

# DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

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November 27, 2000

## Certified Mail - R.R.R. and Regular Mail

Joseph T. Mongelli, Esq.  
Two University Plaza  
Hackensack, New Jersey 07601

Re: In the Matter of Joseph T. Mongelli  
Docket No. DRB 00-293  
**LETTER OF ADMONITION**

Dear Mr. Mongelli:

The Disciplinary Review Board reviewed the disciplinary stipulation signed by you and the Office of Attorney Ethics. Following a de novo review of the record, supplemented by oral argument, the Board determined to impose an admonition. Specifically, in November 1998, you represented Andres Fernandez, the buyer in a real estate transaction. Fernandez owned and operated a company known as Goal Investments. On November 2, 1998, your law firm received a \$218,011.17 check representing the proceeds of refinancing on property owned by Fernandez. The check was deposited in your firm's trust account on November 3, 1998 and the deposit was credited to a client ledger card in Fernandez' name. Also on November 3, 1998, your firm deposited a \$170,000 check from Fernandez. Instead of posting this deposit to the Fernandez ledger card, however, your law firm's bookkeeper made the entry on a client ledger card in the name of Goal Investments, the name under which Fernandez was buying the property. At the Goal Investments real estate closing, you made disbursements against the funds held in the Fernandez account. As a result, the client ledger card had a negative balance of \$64,955.05. In addition, eleven days after the closing you issued a check to Fernandez representing the balance of funds on deposit for Goal Investments, causing a negligent misappropriation of other client funds. Although you immediately notified your client about the shortage, it took him four months to replace the funds. Your failure to insure that the \$170,000 deposit was posted on the appropriate client ledger and that sufficient funds were on deposit before issuing a check to your client was unethical and in violation of RPC 1.15(a).

I/M/O Joseph T. Mongelli  
DRB No. 00-293

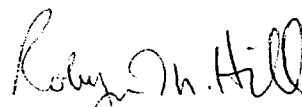
In imposing only an admonition, the Board considered several compelling mitigating factors. Specifically, two days before the closing, your wife went into labor with twins. You spent the entire weekend at the hospital, anticipating that your partner would handle pending matters. On Sunday, the day before the closing, you learned that your partner had been admitted to the hospital and that you would be required to attend the Goal Investments real estate closing scheduled for the following day at 5:00 P.M. Although your practice was to have a copy of the client ledger card at the closing, because all of the staff had left the office for the day, you had only the checks with you at the closing. The Board also considered, in mitigation, that at the closing you were suffering from sleep deprivation, having slept only two hours the night before. Finally, the Board noted that your client replaced the funds by making three payments over a four-month period.

Your conduct adversely reflected not only upon you as an attorney, but also upon all members of the bar. Accordingly, the Board has directed the issuance of this admonition to you. R.1:20-15(f)(4).

A permanent record of this occurrence has been filed with the Clerk of the Supreme Court and the Board's office. Should you become the subject of any further discipline, it will be taken into consideration.

The Board has also directed that the costs of the disciplinary proceedings be assessed against you. An affidavit of costs will be forwarded under separate cover.

Very truly yours,

  
Robyn M. Hill

RMH:ms

- c. Chief Justice Deborah T. Poritz
- Associate Justices
- Stephen W. Townsend, Clerk
- Supreme Court of New Jersey
- Lee M. Hymerling, Chair
- Disciplinary Review Board
- David E. Johnson, Jr., Director
- Office of Attorney Ethics
- John E. Selser, Esq., Respondent's counsel
- Thomas J. McCormick, Asst. Ethics Counsel
- Office of Attorney Ethics