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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 97-271

IN THE MATTER OF
CLARK B. SCHOR,
AN ATTORNEY AT LAW

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Decision
Default [R.1:20-4(f)(1)]

Decided: April 13, 1998

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

Pursuant to R.1:20-4(f)(1), the District VII Ethics Committee ("DEC") certified the record in this matter directly to the Board for the imposition of discipline, following respondent's failure to file an answer to the formal ethics complaint. On March 24, 1997 the Office of Attorney Ethics ("OAE") mailed a copy of the complaint to respondent in Belleville, New Jersey. Although the certified mail was returned as unclaimed, the regular mail was not. Thereafter, on May 19, 1997, the DEC sent respondent a second letter informing him that, if he did not reply within five days, the matter would be certified directly

to the Board for the imposition of sanctions. The letter also amended the complaint to include a violation of RPC 8.1(b) for respondent's failure to file an answer. Respondent did not file an answer.

According to a letter from the OAE to the Board, respondent previously refused to accept certified mail when the OAE moved for his temporary suspension in October 1996. Because respondent replied to that motion, the OAE reasoned that he had received the regular mail. Since the regular mail forwarding the complaint was not returned, service is presumed to have been made.

Respondent was admitted to the New Jersey bar in 1974. At the relevant times, respondent maintained an office in Belleville, New Jersey. Respondent has no history of discipline.

According to the complaint, respondent was selected for a random compliance audit of his attorney trust and business accounts, books and records, scheduled for May 20, 1996. Although respondent was present for the audit, he failed to produce the required records for the two-year audit period. Thereafter, the OAE sent respondent a letter on May 21, 1996, requesting copies of the records that he had failed to produce for the audit. Respondent did not reply to the OAE's letter. The OAE made two additional requests for the records by letters dated June 5 and July 1, 1996. Again, respondent did not reply to the OAE's letters. By certified letter to respondent, the OAE scheduled a demand audit at respondent's home office on October 3, 1996. Respondent was not present for the demand audit nor did he

make any books or records available to the OAE or otherwise contact the OAE about the audit.

The complaint further alleged that, because of respondent's lack of cooperation, the OAE filed a motion for his temporary suspension from the practice of law. According to the complaint, respondent thereafter informed the Court that he would comply with the OAE's request. The Court directed that respondent provide the information by November 8, 1996 or be subject to an immediate temporary suspension without further notice.

On November 8, 1996 an audit was conducted. The auditor concluded that respondent had several recordkeeping deficiencies, including a \$1,561.61 balance of unidentified funds in the trust account. In a letter dated December 9, 1996, the OAE summarized the deficiencies found in respondent's trust and business account books and records and gave him forty-five days from the date of the audit to submit a written reply and to provide the following information:

1. Client ledgers identifying the \$1,561.61 balance of unidentified funds.
2. A certification that respondent's attorney trust account was reconciled.
3. An item by item response to the list of deficiencies found during the November 8, 1996 demand audit, including appropriate documentation to show that these deficiencies had been corrected.

Respondent failed to supply the requested information. After the forty-five day period expired, the OAE contacted respondent on January 9, 1997 and gave him an extension until January 31, 1997 to supply the information. That extension was confirmed by letter dated

January 21, 1997. Once again respondent did not furnish the information to the OAE. As a result, he was charged with a violation of RPC 8.1(b) for failing to respond to the OAE's demands for information (count one).

Count two of the complaint charged respondent with recordkeeping violations, based on the following deficiencies uncovered during the OAE demand audit:

1. A \$1,561.61 balance of unidentified funds in respondent's attorney trust account.
2. Improper trust account designations on his checks and deposit slips.
3. Failure to maintain an individual ledger card for each client.
4. Failure to maintain a running checkbook balance.
5. Improper business account designations on his bank statements.
6. Failure to make quarterly reconciliations of attorney trust accounts.

As of the date of the complaint, respondent had not certified to the OAE that he had corrected his recordkeeping deficiencies.

* * *

Following a de novo review of the record, the Board deemed the allegations of the complaint admitted. The record contains sufficient evidence of respondent's unethical conduct. Respondent's misconduct included violations of RPC 8.1(b) for failing to respond to the OAE's requests for information, as well as violations of R.1:21-6 and RPC 1.15 for

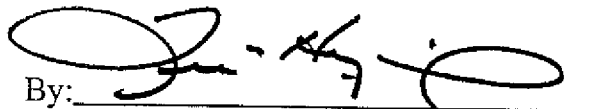
recordkeeping deficiencies.

Most matters dealing with improper recordkeeping practices alone result in the imposition of an admonition. See In the Matter of Russel G. Cheek, Docket No. DRB 96-100 (May 22, 1996) (admonition for recordkeeping deficiencies); In the Matter of Raymond A. Brown, Jr., Docket No. DRB 95-212 (April 3, 1996); and In the Matter of Richard J. Doyle, Docket No. DRB 94-438 (February 14, 1995) (admonition for recordkeeping deficiencies; attorney subsequently reprimanded for other misconduct). Here, respondent's failure to cooperate with the OAE has made it nearly impossible to determine whether there was any misappropriation, be it negligent or knowing. Under these circumstances, the Board determined that an admonition was insufficient discipline and unanimously voted to impose a reprimand, and to temporarily suspend respondent until the OAE is able to certify that respondent is in full compliance with the recordkeeping requirements of R.1:21-6. Thereafter, respondent may petition the Court for reinstatement.

The Board further determined to require respondent to retain a certified public accountant to certify respondent's compliance with R.1:21-6, every six months for a two-year period.

The Board further determined to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: 4/13/98

By: 
LEE M. HYMERLING, Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Clark B. Schor
Docket No. DRB 97-271

Decided: April 13, 1998

Disposition: Reprimand and Temporary Suspension

Members	Disbar	Suspension	Reprimand and Temporary Suspension	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling			x				
Zazzali							x
Brody			x				
Cole			x				
Lolla			x				
Maudsley			x				
Peterson			x				
Schwartz			x				
Thompson			x				
Total:			8				1

Robyn M. Hill 4/24/98
Robyn M. Hill
Chief Counsel