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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB DRB 05-342
District Docket Nos. XIV-02-531E
and IIB-04-901E

IN THE MATTER OF :
:
JOHN L. BLUNT :
:
AN ATTORNEY AT LAW :

Decision

Argued: January 12, 2006

Decided: February 22, 2006

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

Frank Lucianna appeared on behalf of respondent.

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

This matter was before us on a recommendation for discipline filed by the District IIB Ethics Committee ("DEC"). A three-count complaint charged respondent with having violated RPC 1.15(a) (negligent misappropriation of client trust funds), R. 1:21-6 (recordkeeping violations), RPC 8.1(b) (failure to correct a misapprehension known by respondent to have arisen in

connection with a disciplinary matter and failure to cooperate with disciplinary authorities), R. 1:20-3(g)(3) (failure to cooperate during a disciplinary investigation), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and RPC 1.15(b) (failure to promptly turn over funds to third parties).¹ Respondent admitted the allegations of the complaint during the DEC hearing.

Respondent was admitted to the New Jersey bar in 1988. He previously served as a municipal court judge in Bergen County for approximately ten years.

In 2002, respondent received a reprimand for counseling a client in conduct he knew was unethical. Specifically, respondent counseled his client to enter into a sham contract of sale that was ultimately used as an exhibit to an affidavit that respondent contemplated submitting to a court in a litigated matter. In re Blunt, 174 N.J. 294 (2002).

Count One

Respondent was the subject of a December 2001 random compliance audit by the Office of Attorney Ethics ("OAE"). The audit revealed a number of recordkeeping deficiencies. As a

¹ Although no subsection of the rule was specified, the language in the complaint is drawn from subsection (b).

result, the OAE sent respondent a letter in January 2000, requiring him to retain an accountant and to reconstruct his attorney records. Despite several extensions to comply with the OAE's instructions, respondent failed to provide a reconstruction of his records.

A second audit was scheduled for July 2002. At that time, the OAE auditor determined that respondent had overdisbursed approximately \$125,000 in connection with a real estate closing. Specifically, in April 2002, respondent represented Joseph Carney in the sale of real property.² According to the RESPA statement, the buyer was required to bring \$125,049.37 to the closing. At the closing, the buyer's certified checks were given directly to Carney, instead of being deposited into respondent's attorney trust account. Respondent then disbursed \$175,229.45 to Carney from his trust account, which sum mistakenly included the \$125,049.37. The disbursement, therefore, resulted in an overpayment to Carney of \$125,049.37, which came from other clients' funds in respondent's trust account.

As noted above, respondent failed to reconcile his trust account, as instructed by the OAE after the December 2001 audit. Thus, it was not until immediately before the July 2002 follow-

² The closing occurred four months after the OAE reminded respondent of his recordkeeping responsibilities.

up audit that respondent detected the \$125,049.37 over-disbursement. Although respondent knew, on the day of the follow-up audit, of the shortage caused by his over-disbursement, he did not disclose it to the OAE auditor at that time or in follow-up communications. Approximately six weeks after the second audit, respondent provided records to the auditor with information about the shortage in his trust account.

In early September 2002, the OAE auditor determined that the Carney overpayment was the cause of the approximately \$125,000 shortage in respondent's trust account. She advised respondent of this information, at which time he admitted his prior knowledge of the shortage.

In February 2003, respondent deposited sufficient funds into his trust account to compensate for the shortage. The funds were obtained from Carney and from respondent's mother.

The complaint charged respondent with having violated RPC 1.15(a), R. 1:21-6, RPC 8.1(b), and RPC 8.4(c). Respondent admitted each of the violations.

Count Two

Despite numerous demands from the OAE, beginning in December 2001, respondent failed to provide that office with

monthly reconciliations of his trust account that complied with the requirements of R. 1:21-6.

The complaint charged that respondent's conduct violated R. 1:21-6, R. 1:20-3(g)(3), and RPC 8.1(b). Respondent admitted his violation of these rules.

Count Three

Between February 2003 and April 2003, respondent paid Main Street Title Agency premiums for nine title insurance policies for closings that had taken place and for which funds had been collected between November 2000 and April 2002.

The complaint charged, and respondent admitted, that he violated RPC 1.15.³

By way of explanation for his recordkeeping derelictions, respondent testified that a former law partner advised him, at an undisclosed time, that he was leaving the practice. The partner left two days later. Respondent stated that he had never dealt with recordkeeping responsibilities, and was unaware of how to proceed. He now recognizes that he should have asked disciplinary authorities for guidance.

