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OF THE

SUPREME COURT OF NEW JERSEY

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June 21, 2017

Mark Neary, Clerk
Supreme Court of New Jersey
P.O. Box 970
Trenton, New Jersey 08625-0962

Re: In the Matter of Rachel L. Baxter
Docket No. DRB 17-142
District Docket Nos. XIV-2016-0055E and
XIV-2016-0353E

Dear Mr. Neary:

The Disciplinary Review Board reviewed the motion for discipline by consent (reprimand or such lesser discipline as the Board deems warranted) filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-10(b). Following a review of the record, the Board determined to grant the motion. In the Board's view, a reprimand is the appropriate discipline for respondent's violations of RPC 1.3 (lack of diligence) in two matters, RPC 1.15(a) (negligent misappropriation of client funds), and RPC 1.15(b) (failure to notify a client of receipt of funds to which the client is entitled and to promptly disburse those funds).

Specifically, in a real estate matter, respondent represented Charles Adjmi, the buyer, and served as the settlement agent at a September 15, 2015 closing. Approximately three weeks after the closing, respondent sent the deed for recording, but enclosed the wrong fee for the realty transfer tax. The clerk returned the deed and check, informed respondent of the correct amount of the tax, and requested that respondent issue another check in the correct amount.

On December 23, 2015, more than three months after the closing, respondent finally resubmitted the deed and correct fee. He did so only after both the seller's attorney and title agency requested copies of the recorded deed, and the title agency threatened to disclose to the parties that the deed had not been recorded. Respondent's conduct violated RPC 1.3.

Respondent also failed to maintain sufficient funds in her trust account to cover bank charges during a period of four months. As a result, those bank charges invaded Adjmi's funds. Although respondent had been aware of the shortage, she did not replenish the funds until after the OAE communicated with her about it. Finally, respondent did not issue funds to Adjmi until March 14, 2016, six months after the closing. Respondent's conduct violated both RPC 1.15(a) and RPC 1.15(b).

In a second matter, on August 10, 2015, Patrick Croat retained respondent to file an emancipation motion to terminate child support obligations for his adult daughter. Although Croat paid respondent's fee and provided her with the information necessary to file the motion, respondent failed to file it until January 15, 2016, five months after she had been retained. Croat, thus, paid child support totaling \$2,142 for approximately five additional months. Respondent, thus, violated RPC 1.3 in this matter as well.

The Board considered that each of respondent's violations, independently, warranted discipline no greater than an admonition. See, e.g., In the Matter of Richard Mario DeLuca, DRB 14-402 (March 9, 2015) (admonition for attorney whose trust account had a \$1,801.67 shortage; no client or escrow funds were invaded because the attorney had not removed a one-year-old legal fee; recordkeeping violations were also found; the attorney had no history of discipline in his thirty-two years of practice); In the Matter of Jeffrey S. Lender, DRB 11-368 (January 30, 2012) (admonition for attorney who inadvertently over-disbursed a real estate commission, neglecting to deduct an \$18,500 deposit for the transaction, and failed to rectify the error for more than five months after the over-disbursement was brought to his attention); and In the Matter of Johnathan Lautman, DRB 11-107 (July 26, 2011) (admonition for attorney who permitted a settlement to remain pending for three years because the client became dissatisfied with its terms; the attorney failed to file a motion to enforce the settlement, to deposit the funds with the court, or to distribute the funds for three years).

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The Board considered, however, that respondent committed a combination of violations in two client matters and that she failed to recognize the importance of prompt action in both of them. Thus, in the Board's view, a reprimand is warranted for respondent's lack of diligence in both client matters, as well as her negligent misappropriation of client funds and her failure to promptly deliver funds to Adjmi.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated April 12, 2017.
2. Stipulation of discipline by consent, dated April 10, 2017.
3. Affidavit of Consent, dated March 30, 2017.
4. Ethics history, dated June 21, 2017.

Very truly yours,



Ellen A. Brodsky
Chief Counsel

EAB/sl

c: (w/o enclosures)

Bonnie C. Frost, Chair

Disciplinary Review Board (via e-mail)

Charles Centinaro, Director

Office of Attorney Ethics (via e-mail)

Isabel McGinty, Statewide Ethics Coordinator

Office of Attorney Ethics (via e-mail)

Reid Adler, Deputy Ethics Counsel

Office of Attorney Ethics (via e-mail)

Rachel Baxter, Respondent (via e-mail and regular mail)

Investor's Title Agency, Grievant (via regular mail)

Patrick Croat, Grievant (via regular mail)