

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 89-217

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IN THE MATTER OF :  
:   
ROBERT SOLANO, :  
:   
AN ATTORNEY AT LAW :  
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Decision and Recommendation  
of the  
Disciplinary Review Board

Argued: October 18, 1989

Decided: February 5, 1990

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

Respondent did not appear.<sup>1</sup>

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

This matter is before the Board based on a Motion for Final Discipline filed by the Office of Attorney Ethics ("OAE").

Respondent was admitted to the New Jersey bar in 1977. In March 1986, respondent was arrested in Puerto Rico and served with a four-count federal indictment charging him with inducing the entry of and knowingly bringing two illegal aliens into the United States, in violation of 8 U.S.C.A. 1324(a)(1) and (4) (Exhibit B of the OAE brief).

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<sup>1</sup> Respondent was notified of the Board hearing by regular and certified mail sent to his New Jersey address, which was furnished to the Office of Attorney Ethics by respondent's parole officer. Although the certified mail was returned unclaimed, the regular mail was not returned.

On June 6, 1986, respondent pleaded guilty in the United States District Court for the District of Puerto Rico to one count of encouraging the entry of an alien into the United States, in violation of 8 U.S.C.A. 1324(a)(4) (Exhibit C of the OAE brief). Pursuant to the plea bargain agreement, the remaining three counts of the federal indictment were dismissed.

Subsequently, respondent filed a motion to withdraw his plea, which motion was denied. Respondent was sentenced to a three-year prison term and ordered to pay a \$2,000 fine, as well as a \$50 special monetary assessment. Respondent's conviction and sentence were affirmed on appeal on September 19, 1988.

Additionally, on October 1, 1985, the Passaic County Grand Jury returned an indictment charging respondent with misapplication of entrusted property, in violation of N.J.S.A. 2C:21-15, and theft by failure to make required disposition of property received, in violation of N.J.S.A. 2C:20-9 (Exhibit A of the OAE brief).

On April 1, 1987, respondent was convicted on both counts of the indictment. The evidence submitted at trial showed that, following a closing of title in September 1984, respondent deposited \$67,676.10 of client funds into his business account, rather than into his trust account, and utilized them for his own benefit.<sup>2</sup> On May 1, 1987, the court merged both counts and sentenced respondent to a five-year prison term. The term of

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<sup>2</sup> On May 22, 1987, the Clients' Security Fund paid \$7,500 in claims filed by respondent's clients.

sentence in the state case is to run consecutively to the federal sentence. On June 28, 1989, the state conviction was affirmed by the Appellate Division.

On February 25, 1985, respondent was temporarily suspended from the practice of law (Exhibit H of the OAE brief) for his failure to appear for a demand audit. This suspension was continued by an order dated March 4, 1985, until further order of the Court (Exhibit I of the OAE brief.)

The OAE is seeking respondent's disbarment.

#### 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 final discipline to be imposed. R. 1:20-6(b)(2)(ii). Respondent's guilty pleas established that he engaged in illegal conduct that adversely reflects on his fitness to practice law. RPC 8.4(b).

Respondent pleaded guilty to misapplication of entrusted property, contrary to N.J.S.A. 2C:21-15. This alone requires disbarment. See Matter of Kramer, 118 N.J. 553 (1989); Matter of Gold, 98 N.J. 53 (1984).

Mitigating circumstances are irrelevant. In re Noonan, supra, '02 N.J. at 160. The maintenance of public confidence in the courts and the bar as a whole requires the strictest discipline in

misappropriation cases. In re Wilson, supra, 81 N.J. at 461. Disbarment is equally necessary where the attorney has been convicted. Accordingly, the Board unanimously recommends that respondent be disbarred. Three members did not participate.

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

Dated:

2/5/1990

By:



Raymond R. Trombadore  
Chair  
Disciplinary Review Board