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February 21, 2018

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

Re: In the Matter of Sebastian Onyi Ibezim, Jr.
Docket No. DRB 17-403
District Docket No. XIV-2015-0577E

Dear Mr. Neary:

The Disciplinary Review Board reviewed the motion for discipline by consent (reprimand or such lesser discipline as the Board may deem appropriate) 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 measure of discipline for respondent's violations of RPC 1.15(d) and R. 1:21-6 (recordkeeping violations) and RPC 7.5(e) (using misleading attorney letterhead).

Specifically, respondent admitted having committed the following recordkeeping violations: (1) client ledger cards contained debit balances; (2) inactive ledger balances were maintained in the trust account; (3) outstanding, unresolved trust account checks remained in the trust account; (4) the attorney business account had an improper designation; (5) a rubber signature stamp was used to sign trust account checks; (6) trust and business account image-processed checks were noncompliant; and (7) proper records of electronic transfers were not maintained.

Respondent's actions in this regard were in violation of R. 1:21-6 and RPC 1.15(d).

Respondent also used the designation "& Associates" on his attorney letterhead when, in fact, he has no association with any other attorneys. In doing so, respondent violated RPC 7.5(e).

Recordkeeping irregularities ordinarily are met with an admonition, so long as they have not caused a negligent misappropriation of clients' funds. See, e.g., In the Matter of Eric Salzman, DRB 15-064 (May 27, 2015); In the Matter of Leonard S. Miller, DRB 14-178 (September 23, 2014); In the Matter of Sebastian Onyi Ibezim, Jr., DRB 13-405 (March 26, 2014) (attorney maintained outstanding trust balances for a number of clients, some of whom were unidentified); and In the Matter of Stephen Schnitzer, DRB 13-386 (March 26, 2014).

Even in the absence of a negligent misappropriation, however, a reprimand may be imposed if the attorney has prior discipline. See, e.g., In re Michals, 224 N.J. 457 (2015) (reprimand by consent; an OAE audit revealed that the attorney had issued trust account checks to himself or others for personal or business expenses; because, however, he maintained sufficient personal funds in his trust account, he did not invade client funds; following a prior admonition for negligent misappropriation of client funds and recordkeeping violations, the attorney still failed to resolve several improprieties); In re Murray, 220 N.J. 47 (2014) (reprimand by consent; a random compliance audit by the OAE revealed that the attorney had not corrected some of the same recordkeeping violations for which he had been admonished one month earlier); and In re Del Tufo, 210 N.J. 183 (2012) (attorney routinely deposited personal and business funds in his trust account and paid personal and business expenses out of that account; although the account was overdrawn at one point, no trust funds were on deposit at the time; the attorney was also guilty of other recordkeeping deficiencies and of not cooperating with the OAE in the scheduling of an audit; prior admonition and earlier commingling practices identified by the OAE were balanced against compelling mitigating factors).

Similarly, attorneys found guilty of using improper or misleading letterhead have received admonitions. See, e.g. In the Matter of Raymond A. Oliver, DRB 09-368 (March 24, 2010) (between 2005 and 2008, the attorney listed three other attorneys as being

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of counsel to his law firm; two of the three had been sitting judges, as of 1999 and 2002; at the time that the attorneys' names appeared on the letterhead, they did not have the close, ongoing relationship with the attorney's law firm required to list them as of counsel; indeed, during the time in question, the attorney had no professional relationship with them; violations of RPC 7.1(a), RPC 7.5(a), and RPC 8.4(d); and In the Matter of Carlos A. Rendo, DRB 08-040 (May 19, 2008) (the attorney's letterhead failed to indicate the jurisdictional limitations on those attorneys not licensed to practice in New Jersey; a law partner had been admitted to practice law in New York, but not in New Jersey; violations of RPC 7.1(a) and RPC 7.5(a)).

In aggravation, on March 26, 2014, respondent was admonished for similar recordkeeping violations. Therefore, this case marks the second time that an OAE audit of respondent's attorney books and records has uncovered old, unresolved client balances remaining in the attorney trust account. It is apparent, thus, that respondent has not learned from prior mistakes.

Respondent also received admonitions in 2015 and 2016 for dissimilar conduct.

As seen in Michals, Murray, and Del Tufo, supra, a reprimand may be appropriate where an attorney's prior discipline was for similar recordkeeping irregularities. Here, based on the presence of prior, similar infractions, respondent's failure to learn from prior mistakes, and the improper designation on respondent's attorney letterhead, the Board determined that a reprimand is warranted.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated October 25, 2017.
2. Stipulation of discipline by consent, dated November 9, 2017.
3. Affidavit of consent, dated October 19, 2017.

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4. Ethics history, dated February 21, 2018.

Very truly yours,

By: 

Ellen A. Brodsky
Chief Counsel

EAB/paa

c: w/o enclosures

Bonnie C. Frost, Chair

Disciplinary Review Board (e-mail)

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Sebastian Onyi Ibezim, Jr., Respondent

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