SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 10-072
District Docket Nos. XIV-2006-222E, XIV-2007-610E, VA-2009-900E, and VA-2009-901E

IN THE MATTER OF

RAYMOND GOODWIN

AN ATTORNEY AT LAW

Decision

Argued: May 20, 2010

Decided: July 14, 2010

Nitza I. Blasini 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 came before us on a recommendation for a reprimand filed by the District VA Ethics Committee ("DEC"). The formal ethics complaint charged respondent with having

committed multiple ethics violations: failure to safeguard funds (RPC 1.15(a)); conduct involving dishonesty, fraud, deceit and misrepresentation (RPC 8.4(c)); recordkeeping violations (RPC 1.15(d)); commingling personal and client funds (RPC 1.15(a)); conduct prejudicial to the administration of justice (RPC 8.4(d)); disobeying an obligation under the rules of a tribunal (RPC 3.4(c)); and practicing while ineligible (RPC 5.5(a)). After a hearing, the DEC concluded that respondent had violated only RPC 1.15(a), RPC 1.15(d), and RPC 5.5(a). For the reasons stated below, we accept the DEC's recommendation and determine to impose a reprimand on respondent for the aggregate of his conduct.

Respondent was admitted to the New Jersey bar in 1980. At the relevant times, he maintained an office for the practice of law in Somerset, New Jersey. Respondent has no disciplinary history.

Respondent was on the Supreme Court's list of ineligible attorneys due to nonpayment of the annual attorney assessment to the New Jersey Lawyers' Fund for Client Protection ("CPF") during the following periods: December 12, 1994 to January 3, 1995; September 25 to November 13, 1995; September 25 to

November 1, 2000; September 25, 2006 to August 9, 2007; and September 28 to November 30, 2009.

The five-count formal ethics complaint was filed on February 23, 2009. In the first count, respondent was charged with failure to safeguard funds (RPC 1.15(a)) and conduct involving dishonesty, fraud, deceit and misrepresentation (RPC 8.4(c)), as a result of his failure to satisfy one of three mortgages, following a real estate closing in which he had acted as the closing agent.

The second count charged respondent with recordkeeping violations (RPC 1.15(d)) after an OAE audit had uncovered "virtually non-existent" attorney books and records. In his answer to the complaint, respondent admitted these allegations and to the violation of RPC 1.15(d).

The third count charged respondent with commingling personal and client funds (RPC 1.15(a)), based on his deposit of three checks into his attorney trust account, two of which were written to him by his daughter and son-in-law for the purchase

of a car and a residence.[1] The third check represented funds that respondent had received when he refinanced the mortgage on his personal residence and against which he made disbursements for personal purposes. Respondent admitted these allegations in his answer, although he noted that the funds were not used to cover any shortage in the trust account.

The fourth count of the complaint asserted that respondent had failed to comply with the Supreme Court's April 8, 2008 order (RPC 3.4(c)), which required him to close his law practice by June 30 of that year and to notify the OAE of same. According to the complaint, respondent "never notified the OAE that he had, in fact, closed his law practice." Accordingly, respondent also was charged with conduct prejudicial to the administration of justice (RPC 8.4(d)).

Finally, the complaint charged respondent with practicing while ineligible, on the ground that he had utilized his attorney trust account and practiced law between September 25, 2006 and August 9, 2007, while he was on the Supreme Court's

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[1] Respondent did not represent his daughter and son-in-law in the purchase of the house, which never took place.

list of ineligible attorneys due to nonpayment of the annual attorney assessment to the CPF. In his answer, respondent admitted these allegations and to the violation of RPC 5.5(a). He claimed, however, that his failure to pay the assessment was an oversight.

On September 24, 2009, the DEC conducted a hearing, at which several witnesses testified. Although respondent was present at the hearing, he did not testify. On December 12, 2009, the DEC issued its report, recommending that respondent be reprimanded.

The facts that gave rise to this matter are as follows:

On September 14, 2004, respondent acted as the closing agent in a real estate transaction involving the sale of a residential property located at 12 Oxford Street ("Oxford Street property"), in Montclair, from Brenda Rickard to Nnamdi Ozurumba. The purchase price was $625,000.

