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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 06-341  
District Docket Nos. XIV-2004-0366E  
and XIV-2004-0379E

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IN THE MATTER OF  
CHONG KIM  
AN ATTORNEY AT LAW

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Decision

Argued: February 15, 2007

Decided: March 27, 2007

Michael Sweeney appeared on behalf of the Office of Attorney Ethics.

Ian Stuart appeared on behalf of respondent.

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

This matter came before us on a disciplinary stipulation between respondent and the Office of Attorney Ethics ("OAE"). Respondent admitted violating RPC 1.15(a) (failure to hold property of clients or third persons separate from the lawyer's own property) and R. 1:21-6(a)(1) (failure to maintain client or

third party funds in a separate account); R. 1:21-6(a)(2) (failure to maintain an attorney business account); and RPC 1.15, presumably (d), and R. 1:21-6 (recordkeeping violations). The OAE recommended that respondent be admonished. We agree.

Respondent was admitted to the New Jersey bar in 1997. He maintained a law practice in Haddon Heights, New Jersey. He has no history of discipline. He has, however, been ineligible to practice law for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection ("the Fund") since September 25, 2006. According to the Fund's report, he was previously on the ineligible list from October 24, 1998 to February 27, 2001.

Two overdrafts occurred on respondent's trust account on July 8 and July 22, 2004, prompting the OAE to conduct a September 29, 2004 select audit of his attorney books and records. The audit revealed that, from October 2002 through September 2004, respondent used his attorney trust account for approximately \$50,000 of personal or business transactions, thereby violating RPC 1.15(a) and R. 1:21-6(a)(1). In addition, respondent failed to maintain an attorney business account, as required by R. 1:21-6(a)(2).

The audit also disclosed the following recordkeeping violations:

- a. No trust account receipts journals[;]
- b. No trust account disbursements journals[;]
- c. No individual ledger cards for each client;
- d. No monthly trust bank reconciliations with client ledgers, journals and checkbook;
- e. No running checkbook balance;
- f. Trust account checks were made payable to "Cash;"
- g. Funds unrelated to the practice of law were held in the attorney trust account;
- h. Improper image-processed trust account cancelled checks;
- i. ATM card used with the attorney trust account;
- j. Electronic transfers from the attorney trust account were made without proper authorization; and
- k. All earned legal fees were not deposited into the attorney business account.

[S2¶Bc-S3¶Bc.]<sup>1</sup>

Respondent stipulated that, during a twenty-four-month period, from October 2002 to September 2004, he used his attorney trust account for personal or business-related transactions. He, therefore, kept in his trust account funds unrelated to the practice of law, a violation of RPC 1.15(a) and R. 1:21-6(a)(1). He also failed to maintain proper records required by R. 1:21-6(c), thereby violating RPC 1.15(d). Because respondent did not maintain any client funds in his trust

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<sup>1</sup> S refers to the disciplinary stipulation.

account when the overdrafts occurred, the overdrafts did not result in the misappropriation of client funds.

In recommending an admonition, the OAE relied on In the Matter of Scott A. Liebing, DRB 03-182 (September 17, 2003) (admonition for recordkeeping violations; additionally, on four occasions, the attorney's wife/bookkeeper issued trust account checks to him and forged his name as the drawer and endorser of the check without his knowledge; upon learning of her actions, the attorney replenished his trust account with personal funds and cooperated fully with the OAE investigation) and In the Matter of Lionel A. Kaplan, DRB 02-259 (November 18, 2002) (recordkeeping deficiencies, commingling of personal and trust funds, and failure to supervise a non-lawyer employee; mitigating factors included the attorney's cooperation with the OAE, his previously unblemished thirty-year legal career, his immediate retention of an accountant, and the absence of harm to clients).

We agree with the OAE that the discipline in matters involving recordkeeping violations is an admonition. See, e.g., In the Matter of Jeff E. Thakker, DRB 04-258 (October 7, 2004) (admonition for failure to maintain an attorney trust account in a New Jersey banking institution); In the Matter of Arthur G. D'Alessandro, DRB 01-247 (June 17, 2002) (admonition for numerous recordkeeping deficiencies); In the Matter of Marc D'Arienzo, DRB 00-101 (June 29,

2001) (admonition for failure to use trust account and to maintain required receipts and disbursements journals, as well as client ledger cards); In the Matter of Christopher J. O'Rourke, DRB 00-069 (December 7, 2000) (admonition for failure to keep receipts and disbursements journals, as well as a separate ledger book for all trust account transactions); and In the Matter of Arthur N. Field, DRB 99-142 (July 19, 1999) (admonition for failure to maintain an attorney trust account in a New Jersey banking institution).

We find that, in this case too, an admonition is appropriate discipline for respondent's violations of RPC 1.15(a) and RPC 1.15(d).

Members Boylan 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  
William J. O'Shaughnessy, Chair

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

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SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of Chong S. Kim  
Docket No. DRB 06-341

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Argued: February 15, 2007

Decided: March 27, 2007

Disposition: Admonition

Members	Disbar	Suspension	Censure	Reprimand	Admonition	Did not participate
O'Shaughnessy					X	
Pashman					X	
Baugh					X	
Boylan						X
Frost					X	
Lolla						X
Pashman					X	
Stanton					X	
Wissinger					X	
Total:					7	2

  
Julianne K. DeCore  
Chief Counsel