

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 10-103  
District Docket No. XIV-09-0400E

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IN THE MATTER OF  
IAN W. MARRERO  
AN ATTORNEY AT LAW

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Decision

Decided: August 18, 2010

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

This matter came before us on a certification of default  
filed by the Office of Attorney Ethics ("OAE"), pursuant to R.  
1:20-4(f). The complaint charged respondent with violating RPC  
1.15(a) (failure to safeguard client property), RPC 8.1(b)  
(failure to cooperate with disciplinary authorities), RPC 8.4(c)  
(conduct involving dishonesty, fraud, deceit or  
misrepresentation), and the principles of In re Wilson, 81 N.J.

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451 (1979), and In re Hollendonner, 102 N.J. 21 (1985). We recommend to the Court that respondent be disbarred.

Respondent was admitted to the New Jersey bar in 2005. He has no history of discipline. He has been temporarily suspended since October 13, 2009. In re Marrero, 200 N.J. 279 (2009).

Service of process was proper. On January 14, 2010, the OAE sent a copy of the complaint to respondent, by certified and regular mail, to his last known office address, 47 Hoover Avenue, Passaic, New Jersey 07055; his home address, 43 Caitlin Court, Franklin Park, New Jersey 08823; another address listed as a home address, 200 Delancy Street, Newark, New Jersey 07105; and what the OAE believed to be his then office address, 250 McWhorter Street, Newark, New Jersey 07105.<sup>1</sup>

The certified and regular mail to the Hoover Avenue address were both returned marked "Attempted Not Known." The post office attached a sticker to the certified letter, stating "Notify Sender of New Address," and listing the McWhorter Street address.

The certified mail to the Caitlin Court address was returned marked "Unclaimed." The regular mail was not returned.

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<sup>1</sup> The McWhorter Street address is the location of Restart Management Services, which listed respondent as in-house counsel, on its website.

The certified mail to the Delancy Street address was returned marked "Unclaimed." The regular mail was not returned.

The certified and regular mail to the McWhorter Street address were both returned marked "Attempted Not Known."

On February 24, 2010, the OAE sent a second letter to respondent, advising him that, unless he filed an answer to the complaint within five days, the allegations of the complaint would be deemed admitted and the matter would be certified to us for the imposition of sanction. The letter was sent via certified and regular mail to the Caitlin Court and Delancy Street addresses. The regular mail to both addresses was not returned. The green return receipt for the Delancy Street address was returned to the OAE, indicating delivery on April 26, 2010. The signature is illegible, but it does not appear to be respondent's. The certified mail to Caitlin Court was returned to the OAE marked "Unclaimed."

On February 27, 2010, a disciplinary notice stating that a complaint had been filed against respondent was published in the Star Ledger. On March 1, 2010, a disciplinary notice stating that a complaint had been filed against respondent was published in the New Jersey Law Journal.

As of the date of the OAE's supplemental certification, April 28, 2010, respondent had not filed an answer to the complaint.

The first count of the complaint alleged that respondent represented Nora S. Villacres in the sale of real estate. The buyers, Satyapal and Kavitha Pareddy, were represented by Luis R. Sanchez. In December 2006, Sanchez sent respondent a check for \$75,000 from the Pareddys, payable to respondent, and representing the deposit for their purchase. Under the terms of the contract, the deposit was to be held in respondent's trust account.

On December 11, 2006, respondent deposited four items into his trust account, including the Pareddys' \$75,000.<sup>2</sup> Following the deposit, the balance in respondent's trust account was \$286,683.01. On January 30, 2007, respondent forwarded to Sanchez his trust account check in the amount of \$75,000, payable to the Pareddys, along with a cover letter explaining that the contract for the sale of the property had been cancelled. On January 31, 2007, the balance in respondent's trust account was \$118,233.12.

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<sup>2</sup> Respondent maintained two trust accounts, one at Commerce Bank and another at Pascack Community Bank. Respondent deposited the check into the Commerce Bank account.

By letter dated January 31, 2007, Sanchez returned respondent's check and advised him that Villacres could not unilaterally cancel the contract. The letter instructed respondent to hold the Paredlys' \$75,000 deposit in trust, pursuant to the terms of the contract.

Sometime thereafter, the Paredlys filed suit against Villacres. On March 13, 2009, Sanchez' office advised respondent that a proof hearing was scheduled for March 30, 2009. He requested that respondent forward the Paredlys' \$75,000 to him. On March 25, 2009, Sanchez sent respondent another letter, via certified mail, directed to his home address. Respondent signed for the certified mail on March 26, 2009.

On March 30, 2009, respondent replied to Sanchez, advising him that he had not received his March 13, 2009 letter, that he was in the process of moving his office, and that he would not be able to forward a check to Sanchez until the following week. In his letter, respondent stated that he was forwarding correspondence to Sanchez' office only to acknowledge receipt of Sanchez' letter, "to confirm said funds," and to advise that he was continuing to receive mail at his Hoover Avenue office address. Sanchez had no further contact with respondent.

