

DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

BONNIE C. FROST, ESQ. CHAIR
EDNA Y. BAUGH, ESQ. VICE-CHAIR
BRUCE W. CLARK, ESQ.
JEANNE DOREMUS
HON. MAURICE J. GALLIPOLI
MORRIS YAMNER, ESQ.
ROBERT C. ZMIRICH



RICHARD J. HUGHES JUSTICE COMPLEX
P.O. BOX 962
TRENTON, NEW JERSEY 08625-0962
(609) 292-1011

JULIANNE K. DECORE
CHIEF COUNSEL
ISABEL FRANK
DEPUTY CHIEF COUNSEL
ELLEN A. BRODSKY
FIRST ASSISTANT COUNSEL
LILLIAN LEWIN
DONA S. SEROTA -TESCHNER
COLIN T. TAMS
KATHRYN ANNE WINTERLE
ASSISTANT COUNSEL

May 23, 2013

Mark Neary, Clerk
Supreme Court of New Jersey
P.O. Box 970
Trenton, New Jersey 08625

Re: In the Matter of Shang Koo Shim
Docket No. DRB 12-414
District Docket No. XIV-2011-0295E

Dear Mr. Neary:

The Disciplinary Review Board has reviewed the motion for discipline by consent (reprimand or such lesser discipline as the Board shall deem warranted), filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-10(b)(1). Following a review of the record, the Board determined to grant the motion and to impose a reprimand for respondent's violations of RPC 1.15(a) (negligent misappropriation of trust funds and failure to safeguard client funds) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit and misrepresentation).

Specifically, in November 2010, respondent represented Geunok Steuhmke, the buyer of real estate in Fort Lee. Respondent acted as settlement agent for the transaction. When the sellers' attorney, Yong Wook Kim, appeared at the closing without Steuhmke's \$10,000 deposit, respondent conducted the closing anyway. Respondent deeply trusted Kim, who had mentored him as a new attorney and was a deacon in his church. Kim also promised to deliver the funds the next day, but never did so.

May 23, 2013

Page 2 of 2

As a result of Kim's failure to turn over the \$10,000 deposit funds, \$9,637.50 of other clients' funds held in the trust account were invaded. Respondent also disbursed funds against two personal checks from Stuehmke, before they had cleared the bank. Respondent's actions violated RPC 1.15(a).

In addition, respondent sought to conceal the fact that he had made two deposits, in the amount of \$5,000 each, out of his own funds, in order to cure the Kim shortfall. He back-dated those deposits so that it would appear that they were made from buyers' funds on the closing date. Respondent's actions in this regard amounted to a misrepresentation, in violation of RPC 8.4(c).

In mitigation, respondent has no prior discipline; he readily admitted his wrongdoing and entered into a consent to discipline, thereby saving disciplinary resources; his swift action to cure the shortfall served to avoid any real harm to clients; and his motives were not venal. Rather, he had misplaced his trust in Kim, who was later disbarred for knowing misappropriation of hundreds of thousands of dollars in client and escrow funds between September 2010 and March 2011. In re Kim, 212 N.J. 62 (2012).

Misrepresentation to clients requires the imposition of a reprimand. In re Kasdan, 115 N.J. 472, 488 (1989). A reprimand may still be imposed even if the misrepresentation is accompanied by other, non-serious ethics infractions. See, e.g., In re Singer, 200 N.J. 263 (2009) (attorney misrepresented to his client for a period of four years that he was working on the case; the attorney also exhibited gross neglect and lack of diligence and failed to communicate with the client; no ethics history); In re Wiewiorka, 179 N.J. 225 (2004) (attorney misled the client that a complaint had been filed; in addition, the attorney took no action on the client's behalf and did not inform the client about the status of the matter and the expiration of the statute of limitations); and In re Onorevole, 170 N.J. 64 (2001) (attorney made misrepresentations about the status of the case; he also grossly neglected the case, failed to act with diligence, and failed to reasonably communicate with the client; prior admonition and reprimand).

I/M/O Shang Koo Shim, DRB 12-414

May 23, 2013

Page 3 of 3


Reprimands are also routinely imposed for negligent misappropriation of client funds. See, e.g., In re Arrechea, 208 N.J. 430 (2011); In re Gleason, 206 N.J. 139 (2011); and In re Macchiaverna, 203 N.J. 584 (2010).

Based on precedent, and in light of the mitigation presented, the Board determined that a reprimand is the appropriate sanction for the totality of respondent's misconduct.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated December 6, 2012;
2. Stipulation of discipline by consent, dated December 6, 2012;
3. Affidavit of consent, dated November 8, 2012;
4. Ethics history, dated May 23, 2013.

Very truly yours,


Julianne K. DeCore
Chief Counsel

JDK/sj

c: Bonnie Frost, Chair, Disciplinary Review Board
(w/o encls.)
Charles Centinaro, Director, Office of Attorney Ethics
(w/o encls.)
Christina Blunda Kennedy, Deputy Ethics Counsel,
Office of Attorney Ethics (w/o encls.)
Catherine Mary Brown, Respondent's Counsel
(w/o encls.)