

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 06-237  
District Docket Nos. XIV-03-143E  
and XIV-04-198E

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IN THE MATTER OF  
JAMES DE ZAO  
AN ATTORNEY AT LAW

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Decision

Argued: October 19, 2006

Decided: December 4, 2006

Michael J. Sweeney appeared on behalf of the Office of Attorney Ethics.

Michael P. Ambrosio appeared on behalf of respondent.

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

This matter came before us by way of a disciplinary stipulation between the Office of Attorney Ethics ("OAE") and respondent, stemming from respondent's recordkeeping violations. We determine to impose an admonition.

Respondent was admitted to the New Jersey bar in 1985. At the relevant time, he maintained a law practice in Parsippany, New Jersey.

The Court reprimanded respondent in 2001 for misconduct in three matters, including gross neglect, pattern of neglect, lack of diligence, failure to communicate with a client, failure to explain a matter to the extent reasonably necessary to permit the client to make an informed decision about the representation, and failure to supervise an attorney-employee. In re DeZao, 170 N.J. 199 (2001).

According to the stipulation, in 1994, respondent was the subject of a random compliance audit. Following that audit, the OAE notified respondent of a number of recordkeeping deficiencies, as follows:

1. A schedule of client ledger accounts was not prepared and reconciled quarterly to the trust account bank statement.
2. Old outstanding checks were to be resolved.
3. Inactive trust ledger balances remained in the trust account for an extended period of time.

[S21B.]<sup>1</sup>

An April 2003 select audit of respondent's books and records disclosed that the same three deficiencies continued to exist. In one instance, the OAE determined that a \$139,787.44 trust account check, written during the first quarter of 1999,

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<sup>1</sup> S refers to the disciplinary stipulation.

still had not cleared respondent's trust account as of December 31, 2004. Because respondent did not reconcile a list of client ledgers to his adjusted checkbook balance, he did not detect this and several other outstanding balances.

From July 2001 through February 2003, respondent's bookkeeper, his sister, performed his reconciliations using QuickBooks software. The sister "did not realize" that, in addition to reconciling the checkbook balances to the bank statements, she was required to reconcile "a list of client ledgers" to the adjusted checkbook balance.

According to respondent, he inherited his recordkeeping system from his prior accountant, "upon whom he relied to establish a recordkeeping system in compliance with the rules." The accountant's system, however, did not comply with the recordkeeping rules. In addition, according to the stipulation, "the accountant made inaccurate entries into the QuickBooks system so that the books would appear to be balanced."

According to the stipulation, because respondent's bookkeeper had "not prepared a reconciliation containing and reconciling a list of client balances to the adjusted checkbook balance, respondent did not review a list of client balances to determine whether any old balances remained in his trust account."

Because respondent's recordkeeping violations did not result in the negligent misappropriation of client trust funds, the OAE recommended an admonition.

Following a review of the stipulation, we are satisfied that it supports a finding that respondent committed recordkeeping violations (RPC 1.15(d)).

The OAE's 2003 select audit revealed that respondent had not corrected the three deficiencies that had been pointed out to him after a 1994 compliance audit. One step of the reconciliation process was still not being performed. As a result, respondent was unable to detect old outstanding balances in the trust account. Respondent blamed his prior accountant and his sister for his deficient recordkeeping practices. Fortunately, no client funds were negligently invaded, as frequently occurs when attorney books and records are not properly maintained.

Admonitions have been imposed for attorneys guilty of recordkeeping violations, without the negligent misappropriation component. See, e.g., In the Matter of Jeff E. Thakker, DRB 04-258 (October 7, 2004) (failure to maintain an attorney trust account in a New Jersey banking institution); In the Matter of Scott A. Liebling, DRB 03-182 (September 17, 2003) (attorney failed to maintain trust account records required by R. 1:21-6); 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) (attorney did not comply with the recordkeeping provisions by not using his trust account in connection with his practice and by failing to maintain any of the required receipts and disbursements journals or client ledger cards); In the Matter of Christopher J. O'Rourke, DRB 00-069 (December 7, 2000) (attorney did not keep 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).

We are aware that respondent received a reprimand in 2001. Although a respondent's disciplinary record weighs heavily in the assessment of discipline for subsequent unethical conduct, we noted the unrelated nature of the violations committed in the prior matter and in the one now before us. Because the 2001 matter involved respondent's conduct in the legal representation of clients and the present one relates to the maintenance of his attorney records, it cannot be said that he failed to learn from prior mistakes. Moreover, although a 2003 audit revealed that certain bookkeeping problems uncovered by a 1994 audit still had not been remedied, it cannot be said that respondent was lax in taking appropriate action to correct the problems. He hired an


accountant who, regrettably, did not comply with the recordkeeping rules and, later, acquired a software program for the maintenance of his accounts. Unfortunately, his sister – the bookkeeper – was unaware of all of the functions she was required to perform.

In light of the above considerations, we are not persuaded that discipline stronger than an admonition is required in this case.

Member Neuwirth did not participate.

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  
William J. O'Shaughnessy, Chair

By:   
Julianne K. DeCore  
Chief Counsel

SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

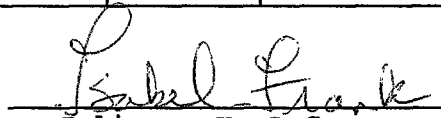
In the Matter of James C. DeZao  
Docket No. DRB 06-237

Argued: October 19, 2006

Decided: December 4, 2006

Disposition: Admonition

Members	Disbar	Suspension	Admonition	Dismiss	Disqualified	Did not participate
O'Shaughnessy			X			
Pashman			X			
Baugh			X			
Boylan			X			
Frost			X			
Lolla			X			
Neuwirth						X
Stanton			X			
Wissinger			X			
Total:			8			1

By   
Julianne K. DeCore  
Chief Counsel