SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 16-346
District Docket Nos. XIV-2014-0562E
and XIV-2015-0220E

IN THE MATTER OF	
JONATHAN GREENMAN	
AN ATTORNEY AT LAW	

Decision

Decided: May 23, 2017

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

These matters were before us on a certification of default filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-4(f). The complaint charged respondent with having violated RPC 1.1(a) (gross neglect) (four counts), RPC 1.3 (lack of diligence) (four counts), RPC 1.15(a) and the principles of In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985) (knowing misappropriation of client and escrow funds) (four counts), RPC 1.15(b) (failure to promptly disburse funds) (four counts), RPC 4.1(a)(1) (making a false statement of material fact or law to a third person), RPC 5.5(a)(1) (practicing while suspended), RPC

8.1(b) and R. 1:20-3(g)(3) (failure to cooperate with disciplinary authorities), RPC 8.4(b) (criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and RPC 8.4(d) (conduct prejudicial to the administration of justice for failure to comply with the requirements of R. 1:20-20 concerning suspended attorneys) (two counts).

For the reasons detailed below, we find that respondent knowingly misappropriated escrow funds, and recommend his disbarment.

Respondent was admitted to the New Jersey and Pennsylvania bars in 2003. He has a significant ethics history. On January 23, 2014, respondent received an admonition for lack of diligence and failure to communicate with his client. In the Matter of Jonathan Greenman, DRB 13-328 (January 23, 2014). Additionally, on February 20, 2015, respondent was temporarily suspended for his failure to appear with requested files for an audit at the OAE. In re Greenman, 220 N.J. 490 (2015).

Subsequently, on May 19, 2016, respondent was censured in a default matter for his failure to cooperate with an ethics

investigation in violation of RPC 8.1(b). In re Greenman, 225 N.J. 11 (2016).

On October 7, 2016, also in a default matter, the Court suspended respondent for three months for his violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(b) (failure to keep a client reasonably informed about the status of a matter), RPC 1.5(b) (failure to set forth in writing the rate or basis of a fee), RPC 1.5(c) (failure to prepare a written fee agreement in a contingency fee matter), RPC 8.1(b) and R. 1:20-3(g)(3) (failure to cooperate with disciplinary authorities); and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). In re Greenman, 226 N.J. 595 (2016).

At our July 2016 session, we considered two matters against respondent - a motion for reciprocal discipline and a default. We consolidated them for the purposes of issuing one form of discipline and recommended a three-year suspension. The motion for reciprocal discipline arose from respondent's two-year suspension by the United States Bankruptcy Court for the District of New Jersey, for his violation of RPC 1.1 (presumably, (a), gross neglect); RPC 1.3 (lack of diligence); RPC 1.4 (presumably, (b), failure to communicate); and RPC 3.3(a) (lack of candor toward a tribunal).

In the default matter, we determined that respondent had violated RPC 8.1(b) (failure to cooperate with disciplinary authorities) and RPC 8.4(d) (conduct prejudicial to the administration of justice) for his failure to comply with the Court Order requiring him to file an affidavit of compliance with R. 1:20-20, following his February 20, 2015 temporary suspension. These matters are pending before the Court.

On June 2, 2016, the OAE sent a copy of the complaint in the matter now before us to respondent in accordance with R. 1:20-7(h), at his last known home address listed in the records of the Lawyers' Fund for Client Protection (the Fund), by regular and certified mail. On July 18, 2016, the certified mail was returned marked "Unclaimed;" however, the certified mail had been forwarded to a Post Office Box address. The regular mail sent to respondent's home address was not returned.

On June 28, 2016, the OAE sent a second letter (known as a "five-day letter") to respondent, informing him that, if he failed to file a verified answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the entire record would be certified directly to us for the imposition of discipline, and the complaint would be deemed amended to include a violation of RPC 8.1(b). The OAE sent

the letter to the same home address, to which the complaint had been sent, by regular and certified mail. On August 2, 2016, the certified mail was returned marked "Unclaimed;" however, it also had been forwarded to a Post Office Box address. The regular mail sent to respondent's home address was not returned.

