SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. 16-390
District Docket No. XIV-2012-0188E

IN THE MATTER OF	:
CHIRAYU AARON PATEL	:
AN ATTORNEY AT LAW	:

Decision

Argued: March 16, 2017

Decided: June 23, 2017

Hillary K. Horton appeared on behalf of the Office of Attorney Ethics.

John McGill, III 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 on a recommendation for disbarment filed by Special Master Cataldo F. Fazio. The three-count amended complaint charged respondent with violations of RPC 1.15(a) (failing to safeguard trust funds), knowing misappropriation of trust funds and the principles of In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985); RPC 1.15(b) (failing to promptly disburse funds to a client or third person); RPC 8.1(a) (knowingly making false statements of material fact to a

disciplinary authority); RPC 8.4(b) (engaging in criminal conduct that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer); and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation).

Although respondent's counsel previously had argued that a suspension was in order, he conceded, in his March 3, 2017 brief and in argument before us, that respondent was guilty of knowing misappropriation of trust funds as set forth in count one of the amended complaint for which he should be disbarred. He disputed, however, the special master's findings that respondent was guilty of knowing misappropriation as alleged in count two of the complaint. Based on the record before us, we determine that a recommendation for disbarment is appropriate. Because respondent admits both that he knowingly misappropriated client funds as to count one of the amended complaint, and that he should be disbarred, the remaining counts are moot.

Respondent was admitted to the New Jersey bar in 1996 and to the New York and District of Columbia bars in 1997. At the relevant time, he maintained a law practice in Hackensack, New Jersey.

In 2005, respondent was reprimanded for negligently misappropriating client trust funds, failing to maintain proper records, and failing to reconcile his trust account. In re Patel, 182 N.J. 587 (2005).

In 2012, respondent consented to a temporary suspension until the final disposition of all pending ethics matters against him. In re Patel, 212 N.J. 466 (2012). He remains suspended to date.

This matter arises from respondent's orchestration of several loans from William Suser,[1] purportedly for the benefit of others. However, respondent did not apply the loan proceeds as represented for two of the loans from Suser (one for $350,000 and one for $500,000). Instead, he used the proceeds for personal purposes, to repay others to whom he owed money, without Suser's knowledge or consent. At the time Suser made the loans, respondent did not inform him that he was experiencing dire financial problems.

According to respondent, he had a business relationship with Kiran Patel, a non-relative, who was a wealthy, prominent figure in the Indian community. Kiran enticed respondent to participate in business transactions, which included real estate investments and other business opportunities. Respondent maintained that, in the early to mid-2000s, he, his family and friends, and, in some cases, his clients, invested money with Kiran. Respondent facilitated the transactions and served as the liaison between Kiran and the investors. Respondent claimed that, in 2008, when the market crashed, Kiran defaulted on making payments to his investors.

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[1] Suser's attorney, Robert Dowd, Esq., filed the grievance in this matter.

Respondent was concerned about causing a panic and creating "a ripple effect" with the investors. If they realized that Kiran had defaulted on payments, it would create problems for respondent in his community and damage his "stellar" reputation. He asserted that, therefore, he personally began making payments to the investors to prevent them from learning what had occurred. He even depleted his parents' bank accounts and obtained a mortgage on their property, unbeknownst to them, to try to raise money. He did so because, he stated, he had "a moral obligation" to pay the investors. He faces more than $20 million of debt.

Kiran was respondent's elder. In the Indian culture, respondent was taught to respect his elders. Therefore, respondent claimed that he was required to defer to Kiran's business decisions. According to respondent, after Kiran's financial troubles began, Kiran asked respondent to "buy" him more time and to raise more money to repay investors. Kiran told respondent that he needed the funds for only a few months. Respondent was to obtain investors for Sundil Metals, which was "a new vehicle," to earn money to repay investors.[2] Respondent claimed that he had raised some money from friends who invested their children's college tuition funds or retirement funds. His friends believed

[2] Respondent testified that Sundil was Kiran's corporation that conducted gold transactions in Africa.

that they were involved in quick transactions and their investments would be returned shortly. That did not happen, however. Respondent did not know what Kiran did with their funds.

