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June 17, 2010

Mark Neary, Clerk
Supreme Court of New Jersey
P.O. Box 970
Trenton, New Jersey 08625-0962

Re: In the Matter of James A. Fox
Docket No. DRB 10-115
District Docket No. XIV-2009-0260E

Dear Mr. Neary:

The Disciplinary Review Board reviewed the motion for discipline by consent (reprimand) filed by the Office of Attorney Ethics, pursuant to R. 1:20-10(b). Following a review of the record, the Board determined to grant the motion. In the Board's view, a reprimand is the appropriate discipline for respondent's stipulated violation of RPC 1.15(a) and (d) and R. 1:21-6.

Specifically, respondent ran afoul of the recordkeeping rules through poor recordkeeping practices, by failing to maintain a receipts and disbursements journal and proper ledger cards, by using improper designations on business account checks and bank statements, and by failing to reconcile the trust account. As a result of his poor accounting practices, on three occasions between January 2005 and September 2009, he negligently misappropriated client funds. In addition, he commingled many thousands of dollars of earned fees and other personal funds with client and escrow funds held in the trust account, apparently using the trust account as his own personal checking account for scores of transactions. The above misconduct violated RPC 1.15(a) and RPC 1.15(d), as well as R. 1:21-6.

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Attorneys found guilty of negligent misappropriation, commonly alongside recordkeeping deficiencies and, at times, commingling, will ordinarily receive a reprimand. See, e.g., 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); 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); In re Liotta-Neff, 147 N.J. 283 (1997) (attorney negligently misappropriated approximately \$5,000 in client funds after commingling personal and client funds; the attorney left \$20,000 of her own funds in the account, against which she drew funds for her personal obligations; the attorney was also guilty of poor recordkeeping practices); and In re Gilbert, 144 N.J. 581 (1996) (attorney negligently misappropriated in excess of \$10,000 in client funds and violated the recordkeeping rules, including commingling personal and trust funds and depositing earned fees into the trust account; the attorney also failed to properly supervise his firm's employees with regard to the maintenance of the business and trust accounts).

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated March 26, 2010.
2. Stipulation of discipline by consent, dated March 26, 2010.
3. Affidavit of consent, dated March 27, 2010.


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4. Ethics history, dated June 17, 2010.

Very truly yours,



Julianne K. DeCore

Julianne K. DeCore
Chief Counsel

JKD/sj
encls.

cc: Louis Pashman, Chair, Disciplinary Review Board
(w/o encls.)

Charles Centinaro, Director, Office of Attorney Ethics
(w/o encls.)

Janice L. Richter, Deputy Ethics Counsel,
Office of Attorney Ethics (w/o encls.)

James A. Fox, Respondent (w/o encls.)