SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 10-301
District Docket Nos. XIV-09-027E,
XIV-09-051E, and XIV-10-0185E

IN THE MATTER OF	:
JEFFREY ABRAMOWITZ	:
AN ATTORNEY AT LAW	:

Decision

Decided: December 16, 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 five-count complaint charged respondent with violating RPC 1.15(a) (failure to safeguard client funds); RPC 1.15(b) (failure to promptly deliver funds to the client); RPC 1.15(d) and R. 1:21-6 (recordkeeping violations); the principles of In re Wilson, 81 N.J. 451 (1979) (misappropriation of client funds), and In re Hollendonner, 102 N.J. 21 (1986) (misappropriation of escrow funds); RPC 4.1(a) (knowingly making a false statement of material fact or law to a third person); RPC 8.1(b) (failure to reply to a lawful demand for information

from a disciplinary authority); RPC 8.4(a) (violating or attempting to violate the Rules of Professional Conduct, or knowingly assisting or inducing another to do so, or doing so through the acts of another); and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation).

For the reasons expressed below, we recommend respondent's disbarment.

Respondent was admitted to the New Jersey bar in 1988. At the relevant times, he practiced law in Mount Laurel, New Jersey, at the firm of Klevan and Abramowitz. Although respondent has no history of discipline, he has been temporarily suspended, since September 24, 2009, for failure to cooperate with the OAE's investigation of this matter.

Service of process was proper. On July 2, 2010, the OAE mailed copies of the formal ethics complaint, by regular and certified mail, to respondent's home address, 119 Woodbine Way, Plymouth Meeting, PA 19462. The certified mail receipt was signed by respondent on July 12, 2010. The regular mail was not returned. Respondent did not file an answer within the allotted time.

On August 3, 2010, the OAE sent a letter to the same address, by regular and certified mail. The letter informed respondent that, unless he filed an answer within five days, the

allegations of the complaint would be deemed admitted, the matter would be certified to us for the imposition of discipline, and the complaint would be deemed amended to include a willful violation of RPC 8.1(b). The U.S. Postal Service Track and Confirm information indicated that notice of the certified mail was left at the Woodbine Way address on August 6, 2010. As of August 21, 2010, the certified mail remained unclaimed. The regular mail was not returned.

As of the date of the certification of the record, August 25, 2010, respondent had not filed an answer to the ethics complaint.

At the relevant time, respondent maintained attorney trust and business accounts at PNC Bank.

Count I – The Hyun Song Matter

In March 2006, Hyun Song retained respondent to represent him in the purchase of two businesses, Fair Fox Cleaners and Evergreen Car Wash. From March 21, 2006 to October 10, 2007, Song gave respondent eight checks, totaling $212,476.08, to be deposited in respondent's trust account for the purpose of funding the purchases.

On March 22, 2006, respondent deposited a $5,000 check from Song into his personal TD Bank account (formerly Commerce Bank).

By March 28, 2006, respondent had invaded and misappropriated at least $4,023.36 of Song's $5,000, by making disbursements that were unrelated to Song's matter. As of March 28, 2006, the balance in respondent's account was $974.64.

Prior to April 11, 2006, the balance in respondent's personal account was $249.05. On that date, he deposited Song's $80,000 check into the same personal account. By May 9, 2006, respondent had invaded and misappropriated at least $40,448.06 of Song's $80,000, by making disbursements unrelated to Song's matter. As of May 9, 2006, the balance in respondent's personal account was $39,551.94.

Song never consummated the purchase of Fair Fox Cleaners. Although he had directed respondent to remit the funds to the seller of the Evergreen Car Wash and real estate, respondent failed to do so and never returned the funds to Song, despite Song's repeated demands. As of July 11, 2006, the balance in respondent's personal account was $1,716.90.

Count II – The Settlement Funds

The OAE's investigation of the Klevan and Abramowitz trust account disclosed that respondent had invaded and misappropriated client settlement funds that he had received on October 24, 2005 and September 18, 2007. Specifically,

respondent deposited three checks, totaling $186,500.55, into his firm's trust account. He issued the settlement checks to the appropriate clients, but then forged the payees' endorsements on the checks. He deposited the checks into his personal accounts and kept the funds for his own use and benefit.

Count Three - The Michael Dunn Matter

Respondent represented Michael Dunn in a personal injury matter. In October 2006, he received a $25,500 settlement check for Dunn's case. He neither deposited the settlement check into his firm's trust account, nor distributed to Dunn or to his law partner their share of the settlement funds. Instead, he deposited the $25,500 check directly into his personal account, retaining the gross settlement for his own use and benefit.

