

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket Nos. DRB 12-248
and DRB 12-297
District Docket Nos. XIV-10-0333E,
XIV-10-0334E, and XIV-11-0437E

IN THE MATTERS OF :
CHRISTOPHER PHILIP HUMMEL :
AN ATTORNEY AT LAW :
:

Decision

Decided: January 8, 2013

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

These matters were before us on certified records from the Office of Attorney Ethics (OAE), pursuant to R. 1:20-4(f)(2). We recommend that respondent be disbarred for his knowing misappropriation of escrow funds, in the matter under DRB 12-248. Although the remaining matter, DRB 12-297, is moot because respondent faces the ultimate sanction of disbarment for his misappropriation, a six-month suspension would have been the appropriate discipline for his misconduct in that matter.

Respondent was admitted to the New Jersey bar in 1982. In 2010, he was disciplined, on a certified record, for gross neglect, lack of diligence, failure to communicate with the client, and lack of candor to a tribunal in a real estate matter. He received a censure, rather than a reprimand, because he allowed the matter to proceed as a default. In re Hummel 204 N.J. 32 (2010).

In January 2011, respondent was temporarily suspended for failure to cooperate with disciplinary authorities. In re Hummel 204 N.J. 594 (2011). He remains suspended to date.

I. DRB 12-248

The complaint charged respondent with violating RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(b) and (c) (failure to comply with a client's reasonable requests for information, and failure to explain a matter to the extent necessary to permit the client to make informed decisions about the representation), RPC 1.15(a), (b) and (d) (failure to safeguard client property, failure to promptly deliver property to which a client is entitled, and failure to comply with the recordkeeping requirements of R. 1:21-6)), RPC 8.1(a) and (b) (misrepresentation to disciplinary authorities and failure to

cooperate with disciplinary authorities), and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), as well as the principles of In re Wilson, 81 N.J. 451 (1979), and In re Hollendonner, 102 N.J. 21 (1985), and their progeny.

Service of process was proper. On March 15, 2012, the OAE sent a copy of the complaint to respondent, by certified and regular mail, to his last known address, 420 Sheridan Place, Apt. 20, Fairview, New Jersey 07022. Both the certified and regular mail envelopes were returned as "not deliverable as addressed unable to forward." In April 2012, the OAE published notices in The Record and in the New Jersey Law Journal.

On April 18, 2012, OAE personnel went to 301 DeSoto Place, Fairview, New Jersey. On that date, a letter carrier advised the OAE that respondent lives at 303 DeSoto Place, and mail addressed to him is delivered there. Also on April 18, 2012, the OAE visited 303 DeSoto Place, where an adult male advised that respondent was at work.

On April 20, 2012, the OAE sent a copy of the complaint to respondent, by certified and regular mail, to 303 DeSoto Place, Fairview, New Jersey 07022. The certified mail envelope was returned unclaimed. The regular mail was not returned.

Respondent did not file an answer to the complaint.

Count One

In June 2008, respondent represented Anna M. Marshall in the sale of her residence. In connection with the closing, respondent agreed to hold \$10,000 in escrow, pending the removal and clean-up of an in-ground oil tank on Marshall's property. The \$10,000 escrow is listed on the HUD-1. On June 27, 2008, respondent deposited the \$10,000 in his attorney trust account.

In February 2010, Marshall and her daughter, Melanie A. Suter, received notice from the New Jersey Environmental Protection Agency that no further action was needed in connection with the oil tank. Thereafter, Suter attempted to contact respondent by telephone, email, and certified mail, seeking release of the escrow funds. Respondent's telephone number was disconnected. He failed to reply to Suter's emails or letters seeking release of the funds.

During an OAE interview in connection with this matter, respondent stated that he had held the \$10,000 intact in his trust account. That statement was false and respondent knew it was false, when he made it. His trust account bank statement for August 2010 showed that, on August 19, 2010, the balance in

the account fell to \$8,913.45, a shortage of \$1,086.55 for the Marshall funds alone. The shortage was caused, in part, when respondent made a \$1,500 online transfer from his trust account to his business account. Further, his trust account bank statement for September 2010 showed that the balance had fallen to \$5,613.45, on September 21, 2010, a shortage of \$4,386.55 for the Marshall funds alone.

Also, the trust account statement for the period January 1, 2010 to December 31, 2010 showed that respondent made forty-three online transfers from his trust account to his business account, totaling \$27,010. From August 19, 2010 to December 28, 2010, he made twenty-five online transfers from his trust account totaling \$9,580, thereby invading the funds that he was holding for Marshall. From February 25, 2010 to December 31, 2010, the only transactions in respondent's trust account were the online withdrawals from the account. On January 6, 2011, the bank froze respondent's trust and business accounts, pursuant to a Court order. On that date, the balance in his trust account was a mere \$773.45.

The complaint charged respondent with, among other things, the knowing misappropriation of trust funds.

