

XIV-93-140E
FIRST VIOLATION - 1989
RAP

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 93-457

IN THE MATTER OF
JOHN F. WISE,
AN ATTORNEY AT LAW

Decision and Recommendation
of the
Disciplinary Review Board

Argued: March 9, 1994

Decided: September 27, 1994

Lee A. Gronikowski appeared on behalf of the Office of Attorney Ethics.

Raymond M. Brown appeared on behalf of respondent.

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

This matter was before the Board on a factual stipulation signed by respondent and the OAE. The facts are adequately set forth in the stipulation and, therefore, for purposes of brevity, will not be repeated herein. The stipulation details respondent's recordkeeping practices, which resulted in several instances of

negligent misappropriation of client funds in the amount of \$9,364.15. The only issue to be determined is the appropriate quantum of discipline to be imposed for respondent's infractions.

The OAE urges the Board to recommend a public reprimand for respondent's misconduct, on the basis of several cases: In re Barker, 115 N.J. 31 (1989) (attorney publicly reprimanded for flagrant recordkeeping deficiencies, including failure to supervise part-time bookkeeper's work and failure to reconcile on a regular basis, resulting in one instance of misappropriation); In re Hennessy, 93 N.J. 324 (1983) (attorney publicly reprimanded for flagrant recordkeeping violations, which basically consisted of a failure to keep any documentation of the activity in his trust account, aside from trust check stubs, and which resulted in some minor shortages in the trust account); In re Lewinson, 126 N.J. 515 (1992) (attorney publicly reprimanded for reckless disregard of recordkeeping obligations, including failure to maintain client ledger cards and receipts and disbursements journals, failure to keep a running balance in her trust check register and failure to reconcile her trust records, all resulting in several instances of misappropriation); and In re Fucetola, 101 N.J. 5 (1985) (attorney publicly reprimanded for inadequate recordkeeping, including failure to reconcile his trust records, failure to keep a running balance of his cash receipts and disbursements journals and failure to keep fully descriptive and accurate ledger cards).

CONCLUSION AND RECOMMENDATION

Upon an independent de novo review of the record, the Board is satisfied that respondent's conduct, as set forth in the disciplinary stipulation, was unethical. As to the appropriate discipline, a review of the cases cited by the OAE discloses no reason to impose discipline different from that urged by the OAE. There are no aggravating factors present. On the other hand, the fact that respondent has never before been the subject of any disciplinary action must be considered in mitigation of the misconduct. In addition, respondent fully cooperated with the OAE audit and investigation and immediately covered, from his personal funds, any shortages in his trust account. Finally, it appears that respondent's inattention to his recordkeeping responsibilities, at least during 1990, were attributable, in part, to his preoccupation with the serious illness of his child, who underwent open-heart surgery. Despite these mitigating circumstances, a public reprimand remains the appropriate discipline for respondent's infractions. The Board unanimously so recommends. One member did not participate.

The Board further recommends that respondent be required to reimburse the Ethics Financial Committee for Administrative costs.

Dated: _____

9/27/1994

By: _____



Raymond R. Trombadore
Chair
Disciplinary Review Board