According to respondent, once Kiran defaulted, respondent's "stress began to build," he began to feel suicidal, and he suffered from anxiety, depression, and fear. He could not see a way out of the situation. Investors called him constantly, crying, threatening, and yelling to pressure him to return their funds. Investors threatened legal action against him. He, thus, claimed that he had prepared the loans at issue here while he was handicapped by his state of mind, which he characterized as being in a "zombie like" state.

Despite these pressures, respondent did not seek treatment for depression because, he claimed, he could not afford it and his family did not believe in seeking psychiatric help. He further asserted that he did not have time to meet with a psychiatrist because he was focusing on finding a resolution to his problem. Because he had no medical support for his state of mind, he engaged in "self-therapy" to permit him to "keep going forward and to do the right thing." Respondent admitted that the pressure of owing investors $20 million led him to engage in the transactions at issue here.

At the end of 2008 or early 2009, while respondent claimed he was suffering from depression, a mutual friend, David Zwerling, Esq., invited Suser, a building contractor, and respondent on a trip to Costa Rica. Thereafter, a friendship developed between Suser and respondent.

According to Suser, respondent proposed various investment opportunities to him, such as lending money to individuals whom respondent deemed credit-worthy. Prior to, and in the midst of the two loans at issue here, respondent represented Suser in an earlier loan transaction, in a municipal court matter, and in a corporate matter.

At the DEC hearing, respondent admitted that he had suggested the investments to Suser as "a way to generate money . . . to pay back past debt" to friends and family that he had "vouched for." Respondent admitted that Suser was not aware of his financial problems when they began exchanging e-mails about possible investments.

In a May 4, 2009 e-mail to Suser, respondent proposed two loan investments. The first opportunity was a loan to Harish Sachdeva, respondent's client of twelve years, whom he described as an "AAA borrower." Respondent represented to Suser that Sachdeva needed the loan for his jewelry business. At the DEC hearing, respondent admitted that this was not a legitimate loan. He claimed, however,

that the second loan option was legitimate; he would be the borrower and would use his shore properties as collateral.

The e-mail to Suser set forth that the interest rate on the $350,000 loan to Sachdeva would be fourteen percent over a period of twelve to eighteen months. The collateral was "[f]irst position on property located at 640B Riverside Ave, Lyndhurst, New Jersey," purportedly owned by Sachdeva and appraised at $555,000.

Suser relied on respondent's representations with regard to Sachdeva's worthiness as a borrower. In addition, respondent personally guaranteed the loan. Thus, in a May 5, 2009 e-mail, Suser instructed respondent to prepare the documentation for the loan to Sachdeva. On that same day, respondent replied that, even though Suser wanted "DZ" (Zwerling) to review the documentation, respondent

> would NEVER step on DZs toes but I always serve as counsel 4 4 my lenders on my lending deals. These deals and my relationships with our borrowers have been
> established after 10 yrs of hard wrk and the only way I mke $$ 4 all my due
> diligence is by getting half the pts & a legal fee (in this case
> I would mke
> about 13K total & u will mke about 80+K in 18 mths). I NEVER represent the borrower because my legal and moral duty is 2 my lenders. U guys r trusting
> my leal and moral duty is 2 my lenders.
> U guys r trusting
> my leal abilities (as it relates 2 the strength of our evolving

> custom-made loan documents), my due diligence (as it relates 2 the collateral and repmt abilities of our borrower) and my judgment (of our
> borrowers personal & moral character).
> Accordingly, I will put everything 2gther but respectfully ask u that I
> serve as ur attorney but only 4 our lending deals (nothing else, not even scrap
> deals). But if u dnt feel wat I'm saying is proper, I will still prepare
> evrything & give it 2 DZ and let him collect the legal fee.
> Friendship
> always comes first.[3]
>
> [Ex.P-19;p3-4;1T22][4]

Suser, thus, believed that respondent was representing him in the loan transaction. Respondent prepared several documents for the Sachdeva loan: a promissory note; a mortgage; a personal guaranty agreement, signed by respondent and respondent's father, Arun A. Patel[5]; a compliance agreement; an affidavit of title; a deed in lieu of foreclosure (to be held in escrow); a confession of judgment (to be held in escrow); a general assignment and power of attorney (to be held in escrow); and a closing statement. The closing statement provided that the borrower (purportedly,

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[3] The e-mail is quoted verbatim, with numerous errors.

