responsibility for his misconduct and was remorseful; his misconduct was not related to the practice of law; the conduct was aberrational; and respondent enjoyed a reputation, among his colleagues and friends, for honesty and integrity. Based on New York disciplinary precedent regarding willful misrepresentations to government officials, the Appellate

Division imposed a six-month suspension, effective July 16, 2012.

* * *

Following a review of the full record, we determine 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 we rest for purposes of disciplinary proceedings. Therefore, we adopt the Appellate Division of the Supreme Court of New York's disciplinary findings and determine that respondent's conduct violated New Jersey RPC 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

Reciprocal discipline proceedings in New Jersey are governed by R. 1:20-14(a)(4), which provides in pertinent part:

The 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 on 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 unethical conduct established warrants substantially different discipline.

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

"[A] final adjudication in another court, agency or tribunal, that an attorney admitted to practice in this state . . . is guilty of unethical conduct in another jurisdiction . . . shall establish conclusively the facts on which it rests for purposes of a disciplinary proceeding in this state." R. 1:20-14(a)(5). Thus, with respect to motions for reciprocal discipline, "[t]he sole issue to be determined . . . shall be the extent of final discipline to be imposed." R. 1:20-14(b)(3).

Although no New Jersey disciplinary precedent addresses the crime of bigamy, terms of suspension have been imposed where attorneys have deceived government agencies in other contexts.

See, e.g., In re Carmel, 219 N.J. 539 (2014) (three-month suspension for attorney who attempted to perpetrate a fraud on the IRS; in connection with a foreclosure action on behalf of a client bank, the attorney fabricated a lis pendens document, back-dated it, and affixed a court's seal to it in an attempt to lead the IRS to believe that its lien was "junior" to the bank's lien; mitigating factors were the attorney's lack of an ethics history and his payment of the IRS lien, with interest); In re Nihamin, 217 N.J. 616 (2014) (three-month suspension for attorney who prepared HUD-1 documents that falsely indicated that earnest money deposits had been made and also disbursed loan proceeds not in accordance with the lenders' instructions; prior admonition); In re Nowak, 159 N.J. 520 (1999) (three-month suspension for attorney who prepared two HUD-1s that failed to disclose secondary financing and misrepresented the sale price and other information; the attorney also engaged in a conflict of interest by arranging for a loan from one client to another and by representing both the lender (holder of a second mortgage) and the buyers/borrowers); In re Swidler, 205 N.J. 260 (2011) (six-month suspension imposed in a default matter; in a real estate transaction, the attorney represented both parties without curing

a conflict of interest; the attorney acted dishonestly in a subsequent transfer of title to property; specifically, in the first transaction, the buyer, Rai, gave a mortgage to Storcella, the seller; the attorney, who represented both parties, did not record the mortgage; later, the attorney represented Rai in the transfer of title to Rai's father, a transaction of which Storcella was unaware; the attorney did not disclose to the title company that there was an open mortgage of record; the attorney was also guilty of grossly neglecting Storcella's interests, depositing a check for the transaction in his business account, rather than his trust account, and failing to cooperate with disciplinary authorities; prior reprimand and three-month suspension); In re Fink, 141 N.J. 231 (1995) (six-month suspension for attorney who failed to disclose the existence of secondary financing in five residential real estate transactions, prepared and took the acknowledgment on false HUD-1 statements, affidavits of title, and Fannie Mae affidavits and agreements, and failed to witness a power of attorney); In re Newton, 157 N.J. 526 (1999) (one-year suspension for attorney who prepared false and misleading HUD-1 statements, took a false jurat, and engaged in multiple conflicts of interest in real estate

transactions); and In re Frost, 156 N.J. 416 (1998) (two-year suspension for attorney who prepared misleading closing documents, including the note and mortgage, the Fannie Mae affidavit, the affidavit of title, and the settlement statement; the attorney also breached an escrow agreement and failed to honor closing instructions; the attorney's ethics history included two private reprimands, a three-month suspension, and a six-month suspension).

In cases where attorneys have been disciplined for making false statements for the purpose of their own benefit, but not related to their practice of law, terms of suspension also have been imposed. See, e.g., In re Coffee, 174 N.J. 292 (2002) (on motion for reciprocal discipline following a one-month suspension in Arizona, three-month suspension imposed for attorney's submission of a false affidavit of financial information in his own divorce case and subsequent misrepresentation under oath that he had no assets other than those identified in the affidavit); In re Kernan, 118 N.J. 361 (1990) (attorney suspended for three months for failure to inform the court, in his own matrimonial matter, that he had transferred property to his mother for no consideration, and for

failure to amend his certification listing his assets; attorney had a prior private reprimand); In re Lawrence, 185 N.J. 272 (2005) (six-month suspension imposed on attorney who, in his own bankruptcy and divorce matters, failed to disclose several assets and the payment of a pre-petition debt; mitigation included the attorney's consent to the denial of his discharge; prior private reprimand); In re Poling, 121 N.J. 392 (1990) (fourteen-month "time-served" suspension imposed on attorney who pleaded guilty to preparing a false financial statement, in violation of N.J.S.A. 2C:21-4(b)(2)); and In re Capone, 147 N.J. 590 (1997) (two-year suspension, retroactive to attorney's temporary suspension, for knowingly making false statements on a loan application, in violation of 18 U.S.C.A. §§ 1014 and 2).

After consideration of precedent, we determine that a six-month suspension, the same discipline imposed by New York disciplinary authorities, is the appropriate quantum of discipline. Respondent's deception of Jamaican government authorities in order to marry Givens, whether or not he intended the marriage to be "symbolic," resulted in the commission of a crime, and, further, illustrated respondent's willingness to make a serious

misrepresentation to convince government officials to effectuate his desired plan.

The suspension, however, should be retroactive to July 16, 2012, the date that New York suspended respondent, for the following reasons: respondent's misconduct occurred in 2004; he has engaged in no subsequent misconduct; and the resolution of this matter has been delayed for more than four years, through no fault of respondent.

Member Zmirich agrees with the imposition of a six-month suspension, but would impose it prospectively. Members Gallipoli and Hoberman did not participate.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Bonnie C. Frost, Chair

By:


Ellen A. Brodsky
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
CORRECTED VOTING RECORD

In the Matter of Joseph I. Rosenzweig
Docket No. DRB 16-378

Argued: February 16, 2017

Decided: June 28, 2017

Disposition: Six-month retroactive suspension

<i>Members</i>	Six-month Retroactive Suspension	Six-month Prospective Suspension	Did not participate
Frost	X		
Baugh	X		
Boyer	X		
Clark	X		
Gallipoli	X		
Hoberman	X		
Rivera	X		
Singer	X		
Zmirich		X	
Total:	8	1	


Ellen A. Brodsky
Chief Counsel