BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 196, Disciplinary Docket
Petitioner	:	No. 3 - Supreme Court
	:	
	:	No. 52 DB 1996 - Disciplinary Board
	:	
v.	:	
	:	Attorney Registration No. []
[ANONYMOUS]	:	
Respondent	:	([])

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, The Disciplinary Board of the Supreme Court of Pennsylvania ("Board") herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On October 27, 1995, Respondent, [], pleaded guilty to one count of Money Laundering in violation of 18 U.S.C. '1956(a)(3). He was sentenced on February 6, 1996 to a twenty-seven month term of imprisonment and a $20,000 fine. Upon expiration of the prison term, Respondent must undergo two years of supervised release.

Respondent was placed on temporary suspension by Order of the Supreme Court dated May 6, 1996. The Order referred the matter to the Disciplinary Board pursuant to Rule 214(f)(1), Pa.R.D.E. A Petition for Discipline was filed by Office of Disciplinary Counsel against Respondent on May 29, 1996. Respondent filed an Answer to Petition on July 25, 1996.

A disciplinary hearing was held on November 25, 1996 before Hearing Committee [] comprised of Chair [], Esquire, and Members [], Esquire, and [], Esquire. Respondent was represented by [], Esquire. Petitioner was represented by [], Esquire. Petitioner offered fifteen stipulations and nine exhibits, which were admitted into evidence. Respondent offered his own testimony, called seven witnesses and introduced two exhibits, which were admitted into evidence. The Committee filed a Report on May 28, 1997 and recommended disbarment. No Briefs on Exception were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting of August 13, 1997.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is now located at Suite 3710, One Oxford Centre, Pittsburgh, Pennsylvania, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereafter Pa.R.D.E.), with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.

2. Respondent was born on May 22, 1951 and was admitted to practice law in Pennsylvania on or about April 25, 1977. Respondent is also admitted to practice in New Jersey, Florida, and the District of Columbia. Respondent's last registered office address for the practice of law is []. Respondent's home address is []. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. From date of admission to the present Petition, Respondent has never been the subject of a disciplinary complaint in any jurisdiction.

4. Respondent's practice primarily focused upon personal injury and criminal defense, the latter of which was limited to practice in the State courts of New Jersey.

5. On October 27, 1995, Respondent executed a plea agreement and entered a plea of guilty to one count of money laundering.

6. The facts underlying Respondent's criminal conviction are as follows:

a) From in or about July 1993 to October 1993, Respondent, in exchange for a fee, knowingly and willingly assisted his client and client's associate in a scheme to launder a total of $100,000.00 of illegal proceeds in violation of 18 U.S.C. '1956(a)(3).

b) The scheme consisted of converting drug proceeds into various negotiable instruments, each in a denomination of less than $10,000.00.

c) Respondent was paid a total of $6,500.00 for his services to his client.

d) On July 28, 1993, Respondent delivered to his client 53 [A] and [B] money orders totaling $12,000.00; three [C] cashier checks totaling $24,000.00; and two personal checks totaling $14,000.00.

e) On October 20, 1993, Respondent delivered to his client 54 [A] and [B] money orders totaling $15,000.00; one personal check for $3,000.00; and four [C] cashier checks totaling $32,000.00.

7. On February 6, 1996, Respondent was sentenced to a term of twenty-seven months of imprisonment along with a $20,000.00 fine and two years supervised release upon expiration of the prison term. Respondent is currently serving his sentence at the Federal Correctional Institute in [].

8. Seven witnesses testified on behalf of Respondent and stated their opinion that Respondent was a very fit and competent lawyer prior to the misconduct and retains the character qualities necessary to practice law. One of Respondent's former law partners, [D], Esquire, testified that he would have no reservations about Respondent rejoining the practice, nor would he hesitate to refer clients to Respondent in the future. (N.T. 54-55)

9. Respondent testified on his own behalf that he has accepted responsibility for his actions and expressed extreme remorse for his involvement in this criminal activity. Respondent testified that he did not have an explanation as to why he engaged in the activities and stated that at the time he did not understand the concept of money laundering. Respondent admitted he did not ask himself the questions he should have concerning his activities. (N.T. 181, 184-185)

10. The Supreme Court of New Jersey disbarred Respondent by Order of February 24, 1997.

III. CONCLUSIONS OF LAW

Respondent's conviction constitutes a conviction under Rule 214(d), Pa.R.D.E.

Respondent's conviction constitutes a per se ground for discipline under Pa.R.D.E. 203(b)(1).

IV. DISCUSSION

Rule 203(b)(1) of the Pennsylvania Rules of Disciplinary Enforcement provides that conviction of a serious crime shall be grounds for discipline. The sole issue before the Board in the case at bar is the extent of discipline to be imposed.