[4] 1T refers to the September 23, 2014 DEC hearing transcript.

[5] Respondent admitted that he forged his father's signature on the document and that his father knew nothing about the guaranty or loan. According to Suser, respondent asked that he not show the guaranty to anyone, including other lenders.

Sachdeva) would receive net proceeds of $315,000; the lender (Suser) would receive five points totaling $17,500[6] and three months of prepaid interest totaling $12,250; and respondent would receive attorney fees of $5,000, plus $250 for recording fees.

Suser understood that respondent was representing both him and the borrower, Sachdeva, in the loan transaction. In fact, respondent prepared a May 19, 2009 waiver letter to Sachdeva, which purportedly disclosed respondent's conflict of interest in representing both Sachdeva and Suser in the transaction. The letter confirmed that Sachdeva consented to the dual representation and purportedly contained Sachdeva's and respondent's signatures, as did the other documentation for the loan respondent had prepared.

Suser notified respondent that he wanted someone to review the collateral because he wanted assurances that it was legitimate, properly secured, and not encumbered. He, thus, asked John Solimano, Esq. to review the documents.[7] Suser, thus, believed that he had two attorneys representing him for two purposes: respondent to draft the documents and handle the loan closing; and Solimano to review the collateral. According to respondent, he sent only a

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[6] Suser received only half of the lender points.

[7] Solimano had previously represented Suser in two matters: a real estate transaction for mixed-use property and a long-term lease.

portion of the documents to Solimano for his review. As discussed more fully below, Suser provided respondent with a $350,000 check, but respondent never gave the funds to Sachdeva. Instead, he used the funds himself.

At the DEC hearing, respondent spent a significant amount of time on the issue of whom represented Suser in the two loan transactions at issue. Suser, Zwerling, Solimano, and Robert Dowd, Esq. all testified that respondent was Suser's attorney in the loan transactions. Respondent argued that he and Suser were merely business partners and that Solimano had represented Suser in the transaction.[8] When the presenter asked respondent how he could have been Suser's business partner, given the fact that the Sachdeva loan was not legitimate, respondent replied, "I guess the question is what [Suser] thought."

Respondent argued that Suser's belief that he acted as Suser's attorney in the Sachdeva transaction was misplaced because (1) he never sent the loan documents to Suser; (2) Suser never saw his personal guaranty for the loan, he only told Suser about it; (3) lawyers who represent clients in loan transactions do not personally guaranty loans, but business partners do; (4) business

[8] By consenting to disbarment on count one, respondent conceded he was Suser's attorney in the Sachdeva loan, but continued to maintain that he and Suser were merely business partners in the subsequent loan.

partners share points on a transaction, but that does not occur in an attorney-client relationship; (5) attorneys do not check the creditworthiness of borrowers, as respondent did with Sachdeva; (6) attorneys do not make payments on the loans, but business partners do; and the May 4, 2009 e-mail did not list attorney's fees (although the closing statement listed respondent's fees, respondent argued that was irrelevant because no one saw that document).

Respondent also asserted that he had prepared the documents for the transactions as a courtesy, so Solimano would not have to do so. He later admitted that, if Solimano had been responsible for recording the mortgages, the fraud quickly would have been unraveled.

Solimano understood that Suser wanted "a fresh pair of eyes" to look at standard loan documents. When Suser first contacted Solimano, Suser told him that respondent was his lawyer in the transaction. Solimano, thus, asked respondent to confirm that he did not object to his review of the documentation and to "get the okay to speak to Mr. Suser."