On July 5, 2016, the OAE sent an Address Information Request letter to the Fair Lawn Branch of the United States Postal Service (USPS) seeking verification of respondent's home address listed in the records of the Fund. On July 15, 2016, the USPS informed the OAE of respondent's forwarding address to a Post Office Box.

On July 19, 2016, the OAE sent a copy of the complaint to respondent's Post Office Box, by regular and certified mail. On August 24, 2016, the certified mail was returned marked "Unclaimed." The regular mail sent to this Post Office Box was not returned.

On August 11, 2016, the OAE sent another "five-day letter" to respondent at his Post Office Box, by regular and certified mail. USPS tracking information for the August 11, 2016 certified mail to the Post Office Box shows that the letter was returned to the sender on August 17, 2016, because the addressee moved and left no forwarding address. Despite this tracking information, on August 30, 2016, the certified mail was returned marked "Return

to Sender, Not Deliverable as Addressed, Unable to Forward" and "Box Closed, No Forwarding Order on File." On August 29, 2016, the regular mail sent to this address was returned marked "Return to Sender, Not Deliverable as Addressed, Unable to Forward."

On August 18, 2016, the OAE sent an Address Information Request letter to the Allendale Branch of the USPS seeking verification of respondent's Post Office Box address. On August 29, 2016, the USPS informed the OAE that the status of that box was "Box Closed. No Forward."

On September 12, 2016, the OAE arranged for the publication of a disciplinary notice, stating that a formal ethics complaint had been filed against respondent, in the New Jersey Law Journal and in The Record, a newspaper of general circulation in Bergen County.

As of October 5, 2016, the date of the certification of the record, respondent had not filed an answer to the complaint.

Subsequently, on October 21, 2016, the OAE filed a supplemental certification of the record (SCR), indicating that, on October 5, 2016, the OAE mailed a copy of the certification of the record to respondent's home address, by way of UPS delivery. The UPS tracking detail shows that, on October 12, 2016, respondent requested a UPS My Choice delivery change, modifying the delivery

address to a UPS facility in Saddle Brook, New Jersey. The UPS tracking detail shows that the next day, October 13, 2016, respondent agreed to collect the package from that location that evening. As of the date of the SCR, the OAE had not received any communication from respondent.

We now turn to the facts alleged in the complaint.

The McCaig Matter

Respondent represented Dorothy McCaig in connection with a real estate purchase from Margaret Flanagan. He served as the settlement agent at the October 14, 2011 closing of title. On that date, a $164,282.82 deposit was made to respondent's Trust Account (ATA) sub-account for McCaig.

According to the HUD-1, respondent's legal fee for this transaction was $1,100. Yet, after the closing, he made the following series of transfers from his McCaig ATA sub-account to his Attorney Business Account (ABA): (1) October 28, 2011, $3,750; (2) November 2, 2011, $1,000; (3) November 16, 2011, $2,250; (4) November 17, 2011, $2,000; and (5) December 8, 2011, $3,500. Before each of these transfers, the ABA had a negative balance, which was created when respondent used those funds for payroll and other office expenses that exceeded the amount on deposit in that account.

Respondent used the funds from McCaig's sub-account without her knowledge or consent. She neither authorized respondent to transfer funds from her sub-account to his ABA nor to use the funds held in escrow for her closing expenses for his own personal or business expenses.

Fewer than two weeks later, on December 20, 2011, respondent disbursed ATA check #3239 for $2,750.67, payable to Winding Hill Condo Association, in accordance with the HUD-1. He also disbursed ATA check #3242 for $2,539.08, payable to Winding Hill, and ATA check #3257 for $2,000, payable to McCaig, which were not recorded on the HUD-1. These three disbursements resulted in a $5,500 overdraft of respondent's ATA.

