

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 01-007

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IN THE MATTER OF  
CASSELL WOOD, JR.  
AN ATTORNEY AT LAW

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Decision

Argued: May 17, 2001

Decided: August 6, 2001

Brian D. Gillet appeared on behalf of the Office of Attorney Ethics.

Michael B. Blacker 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 based on a stipulation signed by the Office of Attorney Ethics (“OAE”) and respondent. In the stipulation, respondent admitted that he violated *RPC* 1.15(a) (negligent misappropriation of client funds), *RPC* 1.15(d) and *R.1:21-6(b)* (failure to maintain attorney trust account records), *RPC* 8.1(b) (failure to cooperate with

disciplinary authorities) and R.1:20-20(a) (permitting or authorizing a disbarred attorney to perform services for attorney or clients).

Respondent was admitted to the New Jersey bar in 1974. In 1985 he received a private reprimand for failure to maintain complete trust account records and to properly reconcile his trust account.

At all relevant times, respondent maintained a law office at various addresses in Plainfield, Union County, New Jersey.

### ***I - The Hannon/Desjour Matter***

On December 1, 1998, Jeffrey J. Rea, Esq., filed a grievance against respondent. Rea represented Lorraine Hannon and Desjour Associates, Inc. ("Desjour"), former clients of respondent. Rea complained that, although he had requested documents concerning a real estate closing that respondent had conducted, as well as information about the disposition of \$3,682.11 in closing proceeds, respondent had not complied with his request. On March 19, 1999 and December 13, 1999 the OAE conducted a select audit of respondent's books and records.

The facts that gave rise to this matter are as follows: On February 12, 1998 respondent represented Hannon and Desjour in the purchase of real estate in Piscataway. Respondent contended that the lender, Carnegie Capital Corporation, had withheld \$10,400 from the mortgage proceeds, pending the completion of property repairs. Although respondent had no

records demonstrating the retention of the funds, an attorney for the lender confirmed respondent's statement. At some point, the property was foreclosed and the new buyer was credited with \$10,400 against the outstanding mortgage amount. Respondent, thus, eventually accounted for all required disbursements for that transaction.

On May 13, 1998 respondent again represented Hannon and Desjour in the purchase of property located at 226 Prescott Place, Plainfield, New Jersey, from Janis Parker. Although the RESPA indicated that the price of the property was \$65,000, respondent could identify only \$57,460 of the deposits and disbursements listed on that form. Among the disbursements was \$7,000 to respondent, \$6,214.90 to Lamont Phillips and \$500 to Leroy Gipson, a disbarred attorney. On the day before the May 13, 1998 closing, the seller, Parker, had obtained title to the property from Phillips. The May 12, 1998 deed indicated that Phillips had paid one dollar for the property. Because he owed respondent fees for other services, Phillips instructed Parker, with whom Phillips had a personal relationship, to allow respondent to take \$2,500 from the proceeds. Phillips later authorized respondent to take other fees from his share of the proceeds.

During the March 19, 1999 audit, respondent stated that Gipson had received a \$500 finder's fee or another type of fee owed by the parties to the sale. He acknowledged knowing that Gipson was a disbarred attorney. At the audit, OAE first assistant counsel John Janasie advised respondent that R. 1:20-20 prohibited attorneys from any association or office-sharing arrangement with disbarred attorneys.

The audit revealed that respondent was out of trust and that the original client ledger card for the Plainfield transaction was incomplete. According to respondent's reconstructed client ledger card, he continued to hold a balance of \$4,338.84 in his trust account. Because respondent did not reconcile his trust account during the entire year of 1998, he was unable to document all of the deposits and disbursements for both the Piscataway and Plainfield real estate transactions.

As will be seen below, the OAE filed a motion for respondent's temporary suspension. In an October 22, 1999 certification filed with the Court, respondent admitted that he was out of trust and that he had deposited funds into his trust account to cure a \$6,950 shortage.

In the stipulation, respondent admitted that he violated *RPC* 1.15(d) and *R.1.21-6(b)*, by failing to maintain (1) trust receipts or disbursements journals; (2) appropriate client ledger books; (3) copies of statements to clients showing disbursements of funds to them or on their behalf; (4) copies of bills rendered to clients; (5) copies of records showing payments to third parties for services rendered; and (6) copies of all records showing quarterly reconciliations of his trust account. Respondent further admitted that he negligently misappropriated client funds, in violation of *RPC* 1.15(a).