Solimano reviewed the documents relating to the Sachdeva loan (note, mortgage, personal guaranty, "and the like") as well as a subsequent $500,000 loan, for respondent's and Kiran Patel's scrap metal business. Solimano "assumed" that he was

only to "take a brief look at some standard loan documents and that was it." According to Solimano, after he reviewed the documents, he informed Suser that they were standard but he could not judge the merits of the underlying transactions and that Suser had to "proceed with his own due diligence" (obtain an appraisal, a home inspection, a survey, and a title search).[9] Solimano could not offer any opinion on the soundness of the transactions and denied any knowledge of the collateral. Respondent admitted that he had not provided Solimano with all of the documentation relating to the transaction.

Solimano denied that his review of the documentation constituted his representation of Suser. Rather, he had merely extended a courtesy to Suser on behalf of a mutual acquaintance. Respondent was the attorney on the loan transactions. Solimano did not consider Suser to be a client, did not open a file in the matter, and did not send Suser a bill. Suser sent Solimano a restaurant gift card, not a fee, in gratitude for his help.

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[9] As noted previously, respondent's May 5, 2009 e-mail to Suser stated that he would conduct due diligence relating to the collateral. In addition, Solimano reviewed another potential transaction for Suser involving respondent, Suser, Suser's brother, and Nita Properties, LLC. It never "got off the ground" once Solimano discovered that the proposed collateral was heavily encumbered.

Per respondent's instructions, on May 15, 2009, Suser provided respondent with a $350,000 check payable to respondent's trust account. The check contained the notation "Harish Sachdeva loan" on the memo line.

Office of Attorney Ethics (OAE) Disciplinary Auditor Joseph Strieffler reviewed respondent's subpoenaed TD Bank records, which revealed that, on May 18, 2009, respondent deposited Suser's $350,000 check into his trust account. The following day, he transferred $329,000 of those funds into his business account, leaving only $21,000 of Suser's funds in respondent's trust account. Before that transfer, respondent's business account had a negative $83,198.77 balance.

From Suser's $329,000, respondent had disbursed monies to other individuals. Prior to receiving Suser's funds, respondent had issued checks to Pasquale Santangelo, a friend and former client, and to PNG Capital, LLC. Those distributions contributed to the negative balance in respondent's business account. According to Strieffler, between May and July 2009, with the exception of $290.80, Suser's funds were depleted. Suser had received only the above-mentioned two checks from those funds ($8,750 reflecting two and one-half points from the Sachdeva loan and $12,250 for prepaid interest on that loan).

During an OAE interview, respondent informed Strieffler that Santangelo had loaned "tremendous amounts of money" to Kiran Patel and had engaged in other transactions with him, and Santangelo was "still owed a lot of money." Respondent revealed further that Santangelo had invested in loans similar to the loans from Suser, and respondent had made payments to Santangelo similar to the payments he had made to Suser. Respondent admitted to Strieffler that he had been the attorney on the loans from Santangelo to Kiran Patel and used his trust account for the business transactions.

At the DEC hearing, respondent admitted that, unbeknownst to Suser, he had used Suser's loan to repay Santangelo. He also admitted that he had owed Suser's brother, Jack, $300,000 and had obtained $200,000 from another investor to repay Jack.

Respondent's claimed objective for the $350,000 loan from Suser was "to buy Kiran time." He admitted that Suser loaned the money based on a fraud.

Suser did not attend a closing for the Sachdeva loan. According to Suser, respondent provided him with the documents for the transaction, with the exception of a recorded mortgage. Respondent's May 19, 2009 letter to Suser represented that the mortgage would be sent to the Bergen County Register's Office for recording. In contrast, respondent denied that he gave Suser

the documents. He claimed that he took them to Suser's office but Suser told him to give them to Solimano.

The promissory note provided that monthly installments of $4,083.33 would be paid to Suser on the nineteenth of each month, starting on June 19, 2009, with a final balloon payment of all outstanding principal, interest, and other charges on or before November 18, 2010. The initials "H.S." appeared next to that provision, leading Suser to believe that Sachdeva had initialed it. A signature purporting to be Sachdeva's appeared at the end of the document, together with respondent's signature as the witness. Respondent remitted the monthly payments to Suser for a period of time.

