

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 16-077  
District Docket No. XIV-2014-0599E

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IN THE MATTER OF :  
MICHAEL A. LUCIANO :  
AN ATTORNEY AT LAW : Dissent

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

Unlike the majority, we are not persuaded by the evidence presented on remand and, thus, maintain our determination that the record clearly and convincingly establishes that respondent knowingly misappropriated \$100,000 from his client, Doris A. Cox. In our view, the corroboration of the "gift" by respondent's family members, law partner, and former secretary is self-serving both to his interests and to theirs. That his client was generous to others does not convince us of her generosity toward him, for several reasons.

First, up until the time of the "gift," respondent billed Cox for the services he provided to her. Why, then, would she reward him with a six-figure "bonus?" This is particularly so, given that her rewards to others were in writing in the form of

specific bequests in her will or the identification of beneficiaries to her annuity and pension.

Second, it is unfathomable to us that an attorney as experienced and meticulous as respondent would fail to obtain a writing confirming that Cox has gifted \$100,000 to him.


Third, respondent's failure to report such a substantial sum of money to any taxing authority, together with his admission that he did not want the beneficiaries to know about the gift, smacks of dishonesty so premeditated in scope as to trump all other evidence suggesting - and it only suggests - a gift.

Finally, given Cox's age (ninety years old) at the time she allegedly gifted the \$100,000 to respondent, we examine his defense with more scrutiny. Although there was no evidence that Cox was incompetent at the time she made the "gift," she certainly was vulnerable, in light of her age and poor health. In our view, respondent's failure to have the "gift" reduced to writing or to even suggest that Cox seek the advice and counsel of a third-party in that regard, though not required, certainly does not weigh in his favor.

In short, the evidence presented by respondent, on remand, is so weak that it does not assuage us of our conviction that he

knowingly misappropriated \$100,000 from his client, Doris A.  
Cox.

Disciplinary Review Board  
Maurice J. Gallipoli  
Robert C. Zmirich

By:   
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