According to the RESPA statement, three mortgages in the following amounts were to be satisfied out of the proceeds of the sale: $197,035.54 to Sovereign Bank; $167,551 to Wachovia Bank; and $34,500 to Gennady Krasner. The complaint charged that respondent never paid off the Wachovia mortgage. As seen below, respondent claimed the he was unaware of that mortgage.

Attorney Jeremy David Countess testified that, at some unidentified time, Wachovia Bank retained him to foreclose two open mortgages on the Oxford Street property, which were in default. One of the mortgages was the $167,551 mortgage that was to be satisfied out of the proceeds of the sale of the Oxford Street property. Rickard was the mortgagor to both mortgages.[2]

The purchaser of the Oxford Street property, Ozurumba, testified that Rickard, a social friend, had introduced him to respondent as "someone she had done business with . . . in the past, someone who helped her with purchases of property." Ozurumba denied, however, having hired respondent to represent him at the closing. He did not meet with respondent prior to the closing and never had a conversation with respondent about his purchase of the Oxford Street property.

Ozurumba identified the RESPA statement from the real estate transaction, which contained his signature. Ozurumba

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[2] Ultimately, one of the Wachovia mortgages, in the original amount of $85,000, was found to be invalid because the county clerk's office had misindexed it.

initially stated that it was Rickard who had presented him with the documents that he was to sign at the closing. He denied that respondent had reviewed the documents with him. Later, however, he remembered that respondent had reviewed them with him and had shown him where to sign.

According to Ozurumba, he purchased the Oxford Street property as a rental property. After the closing, Rickard resided there and paid the mortgage, as Ozurumba was having some financial problems at the time. Ozurumba eventually lost the property, which went into foreclosure.

George W. Watson, senior executive vice president of Royal Title Service, Inc., which did the title work for the Oxford Street transaction, testified at the DEC hearing. According to Watson, he "[p]robably" prepared the title work for the closing, which would have been sent to the closing attorney.

Watson identified Royal Title's file for the Oxford Street transaction. Within the file, he identified all three mortgages listed on the RESPA: $195,000 to Sovereign; $160,370 to

Wachovia; and $34,500 to Krasner. [3] The Krasner mortgage was located by a September 13, 2004 Royal Title "rundown report," directed to respondent. The mortgage was recorded on August 9, 2004.

Office of Attorney Ethics ("OAE") disciplinary auditor Arthur L. Garibaldi testified that respondent had told him that Royal Title had given the title binder to Rickard. Watson, however, maintained that, although it is possible for a non-attorney to order title work, the documents would still be sent to the individual's attorney. Watson added that title work ordered by an attorney was typically sent to the attorney, not picked up at Royal Title's office.

In this case, Royal Title had a New Jersey Lawyers Service delivery receipt that reflected deliveries to respondent's office, on August 5 and August 13, 2004. However, the delivery service was not required to have someone at the attorney's office sign for the package. In this case, there was no

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[3] The precise amounts of the Sovereign and Wachovia mortgages varied throughout the testimony and among the documents.

indication on the receipt that the documents actually had been delivered on those dates.

According to Watson, the closing attorney is supposed to return to Royal Title the post-closing documents that are sent with the binder, including the invoice. Upon receipt of the post-closing documents, Royal Title runs a check to determine that all outstanding mortgages were satisfied. If a mortgage remained outstanding, a letter would be sent to the closing attorney advising him or her of this fact. Watson was unaware of whether such a letter had been sent to respondent, stating "I don't do policies." Nevertheless, Royal Title issued a policy in this matter, which, according to Watson, only would have been done if all the outstanding mortgages had been satisfied.

Watson did not learn that there was a problem with this transaction until after the OAE had requested Royal Title's file.

Garibaldi testified that the $34,500 mortgage from Krasner to Rickard was the only mortgage paid off at the closing. The Sovereign mortgage to Rickard was not paid until two-and-a-half months later. Further, as Countess testified, the Wachovia mortgage to Rickard was never paid. The title company ended up satisfying that mortgage.

