

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 03-054

IN THE MATTER OF
RICHARD L. GRUBER
AN ATTORNEY AT LAW

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

Decided: June 17, 2003

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 us for the imposition of discipline, following respondent’s failure to file an answer to the formal ethics complaint.

The complaint alleged that respondent knowingly misappropriated escrow funds.

Respondent was admitted to the New Jersey bar in 1977. On May 20, 2002 he was temporarily suspended from the practice of law, based on his failure to turn over to an estate \$120,000 from the sale of a City of Newark taxi medallion (the subject of

this default matter). He remains suspended to date. In re Gruber, 172 N.J. 237 (2002). On February 24, 1998 respondent received a reprimand for gross neglect, lack of diligence, failure to communicate with the client and failure to cooperate with disciplinary authorities. In re Gruber 152 N.J. 451 (1998).

* * *

On January 9, 2003 the OAE sent a copy of the complaint to respondent's last known office address listed in the New Jersey Lawyers' Diary and Manual, One Riverfront Plaza, Suite 500, Newark, New Jersey 07012, by certified and regular mail. The OAE also sent a copy to respondent's home address, 1 Horizon Road, Fort Lee, New Jersey 07024, by certified and regular mail. The certified mail sent to both addresses was returned as "unclaimed." The regular mail was not returned.

On February 1, 2003 the OAE sent a second letter to respondent to the above addresses by certified and regular mail, advising him that, if he did not file an answer to the complaint within five days, the record would be certified directly to us for the imposition of discipline. Neither the certified mail receipt card nor the regular mail has been returned.

Respondent did not file an answer.

* * *

In October 1998 respondent represented the Noorulhoda Corporation in the purchase of a City of Newark taxi medallion from an estate. The purchase price was \$120,000. Under the October 2, 1998 agreement of sale, the attorneys for the estate,

Brown & Childress, L.L.C., were to hold a \$40,000 deposit until the closing. Noorulhoda was to pay the balance of the purchase price in fifty monthly installments of \$1,600 each.

A disagreement between the parties led Brown & Childress to release the deposit to respondent, to be held in his trust account. Respondent deposited that firm's \$40,000 check into his trust account on December 7, 1998. On December 4, 1998 the Newark Division of Taxi Cabs approved the sale and transferred the medallion to Noorulhoda.

On December 8, 1998 respondent wrote the following letter to Brown & Childress:

My client and I have negotiated the \$40,000 check and I have deposited same to my attorney trust account.

* * *

The deposit together with all subsequent installments are to remain in your trust account or in my trust account unless, and until such time [as the State of New Jersey Transfer Inheritance] tax waiver is in fact received.

On or about December 28, 1998 Noorulhoda made its first payment of \$1,600, which respondent deposited into his trust account, bringing to \$41,600 the total amount he was holding for the Noorulhoda matter.¹ Yet, on December 31, 1998, respondent's trust account contained only \$28,422.05, a shortfall of \$13,177.95.

Between January 1999 and May 2000, Noorulhoda made fifteen additional

¹ Respondent kept a ledger card for the Noorulhoda transaction under the name of the corporation's owner, Nabil Sabbati.

payments totaling \$24,000. Respondent deposited all of those funds into his trust account. On May 28, 1999 respondent's trust account had a balance of \$10,747.71, when it should have contained at least \$49,600 for the Noorulhoda matter alone. On February 29, 2000 that balance dwindled to \$1,526.77.

Noorulhoda did not authorize respondent to use the funds, other than for the purchase of the taxi medallion. The attorneys of the estate never authorized the release of any funds. Respondent released the funds without the inheritance tax waiver.

Between December 1998 and February 2000, respondent disbursed to himself the following sums from his trust account:

Date	Check Number	Amount
12/15/98	1142	\$6,500.00
01/15/99	1143	\$2,800.00
01/22/99	1144	\$1,200.00
02/02/99	1129	\$ 875.00
02/16/99	1161	\$2,500.00
08/23/99	1166	\$7,500.00
10/__/99	1168	\$5,000.00
11/03/99	1165	\$5,000.00
02/28/00	Wire Transfer	\$2,500.00

In all, respondent disbursed to himself \$33,875 of trust funds during this period. None

of those disbursements were made to or for the benefit of Noorulhoda or the seller-estate, or made with their authorization.

The complaint charged respondent with violations of RPC 1.15(a) and (b) (knowing misappropriation), RPC 1.15(c) (failure to safeguard trust funds), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) and the principles of In re Wilson, 81 N.J. 451 (1979), and In re Hollendonner, 102 N.J. 21 (1985).

* * *

Service of process was properly made. Following a review of the record, we found that the facts recited in the complaint support the charges of unethical conduct. Because of respondent's failure to file an answer, the allegations of the complaint are deemed admitted. R.1:20-4(f).

Respondent deposited the Noorulhoda funds in his trust account and did not utilize them for the purchase of the taxi medallion, using them instead for his personal benefit and without Noorulhoda's and the estate's authorization. Under the principles of In re Wilson, supra, 81 N.J. 451 (1979), and In re Hollendonner, supra, 102 N.J. 21 (1985), disbarment is required for respondent's knowing misappropriation of at least \$33,875 from the Noorulhoda funds. We, therefore, recommend to the Court that respondent be disbarred. Two members did not participate.

We also determined to require respondent to reimburse the Disciplinary Oversight

Committee for administrative expenses.

Disciplinary Review Board
Mary J. Maudsley, Chair

By: Robyn M. Hill
Robyn M. Hill
Chief Counsel

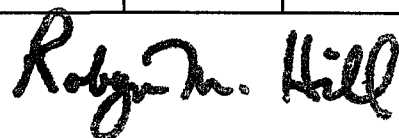
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Richard L. Gruber
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Disposition: Disbar

<i>Members</i>	<i>Disbar</i>	<i>Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Maudsley</i>	X						
<i>O'Shaughnessy</i>	X						
<i>Boylan</i>							X
<i>Holmes</i>	X						
<i>Lolla</i>	X						
<i>Pashman</i>	X						
<i>Schwartz</i>							X
<i>Stanton</i>	X						
<i>Wissinger</i>	X						
<i>Total:</i>	7						2



Robyn M. Hill
Chief Counsel