

HEARING PANEL REPORT

SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
DISTRICT XIV ETHICS COMMITTEE  
DOCKET NUMBER: XIV-95-032E and  
DISTRICT VII ETHICS COMMITTEE  
DOCKET NUMBER VII-96-902E

IN THE MATTER OF OFFICE OF	:	
OF ATTORNEY ETHICS	:	HEARING REPORT
Complainant	:	
	:	
vs.	:	
	:	REPRIMAND/SUSPENSION
RAYMOND H. WONG, ESQUIRE	:	DISBARMENT
Respondent	:	

TO THE HONORABLE CHAIR AND THE MEMBERS OF THE DISCIPLINARY  
REVIEW BOARD

The District VII Ethics Committee Hearing Panel respectfully  
shows:

**I. PROCEDURAL HISTORY**

1. Raymond H. Wong, Esq., hereinafter "Respondent", was admitted to the practice of law in the State of New Jersey in 1989.

2. Respondent is a solo practitioner whose law office is located at 1952 Route 22, Bound Brook, New Jersey 08805.

3. By correspondence dated January 23, 1995, Respondent's attorney, Peter N. Gilbreth (Gilbreth), advised the Office of Attorney Ethics (OAE) that Respondent was charged in a Morris County Accusation with Endangering the Welfare of a Child, a crime of the fourth degree; that Respondent pled not guilty to said charge; and that he was admitted into the Pre-Trial Intervention Program on December 15, 1994. Gilbreth further

advised that the crime occurred in 1986 before Respondent was admitted to the bar.

4. On May 15, 1996, a formal complaint (Exhibit J-1) was filed with the District VII Ethics Committee and was served upon Respondent.

5. Respondent's answer thereto has been marked as Exhibit J-2.

6. A formal hearing was held before this Hearing Panel consisting of Jeffrey S. Posta, Chair, and Allison E. Accurso, Esq. and Marjorie L. Moore on the foregoing charges on February 27, 1997, which Respondent attended with his counsel, Peter N. Gilbreth, Esq.

7. The matter was presented by Nitza I. Blasini, Deputy Ethics Counsel. All exhibits are herewith submitted.

## **II. UNCONTESTED FACTS**

8. On July 26, 1993, Detective George M. Botsko, of the Morris County Prosecutor's Office, interviewed C.M., date of birth August 29, 1975, regarding a sexual assault incident which occurred in 1986 involving Respondent. This incident had not been previously reported by C.M.

9. C.M. related to Detective Botsko that when she was approximately ten years old, she was sexually assaulted by Respondent on two occasions. Respondent was 30 years old at the time (DOB: 2/5/56).

10. C.M. described one incident in which Respondent touched her between her legs, near her inner thigh. The second incident involved digital penetration of her vagina.

11. The OAE alleged that the act described in the first incident constituted sexual assault, since it involved sexual contact by an actor with a victim who is less than 13 years old,

and the actor is at least 4 years older than the victim.  
N.J.S.A. 2C:14-2(b). Sexual assault is a second degree crime.  
N.J.S.A. 2C:14-2(c).

12. The OAE alleged that the act described in the second incident constituted aggravated sexual assault, a first degree crime, since sexual penetration occurred and the victim was less than 13 years old. N.J.S.A. 2C:14-2(a)(1).

13. On November 13, 1994, in the presence of C.M., her family, Detective Botsko, and Gilbreth, Respondent admitted that approximately eight years prior, while he was a law student, he digitally penetrated C.M.

14. During said conference Respondent stated, "I digitally penetrated her (C.M.). I'm sorry I did that. I hope you, (C.M.), will recover; I don't know why it happened, but it did."

15. On December 15, 1994, Accusation Number 94-12-01302A was filed in Morris County charging Respondent with a fourth degree crime, endangering the welfare of a child, in violation of N.J.S.A. 2C:24-4(a).

16. On December 15, 1994, upon entry of his not guilty plea, Respondent was admitted into the Morris County Pre-Trial Intervention Program and ordered not to have any contact with the victim or her family.

17. Upon Respondent's successful completion of the Pre-Trial Intervention Program on January 19, 1996, the charge was formally dismissed.

### **III. SYNOPSIS OF ALLEGATIONS**

18. The formal complaint filed charged the Respondent with the following allegations of ethical misconduct:

- a. Commission of criminal acts which resect adversely on Respondent's honesty, trustworthiness, or fitness as a lawyer in violation of R.P.C. 8.4(b)

#### IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

19. As a result of reviewing the testimony and exhibits, the Hearing Panel makes the following factual findings and conclusions:

The essential facts in this matter are not in dispute. Respondent admits to having had improper sexual contact with a minor in 1986, while he was in law school, prior to his admission to the bar of the State of New Jersey. Respondent was charged with the fourth degree crime of endangering the welfare of a child, plead not guilty to that charge, and was admitted to a pre-trial intervention program. Respondent successfully completed the pre-trial intervention program and the criminal charge was thereafter dismissed.

