

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket Nos. DRB 08-263  
District Docket Nos. XIV-06-336E;  
XIV-06-337E and XIV-07-274E

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IN THE MATTER OF :  
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THOMAS JOEL IZSO :  
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AN ATTORNEY AT LAW :  
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Decision

Decided: March 12, 2009

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

This matter was before us on a certification of default filed by the Office of Attorney Ethics ("OAE"), pursuant to R. 1:20-4(f). The complaint alleged that respondent knowingly misappropriated client funds. We voted to recommend his disbarment.

Respondent was admitted to the New Jersey bar in 1997. He has no prior discipline. Respondent was temporarily suspended, on October 30, 2007, for failure to cooperate with an OAE investigation into his trust and business account practices. He remains suspended to date.

After four unsuccessful attempts, in March and April 2008, to serve respondent with a copy of the complaint at various addresses, on May 1, 2008, the OAE used New Jersey Motor Vehicle Commission records to ascertain respondent's correct address at 18 Riverside Drive, A-1, Cranford, New Jersey 07016. On that date, the OAE mailed a copy of the complaint to respondent by both certified and regular mail. The certified mail was returned unclaimed. The regular mail was not returned.

On May 27, 2008, the OAE sent a "five-day" letter to respondent at the same Cranford address, by certified and regular mail, advising him that, unless he filed an answer to the complaint within five days of the date of the letter, the matter would be certified directly to us pursuant to R. 1:20-4(f). The certified mail receipt was returned signed by respondent. The regular mail was not returned.

Respondent did not file an answer to the complaint.

From January 2000 until August 2006, respondent and Michael P. Otto were law partners.<sup>1</sup> They maintained trust and business accounts at Wachovia Bank, over which both had signatory authority. Pursuant to a "verbal, division of labor agreement" between them, respondent was responsible for maintaining the law

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<sup>1</sup> Another matter involving respondent's law partner was scheduled for the same Board session as this matter, having been submitted to us pursuant to R. 1:20-6(c)(1). Otto was not charged with knowing misappropriation. He received an admonition.

firm trust and business accounts and for making sure that the firm's recordkeeping practices conformed to the requirements of R. 1:21-6.

In May 2006, Wachovia notified the OAE that it had returned two trust account checks to the firm for insufficient funds. In a July 28, 2006 reply to the OAE's request for information about the overdrafts, respondent provided false information by explaining that the shortfall in the trust account resulted from failure to collect funds from clients and from accidental disbursements to clients in excess of funds attributable to their matters.

Three matters, Herczeg, Janowski and Izso, were of relevance to the knowing misappropriation charges in the complaint.

On August 1, 2006, respondent and his counsel appeared at the OAE's office for a demand audit. Respondent provided the OAE with trust account bank statements, cancelled checks, and client files. He refused the OAE's demand for an interview and for an explanation of his trust account activities regarding these matters.

#### The Herczeg Matter

On June 30, 2003, respondent deposited \$45,000 into his trust account in connection with a real estate and a matrimonial

matter relating to client Lazlo Herczeg. Between August 5, 2003 and June 23, 2004, respondent made four disbursements from the trust account to himself (\$7,000, \$2,000, \$1,200, and \$2,000), totaling \$12,200. All were referenced as the Herczeg matters in respondent's client ledger.

Herczeg did not authorize respondent to use funds held on his behalf in the trust account or otherwise consent to any of the disbursements. Herczeg did not receive any of the \$12,200.

#### **The Janowski Matter**

On October 12, 2004, respondent deposited \$207,978.26 in his trust account for clients Edward and Deborah Janowski. Between December 28, 2004 and February 16, 2006, respondent wrote eight trust account checks to himself (\$1,000, \$1,200, \$650, \$2,400, \$3,000, \$3,000, \$1,000, and \$1,109), totaling \$13,359. All of the disbursements referenced the Janowski matter in the client ledger.