Count Two

As indicated previously, during respondent's interview by the OAE in connection with this matter, he stated that he was holding the \$10,000 intact in his trust account, pursuant to the escrow agreement. Respondent's statement to the OAE was false and he knew it to be false at the time he made it, a violation of RPC 8.1(a).

Count Three

In July 2009, Helen Avlon filed a grievance with the District IIB Ethics Committee (DEC), alleging that respondent had engaged in unethical conduct. During the DEC's investigation of the Avlon grievance, respondent failed to reply to its several requests for information and/or documentation.

In April 2010, Suter filed a grievance with the DEC, stemming from respondent's conduct specified in count one. On July 9, 2010, the Avlon and Suter grievances were transferred to the OAE for investigation. On July 16, 2010, the OAE sent two letters to respondent by certified mail, enclosing the grievances and requesting his written replies within ten days. The OAE received the certified mail receipt, which was signed by

a James Cigolini. Respondent did not submit a written reply to the grievances or otherwise communicate with the OAE.

By letter dated September 7, 2010, the OAE advised respondent that he had failed to reply to its July 16, 2010 letters and directed him to appear and produce his attorney books and records at a demand audit, on September 21, 2010, at his office. Respondent was present for the audit. At the outset, he advised the OAE representative that he was not prepared and did not have the files or records that had been requested. Respondent agreed to provide the requested files and documents on October 1, 2010.

Thereafter, on September 28, September 29, October 4, and October 6, 2010, the OAE attempted to contact respondent by telephone. Respondent did not answer his phone, did not return the messages left for him, seeking a return call, and did not provide the required client files and financial documentation to the OAE.

By letter dated October 5, 2010, the OAE reminded respondent that he had failed to reply to the grievance and had failed to produce the requested client files and records by October 1, 2010. The OAE directed him to appear at a demand audit on October 20, 2010. The OAE's letter was sent by

certified and regular mail. On October 8, 2010, the OAE received the certified mail receipt, signed by an unidentified individual. Respondent did not reply to the letter or otherwise communicate with the OAE and did not appear at the October 20, 2010 demand audit.

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

II. DRB 12-297

The complaint in this matter charged respondent with violating RPC 8.1(b) (failure to cooperate with disciplinary authorities) and RPC 8.4(d) (conduct prejudicial to the administration of justice). The OAE submitted a memorandum, urging us to impose a one-year suspension.

Service of process was proper. On June 7, 2012, the OAE sent a copy of the complaint by certified and regular mail to respondent's last known home and offices addresses, 420 Sheridan Place, Apartment 20, Fairview, New Jersey 07022, and 301 DeSoto Place, Fairview, New Jersey 07022, respectively, as well as 303 DeSoto Place, Fairview, New Jersey 07022. The certified mail to 420 Sheridan Place was returned as unclaimed. The regular mail to that address was returned marked "Forward Time Exp Rtn to

Send." The return label indicated that respondent's new address was 303 DeSoto Place.

The certified mail receipt for 301 DeSoto Place was returned to the OAE with no delivery date indicated. The delivery address noted on the receipt was 303 DeSoto Place. The signature of the individual that accepted delivery is illegible. The USPS website indicated delivery on June 11, 2012. The regular mail to 301 DeSoto Place was not returned.

The certified mail receipt for the envelope to 303 DeSoto Place was returned to the OAE with no delivery date indicated. The signature of the individual that accepted delivery is illegible. The USPS website indicated delivery on June 11, 2012. The regular mail to 303 DeSoto Place was not returned.

On July 10, 2012, 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 record would be certified to us for the imposition of discipline. The letter was sent to respondent by certified and regular mail to the 420 Sheridan Place, 301 DeSoto Place, and 303 DeSoto Place addresses. The letter also served to amend the complaint to

charge respondent with violating RPC 8.1(b) for failure to file an answer.

Both the certified and regular mail sent to 420 Sheridan Place were returned marked "Forward Time Exp Rtn to Send." The return labels indicated that respondent's new address was 303 DeSoto Place.

The certified mail receipts for the mail sent to 301 and 303 DeSoto Place were returned to the OAE with no delivery date indicated. In both cases, the signature of the individual who accepted delivery is illegible. The USPS website indicates that both letters were delivered on July 12, 2012. The regular mail to both addresses was not returned.

Respondent did not file an answer to the complaint.

As previously indicated, respondent was temporarily suspended from the practice of law by order dated January 18, 2011. Pursuant to the Court's order, respondent was to comply with the directives of R. 1:20-20, which requires, among other things, that a suspended attorney,

within 30 days after the date of the order of suspension (regardless of the effective date thereof), file with the Director the original of a detailed affidavit specifying by correlatively numbered paragraphs how the disciplined attorney

has complied with each of the provisions of this rule and the Supreme Court's order.

[C¶1.]¹

Respondent failed to comply with the mandate of that rule.