With respect to the late pay-off of the Sovereign mortgage, respondent told Garibaldi that Rickard was supposed to make the mortgage payments and that, therefore, she had instructed him not to pay it; later, however, she had instructed him otherwise. Respondent paid the mortgage from his trust account.

The circumstances surrounding the closing were odd, to say the least. The copy of the RESPA produced at the DEC hearing was signed by Rickard and Ozurumba, but not respondent, whose name was simply typed on the document. According to Garibaldi, respondent claimed, at an OAE audit, that he had prepared and signed a RESPA for the Oxford Street closing, but that the copy in the OAE's possession was not that document. Respondent denied ever having seen the RESPA obtained by the OAE. In fact, respondent told Garibaldi that his office was not capable of preparing a typed RESPA, only handwritten ones. Yet, according to Garibaldi, of all files that respondent produced and that contained RESPAs, only some of them were handwritten.

Respondent told Garibaldi that the RESPA statement he had prepared for the Oxford Street closing identified only the Sovereign and Krasner mortgages. Respondent did not produce this RESPA, however, which the OAE never found during its

investigation. Respondent denied knowledge of the Wachovia mortgage, even though it was included in the title binder.

Regarding the Oxford Street closing itself, which took place on September 14, 2004, Garibaldi testified that $564,969.07 had been wired into respondent's attorney trust account.[4] He stated that the representations on the RESPA that the buyer, Ozurumba, had paid a $31,250 earnest money deposit and received $46,000 at closing were not true.

According to the RESPA, Rickard was to receive $182,381.45 at the closing. However, Garibaldi's reconstruction of respondent's trust account showed that Rickard actually received in excess of $202,000 at the closing, in the form of multiple checks.

On September 16, 2004, $150,000 was wired directly from respondent's trust account into Rickard's account. On that same date, he issued five trust account checks, four for $10,000 and one for $12,117.14, each with the notation "partial proceeds" on

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[4] Ozurumba took out a $500,000 first mortgage and a $62,500 second mortgage.

the memo line. According to Garibaldi, respondent stated that Rickard had requested the proceeds in "partial payments."

According to Garibaldi, between late 2004 and spring 2005, Rickard received additional funds from respondent's trust account, but Garibaldi could not attribute the monies to the Oxford Street transaction. Respondent was unable to help Garibaldi figure it out. Most of the funds were wired to Rickard. Garibaldi testified that the total funds that she received out of respondent's trust account, including the monies paid to her with respect to the Oxford Street transaction, were approximately $268,000.

Garibaldi was not able to reconcile respondent's trust account. However, although there were shortages with respect to individual client matters, the account was never in a negative position, that is, overdrawn.

Garibaldi testified that the poor state of respondent's recordkeeping system prevented the OAE from pursuing a case of knowing misappropriation against him. For example, the OAE could not trace the source of the approximately $20,000 overpayment to Rickard in the Oxford Street closing and could not account for the $167,000 that was not paid to Wachovia.

According to Ozuruma, the Oxford Street closing was not the only real estate transaction that involved him, Rickard, and respondent. Prior to his purchase of the Oxford Street property, Ozurumba had purchased another Montclair property from Rickard, on South Fullerton Street. Ozurumba believed that respondent was involved in that transaction, as Rickard had informed him that respondent was the attorney who would be going over those documents with him. Ozurumba was never asked whether respondent had reviewed the documents for that transaction with him. The South Fullerton Street property, which was Ozurumba's primary residence, also went into foreclosure.

Garibaldi testified that respondent produced files showing that he had acted as closing agent in other transactions involving Rickard, as demonstrated by the RESPAs.

It appears that the OAE conducted some investigation into the business dealings between respondent and Rickard. Garibaldi testified, however, that the OAE had difficulty tracking down Rickard, until it learned that she was incarcerated in a federal prison, in Connecticut. The OAE went to the prison to obtain Rickard's statement. The statement is not a part of the record. There was no further testimony about the meeting.

Garibaldi testified that, after Countess brought the Oxford Street real estate transaction to the OAE's attention, the OAE requested information from respondent. Because respondent did not reply to two letters from the OAE, a demand audit was scheduled.

