

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 14-242  
District Docket No. XIV-2013-0370E

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IN THE MATTER OF  
JENNIFER LEE BARRINGER  
AN ATTORNEY AT LAW

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Corrected Decision

Decided: February 4, 2015

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 charged respondent with recordkeeping  
violations (RPC 1.15(d)) and failure to cooperate with  
disciplinary authorities (RPC 8.1(b)). We determine to impose a  
reprimand.

Respondent was admitted to the New Jersey bar in 2008 and  
has no prior final discipline. On May 15, 2014, however, she was  
temporarily suspended from the practice of law, on motion by the

OAE, based on her conduct in the within matter. In the Matter of Jennifer L. Barringer, 217 N.J. 336 (2014). She remains suspended to date.

Service of process was proper in this matter. On May 1, 2014, the OAE sent a copy of the complaint to respondent, by both certified mail and regular mail, at the billing address listed in the attorney registration records, 112 Lamplighter Court, Marlton, Burlington County, New Jersey. The certified mail receipt card was signed by "Gil Macher" on May 14, 2014. The regular mail was not returned.

On July 2, 2014, the OAE sent a second letter to the Marlton address, by certified and regular mail, notifying respondent that, unless she filed an answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the record would be certified directly to us for the imposition of sanction, and the complaint would be deemed amended to charge a willful violation of RPC 8.1(b). The certified mail receipt card was signed by "Gary Simpson" on July 19, 2014. The regular mail was not returned.

As of the date of the certification of the record, July 29, 2014, respondent had not filed an answer.

The conduct that gave rise to this matter was as follows:

On July 15, 2013, the OAE received a letter from New York Lawyers' Fund for Client Protection, indicating that respondent had three overdrafts in her New York attorney escrow account. According to New Jersey attorney registration records, respondent does not maintain a trust account in New Jersey. By letter dated July 23, 2013, the OAE sent respondent copies of the overdraft notices and requested her written explanation for them, as well as copies of specific bank records. Respondent was given ten days to comply. The OAE sent the letter to the New York address listed on respondent's attorney escrow account. The letter does not indicate the method of delivery.

Hearing nothing, on August 21, 2013, the OAE again wrote to respondent at the same New York address, seeking her written reply and bank records. The certified mail receipt card was signed by "Gil Faccio" on August 29, 2013.

Respondent did not reply to that letter. After the OAE auditor left a September 6, 2013 voicemail message for respondent, she returned the call five days later. According to the complaint, respondent told the OAE that she had not received its July 23, 2013 letter. Although respondent confirmed that her New York address was correct, she stated that she had been

staying elsewhere, for more than two months. She requested the OAE to resend the prior correspondence to either her Marlton address or her email account.

On September 20, 2013, the OAE resent the correspondence to respondent at the Marlton address, with copies of the overdraft notices. The OAE once again requested that respondent explain her actions and provide the requested records by September 30, 2013. Respondent did not reply.

Thereafter, on October 21 and 28, 2013, the OAE auditor telephoned respondent, again leaving voicemail messages for her to contact that office immediately. Respondent never did so.

Because respondent failed to provide her attorney escrow account records, the OAE obtained them from Citibank. Those records revealed that, on April 20, 2013, respondent's attorney escrow account balance was \$111.50. On April 26, 2013, she issued a \$680 check (#1034) to Gil Faccio. The check was presented for payment on April 29, 2013, when the attorney escrow account held only \$155.50, thereby causing an overdraft. Citibank returned the check for insufficient funds.

On April 29, 2013, respondent issued another check to Faccio, this time for \$660 (#1036). The check was presented for payment on May 1, 2013, but the attorney escrow account still

held only \$155.50. This check caused a second overdraft in respondent's attorney escrow account. Citibank returned the check for insufficient funds.

Faccio's second check (#1036) was presented for payment a second time, on May 6, 2013, but was returned by Citibank, again for insufficient funds, as the escrow account still held only \$155.50.

On May 7, 2013, Citibank also returned a \$400 deposit check that had already been credited to respondent's escrow account on April 29, 2013, thereby creating a negative balance of -\$244.50.

On July 17, 2013, Citibank closed the escrow account, due to its overdraft status, which had remained unchanged, with a negative balance of -\$244.50.

In addition to creating overdrafts in the attorney escrow account, respondent maintained a prohibited ATM card for her attorney escrow account. She made three ATM withdrawals with it, between April 25 and 29, 2013.

Because of the overdrafts, the OAE sent respondent a December 9, 2013 letter, requiring her to appear for a demand audit on January 7, 2014, and to bring copies of its prior correspondence to her. The packet was sent by certified and regular mail to respondent's Marlton address, to an address

listed as her home address (presumably, listed in the attorney registration records), and both the certified and regular mail to the home address were returned as "undeliverable unable to forward."

Thereafter, respondent sent an email to OAE Deputy Ethics Counsel HoeChin Kim, stating that she would attend the January 7, 2014 audit. On January 6, 2014, respondent left a message on the OAE voicemail system, indicating that she was ill and was going to see a doctor. She also asked the OAE not to take any action that would affect her law license.

