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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 00-070

IN THE MATTER OF
PHILIP FEINTUCH
AN ATTORNEY AT LAW

Decision

Argued: May 11, 2000

Decided: October 18, 2000

Nitza I. Blasini appeared on behalf of the Office of Attorney Ethics.

Robert E. Margulies 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 disciplinary stipulation between respondent and the Office of Attorney Ethics ("OAE"). Respondent stipulated that he violated RPC 1.15(a) (negligent misappropriation of client trust funds and improper commingling of funds) and RPC 1.15(d) (recordkeeping violations).

Respondent was admitted to the New Jersey bar in 1964. He maintains an office for the practice of law in Jersey City, New Jersey. He has no history of discipline.

* * *

This matter arose from a demand audit of respondent's books and records, conducted by the OAE in October 1996. The audit, which was prompted by a grievance filed against one of respondent's associates, revealed that respondent had negligently misappropriated client trust funds.

In 1994, respondent represented the estate of Milica Blagojevic. After he deposited \$56,161.19 of the estate's funds in his trust account, he negligently misappropriated part of the funds by making three improper disbursements, that led to a trust account shortage of \$25,794.79.

The three disbursements were: (1) a \$10,454.53 trust account check, dated May 26, 1994, to redeem tax certificates on property owned jointly by respondent and his wife; (2) a \$340.26 trust account check, dated June 3, 1994, to pay his wife's obligations as a realtor in connection with a closing that had occurred on June 3, 1994; and (3) a \$15,000 trust account check, dated July 22, 1994, payable to Feintuch, Porwich and Feintuch. The Blagojevic ledger card noted that the issuance of the third check was a "wrongful withdrawal to be corrected." The \$15,000 was replaced the same day.

Respondent also stipulated that he had negligently invaded client trust funds when he made disbursements for nursing home care for his mother, Ida Kanis, in excess of the funds that had been deposited in his trust account for that purpose.

The audit also revealed that respondent's client ledger card for his mother incorrectly reflected positive balances from February 8, 1994 to July 12, 1994, due to a \$10,000 disbursement that was improperly recorded as a \$14,500 deposit.

Respondent also stipulated that he had improperly commingled client and personal funds by leaving earned fees in his trust account. Also, instead of first transferring the funds to his attorney business account, respondent disbursed the funds directly from his trust account to himself, his law firm, his wife, his mother, other family members and to the Blagojevic estate.

Finally, respondent admitted numerous recordkeeping violations.

In mitigation, respondent submitted a psychiatric report from Dr. Michael D. Robinson. Respondent initially consulted Dr. Robinson in July 1997. Respondent reported to Dr. Robinson that, between 1993 and 1996, he had been "under severe stress" caused by the "psychiatric illness of his daughter and the deterioration of his mother's health." Respondent's mother died in September 1997. Based on respondent's July 1997 description of his symptoms between 1993 and 1996, Dr. Robinson opined that respondent "was depressed during at least a substantial portion of that period, and that had he undergone a

psychiatric evaluation, he would have been found to have met the diagnostic criteria for a major depressive episode."

Respondent also stated in mitigation of his misconduct, that, as soon as he had received the OAE's audit report, he retained the services of a certified public accountant to perform a three-way reconciliation for the entire audit period (1993 through 1997), as requested by the OAE. Furthermore, according to respondent, since 1997 the accountant "has provided quarterly oversight to the attorney trust account and the account has consistently balanced since then." Finally, respondent stated, the accountant trained the staff person in charge of respondent's accounts, so that there would be no further recordkeeping problems.

* * *

The OAE recommended that respondent be reprimanded for his misconduct. In the stipulation, respondent reserved the right to argue that his misconduct warranted only an admonition. However, at oral argument before us, respondent's counsel agreed with the OAE that a reprimand was the appropriate sanction.

* * *

Upon a de novo review of the record, we are satisfied that the stipulation provides clear and convincing evidence that respondent was guilty of unethical conduct.

Respondent violated RPC 1.15(a) by negligently misappropriating funds from the Blagojevic estate and by disbursing excess funds on his mother's behalf, thereby negligently invading other clients' trust funds. He also violated RPC 1.15(a) by improperly leaving earned fees in his trust account, instead of transferring them to his business account. By paying his personal obligations directly from his trust account, a recordkeeping impropriety, respondent also violated RPC 1.15(d).

Finally, respondent admitted to numerous recordkeeping violations and stipulated that his recordkeeping practices were not in accordance with R. 1:21-6, in violation of RPC 1.15(d).

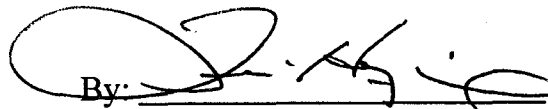
In cases involving similar misconduct, reprimands have generally been imposed. See, e.g., In re Neff, 147 N.J. 283 (1997) (reprimand where attorney negligently misappropriated client funds and commingled personal and client funds); In re Gilbert, 144 N.J. 581 (1996) (reprimand where attorney negligently misappropriated in excess of \$10,000 in client funds and committed violations of the recordkeeping rules, including commingling personal and trust funds and depositing earned fees in the trust account; attorney also failed to properly supervise firm's employees with regard to the maintenance of his business and trust accounts); and In re Harrison, 139 N.J. 609 (1995) (reprimand where attorney negligently

misappropriated client trust funds and left earned legal fees in the trust account for an extended period of time).

In light of the mitigating circumstances present in this case, the absence of disciplinary history and respondent's cooperation with the OAE, we unanimously determined to reprimand him. One member did not participate.

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

Dated: 10/18/00

By: 

LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of Philip Feintuch
Docket No. DRB 00-070**

Argued: May 11, 2000

Decided: October 18, 2000

Disposition: Reprimand

Members	Disbar	Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling			X				
Peterson			X				
Boylan			X				
Brody			X				
Lolla			X				
Maudsley			X				
O'Shaughnessy			X				
Schwartz							X
Wissinger			X				
Total:			8				1

Robyn M. Hill 1/18/01
Robyn M. Hill
Chief Counsel