

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Jodie Grossman

940 A.2d 85 (D.C. 2007) · No. 06-BG-123 · Decided November 15, 2007

SUMMARY

The District of Columbia Court of Appeals imposed reciprocal disbarment on Jodie Grossman after Massachusetts indefinitely suspended her for intentional misappropriation of client funds, inadequate accounting, fabricated evidence, and misrepresentations to bar counsel. The court adopted the Board on Professional Responsibility's recommendation and ordered that the period for purposes of reinstatement begin when Grossman files the required affidavit.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Per Curiam; Newman; Belson; King, Senior Judge
JURISDICTION	District of Columbia
DECIDED	November 15, 2007
DOCKET	06-BG-123
DISPOSITION	other
PROCEDURAL POSTURE	Reciprocal attorney-discipline proceeding in which the Board on Professional Responsibility recommended substantially different discipline from that imposed by Massachusetts.
STANDARD OF REVIEW	The court gives great deference to the Board's recommendation when no exceptions are filed.
PRECEDENTIAL VALUE	Published opinion; precedential

TOPICS

- appellate procedure
- remedies

PRACTICE AREAS

- legal ethics
- attorney discipline
- reciprocal discipline

QUESTIONS PRESENTED

1. Whether substantially different reciprocal discipline should be imposed in the District of Columbia after Massachusetts indefinitely suspended Grossman for intentional misappropriation and related misconduct.
2. Whether the appropriate District of Columbia discipline for the misconduct would be disbarment rather than suspension.

HOLDINGS

1. The court may impose substantially different reciprocal discipline when the misconduct, if committed in the District of Columbia, would warrant a materially different sanction and the record supports the underlying misconduct and due process.
2. Intentional misappropriation of client funds warrants disbarment in the District of Columbia.

KEY QUOTATIONS

“As disbarment is imposed for intentional misappropriation, see In re Carlson, supra, 802 A.2d at 348, we hereby adopt the Board's recommendation.” (87)

FACTUAL BACKGROUND

The Massachusetts Supreme Judicial Court for Suffolk County indefinitely suspended Grossman for intentionally misusing and converting client funds, failing to safeguard and promptly pay over or deliver funds, inadequately accounting for funds, writing two escrow-account checks payable to cash, submitting fabricated evidence, and making misrepresentations to Bar Counsel. Grossman failed to notify the District of Columbia of her suspension and did not participate in the reciprocal-discipline proceeding. The record supported findings that the misappropriation was intentional and that Grossman received due process in Massachusetts.

PROCEDURAL HISTORY

Massachusetts indefinitely suspended Jodie Grossman for intentional misuse and conversion of client funds, failure to safeguard and deliver funds, inadequate accounting, fabricated evidence, and misrepresentations to Bar Counsel. Grossman did not notify the District of Columbia of the suspension. After Bar Counsel filed a certified copy of the Massachusetts suspension, the District of Columbia Court of Appeals temporarily suspended Grossman and initiated reciprocal-discipline proceedings. Grossman did not participate or file exceptions, and the Board recommended disbarment, which the court adopted.

DISPOSITION

other

CASES CITED

- In re DeMaio, 893 A.2d 583, 587 (D.C. 2006)
- In re Garner, 576 A.2d 1356, 1357 (D.C. 1990)
- In re Carlson, 802 A.2d 341, 348 (D.C. 2002)

- In re Addams, 579 A.2d 190, 191 (D.C. 1990) (en banc)
- In re Delaney, 697 A.2d 1212, 1214 (D.C. 1997)
- In re Goldsborough, 654 A.2d 1285, 1287-88 (D.C. 1995)
- In re Slosberg, 650 A.2d 1329, 1331-33 (D.C. 1994)
- In re Steele, 914 A.2d 679 (D.C. 2007)
- In re Bell, 716 A.2d 205 (D.C. 1998)

OPINION

PER CURIAM.

