

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 96-109

IN THE MATTER OF
ROBERT A. METZ
AN ATTORNEY AT LAW

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

Decided: October 15, 1996

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

Pursuant to R. 1:20-4(f)(1), the District XIV Ethics Committee ("DEC") certified the record in this matter directly to the Board for the imposition of discipline, following respondent's failure to file an answer to the formal ethics complaint. Service of the complaint was made by certified mail. Even after respondent requested and was granted several extensions, he still did not file an answer. After the last extension expired, respondent attempted to give an envelope to the Special Master, which the Special Master refused to accept. Subsequently, respondent mailed to the Special Master a handwritten one-page letter dated February 21, 1996, together with a two-page typewritten letter of even date. Although respondent indicated in that letter that the correspondence should be treated as a "very brief answer," in fact the letter does not respond in any fashion to the complaint.

The ethics complaint charged respondent with knowing misappropriation of client funds, in violation of RPC 1.15(a), dishonesty, fraud, deceit and misrepresentation, in violation of RPC 8.4(c), and failure to safeguard client funds, in violation of RPC 1.15(c), In re Wilson, 81 N.J. 451 (1979) and In re Warhaftig, 106 N.J. 529, 533 (1987). Charges of violations of RPC 1.1(a) and RPC 1.3 were also made.

As to the charges of knowing misappropriation, the complaint relates in some detail a pattern of disbursements to respondent of client funds to which he was not entitled. Count one of the complaint concerns knowing misappropriation by respondent of funds belonging to Keith Curran. Respondent had agreed to pay certain debts in behalf of his client from funds deposited with him by the client. Respondent failed to do so. Instead, he made six disbursements to himself totalling \$3,125. In addition, prior to receipt of the Curran funds, respondent disbursed a total of \$1,650 to himself from his trust account as payment for his representation in Curran. The complaint also charged that respondent knew that he was not entitled to those other client funds.

In a separate matter, respondent failed to pay several liens or judgments from the closing proceeds of a real estate transaction. During that time, respondent's trust account was short by more than \$4,000. In addition, in at least three other matters involving clients Kornegay, Cualersky and Diluca, respondent disbursed trust funds to or in behalf of clients, knowing that equivalent deposits had not been made. These actions resulted in the invasion of other clients' funds.

* * *

Following a de novo review of the record, the Board deemed the allegations contained in the complaint admitted. The record contains clear and convincing evidence of respondent's unethical conduct, including knowing misappropriation.

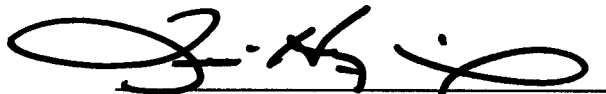
The only remaining issue is the measure of discipline. In In re Wilson, 81 N.J. 451 (1979), the Court ruled that disbarment is the only appropriate discipline in cases involving knowing misappropriation. "Maintenance of public confidence in this Court and in the bar as a whole requires the strictest discipline in misappropriation cases." In re Wilson, supra, 81 N.J. at 461. Although there are other charges against respondent, knowing misappropriation is sufficient in and of itself to mandate disbarment. Id. at 451.

In light of the foregoing, the Board unanimously determined to recommend disbarment. Two members did not participate.

The Board further determined to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: _____

10/15/96



LEE M. HYMERLING
Chair
Disciplinary Review Board

Supreme Court of New Jersey
Disciplinary Review Board

Voting Sheet

IN THE MATTER OF ROBERT A. METZ

DOCKET NO. DRB 96-109

DECIDED: October 15, 1996

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						quali-	Partici-
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HYMERLING	X						
UFF	X						
COLE	X						
HUOT	X						
MAUDSLEY							X
PETERSON							X
SCHWARTZ	X						
THOMPSON	X						
ZAZZALI	X						

Robyn M. Hill 12/18/96
ROBYN M. HILL
CHIEF COUNSEL