The first audit was scheduled for June 27, 2006, but was adjourned to July 27, 2006, at respondent's request. Respondent attempted to adjourn this date, too, due to a court appearance. The request was denied, although the OAE did agree to begin the audit later in the day. Yet, when the OAE appeared at respondent's office at the agreed upon time, he was not there, because, he claimed, the court hearing did not begin on time, due to circumstances beyond his control.

The audit finally took place on August 4, 2006, at the OAE's office. The focus of the audit was to review the Oxford Street transaction and the trust account records to ensure that the funds were held intact and were disbursed only for that transaction. For the first time, respondent informed the OAE that the client file for the transaction was not in his possession. He claimed that Rickard had it.

As to respondent's attorney trust account records, Garibaldi testified that they "were in shambles." He explained:

> [Respondent] had no – no client ledgers, he had no receipts and disbursement journals, he had no reconciliations of his trust account activity, and, in fact, he had no running balance of his checking, of his checkbook activity, just at a minimum. We're all probably familiar with just a basic checkbook ledger in your personal checking account, keep a running balance in that, we didn't even find that.
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> [T85-6 to 13.][5]

According to Garibaldi, respondent appeared at the audit with "a statement or two," which "did not qualify as client ledgers, bank statements – well, the bank statements, yes, but no cancelled checks, checkbook stubs were missing, deposit slips were missing, there was [sic] no cash receipts and no cash disbursements journals, and there certainly were no reconciliations of his trust account."

On December 13, 2007, the OAE wrote to respondent and advised him that another investigation had been opened as a result of his placement on the ineligible list, from September 2006 until August 9, 2007. Another OAE audit took place on August 30, 2007, which also uncovered records that were "grossly

[5] "T" refers to the transcript of the DEC hearing on September 24, 2009.

incomplete and not in accordance with R. 1:21-6 and RPC 1.15." The audit identified thirteen recordkeeping deficiencies.

On January 10, 2008, Garibaldi wrote to respondent, informing him that the OAE had attempted to reconstruct his trust account for the period December 31, 2003 through July 28, 2006, and requesting certain client files and their corresponding trust account statements by January 28, 2008. Respondent provided some of the requested files and informed the OAE that "he could not assist in either identifying any unidentified items on the reconstruction . . . nor could he assist [the OAE] in accurately identifying things that . . . [it] may have misidentified . . . as to what client matter they went to."

On January 30, 2008, two days after a telephone call between respondent and OAE Deputy Ethics Counsel Nitza I. Blasini, Blasini wrote to respondent and directed him to (1) provide a reconciliation of his trust account, identifying how much and whose funds he was holding; (2) identify all disbursements made from the trust account since the last audit; and (3) review the "trust analyzer data" sent to him earlier that month by Garibaldi, making any adjustments that he deemed

appropriate, or, if he could not do that, advising the OAE accordingly.

Respondent did not comply with the OAE's directive. At one point, he was able to identify about $25,000 of the $35,000 in trust account funds. Yet, he continued to use the account without meeting the recordkeeping requirements contained in the rules.

On February 4, 2008, respondent wrote the following letter to Blasini and Garibaldi:

> I have reexamined the items that you requested I provide your office and regret that I am once again unable to fulfill your directive. In this process I have concluded what I have known for a number of years, but would not face; namely, that I should not be in private practice, but working for someone else, because I do not have the wherewithal to run a business, I.e. [sic] to tie together loose ends and perform the nuts and bolts a business requires.
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> I do understand that you have a job to perform and that nothing you are doing is with the thought that you are trying to harm me. I understand that your job is my [sic] to protect the public and my clientele. Regardless of your recommendations, I have concluded that, I will close my office by June 30, 2008. I also will not take any new clients whose work would not be completed by that time and finally that [sic] I will not take any cases that require my handling money for any client.

> In the meantime, I understand that you wish to meet with me and I will be available at your direction.
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> [Ex.17.]

Because respondent's records "were in shambles, and were virtually nonexistent," Garibaldi was required to review respondent's bank records, including trust account statements, returned checks, wire transfers, and deposit slips. During his review of the bank records, Garibaldi found an $8500 check issued to respondent by his son-in-law, Kyle Lindsay, who, during an interview with the OAE, stated that respondent was to hold these funds for the intended purchase of an automobile. Respondent deposited the funds into his attorney trust account. His daughter and his son-in-law both confirmed that they had authorized respondent to use the funds "as he saw fit." Eventually, respondent disbursed all but $65 to the Lindsays.

