

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 09-024  
District Docket No. XIV-2008-0260E

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IN THE MATTER OF :  
EDWARD S. SERADZKY :  
AN ATTORNEY AT LAW :  
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Decision

Argued: May 21, 2009

Decided: July 29, 2009

Michael J. Sweeney appeared on behalf of the Office of Attorney Ethics.

Respondent appeared pro se.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

This matter was before us on a disciplinary stipulation between respondent and the Office of Attorney Ethics ("OAE"). Respondent stipulated that he negligently misappropriated client trust funds, and engaged in various recordkeeping violations. The OAE recommends a reprimand. We agree that a reprimand is the

suitable degree of discipline for respondent's violations of RPC 1.15(a) and RPC 1.15(d).

Respondent was admitted to the New Jersey bar in 1975. On March 14, 1994, he received a private reprimand for lack of diligence and failure to communicate with the client. In the Matter of Edward S. Seradsky, DRB 94-046 (March 14, 1994).

On June 20, 2005, respondent had a negative balance in his attorney trust account after disbursing four trust account checks totaling \$50,000 on behalf of a real estate matter for clients Eugene and Stephanie Coppola. As a result of his poor recordkeeping, respondent did not realize at the time that he had already disbursed the \$50,000 in April 2004. By disbursing a total of \$100,000, instead of the proper amount (\$50,000), respondent negligently misappropriated funds held in the trust account for other clients, a violation of RPC 1.15(a).

The misappropriations went undetected from June 2005 until an October 15, 2007 (presumably random) audit by the OAE. Respondent discovered the shortage when he was reconstructing the trust account records for the OAE. Respondent stipulated that the shortage went undetected because he had not been reconciling his trust account, as required by the rules.

The OAE audit also revealed numerous recordkeeping violations:

1. Client ledger cards were found with debit balances;
2. Inactive balances remained in the attorney trust account for an extended period of time;
3. A schedule of client ledger account balances was not prepared and reconciled monthly to the attorney trust account bank statement;
4. Old outstanding checks were not resolved;
5. Attorney trust account imaged processed checks were not in compliance with the new Jersey Supreme Court rule allowing no more than two checks per page;
6. Attorney business account imaged processed checks were not in compliance with the new Jersey Supreme Court rule allowing no more than two checks per page; and
7. The trust account bank reconciliation prepared by the auditor showed total trust funds on deposit were in excess of total trust obligations by \$3,456.15 consisting of extremely old outstanding checks.

[SIIIB.]<sup>1</sup>

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<sup>1</sup> "S" denotes the disciplinary stipulation between respondent and the OAE.

The stipulation noted that respondent had previously been audited in May 22, 1996. The earlier audit had uncovered some of the same deficiencies.

After an independent review of the record, we are satisfied that the stipulation contains clear and convincing evidence of unethical conduct on respondent's part.

As evidenced by the stipulation, due to poor recordkeeping practices, respondent negligently misappropriated \$50,000 of other clients' funds by twice paying settlement charges in the same real estate matter for the Coppolas, a violation of RPC 1.15(a). The misappropriations went undetected for two years, when, in October 2007, the OAE audited respondent's attorney books and records. The audit revealed, and respondent stipulated, numerous recordkeeping deficiencies, violations of R. 1:21-6 and RPC 1.15(d).

Generally, a reprimand is imposed for recordkeeping deficiencies and negligent misappropriation of client funds. See, e.g., In re Weinberg, N.J. (2009) (motion for discipline by consent granted; attorney negligently misappropriated client funds as a result of an unrecorded wire transfer out of his trust account; because he did not regularly reconcile his trust account records, his mistake went

undetected until an overdraft occurred; the attorney had no prior final discipline); In re Philpitt, 193 N.J. 597 (2008) (attorney negligently misappropriated \$103,750.61 of trust funds as a result of his failure to reconcile his trust account; the attorney was also found guilty of recordkeeping violations); In re Conner, 193 N.J. 25 (2007) (in two matters, the attorney inadvertently deposited client funds into his business account, instead of his trust account, an error that led to his negligent misappropriation of clients' funds; the attorney also failed to promptly disburse funds to which both clients were entitled); In re Winkler, 175 N.J. 438 (2003) (attorney commingled personal and trust funds, negligently invaded clients' funds, and did not comply with the recordkeeping rules; the attorney withdrew from his trust account \$4,100 in legal fees before the deposit of corresponding settlement funds, believing that he was withdrawing against a "cushion" of his own funds left in the trust account); and In re Blazsek, 154 N.J. 137 (1998) (attorney negligently misappropriated \$31,000 in client funds and failed to comply with recordkeeping requirements).

A reprimand may still result even if the attorney's disciplinary record includes either a prior recordkeeping violation or other ethics transgressions. See, e.g., In re

Toronto, 185 N.J. 399 (2005) (attorney guilty of negligent misappropriation of \$59,000 in client funds and recordkeeping violations; the attorney had a prior three-month suspension for conviction of simple assault, arising out of a domestic violence incident, and a reprimand for a misrepresentation to ethics authorities about his sexual relationship with a former student; mitigating factors taken into account); In re Regojo, 185 N.J. 395 (2005) (attorney negligently misappropriated \$13,000 in client funds as a result of his failure to properly reconcile his trust account records; the attorney also committed several recordkeeping improprieties, commingled personal and trust funds in his trust account, and failed to timely disburse funds to clients or third parties; the attorney had two prior reprimands, one of which stemmed from negligent misappropriation and recordkeeping deficiencies; mitigating factors considered); and In re Rosenberg, 170 N.J. 402 (2002) (attorney negligently misappropriated client trust funds in amounts ranging from \$400 to \$12,000 during an eighteen-month period; the misappropriations occurred because the attorney routinely deposited large retainers in his trust account, and then withdrew his fees from the account as he needed funds, without determining whether he had sufficient fees from a particular

client to cover the withdrawals; prior private reprimand for unrelated violations); and In re Marcus, 140 N.J. 518 (1995) (attorney negligently misappropriated client funds as a result of numerous recordkeeping violations and commingled personal and clients' funds; the attorney had received a prior reprimand).

In aggravation, respondent has a prior private reprimand and some of the recordkeeping irregularities were also found in a prior audit. In mitigation, he cooperated with ethics authorities and readily admitted his misconduct.

We find this case similar to Marcus, in that Marcus, with a prior reprimand, received another reprimand for negligent misappropriation of client funds, as a result of recordkeeping violations. We recognize that this respondent's prior reprimand was private, but determine that, here, a reprimand is still the right level of discipline for his ethics violations.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and

actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board  
Louis Pashman, Chair

By: Julianne K. DeCore  
Julianne K. DeCore  
Chief Counsel



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SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of Edward S. Seradzky  
Docket No. DRB 09-024

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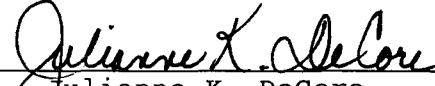
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Argued: May 21, 2009

Decided: July 29, 2009

Disposition: Reprimand

<i>Members</i>	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Pashman			X			
Frost			X			
Baugh			X			
Clark			X			
Doremus			X			
Stanton			X			
Wissinger			X			
Yamner			X			
Zmirich			X			
Total:			9			

  
Julianne K. DeCore  
Chief Counsel