

BONE

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket Nos. DRB 97-386

IN THE MATTER OF :
:
RICHARD B. WEIL :
:
AN ATTORNEY AT LAW :
:

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

Decided: August 18, 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 May 2, 1997, the OAE mailed a copy of the complaint to the respondent by regular and certified mail to his last known address listed in New Jersey Lawyers' Diary and Manual. The regular mail envelope was not returned, and the returned certified mail receipt indicated delivery on May 5, 1997. The signature of the person accepting delivery appears to be that of respondent. Respondent did not file an answer. Thereafter, on September 17, 1997 the OAE sent the respondent a second letter advising him that, unless he filed an answer to the complaint within five days, the

allegations of the complaint would be deemed admitted. The regular mail envelope was not returned, and the certified mail receipt, apparently signed by the respondent, was returned indicating delivery on September 20, 1997. Respondent did not file an answer.

Respondent was admitted to the New Jersey Bar in 1973. At the relevant times, he maintained an office in Montclair, New Jersey. Respondent was temporarily suspended by the Supreme Court on October 17, 1995 for failure to cooperate with ethics authorities. In re Weil, 142 N.J. 489 (1995). The suspension continues to date.

The complaint charged respondent with violations of RPC 1.15(a) (safekeeping property) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) for the knowing misappropriation of client funds, citing In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985).

The complaint alleged that on August 10, 1994 respondent received \$13,000 to be held in trust on behalf of his client, Cho Hung Bank of New York ("CHBONY"). The funds were a real estate deposit obtained from the buyers, Joel and Lori Kaplan, for the sale of CHBONY's property.

After the deposit, the balance in respondent's trust account totaled \$14,687.64. Under the terms of the real estate contract between CHBONY and the Kaplans, respondent was to keep the \$13,000 deposit in his trust account until the transaction closed on October 21, 1994. From August 10, 1994 to August 31, 1994, respondent disbursed eleven trust account

checks to himself totaling \$12,990.30 without the knowledge or consent of CHBONY or the Kaplans.

On November 5, 1994, respondent wrote a check from his trust account to CHBONY for \$11,500, representing the amount due from the \$13,000 deposit. The check was returned by the bank for insufficient funds on November 17, 1994. The balance in respondent's trust account was below \$11,500 from August 31, 1994 to November 17, 1994, with the exception of twelve days from September 30, 1994 to October 11, 1994. The complaint is silent as to why there were sufficient funds during those twelve days.

On December 12, 1994 respondent issued two checks totaling \$11,500 to replace the returned check. One check in the amount of \$5,500 cleared. However, the second check for \$6,000 was returned by the bank on December 6, 1994 for insufficient funds. Respondent had not satisfied the \$6,000 obligation as of the date of the complaint.

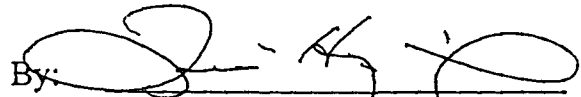
* * *

Following a de novo review of the record, the Board deemed the allegations of the complaint admitted. The record contains sufficient evidence of respondent's unethical conduct. Respondent invaded funds held in escrow. His conduct thus violated RPC 1.15(a) and RPC 8.4(c). Under In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J.

21 (1985), respondent must be disbarred. The Board unanimously so recommends. Three members did not participate.

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

Dated: 8/18/98

By: 

LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

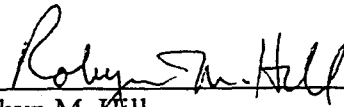
**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of Richard B. Weil
Docket No. DRB 97-386**

Decided: August 18, 1998

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:	6						3

 8/21/98
Robyn M. Hill
Chief Counsel