

# DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

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July 23, 2014

Mark Neary, Clerk  
Supreme Court of New Jersey  
P.O. Box 970  
Trenton, New Jersey 08625-0962

Re: In the Matter of Cheryl H. Picker  
Docket No. DRB 14-128  
District Docket No. XIV-2013-0090E

Dear Mr. Neary:

The Disciplinary Review Board reviewed the motion for discipline by consent (reprimand) filed by the Office of Attorney Ethics (OAE) pursuant to R. 1:20-10(b). Following a review of the record, the Board determined to grant the motion. In the Board's view, a reprimand is the appropriate discipline for respondent's violations of RPC 1.15(a) (deposit of personal funds in the trust account) and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

Specifically, on February 15, 2013, respondent had a \$240 overdraft in her trust account (allegedly caused by a bank error). Subsequently, the OAE scheduled a demand audit of respondent's attorney records. Respondent neither provided the OAE with documents requested in connection with the overdraft nor appeared at the audit.

The audit revealed that respondent had improperly used her trust account to pay for personal expenses. No trust funds were in the account at that time. Respondent explained that health problems prevented her from attending the audit and that she did not submit the records to the OAE because they were in storage at the time. Respondent stipulated that she cannot apply for reinstatement until she turns over the requested records to the OAE.<sup>1</sup>

Attorneys guilty of similar conduct generally receive reprimands. See, e.g., In re Bronson, 204 N.J. 76 (2010) (attorney overdrew his trust account eight times over a seven-month period but maintained only personal funds in the trust account; the attorney also failed to cooperate with the OAE's investigation; the attorney stipulated to violating RPC 1.15(a) and (d) and RPC 8.1(b); ethics history included two reprimands and a temporary suspension); In re Orth, 195 N.J. 3 (2008) (default matter; attorney commingled personal and client funds in the trust account and failed to cooperate with disciplinary authorities; the attorney paid personal expenses with trust account checks; he also failed to promptly deliver funds to a third party); In re Kessler, 178 N.J. 71 (2003) (among other things, attorney commingled funds in the trust account by failing to promptly withdraw earned legal fees and failed to cooperate with ethics authorities; prior private reprimand and reprimand); and In re Duke, 174 N.J. 371 (2002) (attorney guilty of commingling trust and personal funds, failing to cooperate with disciplinary authorities, and negligently misappropriating trust funds).

In determining that a reprimand was adequate discipline for respondent's infractions, the Board was aware that she has received a three-month suspension and that she has been temporarily suspended. The Board noted, however, that the conduct that gave rise to those matters was unrelated to the conduct at hand.

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<sup>1</sup> The Board noted that a prior Court order requires respondent to submit proof of fitness to practice law, at the time of reinstatement.

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Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated May 1, 2014.
2. Stipulation of discipline by consent, dated May 1, 2014.
3. Undated affidavit of consent.
4. Ethics history, dated July 23, 2014.

Very truly yours,



Ellen A. Brodsky  
Chief Counsel

/tk

Encls.

c: (w/o enclosures)

Bonnie C. Frost, Chair, Disciplinary Review Board (via email)  
Charles Centinaro, Director, Office of Attorney Ethics  
Christina Blunda Kennedy, Office of Attorney Ethics,  
Deputy Ethics Counsel  
Scott B. Piekarsky, Esq., Respondent Counsel