

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. 18-033  
District Docket No. XIV-2015-0477E

---

IN THE MATTER OF  
STEPHANIE A. HAND  
AN ATTORNEY AT LAW

---

:  
:  
:  
:  
:  
:  
:

Decision

Argued: April 19, 2018

Decided: June 26, 2018

Hillary K. Horton 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 final discipline filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-13(c)(2). On September 29, 2015, respondent entered a guilty plea in the United States District Court, District of New Jersey, to two misdemeanor counts of failure to file income tax returns, in violation of 26 U.S.C. § 7203. Both the OAE and respondent requested the imposition of a six-month prospective suspension.

For the reasons set forth below, we determined to grant the motion for final discipline and impose a one-year prospective suspension.

Respondent earned admission to the New Jersey, Pennsylvania, and New York bars in 1994. She is engaged in the practice of law in Newark, Essex County, New Jersey.

In 2010, respondent received an admonition for violating RPC 1.3 (lack of diligence) and RPC 8.4(d) (conduct prejudicial to the administration of justice). In that matter, respondent proceeded with her client's real estate purchase, despite her knowledge that the seller had filed a bankruptcy petition and, thus, the sale required the prior approval of the bankruptcy court. Respondent relied solely on the seller's representation that the bankruptcy court had approved the sale, which was not true. Eventually, the bankruptcy court approved the sale. In addition to imposing the admonition, we required respondent to return her fee to her client. In the Matter of Stephanie A. Hand, DRB 10-196 (September 29, 2010).

In 2015, respondent received a second admonition for lack of diligence and failure to communicate with a client, in violation of RPC 1.4(b). Specifically, between July 23, 2012 and April 26, 2013, she failed to perform work on her client's matter or to inform him that an arbitrator's decision in favor

of his contractor was not appealable. Rather, she continued to allow the client to believe that she would complete and file a complaint on his behalf. In the Matter of Stephanie A. Hand, DRB 14-291 (January 20, 2015).

On December 1, 2015, respondent was temporarily suspended from the practice of law, as a result of her guilty plea to the criminal offenses that are the subject of this motion for final discipline. In re Hand, 223 N.J. 362 (2015). On December 9, 2015, she was reinstated to the practice of law, without objection by the OAE, presumably because her federal offenses were misdemeanors, rather than felonies. In re Hand, 223 N.J. 401 (2015).

On July 5, 2017, respondent was temporarily suspended from the practice of law, after a jury in the Superior Court of New Jersey found her guilty of the second-degree crimes of financial facilitation of criminal activity and theft by deception. In re Hand, 229 N.J. 514 (2017). She remains suspended to date.

On September 29, 2015, before the Honorable William H. Walls, Senior U.S.D.J., respondent entered a guilty plea to two misdemeanor counts of failure to file income tax returns for calendar years 2008 and 2009, contrary to 26 U.S.C. § 7203. Respondent entered her guilty plea pursuant to an Information and, thus, voluntarily waived her presumption of innocence and

the government's burden of proof. Specifically, the Information alleged, and respondent admitted during her guilty plea allocution, that she had failed to file federal tax returns in 2008 and 2009, despite having earned gross income of \$213,097 and \$112,988 respectively, causing a stipulated \$50,588 tax loss to the United States government.<sup>1</sup> In return for the guilty plea, the government agreed not to "initiate any further criminal charges against her relating to tax offenses for the calendar years 2006 through 2012."

On May 24, 2016, Judge Walls sentenced respondent to three years' federal probation, to include a five-month period of home confinement, \$50,588 in restitution to the United States government (together with all interest and penalties), full cooperation with the Internal Revenue Service, restrictions on incurring any new debts, and mandatory fines and penalties.

In a February 15, 2018 submission to us, respondent requested the imposition of a six-month suspension, asserting, in mitigation, that she cooperated with the federal government, agreed to pay her back taxes, agreed to file amended tax returns for 2006-2012, and "clearly has demonstrated a recognition and

---

<sup>1</sup> This stipulated tax loss included respondent's failure to file a federal tax return in 2007. In essence, despite the terms of the plea, the government required respondent to pay back taxes for 2007-2009.

affirmative acceptance of personal responsibility for her criminal conduct."

\* \* \*

Following a review of the record, we determine to grant the OAE's motion for final discipline. Final discipline proceedings in New Jersey are governed by R. 1:20-13(c). Under that Rule, a criminal conviction is conclusive evidence of guilt in a disciplinary proceeding. R. 1:20-13(c)(1); In re Magid, 139 N.J. 449, 451 (1995); In re Principato, 139 N.J. 456, 460 (1995). Respondent's conviction for failure to file income tax returns establishes violations of RPC 8.4(b) and (c).<sup>2</sup> Pursuant to RPC 8.4(b), it is professional misconduct for an attorney to "commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer." Hence, the sole issue is the extent of discipline to be imposed. R. 1:20-13(c)(2); In re Magid, 139 N.J. at 451-52; In re Principato, 139 N.J. at 460.