Sachdeva, respondent's friend, testified that, sometime in 2009, respondent told him that he had obtained a $350,000 loan using his name. Sachdeva denied knowing the lender, Suser; denied borrowing any money from Suser for his jewelry business; denied any involvement with the loan; and specifically denied seeing, initialing, signing, or knowing about the loan, the mortgage, the promissory note, the conflict of interest waiver letter, or the closing statement, all of which contained his signature and/or initials. Respondent admitted that he had forged Sachdeva's initials and signatures on the documents.

Suser, however, had believed that Sachdeva's signatures and initials on the mortgage and other documents were authentic.

Notwithstanding the fraudulent nature of the loan, in August 2009, respondent provided Suser with an $8,750 trust account check, allegedly representing his share of the points from the loan (2.5 points),[10] and another $12,250 trust account check, representing three months' prepayment of the loan.

Because respondent conceded that he knowingly misappropriated Suser's $350,000 (count one), we reference respondent's $500,000 loan from Suser only in such detail as is necessary to fully analyze respondent's conduct in connection with count one.

In May 2011, Suser retained Robert Dowd to recover the monies he had lost in his multiple transactions with respondent. According to respondent, he sent all of the documents from the transactions to Dowd and "came clean" about what had happened. Dowd determined that respondent had represented Suser on the $350,000 Sachdeva loan and a $500,000 loan and that Suser had retained Solimano only to review the security for those loans. According to Dowd, as part of his due diligence, he discovered that the recording stamps on the mortgages for the two loan

[10] The closing statement, however, provided that the five points were payable to the lender.

transactions were counterfeit. The book and page numbers, purporting to relate to Suser's transactions, had been "cut and paste[d]" from another transaction in which respondent had been involved. Suser's mortgages did not appear as encumbrances on either property. Respondent also had provided the "counterfeit mortgages" to Solimano for his review. Respondent admitted that the recording stamps on the mortgages were not legitimate. He was desperately trying to buy Kiran more time and to keep Suser from finding out that his funds were in jeopardy. He always intended to repay Suser, even as of the date of the DEC hearing.

Dowd believed that Suser had a potential claim against Solimano for failing to verify the collateral and sent Solimano a letter to that effect, advising him to notify his malpractice carrier. When Solimano informed respondent about Dowd's letter, respondent agreed to execute an affidavit stating that Solimano did not represent Suser in the transactions.

In a June 2, 2011 e-mail to Suser, respondent stated that: (1) Solimano had asked him to sign an affidavit stating that respondent, not Solimano, was Suser's attorney in the transactions in question; (2) that Solimano was simply asked to review the documents for the transaction, which he did; and (3) that respondent "was the closing attorney who was to do the due diligence, recording, etc." Respondent's e-mail added that he

agreed with Solimano's position, "(as I have stated to you before) and the emails he & I had exchanged at that time reinforce his position."

Respondent's executed affidavit attested that, on or about May 19, 2009, he had represented Suser in the $350,000 Sachdeva loan transaction; that, on or about August 24, 2009, he had represented Suser in a $500,000 loan transaction; that he had prepared all of the documentation and closed both loan transactions; and, to the best of his knowledge, Solimano did not represent Suser in either transaction.

At the DEC hearing, respondent asserted that his sworn affidavit was false, and that he had sent the e-mail and affidavit to Dowd to discourage him from pursuing a claim against Solimano.

As to the Sachdeva loan, Dowd considered that: (1) respondent had told Suser that Sachdeva needed the loan for his jewelry business; (2) respondent admitted forging Sachdeva's signature on all of the loan documents; (3) Sachdeva did not own the property that purportedly secured the loan; (4) the mortgage was not recorded; (5) respondent put a counterfeit recording stamp on the mortgage; and (6) respondent forged his father's signature on the personal guaranty.

In sum, respondent admitted that he obtained Suser's funds by deception; that he signed Sachdeva's name and initials to induce Suser to loan money; that he falsified the recording stamp on the mortgages, but held them out as legitimate; that he disposed of the $350,000 loan for other than its intended purpose; and that he never informed Suser about the true use of his funds.

