

# DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

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July 22, 2014

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

Re: In the Matter of Stephen D. Brown  
Docket No. DRB 14-135  
District Docket No. XIV-2012-00408E

Dear Mr. Neary:

The Disciplinary Review Board has reviewed the motion for discipline by consent (censure or such lesser discipline as the Board may deem warranted) 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 censure is the appropriate discipline for respondent's violations of RPC 1.1(a) (gross neglect); RPC 1.1(b) (pattern of neglect); RPC 1.15(a) (negligent misappropriation); RPC 1.15(d) and R. 1:21-6 (recordkeeping deficiencies); RPC 5.3(a) and RPC 5.3(b) (failure to adequately supervise a non-lawyer employee); and RPC 8.4(c) (misrepresentation).

Specifically, because of respondent's failure to reconcile his attorney trust account during the relevant period and to properly supervise a non-lawyer, he did not discover forged checks and other improprieties committed by his longtime paralegal/bookkeeper, Linda Cohen. Cohen was conducting real estate closings without respondent's knowledge or consent, in most cases in furtherance of a mortgage fraud scheme to which

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she eventually pleaded guilty.

With respect to two of the transactions -- Weequahic Avenue and Columbia Avenue -- of which respondent was aware because he signed the HUD-1s and his fee checks, respondent failed to sign the checks for the remaining disbursements listed on the HUD-1s. He also failed to record the mortgage for the Weequahic Avenue matter. Furthermore, by signing the HUD-1s in those two matters, respondent misrepresented that the disbursements were in accordance with the sums listed therein when, in fact, Cohen had made unauthorized disbursements out of those funds.

Additionally, respondent grossly neglected the Grace Street matter by signing checks with blank payees, thereby failing to ensure that the disbursements comported with those listed on the HUD-1.

Finally, respondent's failure to supervise Cohen and discover his trust account improprieties caused it to have insufficient funds to pay a lien holder (GMAC) and the Township of Irvington (open taxes), resulting in the negligent misappropriation of trust funds.

Attorneys who fail to supervise their non-lawyer staff are typically admonished or reprimanded. See, e.g., In re Bardis, 210 N.J. 253 (2012) (admonition for failure to reconcile and review trust account records, resulting in employee's theft of \$142,000; prompt restitution and no prior discipline were mitigating factors); In re Murray, 185 N.J. 340 (2005) (attorney reprimanded for failing to supervise non-attorney employees, which led to unexplained misuse of client trust funds and negligent misappropriation; the attorney also committed recordkeeping violations); In re Riedl, 172 N.J. 646 (2002) (reprimand for failing to supervise paralegal, allowing the paralegal to sign blank trust account checks, and failing to promptly secure a discharge of a mortgage); and In re Hofing, 139 N.J. 444 (1995) (reprimand for failure to supervise bookkeeper who embezzled close to \$500,000 in trust funds; in mitigation, it was considered that the attorney's review of the records would not have disclosed the theft, that he made quick restitution, that he had an unblemished record of thirty-three years, and that he suffered considerable financial injury).

In aggravation, the Board considered that the above

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improprieties could have been avoided if respondent had paid close attention to his accounting responsibilities. By contrast, Hofing, who received a reprimand, would likely not have discovered his employee's theft because of the employee's fabrications of the trust account records. In mitigation, the Board took into account that respondent readily acknowledged his wrongdoing by entering into a stipulation with the OAE and that he has fully cooperated with the law enforcement authorities who investigated Cohen's conduct.<sup>1</sup>

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated May 9, 2014;
2. Stipulation of discipline by consent, dated May 8, 2014;
3. Affidavit of consent, dated April 24, 2014;
4. Ethics history, dated July 22, 2014.

Very truly yours,



Ellen A. Brodsky  
Chief Counsel

Enclosures

EAB/lg

c: Bonnie C. Frost, Chair

Disciplinary Review Board (via e-mail; w/o enclosures)

Charles Centinaro, Director

Office of Attorney Ethics (w/o enclosures)

Maureen G. Bauman, Deputy Ethics Counsel

Office of Attorney Ethics (w/o enclosures)

Gerard E. Hanlon, Esq., Respondent's Counsel

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<sup>1</sup> Although the Board is aware that respondent was suspended for three months in 1996, the Board noted that the conduct in that matter was not only remote in time but unrelated to the present infractions, a circumstance that does not evidence a failure to learn from prior ethics mistakes.