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SUPREME COURT OF NEW JERSEY

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July 25, 2017

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

Re: In the Matter of Ihab Awad Ibrahim
Docket No. DRB 17-191
District Docket No. XIV-2015-0466E

Dear Mr. Neary:

The Disciplinary Review Board reviewed the motion for discipline by consent (reprimand or such lesser discipline as the Board deems appropriate) filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-10(b)(1). 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 1.15(a) (failure to safeguard client funds and negligent misappropriation of client funds) and RPC 1.15(d) (failure to comply with the recordkeeping requirements set for in R. 1:21-6).

Respondent maintained both his attorney business account and attorney trust account at TD Bank. On October 13, 2015, TD Bank alerted the OAE that, eight days earlier, respondent had overdrawn his attorney trust account by \$400. Specifically, attorney trust account check #179, payable to his client, John Francisco, in the amount of \$1,000, had been presented against insufficient funds. TD Bank honored the check, despite the

insufficient funds, and notified both respondent and the OAE of the overdraft.¹

In response to the overdraft, the OAE scheduled a demand audit to examine respondent's financial records. During the audit, respondent recounted that, on July 31, 2015, he had issued attorney trust account check #115, in the amount of \$400, payable to his client, Andrew Bilyj. Because Bilyj notified respondent that he lost the check, respondent believed that the \$400 in funds earmarked for check #115 remained in his attorney trust account. However, unbeknownst to respondent, check #115 had been negotiated and posted to his attorney trust account on August 10, 2015.

On September 15, 2015, respondent deposited another \$400, from DMS LLC, in his attorney trust account on behalf of Bilyj. On September 24, 2015, respondent issued attorney trust account check #177 for \$530 to Bilyj and check #178 for \$270 payable to respondent's law firm. Although those checks totaled \$800, respondent was holding only \$400 in his attorney trust account on behalf of Bilyj at the time he issued the checks.

Checks #177 and #178 were negotiated on September 30 and September 25, 2015, respectively. The negotiation of those checks invaded \$400 of the \$1,000 in client funds respondent was holding in his attorney trust account on behalf of his client, John Francisco. Thus, when Francisco negotiated the aforementioned check #179, in the amount of \$1,000, respondent's attorney trust account was overdrawn by \$400, as he was then holding only \$600 on behalf of Francisco.

On October 17, 2015, respondent deposited \$650 in his attorney trust account to rectify the overdraft, leaving \$250 in funds available in the account.

During the demand audit, respondent produced client ledger cards and three-way reconciliations that he had created in the days prior to the audit session; he admitted that he had not

¹ Although paragraph three of the stipulation states that TD Bank did not honor the check, it is clear from Exhibit 3, and the fact that the crux of this matter is the \$400 overdraft and the consequent \$400 invasion of Francisco's trust funds, that TD Bank honored the check.

been timely complying with the recordkeeping requirements set forth in R. 1:21-6. Respondent, thus, was guilty of the following recordkeeping violations: failure to maintain attorney trust account cash receipts and disbursements journals, in violation of R. 1:21-6(c)(1)(A); failure to maintain attorney trust account client ledger cards, in violation of R. 1:21-6(c)(1)(B); and failure to prepare monthly three-way reconciliations of his attorney trust account, in violation of R. 1:21-6(c)(1)(H). Respondent admitted that his conduct violated both RPC 1.15(a) and RPC 1.15(d). Prior to entering into the stipulation, respondent corrected these recordkeeping deficiencies.

Generally, reprimands are imposed for negligent misappropriation of client funds, even when accompanied by other, non-serious infractions, such as recordkeeping deficiencies, commingling, or failure to promptly deliver funds to clients. See, e.g., In re Gleason, 206 N.J. 139 (2011) (attorney negligently misappropriated clients' funds by disbursing more than he had collected in five real estate transactions in which he represented a client; the excess disbursements, which were the result of the attorney's poor recordkeeping practices, were solely for the benefit of the client; the attorney also failed to memorialize the basis or rate of his fee); In re Macchiaverna, 203 N.J. 584 (2010) (minor negligent misappropriation of \$43.55 occurred in attorney trust account, as the result of a bank charge for trust account replacement checks; the attorney also was guilty of recordkeeping irregularities); and In re Mac Duffie, 202 N.J. 138 (2010) (negligent misappropriation of client's funds caused by poor recordkeeping practices; some of the recordkeeping problems were the same as those identified in two prior OAE audits; the attorney had received a reprimand for a conflict of interest).

Here, respondent's misconduct was serious and negligently exposed Francisco's attorney trust account funds to invasion. There are no aggravating factors to consider in this case. In mitigation, respondent has no disciplinary history and he readily admitted his misconduct by consenting to discipline. With the OAE's assistance, he promptly took corrective measures to address his recordkeeping deficiencies.

Based on the above precedent and the absence of aggravation, the Board determined that respondent's misconduct

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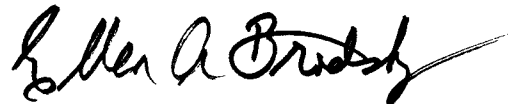
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warrants a reprimand. Additionally, respondent should be required to submit to the OAE, on a quarterly basis, monthly reconciliations of his attorney accounts for two years and until further Order of the Court.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated May 24, 2017;
2. Stipulation of discipline by consent, dated May 15, 2017;
3. Affidavit of consent, dated May 9, 2017; and
4. Ethics history, dated July 25, 2017.

Very truly yours,



Ellen A. Brodsky
Chief Counsel

Enclosures

c: Bonnie C. Frost, Chair
Disciplinary Review Board (w/o enclosures)
Charles Centinaro, Director
Office of Attorney Ethics (w/o enclosures)
Steven J. Zweig, Deputy Ethics Counsel,
Office of Attorney Ethics (w/o enclosures)
Ihab Awad Ibrahim, Respondent (w/o enclosures)