The Janowskis did not authorize respondent to use their funds, nor did they receive any of the disbursements from him.

#### **The Izso Refinance**

On August 12, 2005, respondent deposited in his trust account \$48,925.42 of his own funds, representing settlement proceeds from a mortgage refinancing. He designated a client

ledger sheet for the matter as the "Izso-refinance."

Respondent had begun writing checks on account of the refinancing for several months prior to depositing the settlement proceeds of \$48,925.42 into his trust account. Between February 12 and August 12, 2005, respondent made ten disbursements, in amounts ranging from \$650 to \$11,600, totaling \$24,660. All of the disbursements were purportedly attributable to the Izso refinance and drawn on other clients' funds. Respondent's total disbursements for the matter, between February 12, 2005 and January 17, 2006, amounted to \$84,660.

Ultimately, according to the complaint, respondent improperly used a total of \$35,735 of other clients' funds in the Izso matter (\$84,660 - \$48,925).

On May 14, 2007, Wachovia notified the OAE that a \$3,923 check from respondent's trust account had been presented against insufficient funds. The trust account balance at the time was \$2,996.58.

On July 17, 2007, respondent appeared at the offices of the OAE, this time without counsel. Although respondent furnished an explanation for the May 2007 overdraft, he refused to answer questions about the May 2006 overdrafts. He claimed that he was represented by counsel on those matters. This statement was false. The OAE confirmed with counsel that he no longer represented respondent.

The complaint alleged that respondent's use of client funds in the Herczeg, Janowski, and Izso matters amounted to knowing misappropriation of client funds, a violation of RPC 1.15(a), In re Wilson, 81 N.J. 451 (1979), and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). The complaint also charged respondent with having violated RPC 8.1(a) (knowingly making a false statement of material fact to disciplinary authorities) for his misrepresentations to the OAE, and RPC 8.1(b) (failure to cooperate with ethics authorities) for his refusal to answer questions about his trust and business account records.

Following a review of the record, we find that the facts recited in the complaint support the charges of unethical conduct. Because of respondent's failure to file an answer, the allegations of the complaint are deemed admitted. R. 1:20-4(f).

Respondent made misrepresentations to the OAE about the cause of his trust account shortfalls and about being represented by counsel. He, therefore, violated RPC 8.1(a). He also failed to cooperate with the OAE's demand audit by refusing to participate in an interview with OAE investigators, a violation of RPC 8.1(b).

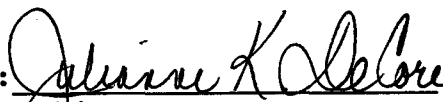
More seriously, respondent knowingly misappropriated client funds in three matters. In Herczeg, he took \$12,200 that belonged to the client; in Janowski, he converted \$13,359 of

funds held in trust for his clients; and in connection with his refinance, he misappropriated almost \$36,000 belonging to other clients. In all of the matters, respondent did so by drafting trust account checks to himself or to others not entitled to the funds, and negotiating the checks. In the process, he converted client funds to his own use, a violation of RPC 1.15(a), and RPC 8.4(c), In re Wilson, 81 N.J. 451 (1979). For his knowing misappropriation of trust funds, we recommend that he be disbarred.

Members Baugh, Boylan, Clark, and Lolla did not participate.

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  
Chief Counsel

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SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of Thomas J. Izso  
Docket No. DRB 08-263

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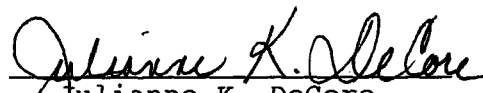
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Argued: January 15, 2009

Decided: March 12, 2009

Disposition: Disbar

Members	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Pashman	X					
Frost	X					
Baugh						X
Boylan						X
Clark						X
Doremus	X					
Lolla						X
Stanton	X					
Wissinger	X					
Total:	5					4

  
Julianne K. DeCore  
Chief Counsel