By letter dated December 5, 2011, the OAE advised respondent of his responsibility to file the R. 1:20-20 affidavit and requested a reply by December 19, 2011. The letter was sent by certified and regular mail to his home and office addresses listed in the attorney registration records, 420 Sheridan Place and 301 DeSoto Place respectively. The certified mail receipt for the envelope sent to 420 Sheridan Place was returned indicating delivery on December 9, 2011. The signature on the receipt is that of Walter Cigolini, who is not identified in the record.² According to the OAE's internet search, Cigolini resides at 303 DeSoto Place. The regular mail was not returned to the OAE.

The certified mail receipt for the envelope sent to 301 DeSoto Place was returned indicating delivery on December 7,

¹ C refers to the complaint.

² The signature is similar to that on exhibit K, the OAE's five-day letter to 301 DeSoto Place.

2011. The signature is also Walter Cigolini's. The regular mail was not returned to the OAE.

Respondent did not reply to the OAE's letter or file the required affidavit.

As mentioned previously, on April 18, 2012, OAE personnel visited 301 DeSoto Place. There was no indication that respondent maintained a law office there. On the same day, the OAE spoke with a letter carrier, who advised that respondent resided at 303 DeSoto Place, which is where mail addressed to him was delivered. Also on April 18, 2012, the OAE visited 303 DeSoto Place. An adult male at the residence stated that respondent was at work. Copies of the OAE's December 5, 2011 correspondence, the temporary suspension order, R. 1:20-20, and OAE contact information were left with the individual at the residence, along with an oral message for respondent to contact the OAE.

As of the date of the complaint, June 5, 2012, respondent had not contacted the OAE regarding the matter or filed the R. 1:20-20 affidavit.

The complaint alleged that respondent willfully violated the Court's order and failed to take the steps required of all

suspended or disbarred attorneys, in violation of RPC 8.1(b) and RPC 8.4(d).

Pursuant to R. 1:20-4(f)(1), an attorney'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. A number of the charges in DRB 12-248, however, are not supported by the facts set forth in the complaint.

Specifically, respondent was charged with gross neglect and lack of diligence. There is nothing in the record about respondent's handling of Marshall's underlying real estate matter and certainly no indication that he was negligent in pursuing it. The alleged violations of RPC 1.1(a) and RPC 1.3 are, thus, dismissed.

Similarly, respondent was charged with failure to provide his clients with sufficient information for them to make informed decisions about the representation. The basis for this allegation is unclear. The record makes no mention of "decisions" that Marshall had to make. The allegation that respondent violated RPC 1.4(c) is, thus, also dismissed.

Finally, respondent was charged with recordkeeping violations. There is nothing in the record about respondent's

compliance with the recordkeeping rules. The fact that he misappropriated funds does not necessarily mean that his attorney books and records were not in order at the time. The alleged violation of RPC 1.15(d) is dismissed as well.


All the remaining charges are sustained, including knowing misappropriation of Marshall's trust funds. Respondent's trust account statements show that its balance dipped far below the \$10,000 that he should have been holding for Marshall. Respondent must be disbarred under In re Wilson, 81 N.J. 451 (1979), and In re Hollendonner, 102 N.J. 21 (1985) and their progeny. We so recommend to the Court.

Because respondent's knowing misappropriation of client funds mandates that he face the ultimate sanction, we do not address the appropriate measure of discipline for respondent's other violations of the RPCs charged in DRB 12-297.

As to respondent's failure to comply with R. 1:20-20, were separate discipline necessary in that matter, we would have imposed a six-month suspension. See, e.g., In re LeBlanc, 202 N.J. 129 (2010) (six-month suspension imposed in a default matter where the attorney's ethics history included a censure, a reprimand, and a three-month suspension; two of the prior disciplinary matters proceeded on a default basis).

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
Chief Counsel

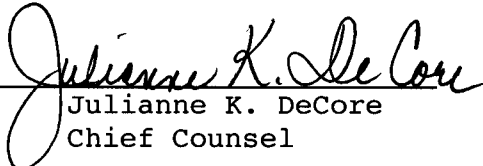
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Christopher Philip Hummel
Docket No. DRB 12-248

Decided: January 8, 2012

Disposition: Disbar

Members	Disbar	Six-month suspension	Reprimand	Dismiss	Disqualified	Did not participate
Pashman	X					
Frost	X					
Baugh	X					
Clark	X					
Doremus	X					
Gallipoli	X					
Wissinger	X					
Yamner	X					
Zmirich	X					
Total:	9					


Julianne K. DeCore
Chief Counsel

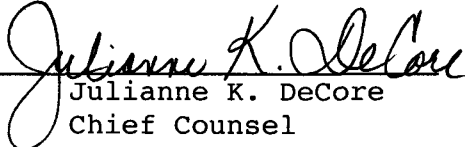
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Christopher Philip Hummel
Docket No. DRB 12-297

Decided: January 8, 2012

Disposition: Six-month suspension

Members	Disbar	Six-month suspension	Reprimand	Dismiss	Disqualified	Did not participate
Pashman		X				
Frost		X				
Baugh		X				
Clark		X				
Doremus		X				
Gallipoli		X				
Wissinger		X				
Yamner		X				
Zmirich		X				
Total:		9				


Julianne K. DeCore
Chief Counsel