On December 22, 2011, respondent deposited a total of $8,600 from an unknown source(s) into his ATA sub-account for McCaig, which brought the balance of the sub-account to $3,050. On December 27, 2011, $6,000 of the $8,600 deposit was returned, causing the ATA sub-account for McCaig to be overdrawn by $2,950. Two days later, on December 29, 2011, respondent transferred $3,000 from his ATA sub-account #4254, for his client Starks Gems, to his ATA sub-account for McCaig, to cure the $2,950 overdraft. After the last transfer, the balance of McCaig's sub-account was $50.

As of December 29, 2011, respondent's ATA sub-account for McCaig should have been holding $4,950 in escrow to pay McCaig's fourth quarter real estate taxes to the Borough of Pompton Lakes. Nonetheless, one year after the closing on her property, the Borough notified McCaig that the property taxes had not been paid. She contacted respondent, who agreed to pay her the money due for her taxes in installments, as he did not have the full amount that he should have been safeguarding on her behalf. Because he failed to safeguard McCaig's money, she was required to pay the fourth quarter real estate taxes herself.

The Anavi Matter

In May 2012, respondent represented Mordechai and Iris Anavi in the purchase of real estate in Mahwah, New Jersey. Respondent was the settlement agent for the closing of the transaction, which occurred on May 25, 2012.

Between May 25 and May 31, 2012, respondent made one deposit to, and eleven disbursements from, his sub-account for the Anavis, including a $160,787.79 wire transfer to Wells Fargo to pay off a mortgage. After that transfer, the balance of the Anavi ATA sub-account was $4,397.43. From that balance, respondent was required

to pay $1,742 to Core Title Insurance Agency, but he failed to do so at the time of the closing.

Between June 21 and September 24, 2012, respondent made seven transfers totaling $4,500 from his ATA sub-account for the Anavis to his ABA and one transfer from his ABA to his ATA sub-account for Anavi for $200. Respondent used the money he transferred to his ABA for his own purposes, which were unrelated to the Anavi closing. As of September 24, 2012, the balance in the Anavi sub-account should have been $4,397.43, including the $1,742 due to Core Title. Instead, after the transfers to his ABA, which were made without the authorization or knowledge of the Anavis, the balance in respondent's ATA Anavi sub-account was only $97.43.

The Bradbury Matter

On August 17, 2012, Neal and Erica Bradbury retained respondent to represent them in the purchase of real estate in Hillside, New Jersey, from Robert Ratanski, the executor of the Estate of Edmund J. Johnson. Respondent served as the settlement agent at closing on October 5, 2012.

As of the date of the closing, the sub-account had a starting balance of $382,515.75. After respondent made the necessary disbursements pertaining to the closing, the ending balance of the

sub-account was $24,592.22. Among the disbursements made on October 5, 2012 was check #3328 payable to Greenman & Associates for $1,550, which consisted of respondent's fees as well as fees for recording the mortgage and deed in accordance with the HUD-1. Respondent, however, failed to record the mortgage and deed.

The $24,529.22 balance in respondent's ATA Bradbury sub-account remained intact until March 10, 2013, when respondent made three disbursements on behalf of Bradbury, reducing the balance of the sub-account to $19,282.20. The remaining balance represented the amount due to the Bergen County Clerk for realty transfer fees of $3,282.20 plus $16,000 that respondent held in escrow pending the issuance of tax waivers.

On May 9, 2013, however, respondent made two disbursements from his Bradbury ATA sub-account. Check #3346 was made payable to Dorothy McCaig for $1,000 to partially cover his knowing misappropriation of McCaig's funds and had no connection with the Bradbury from Ratanski closing. Respondent also issued check #3359 to Core Title Agency for $1,742 in payment for Core Title's services in the Anavi closing. He did so because there were insufficient funds in the Anavi sub-account, due to his earlier misappropriation of the Anavis' funds. Respondent issued these

checks from the Bradbury sub-account without the Bradburys' knowledge or consent, reducing their balance to $16,540.20.