As to his failure to cooperate with the OAE, respondent testified that, in addition to the difficulties stemming from

³ As stated above, subsection (b) of the rule was intended to be charged.

the departure of his law partner, he suffers from hemochromatosis, a potentially fatal over-supply of iron in the blood. He claimed that his illness kept him from complying with the OAE's requests. He stated also that he was drinking excessively during the time in question. Respondent testified that he is being treating by a psychiatrist and agreed to contact the New Jersey Lawyers' Assistance Program ("NJLAP"). He further agreed with the OAE's request that he submit monthly reconciliations of his trust account to the OAE, on a quarterly basis, for a period of one year.

Respondent admitted his misconduct in this matter, leaving the appropriate measure of discipline for his infractions as the only determination to be made by the DEC. The DEC recommended that respondent receive a reprimand. Also, the DEC required him to participate in the NJLAP counseling program and to provide the requested trust account reconciliations to the OAE. The DEC recommended that, if respondent fails to comply with these requirements, "he be investigated by the OAE within six months and that his prior history and behavior regarding the Rules of Professional Conduct be given the fullest consideration possible in any subsequent proceedings."

Upon a de novo review of the record, we are satisfied that the conclusion of the DEC that respondent was guilty of

unethical conduct is fully supported by clear and convincing evidence.

Respondent admitted the allegations of the complaint and his violation of the rules in question. Like the DEC, we find a violation of each of the rules cited in the complaint.

Generally, reprimands have been imposed for recordkeeping deficiencies and negligent misappropriation of client funds. See, e.g., In re Toronto, 185 N.J. 399 (2005) (attorney reprimanded for negligent misappropriation of \$59,000 in client funds and recordkeeping violations; the attorney had a prior three-month suspension for conviction of simple assault, arising out of a domestic violence incident, and a reprimand for a misrepresentation to ethics authorities about his sexual relationship with a former student; mitigating factors taken into account); In re Winkler, 175 N.J. 438 (2003) (reprimand where attorney commingled personal and trust funds, negligently invaded clients' funds, and did not comply with the recordkeeping rules; the attorney withdrew from his trust account \$4,100 in legal fees before the deposit of corresponding settlement funds, believing that he was withdrawing against a "cushion" of his own funds left in the trust account); In re Rosenberg, 170 N.J. 402 (2002) (reprimand where the attorney negligently misappropriated client trust funds in amounts

ranging from \$400 to \$12,000 during an eighteen-month period; the misappropriations occurred because the attorney routinely deposited large retainers in his trust account, and then withdrew his fees from the account as he needed funds, without determining whether he had sufficient fees from a particular client to cover the withdrawals); In re Blazsek, 154 N.J. 137 (1998) (reprimand where the attorney negligently misappropriated \$31,000 in client funds, and failed to comply with recordkeeping requirements); In re Goldstein, 147 N.J. 286 (1997) (reprimand where the attorney negligently misappropriated client funds as a result of recordkeeping deficiencies); In re Liotta-Neff, 147 N.J. 283 (1997) (reprimand where the attorney negligently misappropriated approximately \$5,000 in client funds after commingling personal and client funds; the attorney left \$20,000 of her own funds in the account, against which she drew funds for her personal obligations; the attorney was also guilty of poor recordkeeping practices); In re Gilbert, 144 N.J. 581 (1996) (reprimand where the attorney negligently misappropriated in excess of \$10,000 in client funds and violated the recordkeeping rules, including commingling personal and trust funds and depositing earned fees into the trust account; the attorney also failed to properly supervise his firm's employees with regard to the maintenance of the business and trust

accounts); In re Marcus, 140 N.J. 518 (1995) (reprimand where the attorney, who had been previously reprimanded, negligently misappropriated client funds as a result of numerous recordkeeping violations and commingled personal and clients' funds; the attorney's lack of awareness that the account was out of trust, later adoption of proper recordkeeping procedures, successful completion of a proctorship following his previous reprimand, and the absence of loss to any client were considered as mitigating factors); In re Imperiale, 140 N.J. 75 (1995) (attorney reprimanded for deficient recordkeeping and negligent misappropriation of \$9,600 in client funds); and In re Lazzaro, 127 N.J. 390 (1992) (reprimand where the attorney's poor recordkeeping resulted in negative client balances and a trust account shortage of more than \$14,000).