On November 6, 2006, respondent deposited into his attorney trust account a $10,400 check, issued to Kyle and endorsed by Kyle to respondent. The Lindsays confirmed that the funds were given to respondent for the purchase of a home for them, which never took place. The Lindsays also stated that they had consented to respondent's "using the funds as he saw fit." In

November 2006, respondent disbursed $6000 to himself and $4400 to Kyle.

On August 1, 2005, respondent deposited into his trust account a check in the amount of $59,157.01, which represented the proceeds from the refinance of his personal residence. Garibaldi explained that the disbursement of these funds was difficult to track because "it just drip[ped] out a little at a time, $500, $2,000 — ."

Garibaldi testified that respondent was ineligible to practice law from September 25, 2006 until August 9, 2007. Yet, during that period, there was activity in his trust account. For example, on October 26, 2006, respondent deposited into his trust account a $59,000 check, which represented the proceeds from a real estate transaction. When the OAE discovered this trust account activity, it contacted respondent, seeking an explanation. He did not reply to the OAE's letter.

OAE Deputy Ethics Counsel Melissa Czartoryski testified about respondent's alleged non-compliance with the Supreme Court's April 2008 order. About a month before August 29, 2008, Czartoryski received a letter from respondent's proctor, Clifford J. Minor, advising her that respondent had informed him that he was "winding down some outstanding matters, and that he

had virtually closed his practice." As a result, Czartoryski wrote a letter to respondent, on August 29, 2008, which stated in part:

> I would request that no later than September 15, 2008, you provide me with an update regarding this matter. If you have not completed your law practice's closure at that time, we may refile our Petition for your temporary suspension. I am hopeful, however, that this matter will be resolved by that time.
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> [Ex.32.]

Respondent ignored that letter. He never provided the OAE with any proof – oral or written – that he was in compliance with the Court's April 2008 order.

With respect to the failure-to-safeguard-funds charge, the DEC found that respondent had acted as settlement agent for Ozurumba at the closing and, consequently, as a fiduciary for the lender. As such, respondent was required to pay off all open mortgages on the property, as identified on the title binder and in the closing statement. Yet, respondent failed to pay the $167,000 Wachovia mortgage and could not account for the disbursement of funds at the closing.

According to the DEC, these facts supported the conclusion that respondent had failed to safeguard funds, a violation of

RPC 1.15(a). However, the DEC concluded that the OAE had not presented clear and convincing evidence that respondent's actions violated RPC 8.4(c), believing, instead, that he was negligent in his handling of the closing.

With respect to the recordkeeping violations, the DEC noted that the state of respondent's records was so poor that, even with respondent's assistance, Garibaldi was unable to reconcile the accounts. Moreover, the DEC observed that respondent had admitted to the recordkeeping violations, a violation of RPC 1.15(d).

The DEC concluded that clear and convincing evidence established that respondent had commingled the funds received from the refinance of his home with other trust account funds and made disbursements against those funds for personal purposes, a violation of RPC 1.15(a). The DEC did not find that the evidence established a violation of this rule with respect to the funds he held in his trust account for his daughter and son-in-law.

As to respondent's failure to close his office by the June 30, 2008 deadline in the Court's April 2008 order, the DEC found that this did not constitute a violation of either RPC 3.4(c) or RPC 8.4(d). According to the DEC, although respondent had not

complied with the deadline, he was working with his proctor to do so. Moreover, neither did the Court's order require him to notify the OAE when he had closed the practice nor did the OAE ever contact respondent's proctor, who, according to the DEC, "could have confirmed the office's closure."

Finally, the DEC found clear and convincing evidence that respondent had practiced while ineligible, a violation of RPC 5.5(a), based on two factors. First, respondent admitted to the violation. Second, there was trust account activity during the period of ineligibility, that is, September 25, 2006 to August 9, 2007.