Count Four – The Chevelle Carter Matter

Respondent represented plaintiff Chevelle Carter in a medical malpractice action against Kennedy Memorial Hospital/University Medical Center, Stratford (Kennedy Memorial) and others. The law firm of Parker McCay represented the defendant hospital.

In September 2007, the parties executed a voluntary dismissal with prejudice of the claim against Kennedy Memorial.

The fully executed document was filed with the court on September 11, 2007.

On September 17, 2007, Parker McKay sent a copy of the filed stipulation of dismissal to respondent. The filing of the voluntary dismissal terminated the matter as to Kennedy Memorial. No further action was necessary on its behalf.

By letter dated December 2, 2008, respondent misrepresented to Thomas Rae, at Markel Corporation (presumably an insurer), that a release and settlement agreement in the Chevelle Carter v. Kennedy Memorial Hospital medical malpractice matter had been forwarded to Parker McKay. He requested that a settlement draft be issued to his firm. When respondent made that representation, he knew that it was false. Because the matter had not been settled, no settlement proceeds were due.

On December 8, 2008, respondent also sent a letter to Princeton Insurance Company (Princeton), requesting the issuance of a settlement draft for the same matter. He indicated that a release and settlement agreement had been forwarded to Parker McKay, knowing that the representation was false. In addition, he fabricated and forwarded to Princeton a release and settlement of the medical malpractice matter as to Kennedy Memorial, in the amount of $368,000, in an attempt to defraud

Princeton and induce it to issue a settlement draft in the matter, when no settlement proceeds were due.

Respondent had also created a letter on Parker McKay letterhead, dated September 5, 2008, purporting to forward the release and settlement to the Klevan and Abramowitz law firm. His use of the Parker McKay letterhead was unauthorized. In furtherance of the scheme, he used "a forged and/or unauthorized signature" of a Parker McKay attorney on the fabricated letter.

According to the complaint, respondent knew that his actions were dishonest, deceitful and fraudulent at the time that he undertook them, thereby violating RPC 4.1(a), RPC 8.4(a), and RPC 8.4(c).

Count Five - Failure to Cooperate with Disciplinary Authorities

Respondent is licensed to practice law in New Jersey and Pennsylvania. On February 20, 2009, he was suspended in Pennsylvania because of complaints filed against him, alleging that he had failed to account for trust funds he was holding on behalf of grievants Jowell Gray and Denise Peleckis or that he failed to properly disburse "the balance of funds to them."

By letter dated July 29, 2009, the OAE scheduled a demand audit of respondent's trust account for August 7, 2009. The OAE instructed respondent to produce his records and files and to

explain his handling of the funds for the two grievants. Respondent failed to appear for the audit and to produce the information requested by the OAE. He also failed to contact the OAE to explain his failure to either appear or to request an adjournment of the scheduled audit.

We find that the facts recited in the complaint support the charges of unethical conduct. We deem respondent's failure to file an answer 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 disbursements to himself, respondent knowingly misappropriated client funds. In the Song matter, he received $212,476.08 to fund the purchase of two businesses for his client. Instead, he deposited the funds into his personal account, knowingly misappropriated them for his own benefit; failed to consummate the transactions for Song; and failed to return Song's funds, despite Song's repeated demands.

Similarly, count two established that respondent knowingly misappropriated client funds totaling $186,500.55, by receiving clients' settlement funds; depositing them into his trust account; issuing checks to his clients; forging their signatures

on the checks; depositing the funds into his personal account, and then using them for his own benefit.

In the Dunn matter, respondent received his client's $25,500 settlement, but, rather than deposit it into the firm's trust account, he deposited it directly into his own account, retaining the gross settlement for his own use.

In the Carter matter, respondent fabricated letterhead and documents and forged an attorney's signature, in order to induce an insurance company to pay a non-existent settlement. In reality, the case had been dismissed against the subject defendant.

Finally, respondent failed to cooperate with the OAE in its investigation of his handling of trust funds on behalf of two grievants.

For respondent's misappropriation of client trust funds alone, we determine that, under In re Wilson, supra, 81 N.J. 451, he must be disbarred. We so recommend to the Court.

Vice-chair Frost 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 Jeffrey Abramowitz
Docket No. DRB 10-301

Decided: December 16, 2010

Disposition: Disbar

Members	Disbar	Three-year 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
Chief Counsel