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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 06-059
District Docket Nos. XIV-05-075E

IN THE MATTER OF
CATHY GARRETT-DAVIS
AN ATTORNEY AT LAW

Decision
Default [R. 1:20-4(f)]

Decided: May 24, 2006

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).

Respondent was admitted to the New Jersey bar in 1991.
She has no prior discipline.

The complaint alleged knowing misappropriation of client
trust funds and conduct involving dishonesty, fraud, deceit or
misrepresentation.

On January 17, 2006, the OAE sent respondent a copy of
the complaint, by both certified and regular mail, to

respondent's last known address, 1990 Laurel Road, Apartment T-159, Lindenwold, New Jersey, 08021. The certified mail was accepted by respondent on January 28, 2006. The regular mail was not returned.

On February 8, 2006, the OAE sent respondent a "five-day letter" to the same address, notifying her that, unless she filed an answer within five days, the record would be certified directly to the Board for the imposition of discipline.

As of February 23, 2006, the date of the certification of default, neither the certified or regular mail had been returned.

Respondent did not file an answer to the complaint.

On February 25, 2004, Cynthia Dunlap retained respondent to represent her in the settlement of several unpaid credit card obligations. She gave respondent two checks in connection with the representation: the first check was for \$3,120, which respondent deposited into her trust account on February 25, 2004; the second check (\$13,098.56) was deposited into respondent's trust account on March 11, 2004.

In February and March 2004, respondent made the following disbursements from the Dunlap funds:

DATE	CK#	TO/FOR	DEPOSIT	W'DRAWAL
02/27/04	1523	Cathy Garrett-Davis		\$ 750.00
02/27/04	1523	Cynthia Dunlap		\$1,150.00
03/19/04	1527	Cathy Garrett-Davis		\$ 350.00
03/22/04	1528	Cynthia Dunlap		\$2,000.00
03/24/04	1525	Bank of America		\$1,557.14
03/24/04	1526	Redline Recovery Serv.		\$1,904.50

[1C14.]¹

On March 31, 2004, the balance in respondent's attorney trust account was \$8,490.57: \$8,488.92 from Dunlap and \$1.65 of other funds. The complaint does not state how many of these transactions were related to the Dunlap matter. However, copies of the trust account checks, made a part of the record, contain notations indicating that all transfers to respondent were made on Dunlap's account.

In April 2004, respondent made the following trust account transactions:

DATE	CK#	TO/FOR	DEPOSIT	W'DRAWAL	BALANCE
04/22/04	1529	Cash		\$ 350.00	8,140.57
04/23/04			\$ 850.00		8,990.57
04/26/04	1531	Cash		\$ 400.00	8,590.57
04/28/04	1530	Redline Recovery Serv.		\$1,904.50	6,686.07
04/28/04	1532	Cynthia Dunlap		\$1,500.00	5,186.07
04/29/04	1533	Cash		\$ 350.00	4,836.07
04/30/04		Interest	\$ 1.01		4,837.08

[(1C17.)

As of April 30, 2004, after the foregoing receipts and

¹ "1C" refers to the first count of the formal ethics complaint.

disbursements, respondent should have been holding \$5,084.42 in her trust account on behalf of Dunlap. However, as of April 30, 2004, the balance in respondent's trust account was \$4,837.08, reflecting a shortage of \$247.34 for the Dunlap matter alone.

In May 2004, respondent made the following trust account transactions:

DATE	CK#	TO/FOR	DEPOSIT	W'DRAWAL	BALANCE
05/11/04	1534	SupCt of NJ - BurlCty		\$ 135.00	4,702.08
05/12/04	1535	Cash		\$1,000.00	3,702.08
05/17/04	1536	Cash		\$ 600.00	3,102.08
05/24/08	1537	Cash		\$ 350.00	2,752.08
05/28/04	1539	Cash		\$1,500.00	1,252.08
05/31/04		Interest	\$.45		1,252.53

[1C11.]

None of the May 2004 disbursements were made to or for the benefit of Dunlap.

As of May 31, 2004, respondent should have been holding \$5,084.42 for Dunlap, but only \$1,252.53 remained, revealing an invasion and misappropriation of \$3,831.89 of Dunlap's funds.

In June 2004, respondent made the following trust account transactions:

DATE	CK#	TO/FOR	DEPOSIT	W'DRAWAL	BALANCE
06/07/04	1538	Raymond Dunn		\$ 131.25	1,121.28
06/11/04			\$ 150.00		1,271.28
06/14/04		Withdrawal Ticket		\$ 150.00	1,121.28

06/15/04			\$ 1,200.00		2,321.28
06/15/04	1540	Cash		\$ 250.00	2,071.28
06/21/04	1542	Cash		\$ 250.00	1,821.28
06/22/04	1541	Office Max		\$ 11.58	1,809.70
06/24/04	1543	Cash		\$ 400.00	1,409.70
06/30/04	1544	Cash		\$ 200.00	1,209.70
06/30/04		Interest	\$.17		1,209.87

[1C15.]

None of the June disbursements were made to or on behalf of Dunlap.