On May 31, 2013, respondent issued check #3372 payable to Lawrence N. Meyerson Attorney Trust Account, the attorney for the Johnson Estate, for $16,000, which represented the tax waiver escrow funds. The balance of the Bradbury ATA sub-account was reduced to $540.20. Respondent should have been holding $3,282.20 in the sub-account for the payment of the realty transfer fee, leaving a shortfall of $2,742.

On June 11, 2013, respondent issued ATA check #3378 for $540.20, from the Bradbury sub-account, payable to "Sal Greenman, P.C.," reducing the balance to $0.[1] Respondent released funds to Sal Greenman, P.C. from the sub-account without the knowledge or consent of the Bradburys. Further, respondent never paid the realty transfer fee to the Bergen County Clerk.

The Cornwell Grievance

On October 6, 2014, Clark Cornwell, Esq., filed a grievance against respondent with the OAE. Cornwell alleged that respondent neither recorded the closing documents for a real estate matter

[1] Respondent was a partner at the Law Office of Sal Greenman, P.C.

nor replied to inquiries about the funds that respondent had collected to pay the recording fees.

On October 31, 2014, the OAE sent a copy of the grievance to respondent, directing him to submit a written reply by November 17, 2014. Respondent failed to reply. On November 20, 2014, the OAE sent a second letter to respondent, directing him to respond in writing to the grievance by December 1, 2014. On December 1, 2014, the OAE received a letter from respondent, dated November 18, 2014, requesting an extension of time to respond to Cornwell's grievance. The OAE granted an extension to December 5, 2014. Respondent again failed to provide the OAE with a written response to the grievance.

On December 10, 2014, the OAE once again directed respondent to provide a written response to the grievance by December 15, 2014. The OAE added that, if respondent failed to cooperate with the OAE, the investigation would be completed without his input. On December 16, 2014, respondent sent a fax to the OAE, acknowledging that he had received the OAE's request for a response, explaining that he had previously mailed a response, and promising to send another copy to the OAE. The OAE never received a written response to the grievance.

On January 30, 2015, Cornwell submitted additional documents to the OAE. On February 3, 2015, the OAE sent a copy of these documents to respondent, directing him to provide a response thereto by February 13, 2015. As of the date of the complaint, respondent had not provided a response to the Cornwell grievance.

The Libo Matter

On March 20, 2013, Alias Sheras, represented by Glenn Finkel, Esq., filed a lawsuit against Elena Libo, alleging that Libo defaulted on payments on an oral promissory note of $100,000. Libo retained respondent to represent her in connection with the lawsuit as well as in the sale of real estate in Fair Lawn, New Jersey.

On April 9, 2013, respondent received a cashier's check payable to Sal Greenman & Associates for $52,000 for the deposit in connection with the real estate transaction. On April 12, 2013, respondent deposited those funds into his Libo ATA sub-account.

On May 17, 2013, respondent sent a letter to Sheras, representing that he would hold in his ATA $62,000 from the proceeds of the sale of Libo's property, until a resolution of the Sheras v. Libo matter could be reached. On May 23, 2013, the sale of Libo's property closed with Foundation Title, LLC (Foundation) serving as the settlement agent for the transaction. At the

closing, with respondent in attendance, ATA check #3371 was issued to Libo for $53,000 and was executed by Sal Greenman. Respondent was required by the HUD-1 to hold $62,000 of Libo's proceeds in escrow, pending resolution of the Sheras v. Libo litigation.

On May 23, 2013, respondent received check #27422 from Foundation in the amount of $62,000 payable to "Sal Greenman Attorney Trust Account" on behalf of Libo. Seven days later, on May 30, 2013, Foundation's check was deposited into the ATA sub-account designated for Libo. On October 31, 2014, Julie Pietrafesa, Finkel's paralegal, sent respondent an e-mail requesting confirmation that he still held the $62,000 in trust for Libo. Respondent confirmed his possession of the funds in a letter to Finkel dated November 20, 2014.