On May 29, 2009, Sanchez wrote to respondent to advise him that the court had ordered respondent to return the Pareddys' deposit. Sanchez sent the letter to respondent's Hoover Avenue address, via regular mail. The letter was not returned. On June 5, 2009, Sanchez again wrote to respondent to the Hoover Avenue address, via regular mail, asking for the \$75,000. The letter was not returned to Sanchez. On June 15, 2009, Sanchez wrote to respondent's home address, via certified mail, enclosing an unexecuted copy of the court's order. The letter was returned as "Unclaimed." The following day, Sanchez sent an executed copy of the order to respondent's home address, via regular mail. The letter was not returned.

On June 30, 2009, Sanchez sent a certified letter to respondent's home address and a regular mail letter to respondent's office address, asking for the return of the Pareddys' deposit and threatening respondent with legal action. The certified mail was not claimed. The regular mail was returned marked "Return to Sender Attempted - Not Known Unable to Forward." Respondent never returned the Pareddys' funds.

As noted above, respondent received the Pareddys' \$75,000 in December 2006. Respondent's trust account balance dipped below that amount on numerous occasions. Specifically, in 2007, respondent's account fell below \$75,000 on April 5 and 10; June

27 and 30; July 5, 27; and 31; August 1, 2, 3, 23, and 27; September 24, 27, 28, and 30; October 1, 2, and 5; November 19, 20, 21, and 27; and December 10, 12, 14, and 18.<sup>3</sup> The complaint noted that respondent did not transfer funds from his Commerce Bank trust account to the Pascack Community Bank trust account.

Throughout most of 2008, respondent's trust account balance remained below the \$75,000 that he should have been holding for the Paredlys. By September 10, 2008, the account held only \$385.52. During 2009, the Commerce Bank account remained at or below \$8,437.66, reaching a low of -\$1,252.34 on July 2, 2009.

On March 30, 2009, the date that respondent confirmed to Sanchez that the Pareddy funds remained in his account, his trust account held only \$500.89. The account in Pascack Community Bank held \$10.30 at that time.

The complaint charged respondent with knowing misappropriation, in violation of RPC 1.15(a), RPC 8.4(c), and the principles of In re Wilson, 81 N.J. 451 (1979), and In re Hollendonner, 102 N.J. 21 (1985).

The second count of the complaint alleged that, on September 4, 2009, the OAE sent a demand audit letter to respondent, via certified and regular mail, to his home address,

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<sup>3</sup> Although not noted in the complaint, respondent's trust account balance was also below \$75,000 on April 6 and June 28, 2007.

43 Caitlin Court, Franklin Park, New Jersey 08823, instructing him to appear at the OAE's office, on September 24, 2009, to discuss his handling of the Pareddy deposit. Both letters were returned to the OAE marked "Unclaimed."

On September 11, 2009, the OAE sent a demand audit letter to respondent at his 47 Hoover Avenue, Passaic, New Jersey 07055 office address, via certified and regular mail, instructing him to appear on September 24, 2009. The certified letter was returned marked "Unclaimed." The regular mail was not returned. Also on September 11, 2009, the OAE sent a demand audit letter to respondent, via certified and regular mail, to 250 McWhorter Street, Newark, New Jersey 07105, the address for Restart Management Services. The certified letter was returned "Unclaimed." The regular mail was not returned.

On September 24, 2009, an OAE investigator called Restart Management Services and left a message asking respondent to contact her. Respondent did not return the call. The following day, the OAE petitioned the Court for respondent's temporary suspension from the practice of law. Copies of the petition were sent to respondent, via certified and regular mail, at his 43 Caitlin Court, 47 Hoover Avenue, and 250 McWhorter Street addresses. Only the regular mail to the Hoover Avenue and McWhorter Street addresses was not returned. Respondent did not



reply to the OAE's petition. As noted above, respondent was temporarily suspended on October 13, 2009.

The complaint charged respondent with violating RPC 8.1(b).

By letter dated March 25, 2010, the OAE asked us to amend the complaint to charge respondent with an additional violation of RPC 8.1(b), based on his failure to file an answer to the complaint.

The facts recited in the complaint support the charges of unethical conduct. Respondent's failure to file an answer is deemed an admission that the allegations of the complaint are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).

The record demonstrates that, through a series of trust account invasions, respondent repeatedly engaged in the knowing misappropriation of trust funds, contrary to the provisions of In re Wilson, supra, 81 N.J. 451, and In re Hollendonner, supra, 102 N.J. 21. There is no question that respondent failed to hold the Paredlys' \$75,000 intact in his trust account. His disbarment is, therefore, mandated. We so recommend to the Court.

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 Ian W. Marrero  
Docket No. DRB 10-103

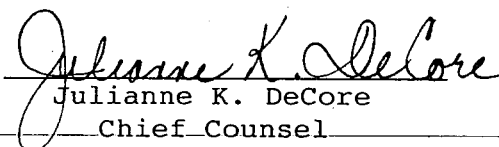
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Decided: August 18, 2010

Disposition: Disbar

Members	Disbar	Six-month 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

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