In determining the appropriate measure of discipline, we must consider the interests of the public, the bar, and the respondent. "The primary purpose of discipline is not to punish the attorney but to preserve the confidence of the public in the

---

<sup>2</sup> Failure to file federal income tax returns violates both RPC 8.4(b) and (c), even in the absence of a criminal conviction. In re Williams, 172 N.J. 325 (2002); In re Vecchione, 159 N.J. 507 (1999); and In re Garcia, 119 N.J. 86, 89 (1990).

bar." Ibid. (citations omitted). Fashioning the appropriate penalty involves a consideration of many 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, 118 N.J. 443, 445-46 (1989).

That an attorney's conduct did not involve the practice of law or arise from a client relationship will not excuse an ethics transgression or lessen the degree of sanction. In re Musto, 152 N.J. 165, 173 (1997). Offenses that evidence ethics shortcomings, although not committed in the attorney's professional capacity, may, nevertheless, warrant discipline. In re Hasbrouck, 140 N.J. 162, 167 (1995). The obligation of an attorney to maintain the high standard of conduct required by a member of the bar applies even to activities that may not directly involve the practice of law or affect his or her clients. In re Schaffer, 140 N.J. 148, 156 (1995).

Violations of federal tax law by attorneys constitute serious ethics breaches. In re Queenan, 61 N.J. 579, 580 (1972). "[D]erelictions of this kind by members of the bar cannot be overlooked. A lawyer's training obliges him to be acutely sensitive of the need to fulfill his personal obligations under

the federal income tax law." In re Gurnik, 45 N.J. 115, 116-17 (1965).

In New Jersey, disciplinary cases involving willful failure to file federal income tax returns for one tax year have almost uniformly resulted in the imposition of a six-month suspension. See, e.g., In re Gaskins, 146 N.J. 572 (1996); In re Silverman, 143 N.J. 134 (1996); In re Doyle, 132 N.J. 98 (1993); In re Leahey, 118 N.J. 578 (1990); and In re Chester, 117 N.J. 360 (1990).

Attorneys who fail to file multiple income tax returns generally receive a suspension of at least one year. See, e.g., In re Cattani, 186 N.J. 268 (2006) (one-year suspension for failure to file federal and state income tax returns for eight years) and In re Spritzer, 63 N.J. 532 (1973) (after concluding that proffered mitigating circumstances did not justify attorney's failure to file federal income tax returns for ten years, the Court imposed a one-year suspension).

Discipline short of a one-year suspension is imposed only when the attorney who fails to file multiple tax returns did not owe any taxes or presented compelling mitigation. See, e.g., In re McEnroe, 172 N.J. 324 (2002) (three-month suspension for attorney with no disciplinary history for violations of RPC 8.4(b) and RPC 8.4(c), resulting from his seven-year failure to

file joint federal and state income tax returns on behalf of himself and his wife; the attorney's payment of all outstanding federal and state tax obligations was considered as mitigation); In re Williams, 172 N.J. 325 (2002) (reprimand for willful failure to file income tax returns for four years; attorney did not owe any taxes and had incurred no penalties); In re Vecchione, 159 N.J. 507 (1999) (compelling mitigating factors justified a six-month suspension for the attorney's failure to file federal income tax returns for twelve years). See also In re Stenhach, 177 N.J. 559 (2003) (on a motion for reciprocal discipline, attorney received a nine-month suspension for his guilty plea to one count of willful failure to file one federal income tax return; the attorney actually had failed to file tax returns and to pay taxes from 1982 through 1989; a jury also found the attorney guilty of two counts of willful failure to file Pennsylvania income tax returns and to remit income tax for the years 1996 and 1997; because the willful failure to file income tax returns typically results in a suspension in this state, no deviation was required from the discipline imposed in Pennsylvania).

Here, we see no reason to deviate from the one-year suspension routinely imposed on attorneys who fail to file multiple income tax returns. Specifically, respondent has a



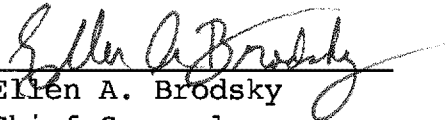
disciplinary history, owed more than \$50,000 in taxes, and does not present the type of compelling mitigation considered in those cases where a shorter term of suspension was imposed. Respondent's asserted mitigation - that she cooperated with the federal government, agreed to pay her back taxes, agreed to file amended tax returns for 2006-2012, and "clearly has demonstrated a recognition and affirmative acceptance of personal responsibility for her criminal conduct" - rings hollow in the context of the enormous benefit she received from her decision to plead guilty to two misdemeanors (the government agreed to not pursue charges relating to tax years 2006 and 2010-2012, and allowed her, as an alternative, to file amended tax returns). Thus, we are not swayed by this proffer of mitigation.

On balance, therefore, we determine that a prospective one-year suspension is the appropriate quantum of discipline for respondent's misconduct.

Members Boyer and Joseph 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  
VOTING RECORD

In the Matter of Stephanie A. Hand  
Docket No. DRB 18-033

---


---

Argued: April 19, 2018

Decided: June 26, 2018

Disposition: One-year Suspension

<i>Members</i>	One-year Suspension	Recused	Did Not Participate
Frost	X		
Boyer			X
Clark	X		
Gallipoli	X		
Hoberman	X		
Joseph			X
Rivera	X		
Singer	X		
Zmirich	X		
Total:	7	0	2

  
\_\_\_\_\_  
Ellen A. Brodsky  
Chief Counsel