\* \* \*

On December 16, 1998, after receiving Rea's grievance, the OAE requested that respondent reply to the allegations by December 30, 1998. In a January 11, 1999 letter, respondent provided details about the disposition of the \$3,682.11 that he had received from Hannon and Desjour. He further indicated that he would be forwarding copies of the relevant checks under separate cover. On January 25, 1999 the OAE requested copies of the checks. On February 23, 1999, because respondent still had not replied, the OAE scheduled a demand audit of his books and records. At the audit, the OAE gave respondent a letter confirming that he had agreed to provide certain records within one week. Respondent did not produce the records. On July 13, 1999 the OAE requested documents from respondent's new attorney, Michael B. Blacker. The documents were not provided, however.

On October 12, 1999 the OAE filed a petition for respondent's immediate temporary suspension. After the parties filed additional submissions, on October 25, 1999 the Court ordered respondent to provide all records to the OAE by November 9, 1999 and to show cause, on November 30, 1999, why he should not be temporarily suspended. On November 23, 1999 the OAE withdrew its motion for temporary suspension, based on the receipt of some of the documents and respondent's assurance of future cooperation.

On December 13, 1999, at the continuation of the demand audit, respondent still could not adequately document the Piscataway and Plainfield closings, despite prior notice of the

records he had to produce. In a December 15, 1999 letter to Blacker, the OAE again requested the documents for those transactions, to be submitted within two weeks. The OAE sent Blacker two additional letters, dated February 8, 2000 and March 6, 2000, respectively, again seeking the documents. Although respondent eventually provided some of the requested records, the OAE had to obtain other documents directly from third parties.

Respondent admitted that his failure to supply the requested documents, which led to the OAE's filing of a motion for temporary suspension, constituted a failure to cooperate with disciplinary authorities, in violation of *RPC* 8.1(b).

## ***II - The Richardson Matter***

Respondent represented Theresa Richardson and her son Eric in connection with a July 30, 1997 automobile accident. In connection with this representation, respondent employed the services of Leroy Gipson, a disbarred attorney, to make medical appointments for Richardson and Eric and to drive them to the hospital for those appointments. Richardson talked to Gipson at respondent's office as late as April 2000, more than one year after the March 19, 1999 audit in which the OAE had advised respondent about the prohibition against employing disbarred attorneys.

On April 14, 2000 Richardson filed a grievance against respondent, alleging, among other things, that he employed a disbarred attorney. After respondent replied to the grievance, Richardson was asked to supply additional information. Because she did not respond to that

request, the remaining allegations of the grievance were not pursued. In his reply to the grievance, respondent admitted that he "utilized [Gipson] to help in the logistics of the case, e.g., carrying Eric to the hospital or picking up documents."

Respondent admitted that he violated *R.1:20-20(a)* by permitting or authorizing a disbarred attorney to perform services for him or his clients.

\* \* \*

The stipulation recited, as an aggravating factor, respondent's 1985 private reprimand for similar recordkeeping violations. In mitigation, the stipulation noted that, after the OAE filed a motion for respondent's temporary suspension, he reconstructed his trust account records and deposited \$6,950 to cure the trust account shortage. The OAE urged us to impose a three-month suspension.

\* \* \*

Respondent acknowledged that he violated *RPC 1.15(a)* and (d), *RPC 8.1(b)*, *R.1:20-20(a)* and *R.1:21-6(b)*. Our review of the record satisfies us that the stipulation provides ample basis to support a finding of those violations.

Respondent represented Hannon and Desjour in two real estate purchases. Although, in the Piscataway transaction, respondent eventually was able to demonstrate that all of the funds had been properly deposited and disbursed, his recordkeeping was deficient. In the Plainfield transaction, respondent continued to hold \$4,338.84 in his trust account, well after the closing had occurred. He obviously had not disbursed all of the funds, as required. Because respondent had not reconciled his trust account at all during 1998, he could not trace all of the deposits and disbursements from the Plainfield transaction. It was only after the OAE filed its motion for temporary suspension that respondent reconstructed his trust account records and was able to account for the funds. Even then, respondent was required to deposit \$6,950 to cure a shortage in his trust account. Although the stipulation does not explain how the shortage was created or identify which client funds were invaded, the OAE investigated this matter and was satisfied with respondent's admission of negligent misappropriation and improper recordkeeping.

Also, respondent clearly failed to cooperate with the OAE, in violation of *RPC* 8.1(b), when he did not produce requested records. According to the stipulation, in his January 11, 1999 reply to the OAE, respondent represented that he would produce copies of checks under separate cover. On February 23, 1999 the OAE scheduled a demand audit, following respondent's failure to produce the records. At the audit, respondent represented that he would produce additional documents within one week. Instead, he failed to reply to subsequent requests by the OAE, which was forced to file a motion for his temporary



suspension. Even after the OAE withdrew its motion, based on respondent's partial compliance and assurances of future cooperation, respondent again failed to produce the requested documents, forcing the OAE to obtain documents from third parties. Respondent's failure to cooperate with the OAE unnecessarily burdened the Court's and the OAE's resources.