When compelling mitigating factors have been present, the discipline has been reduced from a reprimand to an admonition. See, e.g., In the Matter of Cassandra Corbett, Docket No. DRB 00-261 (January 12, 2001) (admonition where the attorney's deficient recordkeeping resulted in a \$7,011.02 trust account shortage; mitigating factors were the attorney's reimbursement of all missing funds, admission of wrongdoing, cooperation with the OAE, and the hiring of an accountant to reconstruct her records); In the Matter of Bette R. Grayson, Docket No. DRB 97-

338 (May 27, 1998) (admonition where the attorney's deficient recordkeeping resulted in the negligent misappropriation of \$6,500 in client trust funds; mitigating factors were the attorney's full cooperation with the OAE, her subsequent steps to straighten out her records, and the absence of prior discipline); and In the Matter of Joseph S. Caruso, Docket No. DRB 96-076 (May 21, 1996) (admonition imposed where the misrecording of a deposit led to a trust account shortage and where the attorney committed a number of violations in the maintenance of his trust account; in imposing only an admonition, it was considered that the attorney was newly admitted to the bar at the time, corrected all deficiencies, implemented a computerized system to avoid reoccurrences, and fully cooperated with the OAE; moreover, the attorney's conduct caused no harm to any clients).

Here, respondent presented the mitigating factors of his medical condition and an alcohol problem. As to respondent's affliction with hemochromatosis, although this record does not contain medical reports about this illness, in his prior disciplinary matter, respondent submitted medical reports attesting to this condition. In the earlier matter, respondent testified that his liver and kidneys had not been functioning properly, his heart had become enlarged, and he had been

suffering from fatigue and depression. We, therefore, accept respondent's claim that he suffers from hemochromatosis.

In this matter, there is no specific information on the effect of respondent's disease on him, in particular on his ability to maintain his attorney books and records and to practice law ethically. We need not, however, consider respondent's medical condition as a mitigating factor, in assessing the appropriate level of discipline for his ethics offenses. There are other mitigating factors present. Specifically, respondent has sought psychiatric help, agreed to contact NJLAP, retained an accountant, and has agreed to provide quarterly reconciliations of his trust account to the OAE.

On the other hand, unlike the above-cited respondents who were reprimanded solely for negligent misappropriation and recordkeeping improprieties, respondent has committed additional violations. He failed to cooperate with the OAE (allegedly because of his medical condition), failed to advise the OAE of his trust account shortage, and failed to timely turn over payments to the title insurance company.

As the transcript of the DEC hearing reveals, the hearing panel, respondent's counsel, and the presenter tried to impress upon respondent the importance of observing his responsibilities to his clients, and, in particular, his recordkeeping duties.

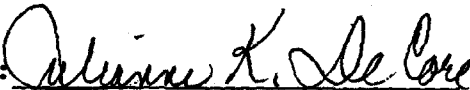
Hopefully, they were successful in their efforts. Because it seems that respondent took the necessary steps to maintain his practice correctly, a suspension at this time would set him back, when he has come far forward. We are willing to give respondent one more opportunity for redemption and to impose only a reprimand for his current ethics transgressions. We note that attorneys Marcus and Toronto also received only a reprimand, despite having a disciplinary record. See also In re Regojo, 185 N.J. 395 (2005) (reprimand for negligent misappropriation, recordkeeping violations, the commingling of personal and trust funds, and failure to promptly disburse trust funds; the attorney had two prior reprimands, one of which resulted from negligent misappropriation and records violations).

We also determine that, within thirty days, respondent is to provide to the OAE all requested reconciliations of his attorney trust account. If the reconciliations are not timely provided, the OAE is to file a new complaint against respondent. Respondent is to continue to provide the reconciliations to the OAE for a period of one year. Furthermore, he is to continue psychiatric treatment with his current psychiatrist and participation in NJLAP until fully discharged by both.

Members Stanton and Lolla did not participate.

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

Disciplinary Review Board
Mary J. Maudsley, Chair

By: 

Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

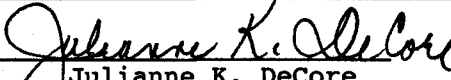
In the Matter of John L. Blunt
Docket No. DRB 05-342

Argued: January 12, 2006

Decided: February 22, 2006

Disposition: Reprimand

Members	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Maudsley		X			
O'Shaughnessy		X			
Boylan		X			
Holmes		X			
Lolla					X
Neuwirth		X			
Pashman		X			
Stanton					X
Wissinger		X			
Total:		7			2


Julianne K. DeCore
Chief Counsel