It is further not disputed by the OAE that Respondent has had a "very successful" legal career since being admitted to the bar in 1989. The testimony and exhibits demonstrate that Respondent is a prominent member of the Chinese-American legal and social community, and has achieved many accomplishments since 1986. Respondent is also happily remarried, has custody of his children from his first marriage, and his wife testified in his support. The OAE confirms that Respondent has not been the subject of any prior disciplinary proceedings.

Normally, the existence of a criminal conviction constitutes conclusive proof of a respondent's guilt. R. 1:20-13(c)(1); *In re Gipson*, 103 N.J. 75, 77 (1986). In this case, Respondent admits that the criminal act occurred. Therefore, the only issues that remain are jurisdiction over Respondent's conduct before he was admitted to the bar of New Jersey and the extent of discipline to be imposed. R. 1:20-13(c)(2); *In re Infinito*, 94 N.J. 50, 56 (1983).

We are satisfied that there is jurisdiction over the conduct of Respondent prior to his admission to the bar under the facts of this case. Respondent was a law student at the time of the offense, and we hold that the fact that Respondent's offense occurred three years prior to his admission to the bar of New Jersey does subject him to discipline. See *In re Guilday*, 134 N.J. 219 (1993) (six-month suspension imposed on attorney who knowingly engaged in a pattern of deception in his application for admission to the bar); *In re Scott*, 105 N.J. 457 (1987) (public reprimand of an appellate division law secretary, who was scheduled to be admitted to the bar nine days after she had been arrested for possession of cocaine). Nor does the fact that Respondent's criminal conduct did not directly involve the practice of law save him from discipline. Similar acts of criminal fraudulent activity, unrelated to the practice of law, have resulted in substantial suspensions. See, e.g., *In re Batalla*, 142 N.J. 616 (1995) (a two-year suspension for income tax evasion); *In re Nedick*, 122 N.J. 96 (1991) (a two-year suspension for income tax evasion); *In re Solomon*, 110 N.J. 56 (1988) (a two-year suspension for conspiracy to defraud the United States by trading upon confidential securities information); *In re Raqucci*, 112 N.J. 40 (1988) (a two-year suspension upon an attorney who discovered a pension check for 5194, forged an endorsement of the true payee and then converted those funds for his own use); *In re Kushner*, 101 N.J. 397 (1986) (a three-year suspension for knowingly making a false certification to the court to avoid liability on a promissory note).

The sole issue in this case is the type of discipline to be imposed. The OAE requests a 2-3 year suspension. Respondent advocates the concept of a "suspended suspension".

It is well established that the primary purpose of discipline is not to punish the attorney but to preserve the confidence of the public in the bar. The appropriate discipline depends on 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 Principato, 139 N.J. 456, 460 (1995); In re Lunetta, 118 N.J. 443, 445 (1989); In re Kushner, 101 N.J. 397, 400-02 (1986).

We do not believe that disbarment or suspension will serve any purpose given the facts and circumstances of this case, other than to punish the Respondent, which is the role of the criminal justice system. On the other hand, Respondent committed an act of serious misconduct which deserves discipline.

The seriousness of Respondent's misconduct is mitigated by the following facts: Respondent's act was not done in his capacity as an attorney; Respondent's exemplary personal and professional record; Respondent's prompt notification and cooperation with the disciplinary authorities; the fact that Respondent was not yet a member of the bar when the offense was committed; the isolated nature of the offense; and the almost eleven year time span that has occurred since the offense. These are all reasons to impose a lesser sanction.

In fact, in In re Addonizio, 95 N.J. 121 (1984), an attorney engaged in repeated acts of sexual misconduct and was convicted of a fourth degree offense, and received a three month suspension. In this case, Respondent was not an attorney at the time the offense was committed. Therefore, a lesser sanction than Addonizio is called for, and we believe that the sanction of public reprimand is just and proper under the facts and circumstances of this case.

#### **V. DETERMINATION**

20. The Panel has carefully considered and reviewed the testimony and evidence and has concluded that Respondent's conduct constituted ethical misconduct in that Respondent's admission that he committed a criminal act against a minor adversely reflects on his fitness as a lawyer in violation of R.P.C. 8.4(b).

21. As a result, the Panel recommends that a public reprimand be issued to Respondent.

DISTRICT VII ETHICS COMMITTEE

/s/ Jeffrey S. Posta, Hearing Panel Chair

Dated: June 20, 1997