As of June 30, 2004, respondent should have been holding \$5,084.42 in her attorney trust account for Dunlap, but only \$1,253.53 remained, evidencing respondent's misappropriation of \$3,874.55 in client trust funds.

During the month of July 2004, respondent made the following trust account transactions:

DATE	CK#	TO/FOR	DEPOSIT	W'DRAWAL	BALANCE
07/02/04			\$ 30.00		1,239.87
07/07/04	1547	Cash		\$ 100.00	1,139.87
07/14/04	1546	SupCt of NJ-BurlCty		\$ 30.00	1,109.87
07/15/04	1545	SupCt of NJ-CamdenCty		\$ 30.00	1,079.87
07/31/04		Interest	\$.14		1,080.01

[1C119.]

None of the July 2004 disbursements were made to Dunlap or for her benefit.

As of July 31, 2004, respondent should have been holding \$5,084.42 in the trust account for the Dunlap matter. However, on that date, only \$1,080.01 remained in the account, representing an invasion and misappropriation of \$4,004.41.

In August 2004, respondent made the following trust account transactions:

DATE	CK#	TO/FOR	DEPOSIT	W'DRAWAL	BALANCE
08/13/04	1548	Cash		\$ 600.00	480.01
08/25/04	1549	SupCt of NJ - BurlCty		\$ 30.00	450.01
08/31/04		Interest	\$.05		450.06

[1C123.]

None of the August 2004 disbursements were made to or on behalf of Dunlap.

On August 31, 2004, respondent should have been holding \$5,084.42 in her trust account for the Dunlap matter. However,

only \$450.06 remained in the account. According to the complaint, respondent had misappropriated a total of \$4,634.36.

During the OAE investigation into respondent's handling of the Dunlap funds, respondent wrote an April 26, 2005 letter to the OAE. In it, she admitted that

[t]he balances that should have been remaining to pay off the [Dunlap matter] (\$4,760) I used over a series of months to pay personal necessary bills for housing, transportation and food expenses for myself and my 9-year-old.

[CEx.6.]

Respondent had used the Dunlap trust funds without Dunlap's knowledge or authorization.

The complaint charges that respondent's use of client trust funds for her own purposes violated RPC 1.15(a) (knowing misappropriation of client funds), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and the principles of In re Wilson, 81 N.J. 451 (1979), and In re Hollendonner, 102 N.J. 21 (1985).

The OAE urged us to recommend respondent's disbarment.

Service of process was properly made. 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 to the complaint, the allegations are deemed admitted. R. 1:20-4(f).

Respondent converted approximately \$4,700 of Dunlap's funds for her own personal use, without the authorization of her client. Those funds were supposed to remain in trust for the payment of Dunlap's credit card obligations. By using the funds for herself, respondent knowingly misappropriated client trust funds, a violation of RPC 1.15(a) (knowing misappropriation of client funds) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

Despite respondent's claim in her letter to the OAE that she used the funds to support herself and her nine-year-old child, no amount of mitigation would suffice to excuse her misconduct. In In re Noonan, 102 N.J. 157, 160-61 (1986), the Court defined the requirements for a finding of knowing misappropriation:

The misappropriation that will trigger automatic disbarment that is 'almost invariable,' (In re Wilson, 81 N.J. 451, 453 (1979)), consists simply of a lawyer taking a client's money entrusted to him, knowing that it is the client's money and knowing that the client has not authorized the taking. It makes no difference whether the money was used for a good purpose or a bad purpose, for the benefit of the lawyer or for the benefit of others, or whether the lawyer intended to return the money when he took it, or whether in fact he ultimately did reimburse the client; nor

does it matter that the pressures on the lawyer to take the money were great or minimal. The essence of Wilson is that the relative moral quality of the act, measured by these many circumstances that may surround both it and the attorney's state of mind is irrelevant: it is the mere act of taking your client's money knowing that you have no authority to do so that requires disbarment The presence of 'good character and fitness,' the absence of 'dishonesty, venality or immorality' - all are irrelevant. While this Court indicated that disbarment for knowing misappropriation shall be 'almost invariable,' the fact is that since Wilson, it has been invariable.

She, therefore, knowingly misappropriated client funds, a violation of RPC 1.15(a) and RPC 8.4(c). Under the principles of In re Wilson, 81 N.J. 451 (1979), respondent must be disbarred. We so recommend to the Court. Vice-Chair Pashman did not participate.

We also require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

Disciplinary Review Board
William J. O'Shaughnessy
Chair

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

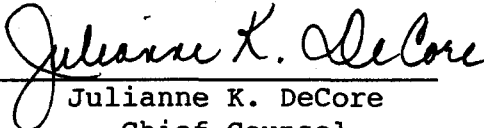
SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Cathy Garrett-Davis
Docket No. DRB 06-059

Decided: May 24, 2006

Disposition: Disbar

Members	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
O'Shaughnessy	X					
Pashman						X
Baugh	X					
Boylan	X					
Frost	X					
Lolla	X					
Pashman	X					
Stanton	X					
Wissinger	X					
Total:	8					1


Julianne K. DeCore
Chief Counsel