However, as of November 4, 2014, respondent held no funds in the Libo sub-account. Specifically, bank records show that, between June 12, 2013 and November 4, 2014, fifteen disbursements were made from the Libo sub-account, depleting all of those funds. Nine of those disbursements represented transfers made to the firm's ABA.

Between August 26, 2013 and May 24, 2014, the following transfers were made from respondent's Libo ATA sub-account to his ABA: (1) August 26, 2013, $4,000 by two $2,000 transfers (prior

to the first transfer, the ABA balance was negative $247.68); these funds were almost completely depleted by two checks totaling $3,540.95 posted to the ABA on August 27, 2013; (2) September 25, 2013, $3,500; these funds, as well as a mobile deposit of $1,050, contributed to a $2,500 payment from the ABA to the Dahiya Law Group, LLC Attorney Trust Account and to electronic payments made to Blue Cross Blue Shield Primary for $1,379.14, Honda for $649.75, American Honda Finance for $330, and American Express for $7.95; (3) November 7, 2013, $1,166.66 (prior to the transfer, the ABA balance was negative $777.66 as a result of the posting of two checks – one for $460 payable to "cash" signed by Sal Greenman and the other for $390 payable to El Mar Media and Publishing); thereafter, respondent made an electronic payment of $561.84 to Geico and issued an ABA check to himself for $1,000, thereby increasing the negative ABA balance; (4) November 8, 2013, $2,333.32 by two $1,166.66 transfers, restoring the ABA balance to a positive $648.48; and (5) May 20, 2014, $2,007.77 (prior to that transfer, the ABA balance was negative $2,679.58 due to, among other things, a $1,275 check issued to respondent against insufficient funds).

According to the complaint, all of the above transfers were made for purposes unrelated to either of Libo's matters and without her knowledge or consent.

On June 12 and September 19, 2013, respondent issued ATA check #3380 for $2,500 and check #3393 for $3,500, from the Libo sub-account, payable to Sal Greenman, P.C. The checks contained no description. Respondent used these funds for his own purposes, which were unrelated to the Sheras v. Libo matter, without Libo's knowledge or consent.

In addition to checks #3380 and #3393, respondent issued three other ATA checks without referencing a client sub-account number: (1) #3370 to Page Miliolis for $1,040; (2) #3338 to Yolanda Nate for $19,000; and (3) #3350 to Borough of Pompton Lakes for $4,015.16. Each check was applied to the Libo sub-account, pursuant to respondent's oral instructions to Bank of America. Respondent issued these five checks, and used the funds, without the permission or authority of Libo. The funds were used for respondent's own purposes, or purposes unrelated to Libo or the Sheras v. Libo matter.

After the transfers from the Libo sub-account to respondent's ABA, and the checks applied to, or issued from, the Libo sub-account, the balance in the Libo sub-account, as of May 20, 2014,

was $16,837.09. This amount was $45,162.91 less than the $62,000 respondent should have been safeguarding on behalf of Libo in his ATA. The shortage in the Libo sub-account lasted from May 20 until November 4, 2014, when respondent transferred the entire balance of $16,837.09 to sub-account #0001 for the Law Office of Sal Greenman, P.C., leaving a balance of $0.00 in the Libo sub-account. Respondent did so without Libo's knowledge or consent. As of November 3, 2014, the day before the $16,837.09 transfer, the balance in the Greenman sub-account #0001 was negative $18,645.24. After the $16,837.09 transfer, the balance in the Greenman sub-account was ($1,340.11). Respondent also transferred funds for $3,148.26 from other client sub-accounts into the Greenman sub-account #0001 to cover the shortage.