On January 7, 2014, Kim telephoned respondent, who did not answer. Kim left a voicemail message, directing respondent to call her directly so that the demand audit could be rescheduled.

Hearing nothing from respondent, on March 4, 2014, the OAE sent respondent a letter, by certified and regular mail, to her Marlton address, re-scheduling the demand audit for March 18, 2014. The letter cautioned respondent that this was her final opportunity to cooperate with the OAE investigation and that, if she failed to do so, the OAE would file a motion for her temporary suspension with the Court.

The green certified mail receipt card was signed by "G. Macher" on March 15, 2014. The regular mail was not returned to the OAE.

Respondent had no further communications with the OAE and did not attend the March 18, 2014 audit.

The facts recited in the complaint support the charges of unethical conduct. Respondent's failure to file an answer is deemed an admission that the allegations of the complaint are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).

Respondent failed to maintain an attorney trust account in an approved New Jersey financial institution, acquired an ATM debit card for the escrow account, and used it to make improper cash withdrawals. In doing so, respondent failed to comply with the recordkeeping requirements of R.1:21-6, a violation of RPC 1.15(d).

Respondent also failed to reply to the OAE's numerous requests for information about the overdrafts and for her attorney escrow account records regarding the overdrafts. Thereafter, the OAE filed an ethics complaint against respondent, which she failed to answer. Her failure to cooperate with ethics authorities violated RPC 8.1(b).

Recordkeeping irregularities ordinarily are met with an admonition, so long as they have not caused a negligent misappropriation of clients' funds. See, e.g., In the Matter of Sebastian Onyi Ibezim, Jr., DRB 13-405 (March 26, 2014) (attorney maintained outstanding trust balances for a number of clients, some of whom were unidentified); In the Matter of Stephen Schnitzer, DRB 13-386 (March 26, 2014) (an audit conducted by the Office of Attorney Ethics revealed several recordkeeping deficiencies; the attorney also commingled personal and trust funds for many years; prior admonition for unrelated conduct); In the Matter of Thomas F. Flynn, III, DRB 08-359 (February 20, 2009) (for extended periods of time, attorney left in his trust account unidentified funds, failed to satisfy liens, allowed checks to remain outstanding, and failed to perform one of the steps of the reconciliation process; no prior discipline); In the Matter of Jeff E. Thakker, DRB 04-258 (September 24, 2004) (attorney failed to maintain a trust account in a New Jersey banking institution); In the Matter of Arthur G. D'Alessandro, DRB 01-247 (June 17, 2002) (numerous recordkeeping deficiencies); In the Matter of Marc D'Arienzo, DRB 00-101 (June 29, 2001) (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) (attorney did not maintain 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) (attorney did not maintain an attorney trust account in a New Jersey banking institution).

Likewise, failure to cooperate with an ethics investigation will generally result in an admonition, if the attorney does not have an ethics history. See, e.g., In the Matter of Lora M. Privetera, DRB 11-414 (February 21, 2012) (attorney submitted an inadequate reply to an ethics grievance; thereafter, she failed to cooperate in the ethics investigation until finally retaining ethics counsel to assist her); In the Matter of Douglas Joseph Del Tufo, DRB 11-241 (October 28, 2011) (attorney did not cooperate with the ethics investigator and did not communicate with the client), In the Matter of James M. Docherty, DRB 11-029 (April 29, 2011) (attorney failed to comply with ethics investigator's request for information about the grievance; the attorney also violated RPC 1.1(a) and RPC 1.4(b)); In the Matter of Marvin Blakely, DRB 10-325 (January 28, 2011) (after his ex-wife filed a grievance against him, attorney ignored numerous

letters from the district ethics committee seeking information about the matter; the attorney's lack of cooperation forced ethics authorities to obtain information from other sources, including the probation department, the ex-wife's former lawyer, and the attorney's mortgage company); and In the Matter of Kevin R. Shannon, DRB 04-152 (June 22, 2004) (attorney did not promptly reply to the district ethics committee investigator's requests for information about the grievance).


Although an admonition would ordinarily suffice for respondent's recordkeeping irregularities and failure to cooperate with the DEC investigator, we consider, as an aggravating factor, respondent's default. In a default matter, the appropriate discipline is enhanced to reflect the attorney's failure to cooperate with disciplinary authorities. "A respondent's default or failure to cooperate with the investigative authorities operates as an aggravating factor, which is sufficient to permit a penalty that would otherwise be appropriate to be further enhanced." In re Kivler, 193 N.J. 332, 342 (2008).

Because respondent allowed the matter to proceed to us by way of a default, we determine that the otherwise appropriate level of discipline for her conduct (admonition) should be

enhanced to a reprimand.

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  
Bonnie C. Frost, Chair

By:   
Ellen A. Brodsky  
Chief Counsel

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SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of Jennifer L. Barringer  
Docket No. DRB 14-242

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Decided: February 4, 2015

Disposition: Reprimand

<b>Members</b>	Disbar	Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Frost			X			
Baugh			X			
Clark			X			
Gallipoli			X			
Hoberman			X			
Rivera			X			
Singer			X			
Yamner			X			
Zmirich			X			
Total:			9			

  
Ellen A. Brodsky  
Chief Counsel