

IN RE: ANDREA C. GOODE-JAMES

S.J.C. Judgment of Disbarment entered by Justice Ireland on May 10, 2010.¹

BOARD MEMORANDUM

On February 26, 2008, a single justice temporarily suspended the respondent, Andrea C. Goode-James, from the practice of law. The order was based on evidence that she had misappropriated client funds and was entered with the respondent's agreement. On July 1, 2009, the respondent entered guilty pleas in the United States District Court for the District of Massachusetts to one count of mail fraud and three counts of wire fraud, all felonies. The crimes were based on the respondent's misappropriating client funds in her IOLTA account and defrauding mortgage lenders, home owners, and a title insurer. On December 7, 2009, she was sentenced to incarceration for twenty-four months followed by three years of supervised release, and restitution was ordered in the amount of \$1,141,861.22.

Bar counsel filed a petition for discipline based on the convictions. Represented by counsel, the respondent waived hearing on the petition, and the parties each submitted a memorandum on disposition. The respondent appended to her memorandum a number documents and letters, some of which have been impounded, by way of evidence in mitigation of her misconduct. Bar counsel seeks disbarment; the respondent asks us to recommend indefinite suspension. The parties agree that the Court's order, whether for disbarment or indefinite suspension, should be made retroactive to February 26, 2008, the effective date of her temporary suspension.

While the respondent has presented mitigating evidence of psychological issues and of a career in which she assisted the disadvantaged, we are constrained to recommend her disbarment. Applying the standards applicable both to the intentional misuse of client funds and to felony convictions, disbarment is the appropriate sanction.

First, the Court has indicated that where intentional misuse has resulted in deprivation, as here, the presumptive sanction is disbarment or indefinite suspension. See Matter of the Discipline of an Attorney (and two companion cases) (Three Attorneys), 392 Mass. 827, 836-837, 4 Mass. Att'y Disc. R. 155, 166-167 (1984), reaffirmed and clarified in Matter of Schoepfer, 426 Mass. 183, 187-188, 13 Mass. Att'y Disc. R. 679, 685-686 (1997). Further, where restitution has not been made, the presumptive sanction is disbarment rather than indefinite suspension. Matter of Dasent, 446 Mass. 1010, 1012-1013, 22 Mass. Att'y Disc. R. 173, 177 (2006); see Matter of Bryan, 411 Mass. 288, 292, 7 Mass. Att'y Disc. R. 24, 29 (1992). The respondent owes more than a million dollars in unpaid restitution.

Second, the respondent committed serious felonies, for which the usual sanction is disbarment. That is particularly true where, as here, the crimes were committed in the course of practicing law. See, e.g., Matter of Concemi, 422 Mass. 326, 12 Mass. Att'y Disc. R. 63 (1996). On rare occasions the Court has departed from the usual sanction of disbarment for a felony conviction for actions undertaken in the practice of law, most notably in Matter of Nickerson, 322 Mass. 333, 12 Mass. Att'y Disc. R. 367 (1996). Nickerson handled real estate closings for a large law firm as a salaried employee. She was convicted of making false statements to Dime Savings Bank, a federally insured bank that condoned and instigated the fraudulent behavior. In imposing an indefinite suspension, the Court observed that Nickerson had received no direct profit from the bank fraud and was without authority to shape policy

at the law firm, which later paid a large civil penalty for its work on behalf of Dime Savings. Here, however, the respondent directed her own actions, and notwithstanding protestations that she motivated by a misguided interest in assisting homeowners who were victimized by the “predatory” lenders she stole from, she withdrew thousands of dollars of the funds from ATM machines and spent them on herself. These are not circumstances that militate against the typical sanction.

As mentioned, the respondent has presented compelling evidence that might be viewed as mitigating. Bar counsel argues with considerable force that there may be little, if any, causal connection between that evidence and the respondent’s misconduct. We need not resolve that question, however, because even if we assume that a causal nexus has been established, we believe it is insufficient to overcome the presumptive sanction where (1) she was convicted of felonies involving dishonesty in the course of practicing law, (2) she was not taking direction from superiors (as Nickerson was), (3) she has not made restitution, and (4) she expended substantial amounts of misappropriated funds for her own use. In such circumstances, disbarment is the only appropriate sanction.

Conclusion

For all of the foregoing reasons, an Information shall be filed with the Supreme Judicial Court recommending that the respondent, Andrea C. Goode-James, be disbarred, retroactive to February 26, 2008, the effective date of her temporary suspension.

FOOTNOTES:

¹ The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

Please direct all questions to webmaster@massbbo.org.