On October 28, 2015, the Honorable Charles E. Powers, Jr., J.S.C., entered judgment against Libo for $78,198.00, plus interest accrued from October 9, 2015, to the date of payment, at the per diem rate of $16.94. Judge Powers specifically ordered, in his accompanying opinion, that "the funds held in escrow by [respondent] of the Law Offices of Sal Greenman & Associates, P.C. in the sum of $62,000.00 as relates to the proceeds from the sale of Defendant Libo's property . . . be turned over to counsel for Plaintiff for partial satisfaction of the judgment entered in this

action." As of the date of the complaint, Libo had not received any funds or an accounting of the funds from respondent.

As previously mentioned, respondent was temporarily suspended from the practice of law, on February 20, 2015 for his failure to cooperate with the OAE. Respondent failed to notify Libo of his temporary suspension from the practice of law and instead, continued to represent her in connection with the Sheras v. Libo litigation.

On March 24, 2015, respondent contacted Finkel's office regarding the Sheras v. Libo matter. Specifically, respondent wrote a letter stating:

> To Whom It May Concern: Please be advised that this office represents the interests of Elena Libo in the above-captioned matter. Please be advised that Summary Judgment in this matter was vacated and no judgement should exist against Ms. Libo as it relates to this matter. Additionally, funds are being held to pay for any alleged damages should Ms. Libo not be successful in her defense in upcoming litigation concerning this matter.

The letter, which respondent signed, referenced Alias Sheras v. Elena Libo, Docket No. L-2144-13. Respondent did not state in his letter that he had been temporarily suspended from the practice of law. To the contrary, respondent indicated that his office represented Libo's interests.

The trial in the Sheras v. Libo matter was scheduled for April 21, 2015, before the Honorable Robert L. Polifroni, P.J.Cv. On April 20, 2015, respondent sent a handwritten letter to Judge Polifroni requesting an adjournment of the trial date. Respondent failed to inform Judge Polifroni that he had been temporarily suspended from the practice of law.

Thereafter, on April 21, 2015, respondent participated in a telephonic status conference in the Sheras v. Libo matter. Respondent again failed to inform Judge Polifroni or Finkel, during the status conference, of his temporary suspension.

On April 23, 2015, respondent sent an e-mail to Finkel's paralegal, Pietrafesa, in reference to "Libo v. Sheras," informing Finkel that respondent's surgery was scheduled for May 15, and asking whether they could "agree on a date in mid-July or August so the court can be advised?" Again, respondent failed to inform his adversary that he had been temporarily suspended. By letter dated April 28, 2015, Finkel's law firm informed Judge Polifroni that respondent had been temporarily suspended.

* * *

The complaint alleges sufficient facts to support the charges of unethical conduct. Respondent's failure to file an answer is deemed an admission that the allegations of the complaint are true

and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).

Although the complaint charged respondent with twenty-three RPC violations, the most serious, knowing misappropriation, is the only charge that need be addressed. Respondent, without the knowledge or consent of McCaig, Anavi, Libo, or several other unnamed clients, used their funds for his own personal purposes or purposes unrelated to their respective matters.

Respondent used McCaig's funds to cover shortages in his firm's ABA that had resulted from the payment of payroll and other office expenses. He then transferred money from Starks Gem's sub-account to cover the shortages in McCaig's sub-account. Respondent treated funds in the Anavi sub-account similarly, using them for his own purposes or purposes unrelated to that matter. Likewise, respondent was to hold $19,282.20 in escrow on behalf of Bradbury to pay realty fees and tax waivers. Not only did respondent fail to pay these items, but he also used Bradbury's money to pay McCaig, released funds to Sal Greenman P.C., and used funds for other purposes not related to that client matter.