In assessing the appropriate quantum of discipline, the DEC identified one aggravating factor: respondent's failure to cooperate with disciplinary authorities, in that he "needed multiple reminders to participate in the audit of his trust account." In mitigation, the DEC found that respondent (1) admitted his wrongdoing, (2) was unlikely to repeat the misconduct, as he was "no longer a solo practitioner," and (3) did not act for personal gain.

The DEC recommended that respondent receive a reprimand for his two violations of RPC 1.15(a), that is, his failure to

safeguard funds and the commingling of personal and client funds, and his violations of RPC 1.15(d) and RPC 5.5(a).

Following a de novo review of the record, we are satisfied that the DEC's finding that respondent's conduct was unethical is fully supported by clear and convincing evidence.

Failure to safeguard funds is governed by RPC 1.15(a), which provides, in pertinent part:

> A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in a financial institution in New Jersey. . . . Other property shall be identified as such and appropriately safeguarded.

The separate account identified in RPC 1.15(a) is a trust account, which must be "separate from any business and personal accounts and from any fiduciary accounts." R. 1:21-6(a)(1).

In this case, $564,969.07 was wired into respondent's trust account in advance of the Oxford Street closing. The funds were to be used to pay off all outstanding mortgages on the property, including the $167,000 Wachovia mortgage. Respondent failed to pay off the Wachovia mortgage with the monies and could not account for them. Yet, he denied knowing anything about this mortgage. He denied preparing the RESPA in the OAE's

possession. His signature is not on that document. We find, therefore, that, while the funds that were to be used to satisfy the Wachovia mortgage were not safeguarded, the proofs do not clearly and convincingly demonstrate that respondent was responsible for this omission. This is not a case in which an attorney knowingly or negligently breaches his or her duty to satisfy outstanding mortgages. Rather, this is a case of an attorney who denied any knowledge of an outstanding mortgage. Thus, we determine to dismiss the RPC 1.15(a) charge as it pertains to respondent's failure to satisfy the Wachovia mortgage.

As to what happened to the funds, we can only assume that they were included among the $268,000 ultimately paid to Rickard from respondent's trust account or even among the $202,000 paid to her out of the Oxford Street closing proceeds.

Among these same lines, we agree with the DEC's dismissal of the RPC 8.4(c) charge. It is not clear why respondent was charged with having violated this rule, inasmuch as the complaint expressly states that respondent claimed to be unaware of the mortgage. Moreover, although the complaint alleges that respondent was sent the title binder, which included the Wachovia mortgage, respondent represented to the OAE that he

never received it. Indeed, there was no proof that the package was actually delivered to his office. We, therefore, find no clear and convincing evidence of dishonest behavior on the part of respondent. We note also that the OAE seems to have abandoned the pursuit of that charge at the hearing.

Respondent did act unethically in other respects, however. As the DEC concluded, he violated RPC 1.15(a) when he deposited the proceeds from the refinance of his personal residence into his trust account. In doing so, he commingled personal and trust funds. However, unlike the DEC, we find that respondent's deposit of the personal funds of his daughter and son-in-law into his trust account also violated the rule, inasmuch as they were not given to him "in connection with a representation." R. 1.15(a).

Further, respondent violated RPC 1.15(d), which requires lawyers to comply with the recordkeeping rules, insofar as he failed to maintain any type of recordkeeping system. Finally, he violated RPC 5.5(a) by practicing law during a period of ineligibility, as was evidenced by the activity in his trust account and his admission in the answer to the complaint.

As to RPC 3.4(c) and RPC 8.4(d), the DEC correctly determined that there was no clear and convincing evidence that

respondent had violated either rule. The first rule prohibits an attorney form "knowingly disobey[ing] an obligation under the rules of a tribunal." The second prohibits an attorney from "engaging in conduct prejudicial to the administration of justice." As the DEC noted, the April 2008 court order did not require respondent to notify the OAE when he closed his office. Moreover, although respondent did not close his office by the June 30, 2008 deadline set by the Court, his proctor made it clear to the OAE that he was in the process of winding down the practice, which had "virtually" closed. Surely, respondent could not be expected to abandon the clients whose few matters remained outstanding.

There remains for determination the appropriate quantum of discipline to be imposed on respondent for his violations of the above RPCs.