The special master found the testimony of Suser, Dowd, Zwerling, Strieffler, Sachdeva, and Solimano to be credible and reliable, concluding that they each were truthful and forthcoming with their testimony. However,

> [i]n stark contrast, Respondent's testimony lacked the credibility and reliability of the other witnesses. Throughout his testimony, Respondent portrayed himself as a victim of the events which are the subject of this disciplinary proceeding. His testimony was remarkable in that it was devoid of candor and sincerity. The absence of candor, sincerity and, ultimately, credibility was demonstrable and, at times, shocking.
>
> Considering the content of his testimony, demeanor while testifying, and absolute lack of remorse, except for the fact that he had been caught, Respondent is perhaps the least credible witness that I have encountered in my legal career.
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> [SMR28-29.][11]

[11] SMR refers to the special master's report, dated September 2, 2016.

The special master emphasized that, in order to escape disbarment, respondent had argued that Suser was not his client. The special master found, however, that "Suser's testimony was extremely credible," and that the overwhelming weight of the evidence established that respondent was Suser's attorney in both loans. He found further that respondent lied to Suser to induce him to invest money and that, from the very beginning, he had intended to convert the funds to his own use. The special master found that respondent admitted that he fraudulently procured the $350,000 from Suser, a violation of RPC 8.4(c).

The special master found that respondent's attempts to discount his statements, both in the e-mails to Suser and in the affidavit admitting that he represented Suser in the loans, were not credible, and that his representations to the OAE that he was not Suser's attorney, despite the overwhelming evidence to the contrary, were sufficient to form the basis for a violation of RPC 8.1(a). The special master concluded that Solimano's limited role in reviewing the documentation for the loans did not diminish the fact that, at all times, respondent told Suser that he was his attorney and that he induced Suser to loan money, based on the promise that he was representing Suser's best interests.

The special master pointed out that the same facts established, by clear and convincing evidence, that respondent engaged in a number of criminal offenses: as a fiduciary for Suser's funds, respondent engaged in the misapplication of entrusted funds, a violation of N.J.S.A. 2C:21-15; theft by deception, a violation of N.J.S.A. 2C:20-4; forgery, a violation of N.J.S.A. 2C:21-1a; and falsifying or tampering with records, a violation of N.J.S.A. 2C:21-4a.

In all, the special master found clear and convincing evidence that respondent knowingly misappropriated client funds, failed to safeguard funds, failed to promptly deliver funds, knowingly made false statements of material fact to the OAE, and engaged in criminal conduct and conduct involving dishonesty, fraud, deceit or misrepresentation.

In recommending discipline, the special master considered the mitigating factors listed above, and, in aggravation, respondent's prior reprimand. The special master found that respondent's claimed depression and anxiety were not credible. Respondent produced no evidence that he ever consulted a doctor or took any medication for his self-diagnosed psychological problems. Instead, the special master found that

> [c]ontrary to his characterization of behaving 'zombie-like' during the events described above, Respondent was calculating and conniving throughout his dealings with

> Suser and Dowd, and throughout his hearing testimony. Respondent had the presence of mind to undertake considerable efforts to conceal his wrongdoings, including falsifying and manufacturing fraudulent mortgage filings.
>
> [SMR31.]

The special master recommended disbarment for respondent's knowing misappropriation of client funds, which rendered moot sanctions for the "lesser" violations included in the complaint.

* * *

In his brief to us, respondent's counsel conceded that respondent, while acting as Suser's attorney, knowingly misappropriated the $350,000 that he received from Suser intended as a loan to Sachdeva.

Counsel, however, disputed that respondent knowingly misappropriated the $500,000 loan funds that were the subject of count two of the complaint. For respondent's knowing misappropriation of the $350,000 trust funds, counsel "respectfully" requested that we recommend respondent's disbarment.

* * *

Following a de novo review of the record, we are satisfied that the conclusion of the special master that respondent was guilty of unethical conduct is fully supported by clear and convincing evidence.

