

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 98-097

IN THE MATTER OF
DENNIS D. JOY
AN ATTORNEY AT LAW

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

Decided: November 2, 1998

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

Pursuant to R.1:20-4(f), the Office of Attorney Ethics ("OAE") 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. On October 14, 1997 the complaint and cover letter were forwarded by regular and certified mail to respondent at both his last known home address and last known office address. The regular mail sent to his home address was returned, but the regular mail sent to his office address was not. The certified mail sent to both addresses was returned marked as unclaimed. The cover letter notified

respondent that failure to answer the complaint would constitute an admission of the allegations and would lead to the certification of the record directly to the Board for the imposition of a disciplinary sanction. Thereafter, notice by publication was made in the New Jersey Sunday Herald on December 7, 1997 and in the New Jersey Lawyer and New Jersey Law Journal on January 26, 1998. Respondent did not file an answer to the complaint.

Respondent was admitted to the New Jersey bar in 1974. He was temporarily suspended from the practice of law by Order of the Supreme Court dated May 6, 1997. In re Joy, 149 N.J. 89 (1997). Following respondent's failure to appear at an audit after his trust account was overdrawn, the suspension was continued by Order dated June 3, 1997. In re Joy, 149 N.J. 400 (1997). Respondent remains suspended.

Respondent received a letter of admonition on June 6, 1997 for lack of diligence and failure to communicate with the client. In the Matter of Dennis D. Joy, DRB 97-105 (1997).

The complaint charged respondent with violations of RPC 1.15 (knowing misappropriation of client funds), RPC 8.1(b) (failure to cooperate with ethics authorities) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

According to the complaint, on September 23, 1996 and September 25, 1996 the Bank of New York notified the OAE of two overdrafts in respondent's attorney trust account. The OAE contacted respondent and requested an explanation for the overdrafts. Respondent

submitted a reply claiming that the overdrafts were the result of his failure to record a prior disbursement. He attached to his statement his September 1996 trust account bank statement and ledger cards for the two clients at issue, Super Fresh and James Gallo.

The OAE compared the ledger cards with respondent's bank statement and discovered that respondent's trust account had a shortage in September 1996. According to respondent's ledger cards, he should have been holding at least \$29,800 for both clients. However, respondent's trust account bank statement showed a balance of \$26,315.26, reflecting a shortage of \$3,484.74.

On January 8, 1997 the OAE conducted a demand audit of respondent's trust account. The audit revealed several instances in which respondent knowingly misappropriated a total of \$16,350 in client funds. In July 1996 respondent issued four checks payable to cash, totaling \$3,500. Respondent negotiated all four checks. In August 1996 respondent issued five checks payable to himself or to cash, totaling \$5,200. Again, respondent negotiated these five checks. All nine checks invaded the Gallo funds. Respondent was not entitled to any of these funds.

Additionally, between July 30, 1996 and September 12, 1996 respondent issued four checks to himself as fees, totaling \$6,200, and recorded the checks on the Gallo ledger card. Gallo had not authorized respondent to withdraw any fees from the trust account,

except for a final fee payment in October 1996. Gallo periodically received bills from respondent and paid them by check. Respondent prepared an accounting for Gallo sometime after September 13, 1996. None of the four disbursements labeled as fees on the Gallo ledger card were listed on this accounting.

On October 1, 1996 and October 2, 1996 respondent issued three checks payable to cash or to himself, in the amount of \$1,450. These three checks utilized funds from "Christina's," another of respondent's clients. Respondent was not entitled to these funds. Hence, from July 12, 1996 to October 2, 1996, respondent misappropriated a total of \$16,350 in client funds.

After the January 1997 audit, respondent was instructed to bring his books and records into compliance with R. 1:21-6 and to submit certain documents to the OAE. Respondent failed to comply with these instructions. Another audit was scheduled for March 31, 1997. Respondent did not appear for the audit and did not provide the requested records.

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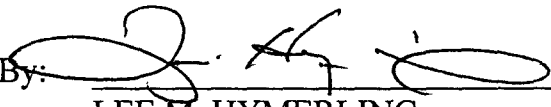
Following a de novo review of the record, the Board deemed the allegations of the complaint admitted. The record contains sufficient evidence that respondent knowingly

misappropriated at least \$16,350 in client's funds from at least two clients. Under In re Wilson, 81 N.J. 451 (1979) (knowing misappropriation of client trust funds requires disbarment), respondent must be disbarred.

The Board unanimously recommends that respondent be disbarred. One member did not participate.

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

Dated: 11/2/98

By: 
LEE M. HYMERLING
Chair
Disciplinary Review Board

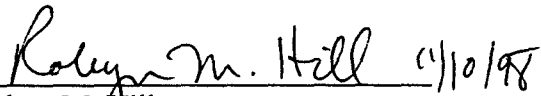
SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

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Disposition: Disbar

Members	Disbar	Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling	x						
Zazzali	x						
Brody	x						
Cole	x						
Lolla	x						
Maudsley	x						
Peterson	x						
Schwartz	x						
Thompson							x
Total:	8						1



Robyn M. Hill
Chief Counsel