In the absence of a misappropriation of any kind, an attorney's commingling of personal and trust funds and the attorney's violation of the recordkeeping rules usually calls for the imposition of an admonition. See, e.g., In the Matter of William P. Deni, Sr., DRB 07-337 (January 23, 2008) (during a three-year period, attorney routinely deposited earned legal fees into his trust account, resulting in the commingling of

more than one million dollars of his personal funds with client funds; a random audit also uncovered several recordkeeping deficiencies; mitigating factors included the absence of any harm to clients and the attorney's unblemished disciplinary record of thirty-two years); In the Matter of Lionel A. Kaplan, DRB 02-259 (November 18, 2002) (attorney commingled law firm funds and trust funds, committed recordkeeping violations, and failed to supervise his bookkeeper, who was responsible for the recordkeeping violations); and In the Matter of Eric J. Goodman, DRB 01-225 (July 20, 2001) (attorney commingled personal and trust funds and committed several recordkeeping deficiencies; he also lacked diligence in failing to promptly distribute estate proceeds to the beneficiaries after the fiduciary bond was issued).

An admonition, too, is the ordinary form of discipline when an attorney, who practices while ineligible, is unaware of the ineligibility or advances compelling mitigating factors. See, e.g., In the Matter of Maria M. Dias, DRB 08-138 (July 29, 2008) (although attorney knew of her ineligibility, compelling mitigation warranted only an admonition; in an interview with the OAE, the attorney admitted that, while ineligible to practice law, she had appeared for other attorneys forty-eight

times on a part-time, per diem basis, and in two of her own matters; the attorney was unable to afford the payment of the annual attorney assessment because of her status as a single mother of two young children); In the Matter of William C. Brummel, DRB 06-031 (March 21, 2006) (attorney practiced law during a four-month period of ineligibility; the attorney was unaware of his ineligible status); In the Matter of Frank D. DeVito, DRB 06-116 (July 21, 2006) (attorney practiced law while ineligible, failed to cooperate with the OAE, and committed recordkeeping violations; compelling mitigating factors justified only an admonition, including the attorney's lack of knowledge of his ineligibility); and In the Matter of Richard J. Cohen, DRB 04-209 (July 16, 2004) (admonition for practicing law during nineteen-month ineligibility; the attorney did not know he was ineligible).

If the attorney is aware of the ineligibility, a reprimand is usually imposed. See, e.g., In re Kaniper, 192 N.J. 40 (2007) (attorney practiced law during two periods of ineligibility; although the attorney's employer gave her a check for the annual attorney assessment, she negotiated the check instead of mailing it to the CPF; later, her personal check to the CPF was returned for insufficient funds; the attorney's

excuses that she had not received the CPF's letters about her ineligibility were deemed improbable and viewed as an aggravating factor) and In re Perrella, 179 N.J. 499 (2004) (attorney advised his client that he was on the inactive list and then practiced law; the attorney filed pleadings, engaged in discovery, appeared in court, and used letterhead indicating that he was a member in good standing of the Pennsylvania bar).

In this case, the record does not establish, by clear and convincing evidence, that respondent was aware of his ineligibility and practiced anyway.

Several mitigating factors are present in this case, namely, that, prior to the real estate transaction, respondent had practiced law without incident for twenty-four years; he admitted his wrongdoing; and he is no longer a solo practitioner. However, we view as an aggravating factor respondent's complete lack of attention to the Rickard-to-Ozurumba transaction.

After balancing the mitigating and aggravating factors and considering the nature of respondent's ethics offenses, we determine that a reprimand is the suitable degree of sanction in this case. In addition, we require respondent to continue under the supervision of a proctor, until further order of the Court,

to submit to the OAE proof of satisfactory completion of a trust accounting course, and to submit to the OAE monthly reconciliations of his attorney records, on a quarterly basis, for a two-year period.

Member Stanton did not participate.

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

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Raymond Goodwin
Docket No. DRB 10-072

Argued: May 20, 2010

Decided: July 14, 2010

Disposition: Reprimand

Members	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:			8			1

Julianne K. DeCore
Julianne K. DeCore
Chief Counsel