Finally, in the *Richardson* matter, respondent employed Leroy Gipson, a disbarred attorney. His continued employment of Gipson as late as April 2000 was egregious, in light of the cautionary advice he had received from the OAE at the March 19, 1999 demand audit. Although respondent contended, in his reply to the grievance, that he had not held out Gipson as an attorney, R.1:20-20(a) prohibits attorneys from employing disbarred attorneys in any capacity. *See In re Korn*, 157 N.J. 624 (1999). Respondent clearly violated that rule and, in light of the notice from the OAE, did so knowingly.

In sum, respondent failed to maintain required records, negligently misappropriated client funds and employed a disbarred attorney. Recordkeeping violations causing the negligent misappropriation of trust funds have resulted in discipline ranging from an admonition to a term of suspension. *See, e.g., In the Matter of Bette R. Grayson*, Docket No. DRB 97-338 (1998) (admonition where attorney negligently misappropriated client trust funds in eleven instances due to recordkeeping deficiencies and failure to perform quarterly reconciliations); *In the Matter of George J. Kovacs*, Docket No. DRB 97-018 (1997) (admonition where attorney inadvertently deposited check in business account, instead of

trust account); *In the Matter of Katina Stylianou*, Docket No. DRB 97-024 (1997) (admonition where attorney failed to maintain proper records, failed to deposit a trust account check and negligently misappropriated client funds); *In re Daniels*, 157 N.J. 71 (1999) (reprimand where attorney commingled personal and trust funds, failed to maintain required records, negligently misappropriated client funds and improperly extended loans to clients in anticipation of settlements); *In re Fucetola*, 147 N.J. 255 (1997) (reprimand where attorney negligently misappropriated client funds as a result of neglect of recordkeeping responsibilities); *In re Lamb*, 122 N.J. 296 (1991) (reprimand where attorney failed to maintain required records, failed to follow accepted accounting procedures, used his business account as a trust account and negligently invaded client funds); *In re Gallo*, 117 N.J. 365 (1989) (three-month suspension where attorney failed to maintain required records, commingled legal fees and trust funds and negligently misappropriated client funds in five matters) and *In re James*, 112 N.J. 580 (1988) (three-month suspension where attorney failed to maintain required records, used trust account funds to pay state and federal taxes and negligently misappropriated client funds in four matters).

In addition to negligent misappropriation of client funds and recordkeeping violations, respondent employed a disbarred attorney. A reprimand has been imposed on an attorney who, along with other misconduct, employed as an investigator a disbarred attorney. *In re Korn, supra*, 157 N.J. 624 (1999).

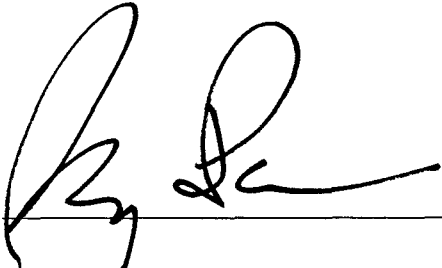
Here, we considered in aggravation that respondent received a private reprimand in 1985 for failure to maintain complete trust account records and to properly reconcile his trust

account. Although sixteen years have elapsed since his prior misconduct, respondent has again committed the same infractions for which he was disciplined in 1985.

For the totality of respondent's ethics violations, we unanimously voted to impose a three-month suspension. Upon reinstatement, respondent must submit to the OAE, for a period of two years, quarterly trust account reconciliations and an annual audit certified by an accountant approved by the OAE.

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

Dated: 8/06/01

By:   
ROCKY L. PETERSON  
Chair  
Disciplinary Review Board

**SUPREME COURT OF NEW JERSEY**

**DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

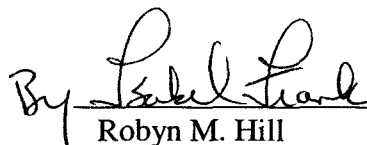
**In the Matter of Cassell Wood, Jr.  
Docket No. DRB 01-007**

**Argued: May 17, 2001**

**Decided: August 6, 2001**

**Disposition: Three-month suspension**

Members	Disbar	Three-Month Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Peterson		X					
Maudsley		X					
Boylan							X
Brody		X					
Lolla		X					
O'Shaughnessy		X					
Pashman		X					
Schwartz		X					
Wissinger		X					
<b>Total:</b>		8					1

By  10/3/01  
Robyn M. Hill  
Chief Counsel