

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 09-350
District Docket No. XIV-2008-0486E

IN THE MATTER OF
NATHAN SNYDER
AN ATTORNEY AT LAW

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Decision

Argued: January 21, 2010

Decided: March 16, 2010

Nitza I. Blasini appeared on behalf of the Office of Attorney Ethics.

Respondent appeared pro se.

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

This matter was before us based on a disciplinary stipulation between respondent and the Office of Attorney Ethics ("OAE"). Specifically, respondent failed to supervise his secretary, failed to safeguard client funds, and engaged in recordkeeping violations. Respondent stipulated that his conduct

in this matter violated RPC 1.15(a) (failure to safeguard trust funds), RPC 5.3(a) (failure to supervise non-attorney staff), and RPC 1.15(d) and R. 1:21-6(c)(recordkeeping). We determine to impose an admonition.

Respondent was admitted to the New Jersey bar in 1990. He has no prior discipline.

The stipulated violations were discovered after Commerce Bank notified the OAE, on August 21, 2008, of a \$2,466.55 overdraft in respondent's trust account.

On September 23, 2008, respondent sent an explanatory letter to the OAE stating that, subsequent to the overdraft, he reconciled the trust account and discovered that his secretary, Victoria Vitagliano, had stolen trust funds prior to going out on maternity leave, thereby causing a shortfall in his trust account.

Respondent discovered that Vitagliano had failed to deposit into the trust account a combination of checks and cash deposits totaling \$11,311.72. The overdraft occurred when respondent wrote a \$2,500 trust account check for the return of escrow funds. He thereafter filed a police report against Vitagliano and terminated her employment.

On August 27, 2008, respondent deposited \$3,500 of his own funds into the trust account. On September 23, 2008, he placed an additional \$7,811.72 of his own funds into the account to make it whole.

On December 10, 2008, as a result of the deficiencies in the trust account, the OAE conducted a demand audit of respondent's attorney records. Respondent gave the OAE a letter that day, in which he conceded that he had not performed monthly reconciliations of his trust account.

The OAE auditors concluded that respondent's assertions were truthful and that, over a period of about fourteen months, Vitagliano had stolen about \$50,000 from respondent's law firm. The record identifies only \$11,311.72 as missing trust funds.

According to the stipulation, Vitagliano was charged with falsifying records and theft of over \$50,000. The Camden County Prosecutor was preparing a grand jury indictment at the time of the stipulation.

Following a review of the record, we are satisfied that the stipulation fully supports findings of the violations cited in the stipulation.

Due to respondent's inattention to his recordkeeping responsibilities, over a fourteen-month period in 2007 and 2008,

his secretary was able to steal over \$11,000 of trust funds that should have been deposited into his attorney trust account. As a result, a \$2,500 trust account check for the return of a client's escrow funds caused a shortfall in the account. Respondent conceded that his failure to supervise Vitagliano and to perform monthly reconciliations of the account enabled Vitagliano's thefts to go undetected.

Attorneys who fail to supervise their nonlawyer staff are typically admonished or reprimanded. See, e.g., In re Mariconda, 195 N.J. 11 (2008) (admonition for attorney who delegated his recordkeeping responsibilities to his brother, a paralegal; the brother forged the attorney's signature on trust account checks and stole \$272,000 in client funds); In the Matter of Brian C. Freeman, DRB 04-257 (September 24, 2004) (attorney admonished for failing to supervise his paralegal, who also was his client's former wife, which resulted in the paralegal's forgery of a client's name on a retainer agreement and, later, on a release and a \$1,000 settlement check in one matter and on a settlement check in another matter; the funds were never returned to the client; mitigating factors included the attorney's clean disciplinary record and the steps he took to prevent a reoccurrence); In the Matter of Lionel A. Kaplan, DRB

02-259 (November 4, 2002) (attorney admonished for failure to supervise his bookkeeper, which resulted in recordkeeping deficiencies and the commingling of personal and trust funds; mitigating factors included his unblemished thirty-year career, the lack of harm to clients, and the immediate corrective action that he took); 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) (attorney reprimanded for failing to supervise his paralegal, allowing the paralegal to sign trust account checks, and displaying gross neglect in a real estate matter by failing to secure a discharge of mortgage for eighteen months after it was satisfied); In re Bergman, 165 N.J. 560 (2000) and In re Barrett, 165 N.J. 562 (2000) (companion cases; attorneys reprimanded for failure to supervise secretary/bookkeeper/office manager who embezzled almost \$360,000 from the firm's business and trust accounts and from a guardianship account; the attorneys cooperated with the OAE, hired a CPA to reconstruct the account, and brought their firm into full compliance with the recordkeeping rules; a bonding company reimbursed the losses

caused by the embezzlement); and In re Hofing, 139 N.J. 444 (1995) (reprimand for failure to supervise bookkeeper, who embezzled almost half a million dollars in client funds; although unaware of the bookkeeper's theft, the attorney was found at fault because he had assigned all bookkeeping functions to one person, had signed blank trust account checks, and had not reviewed any trust account bank statements for years; mitigating factors included his lack of knowledge of the theft, his unblemished disciplinary record, his reputation for honesty among his peers, his cooperation with the OAE and the prosecutor's office, his quick action in identifying the funds stolen, his prompt restitution to the clients, and the financial injury he sustained).

Respondent's conduct was similar to that displayed in Kaplan, an admonition case. Moreover, he has had no discipline in almost twenty years at the bar, reported the matter to the police, and replaced the missing funds with those of his own. Under the circumstances, we determine that an admonition sufficiently addresses his misbehavior.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and

actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Louis Pashman, Chair

By: Julianne K. DeCore
Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

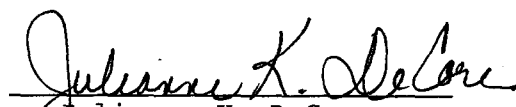
In the Matter of Nathan Snyder
Docket No. DRB 09-350

Argued: January 21, 2010

Decided: March 16, 2010

Disposition: Admonition

Members	Disbar	Suspension	Admonition	Dismiss	Disqualified	Did not participate
Pashman			X			
Frost			X			
Baugh			X			
Clark			X			
Doremus			X			
Stanton			X			
Wissinger			X			
Yamner			X			
Zmirich			X			
Total:			9			


Julianne K. DeCore
Chief Counsel