940 A.2d 85 (2007) In re Jodie GROSSMAN, Respondent. A Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 424061). No. 06-BG-123. District of Columbia Court of Appeals. Submitted November 6, 2007. Decided November 15, 2007. *86 Before NEWMAN, BELSON and KING, Senior Judges. PER CURIAM: In this disciplinary proceeding against respondent, Jodie Grossman,[1] the Board on Professional Responsibility ("Board") has recommended that we impose substantially different reciprocal discipline of disbarment to commence for purposes of reinstatement on the date respondent files a D.C.

Bar R. XI, § 14(g) affidavit. On December 2, 2005, the Commonwealth of Massachusetts Supreme Judicial Court for Suffolk County indefinitely suspended[2] respondent from the practice of law for intentionally misusing and converting client funds, failing to safeguard and promptly pay over or deliver funds, failing to account adequately for the funds when she wrote two checks from her escrow account made payable to cash, and submitting fabricated evidence and making misrepresentations to Bar Counsel.

Respondent did not notify this jurisdiction of her suspension, and on February 3, 2006, Bar Counsel filed a certified copy of the suspension with this court. On February 23, 2006, this court temporarily suspended respondent and directed (1) Bar Counsel to inform the Board of his position regarding reciprocal discipline within thirty days, (2) respondent to show cause why identical, greater, or lesser discipline should not be imposed, and (3) the Board either to recommend discipline or proceed de novo.

The Board recommended a substantially different reciprocal discipline of disbarment. Respondent did not participate in this reciprocal proceeding. In its report and recommendation, the Board found that the record supported the imposition of substantially different discipline of disbarment, See D.C. Bar R. XI, § 11(c)(4) and (e). A two-step analysis applies to impose substantially different discipline.

See In re DeMaio, 893 A.2d 583, 587 (D.C.2006) (citing In re Garner, 576 A.2d 1356, 1357 (D.C.1990)). In applying the first step, the Board correctly concluded that if the misconduct in question, namely intentional misappropriation, occurred *87 here, the punishment would be

disbarment, not suspension. See *In re Carlson*, 802 A.2d 341, 348 (D.C.2002) (citing *In re Addams*, 579 A.2d 190, 191 (D.C.1990) (en banc)).

Second, the Board determined that there is substantial difference between disbarment and suspension.[3] Further, the record affirmatively supports a finding that the misappropriation was intentional and that respondent was afforded due process in Massachusetts. Where no exceptions are filed, we give great deference to the Board's recommendation. See D.C. Bar R. XI § 11(f)(1); *In re Delaney*, 697 A.2d 1212, 1214 (D.C.

1997). Moreover, by failing to file any exceptions, respondent has effectively conceded that the proposed sanction is appropriate. See *In re Goldsborough*, 654 A.2d 1285, 1287-88 (D.C.1995); D.C. Bar R. XI, § 11(t).

As disbarment is imposed for intentional misappropriation, see *In re Carlson*, supra, 802 A.2d at 348, we hereby adopt the Board's recommendation. Accordingly, it is ORDERED that Jodie Grossman be disbarred from the practice of law in the District of Columbia and for purposes of reinstatement, the time period shall begin to run from the date respondent files her affidavit as required by D.C.

Bar R. XI, § 14(g). See *In re Slosberg*, 650 A.2d 1329, 1331-33 (D.C.1994). So ordered. NOTES [1] Respondent was admitted by motion to the District of Columbia Bar on June 8, 1990, but has been administratively suspended since November 30, 1993, for failure to pay dues.

[2] An indefinite suspension permits respondent to be eligible to apply for reinstatement five years from the effective date of the order. Massachusetts Supreme Judicial Court Rule 4:01, § 18(2)(b).

[3] Although whether this is correct or not is clearly debatable, given that the only apparent difference between the Massachusetts discipline of an indefinite suspension with the right to apply for reinstatement after five years and our disbarment with a right to apply for reinstatement after five years is the opprobrium which attaches to the term disbarment, we need not decide this question.

The Massachusetts discipline imposed in this case is the "functional equivalent" of the discipline the Board recommends to us. See generally *In re Steele*, 914 A.2d 679 (D.C. 2007); *In re Bell*, 716 A.2d 205 (D.C.1998).