Significantly, the special master found that Suser's testimony was "extremely credible" but that respondent was "the least credible witness" that he had encountered in his legal career. Respondent has conceded that he knowingly misappropriated the $350,000 loan proceeds, for which he should be disbarred. The record supports such a conclusion. Respondent's scheme to misappropriate Suser's funds was intricate and involved the drafting of documentation to make it appear as if it were legitimate. From the outset, respondent persuaded Suser to allow him to act as his attorney in the loan transactions in order to conceal the true purpose of the loans. The evidence clearly established that respondent was Suser's attorney in the loan transactions, based on: (1) the credible testimony of Suser, Solimano, Dowd, Zwerling (respondent's former friend), and Strieffler; (2) respondent's e-mails to Suser informing Suser that he acts as the attorney for lenders in loan transactions and informing Suser that he believed that he was Suser's attorney in the loan transactions and would execute an affidavit to that effect; (3) respondent's sworn affidavit, that he was Suser's attorney in both loan transactions; and (4) the closing statement for the $350,000 loan, which documented respondent's attorney's fee for that transaction.

Respondent, acting as Suser's attorney, induced Suser to loan the $350,000 by misrepresenting that its purpose was to benefit Sachdeva's jewelry business. His well-planned scheme to deceive anyone reviewing the transaction included preparing various documents for the transaction – a promissory note, a mortgage, a conflict of interest waiver letter, and a personal guaranty, on which he forged Sachdeva's signatures and initials. On the personal guaranty, he also forged his father's signature and instructed Suser not to show it to anyone. Respondent then accepted a $350,000 check from Suser and deposited it into his trust account. Thereafter, he transferred the bulk of Suser's funds into his business account, which had a negative balance at the time. He then disbursed the funds, not to Sachdeva, but to other "investors" to whom he owed money for loans they had made similar to Suser's. Respondent's scheme was well-planned.

Respondent's attempt to divert the blame to Solimano was unsuccessful and disingenuous. Even if Solimano had failed to review thoroughly the forged documentation for the fraudulent loans, he was not the one who misappropriated the funds.

When respondent stopped making scheduled payments to Suser, Suser realized that respondent never provided him with copies of the recorded mortgages in either loan transaction. When respondent eventually produced the mortgages, it came to light that they had

not been recorded and, in fact, that respondent had falsified the recording stamps on them by cutting and pasting stamps from prior, valid mortgages.

The clear and convincing evidence and respondent's admissions establish that he had an attorney-client relationship with Suser in the $350,000 loan transaction at issue and that he knowingly misappropriated Suser's funds in furtherance of his Ponzi scheme. By his own admission, respondent owed investors at least $20 million. His scheme was extensive, complex, and included theft by deception, forging documents, tampering with records, and the misapplication of entrusted funds. Respondent also knowingly made false statements to the OAE when he denied that he was Suser's attorney in the face of the overwhelming evidence to the contrary.

Thus, in all, respondent is guilty of violating RPC 1.15(a) (failure to safeguard trust funds), RPC 1.15(b) (failure to promptly disburse funds to a client or third person), RPC 8.1(b) (knowingly making false statements of material fact to a disciplinary authority), RPC 8.4(b) (engaging in criminal conduct that reflects adversely on a lawyer's honesty, trustworthiness, or fitness as a lawyer), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation), and the principles of In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985).

That respondent attempted to repay Suser is not refuted. However, it is irrelevant. Misappropriation is defined as:

> any unauthorized use by the attorney 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.]

As noted by the Court in In re Noonan, 102 N.J. 157 (1986):

> The misappropriation that will trigger automatic disbarment under [In re Wilson], disbarment that is "almost invariable," [citation omitted] 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 is used for a good purpose or a bad purpose, for the benefit of the lawyer of 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.
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> [Ibid at 160.]

Thus, under Wilson and its progeny, we recommend respondent's disbarment on count one of the complaint for his violations of RPC 1.15(a), RPC 1.15(b), RPC 8.1(a) and RPC 8.4(b). Findings on the charges set forth in counts two and three are, therefore, rendered moot.

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
Ellen A. Brodsky
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Chirayu A. Patel
Docket No. DRB 16-390

Argued: March 16, 2017

Decided: June 23, 2017

Disposition: Disbar

Members	Disbar	Disqualified	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