Respondent was charged with safeguarding $62,000 on behalf of Libo. Instead, he transferred $3,499.98 to his ABA for purposes unrelated to Libo's matter, and then paid himself from his ABA

directly from the funds he had transferred. Additionally, seven checks were written from respondent's ATA for either respondent's own purposes or purposes unrelated to the Libo matter. Finally, respondent transferred the remaining $16,837.09 of the $62,000 he was to safeguard, to his firm's sub-account to apply against a negative $18,645.24 balance. Compounding the matter, respondent then transferred funds from other client sub-accounts to cover the remaining negative balance in the firm's sub-account.

Most of the transactions at issue evidence that respondent had engaged in "lapping," that is, taking one client's funds to pay trust obligations owed to another client – in a nutshell, "robbing Peter to pay Paul," but always making certain that "Peter's funds" were replenished when it was time to repay "Peter." In re Brown, 102 N.J. 512, 515 (1986). In this case, however, respondent never replenished the client trust funds. If that were not enough, he also moved client funds out of the respective ATA sub-accounts to his ABA, to cover firm expenses as well as for his own personal use.

In Wilson, the Court described knowing misappropriation of client trust funds as follows:

> Unless the context indicates otherwise, "misappropriation" as used in this opinion means any unauthorized use by the lawyer of

> clients' funds entrusted to him, including not only stealing, but also unauthorized temporary use for the lawyer's own purpose, whether or not he derives any personal gain or benefit therefrom.
>
> [In re Wilson, supra, 81 N.J. 455 n.1.]

Six years later, the Court elaborated:

> The misappropriation that will trigger automatic disbarment that is "almost invariable" . . . consists simply of a lawyer taking a client's money entrusted to him, knowing that it is the client's money and knowing that the client has not authorized the taking. It makes no difference whether the money was used for a good purpose or a bad purpose, for the benefit of the lawyer or for the benefit of others, or whether the lawyer intended to return the money when he took it, or whether in fact he ultimately did reimburse the client; nor does it matter that the pressures on the lawyer to take the money were great or minimal. The essence of Wilson is that the relative moral quality of the act, measured by these many circumstances that may surround both it and the attorney's state of mind is irrelevant: it is the mere act of taking your client's money knowing that you have no authority to do so that requires disbarment . . . . The presence of "good character and fitness," the absence of "dishonesty, venality or immorality" – all are irrelevant.
>
> [In re Noonan, 102 N.J. 157, 159-60 (1986).]

Thus, to establish knowing misappropriation, there must be clear and convincing evidence that the attorney took client funds, knowing that the client had not authorized him or her to do so,

and used them. This same principle applies to other funds that the attorney is to hold inviolate, such as escrow funds. In re Hollendonner, 102 N.J. 21 (1985).

In Hollendonner, the Court extended the Wilson disbarment rule to cases involving the knowing misappropriation of escrow funds. The Court noted the "obvious parallel" between client funds and escrow funds and held that "[s]o akin is the one to the other that henceforth an attorney found to have knowingly misused escrow funds will confront the [Wilson] disbarment rule." In re Hollendonner, supra, 102 N.J. at 28-29.

The record clearly supports respondent's knowing misappropriation of client funds for which we recommend his disbarment. Although respondent is also guilty of violations of RPC 1.1(a), RPC 1.3, RPC 1.15(b), RPC 4.1(a)(1), RPC 5.5(a)(1), RPC 8.1(b) and R. 1:20-3(g)(3), and RPC 8.4(b), (c), and (d), in light of our finding that respondent is guilty of multiple instances of knowing misappropriation, for which we recommend his disbarment, we need not determine the appropriate quantum of discipline for those additional violations.

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
Bonnie C. Frost, Chair

By: _____
Ellen A. Brodsky
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Jonathan Greenman
Docket No. DRB 16-346

Decided: May 23, 2017

Disposition: Disbar

Members	Disbar	Recused	Did not participate
Frost	X		
Baugh	X		
Boyer	X		
Clark	X		
Gallipoli	X		
Hoberman	X		
Rivera	X		
Singer	X		
Zmirich	X		
Total:	9		

Ellen A. Brodsky
Chief Counsel