

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 04-261
District Docket No. XIV-02-650E

IN THE MATTER OF
C. AARON PATEL
AN ATTORNEY AT LAW

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Decision

Argued: October 21, 2004

Decided: December 10, 2004

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

Respondent waived appearance for oral argument.

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

This matter was before us on a disciplinary stipulation, filed by the Office of Attorney Ethics ("OAE"), pursuant to R. 1:20-15(f).

Respondent was admitted to the New Jersey bar in 1996. He has no prior discipline.

On July 11, 2004, respondent entered into a disciplinary stipulation with the OAE in which he admitted numerous

recordkeeping violations and the negligent misappropriation of funds, totaling \$2,372.28, from his attorney trust account. The OAE investigator's May 18, 2004 report was made a part of the stipulation.

Respondent is a sole practitioner, primarily handling commercial real estate transactions. Since opening his office in 1997, he has never performed a three-way reconciliation of his attorney trust account.

On January 10, 2003, the OAE reviewed respondent's books and records. Respondent disclosed that his father maintained the records for the office and reconciled the trust account checkbook against bank statements once a year. The father maintained the records on a computerized spreadsheet program.

The spreadsheets and bank statement reconciliations were given to respondent once a year. To augment that system, respondent manually maintained client ledger cards. However, he never totaled the individual client balances on the ledgers to compare them to the checkbook record kept by his father. In addition, respondent did not provide the ledger cards to his father. Rather, respondent assumed that the client balances would zero-out after each real estate transaction. Respondent also thought that some of the funds in the trust account were

his own. Again, respondent never kept a separate card to properly account for the presence of his own funds.

On November 21, 2002, an overdraft occurred. In fact, during 2002, three mathematical errors had contributed to the overdrafts: \$1,292.45, \$792.56, and \$287.27, or a total of \$2,372.28. The miscalculations appeared on three separate HUD settlement statements in matters for unrelated clients. Each error caused the respective client's ledger balance to become negative. Because, however, the trust account also held accumulated interest for the years 2001 and 2002, totaling \$2,596.08, as well as funds for additional real estate closings, the negative balances did not immediately come to light.

Respondent replaced the missing funds by depositing \$1,818 (the overdraft amount of \$1,786 plus a \$32 bank charge) to the trust account on November 25, 2002.

Thereafter, as a result of an additional shortfall discovered by OAE auditor, on March 2, 2003, respondent made another deposit of \$484.39.

Respondent acknowledged during the audit that he was unaware that his trust account generated interest. The December 31, 2002 OAE reconciliation included \$716.82 interest for 2002 and \$1,879.22 interest for 2001, totaling \$2,596.08. When respondent reconciled the account, he thought that approximately

\$2,111.65 belonged to him, when those funds, plus \$484.39, actually represented interest payments due to IOLTA.

To remedy the situation, on March 19, 2003, respondent issued a trust account check to IOLTA for \$2,596.08.

The OAE audit revealed the following recordkeeping deficiencies:

1. attorney trust account receipts journal not properly descriptive. [R.1:21-6(c)(1)(A)].
2. attorney trust account disbursement journal not properly descriptive. [R.1:21-6(c)(1)(A)].
3. client ledger sheets not properly descriptive. [R.1:21-6(c)(1)(B)].
4. separate ledger sheets detailing attorney funds held for bank charges not maintained. [R.1:21-6(d)].
5. no schedule of client ledger account balances prepared and reconciled monthly to the attorney trust account bank statement. [R.1:21-6(c)(1)(H)].
6. failure to resolve outstanding attorney trust account checks. [R.1:21-6(d)].
7. attorney trust account deposit slips lack sufficient detail to identify each item of deposit. [R.1:21-6(c)(1)(A)].
8. failure to apportion interest earned on an interest bearing attorney trust account equitably among those clients for whom trust funds held on deposit in the account. (See Opinion #326 issued by the Advisory Committee on Professional Ethics.) [R.1:21-6(b)(2)].
9. improper designation on attorney trust account bank statement. R.1:21-6(a)(2)].
10. attorney trust account disbursement journal is not fully descriptive. [R.1:21-6(c)(1)(A)].
11. attorney business account receipts journal not properly descriptive. [R.1:21-6(c)(1)(A)].

12. bank processed attorney business account checks not in compliance with New Jersey Supreme Court Order. No more than two checks (front and back) allowed per page. [R.1:21-6(b)].

[Investigative report at 4.]

To respondent's credit, upon discovering the overdraft, he immediately took steps to cure the overdraft. He also completed steps to correct the recordkeeping deficiencies, thereby bringing his records into compliance with the Court Rules.

In all, respondent negligently misappropriated funds totaling \$2,372.28 from his trust account. The misappropriation was caused by his failure to maintain proper records and to reconcile his trust account, as required by R.1:21-6.

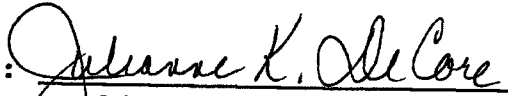
Ordinarily, a reprimand is imposed for negligent misappropriation of client's funds and recordkeeping violations. See In re Blazsek, 154 N.J. 137 (1998); In re Zavodnick, 139 N.J. 607 (1995); In re Harrison, 139 N.J. 609 (1995); In re Mitchell, 139 N.J. 608 (1995); and In re Imperiale, 140 N.J. 75 (1995), although mitigating circumstances may lower the discipline to an admonition. See In the Matter of Bette R. Grayson, Docket No. DRB 97-338 (May 27, 1998) and In the Matter of Philip J. Matsikoudis, Docket No. DRB 00-189 (September 25, 2000). Here, there are no mitigating factors to warrant a sanction less than the reprimand that we voted to impose upon

respondent. Members William J. O'Shaughnessy, Esq., Matthew P. Boylan, Esq., and Barbara F. Schwartz did not participate.

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

Disciplinary Review Board
Mary J. Maudsley, Chair

By:


Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

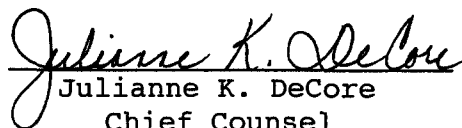
In the Matter of C. Aaron Patel
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Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Maudsley			X			
O'Shaughnessy						X
Boylan						X
Holmes			X			
Lolla			X			
Pashman			X			
Schwartz						X
Stanton			X			
Wissinger			X			
Total:			6			3


Julianne K. DeCore
Chief Counsel