

The Supreme Court of the State of Louisiana

LOUISIANA ATTORNEY
DISCIPLINARY BOARD
2015 NOV 18 AM 11:46

IN RE: DAVID H. BERNSTEIN

NO. 2015-OB-1769

IN RE: Disciplinary Counsel; - Other; Applying For Findings and
Recommendations (Readmission) Office of Disciplinary Board, No.
14-DB-047;

November 16, 2015

Readmission denied. Petitioner may not reapply for readmission
until at least two years have passed from the date of this
judgment. See Supreme Court Rule XIX, § 24(I).

SJC

BJJ

JLW

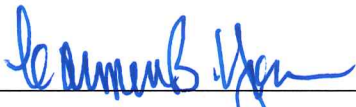
GGG

JDH

KNOLL, J., concurs in part and dissents in part and assigns
reasons.

CLARK, J., concurs in part and dissents in part and assigns
reasons.

Supreme Court of Louisiana
November 16, 2015



Deputy

Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

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ATTORNEY DISCIPLINARY PROCEEDINGS

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KNOLL, J., concurs in part, dissents in part, and assigns reasons.

I concur with the majority in denying respondent readmission to the bar. I join Justice Clark in his reasons for concurring and dissenting in part permanently denying respondent readmission to the bar.

Respondent has a long “fifteen year history of deceit and dishonesty” as noted by the majority upon respondent’s initial disbarment. Significantly, respondent did not feel guilty and self-report his criminal conduct. Instead, he was caught by the law firms who trusted him when, indeed, he was cheating his clients and the firms who employed him.

Respondent lacks the strength of character to represent his clients and his employers with trustworthiness. He has a flawed propensity for stealing and for dishonesty. While he may have performed well in his capacity as a C.P.A., his authorities, up until recently, were significantly curtailed and “structured” to guard against his dishonesties. The public and the legal profession cannot countenance respondent’s lack of fundamental moral character. In my view, as I stated in my dissent to the initial sanction of disbarment, respondent should have been permanently disbarred. Accordingly, I would permanently deny respondent readmission to this honorable bar and profession.

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MRC CLARK, J., concurring in part and dissenting in part.

I concur with the majority in the denial of the respondent's application for readmission. I dissent, however, to the majority's allowing respondent to reapply for readmission in two years. He lacks the honesty and integrity required to practice law.

In October of 2007, this Court disbarred the respondent due to his having misappropriated large sums of money from the law firms which employed him. Between 1987 and 1996, respondent misappropriated approximately \$15,000 from the firm of Lowe, Stein, Hoffman, Allweiss & Hauver, which his clients had paid to him directly for legal services rendered. Respondent cashed these checks and did not turn over the money to the firm.

After leaving Lowe Stein, respondent did not take money belonging to his new firm, Sessions, Fishman & Nathan, for several years after he first began working in 1996. However, in 2001, respondent began sending clients billing statements on his personal letterhead stationery. The billing statements were not handled through the Sessions Fishman accounting department, and the firm had no knowledge that respondent had done any work for these clients because he did not enter his hours in the firm's timekeeping system. Respondent would then receive the check from the client, cash it, and keep the money for himself. The total of the misappropriated funds in this instance was \$15,000 to \$20,000.

In disbaring respondent, this Court stated:

The record of this case demonstrates to us that respondent has not acted with candor or honesty during his career as a lawyer. Considering the fifteen-year history of deceit and dishonesty evidenced by this record, we would be remiss in our duty to protect the public if we accepted respondent's self-serving assertion that "it won't happen again."

In re: Bernstein, 07-1049 (La. 10/16/07), 966 So.2d 537, 545. Based upon respondent's prior record of "deceit and dishonesty," I believe respondent should have been permanently disbarred. For that reason, I disagree that he should be allowed to reapply for readmission to the bar in two years.