Rule 214(e), Pa.R.D.E., specifies that a certificate of conviction of an attorney for a serious crime shall be conclusive evidence of that crime. When a disciplinary proceeding is commenced against an attorney based upon a criminal conviction, the Board does not engage in a retrial of the underlying facts of the crime. The Board's responsibility in this situation is to determine the appropriate measure of discipline relative to the seriousness of the crime. The focal issue is whether the attorney's character, as shown by his conduct, makes the attorney unfit to practice law. Office of Disciplinary Counsel v. Casety, 511 Pa. 177, 512 A.2d 607 (1986). This test balances a concern for the public with a respect for the substantial interest of an attorney in maintaining his or her privilege to practice law.

Office of Disciplinary Counsel v. Lewis, 493 Pa. 519, 426 A.2d 1138 (1981). It is appropriate for the Board to examine any aggravating or mitigating circumstances present in this matter.

Respondent's criminal conviction is based on two transactions during the time period from July 1993 to October 1993. A client approached Respondent in July 1993 and told him that he had $50,000.00 in cash and wanted those funds converted to money orders for the posting of bail. Respondent agreed to assist the client for a fee of $3,500.00. Respondent delivered to the client 53 money orders totaling $12,000.00; three cashier checks totaling $24,000.00; and two personal checks totaling $14,000.00. In October 1993, Respondent was contacted again by the client, who requested Respondent to convert $50,000.00 cash into money orders. Respondent was told by his client that the money derived from drug trafficking. Respondent agreed to do so for $3,000.00. On October 20, 1993, Respondent delivered to his client 54 money orders totaling $15,000.00; one personal check for $3,000.00; and four cashier checks totaling $32,000.00. Unfortunately for Respondent, the client was acting as an undercover agent for the federal government, and Respondent was subsequently informed that he was a target of a federal investigation charging him with money laundering. Respondent entered a plea of guilty to one count of money laundering on October 27, 1995. Respondent was sentenced on February 6, 1996, to twenty-seven months imprisonment and a $20,000.00 fine, followed by two years of supervised release upon expiration of his prison term. Respondent began serving his sentence in March 1996, at the Federal Correctional Institute in [].

Respondent testified that he was aware under the law that if he received anything over $10,000.00 in cash it was reportable; however, he did not know that by purposely creating transactions of less than $10,000.00 he was violating a federal statute. Respondent testified that he did not understand the concept of money laundering to include the changing of a denomination from cash to some other form. Respondent believed that a person would have to be involved in the underlying criminal activity to be charged with money laundering. Although Respondent says

several times that "things did not click" and his "guard was down", (N.T. 165, 198), he does not provide any substantive defense to his actions. He alluded to the fact that his practice was busy and he was considered the rainmaker for his firm, but that certainly does not mitigate his actions. Respondent has been a practicing attorney since 1977, handling civil and criminal work. It is not conceivable that Respondent had no inkling that his actions were inappropriate, especially after the client told Respondent the proceeds were from drugs. Respondent was questioned as to why he thought he was being paid $6,500.00 for converting money if it was not illegal. Respondent thought the fee was also for making some calls for the client and understood he would be representing other people
in connection with the client. Again, Respondent indicated that he should have known it was wrong but he did not.

Respondent's position is that he had a limited understanding of the federal statutes and this lack of personal knowledge is a mitigating factor, as well as the fact that he has no history of discipline. The Board does not accept this position, as Respondent is a member of the bar and charged with knowledge of the state of the law. If he was not specifically aware of the law at the time his client asked for his help, he had a responsibility to find out. This he did not do, but acquiesced to his client's requests. It appears that Respondent was more interested in receiving his payment than in ascertaining the legalities of the situation.

This case is analogous to Office of Disciplinary Counsel v. Tumini, 499 Pa. 284, 435 A.2d 310 (1982), wherein Mr. Tumini engaged in criminal matters orchestrated by his benefactor including money laundering, false swearing and delivery of bribes. Mr. Tumini was disbarred by the Supreme Court for these activities. The Court rejected Mr. Tumini's contentions that he was

inexperienced in the law and did not gain from his participation in the unlawful transactions. The record is clear in the instant matter that Respondent was not inexperienced in the law and he participated in the misconduct due to his monetary interest.

Although character witnesses testified that Respondent was a very competent and fit practitioner, the misconduct in the instant case is extremely serious and belies Respondent's ability to engage in the ethical practice of law. After considering the totality of the circumstances, the Board recommends disbarment, retroactive to his temporary suspension of May 6, 1996, as the appropriate sanction in this matter.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Respondent, [], be disbarred from the practice of law in the Commonwealth of Pennsylvania, retroactive to May 6, 1996.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By:_____
Alfred Marroletti, Member

Date: November 26, 1997

Board Members Elliott and Aronchick did not participate in the August 13, 1997 adjudication.

ORDER

PER CURIAM:

AND NOW, this 10th day of February, 1998, upon consideration of the Report and Recommendations of the Disciplinary Board dated November 26, 1997, it is hereby

ORDERED that [RESPONDENT] be and he is DISBARRED from the Bar of this Commonwealth, retroactive to May 6, 1996, and he shall comply with all the provisions of Rule 217 Pa.R.D.E.

It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.