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March 19, 2018

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

Re: In the Matter of Nirav Kurt Mehta
Docket No. DRB 18-002
District Docket No. XIV-2016-0779E

Dear Mr. Neary:

The Disciplinary Review Board reviewed the motion for discipline by consent (censure 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) (negligent misappropriation of client funds) and RPC 1.15(d) and R. 1:21-6 (recordkeeping).

Specifically, the OAE conducted a random audit of respondent's attorney business and attorney trust accounts, which revealed multiple recordkeeping deficiencies, including: no attorney trust account designation on statements, checks, and deposit slips; client ledger cards with debit balances; inactive balances in trust account; failure to prepare monthly trust account reconciliations; unresolved, outstanding checks; failure to maintain records for seven years; failure to identify client matter on the face of checks; insufficient descriptions in business disbursements journal; and improperly image-processed business account checks. Respondent admitted having committed

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all of these recordkeeping violations, which he corrected by August 16, 2017.

The random audit also revealed two shortages, totaling \$80,000, in respondent's attorney trust account. Respondent admitted that, from August 17, 2015 through October 18, 2016, these shortages caused the invasion of fifteen client trust sub-accounts.

The first shortage, a sum of \$60,000, was caused by an overpayment to a client, and remained unresolved from August 17, 2015 through October 18, 2016, when the client returned the funds to respondent. Respondent admitted that the \$60,000 shortage both resulted and remained undetected due to his failure to properly reconcile his attorney trust account, as R. 1:21-6 requires.

The second shortage, a sum of \$20,000, was caused by a check that was dishonored after respondent had disbursed corresponding funds. The shortage remained unresolved from September 28 through October 2, 2015, when funds sufficient to correct the shortage were wired into respondent's trust account.¹ Respondent admitted that the \$20,000 shortage resulted due to his failure to "abide by the principles of In re Hollendonner, 102 N.J. 21 (1985), and Ethics Opinion 687, 159 N.J.L.J. 454 (Jan. 31, 2000), which hold that client funds may not be disbursed from an [attorney trust account] until they have been 'collected,' meaning that the checks have cleared, the funds have been credited to the attorney's trust account, and they are immediately available."

The parties cited the following mitigating factors: respondent's cooperation with the OAE's investigation; his correction of the recordkeeping deficiencies; and his admission of responsibility for the unethical conduct. Respondent's prior reprimand, in 2016, for misrepresentations to disciplinary authorities, was the sole aggravating factor considered in respect of the motion.

¹ The source of funds for this remedial wire is not identified in the record.

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Respondent's admitted ethics violations are clearly and convincingly supported by the facts set forth in the record. As a result of the OAE's audits, respondent admitted that he had committed multiple recordkeeping infractions, in violation of RPC 1.15(d) and R. 1:21-6. Those recordkeeping violations created the circumstances whereby his clients' trust funds were improperly invaded, a violation of RPC 1.15(a).

Generally, reprimands are imposed for recordkeeping deficiencies that result in the negligent misappropriation of client funds. See, e.g., In re Cameron, 221 N.J. 238 (2015) (consent; after the attorney deposited into his trust account \$8,000 for the satisfaction of a second mortgage on a property that his two clients intended to purchase, he disbursed \$3,500 to himself for fees that the clients owed him for prior matters; when the transaction failed, the attorney had forgotten the \$3,500 disbursement to himself and issued an \$8,000 refund to one of the clients, thereby invading other clients' funds; upon learning of the overpayment, the attorney replenished the funds in his trust account; a demand audit of the attorney's books and records uncovered various recordkeeping deficiencies; prior admonition); In re Wecht, 217 N.J. 619 (2014) (as a result of poor recordkeeping, attorney negligently misappropriated trust funds when he wire-transferred funds twice to the same client); and 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; the excess disbursements were the result of the attorney's poor recordkeeping practices, and solely for the benefit of the client; the attorney also failed to memorialize the basis or rate of his fee).

Based on the above disciplinary precedent, the Board determined to reprimand respondent for his recordkeeping violations and negligent misappropriation of client funds. Because the misconduct under scrutiny in this case is unrelated to the misconduct for which he was reprimanded in 2016, it cannot be said that he has failed to learn from past mistakes. Thus, on balance, given the lack of aggravating factors, the absence of harm to any clients, and respondent's stipulation to his misconduct, a reprimand is a sufficient quantum of discipline.

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Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated December 28, 2017;
2. Stipulation of discipline by consent, with exhibits, dated December 11, 2017;
3. Affidavit of consent, dated December 1, 2017; and
4. Ethics history, dated March 19, 2018.

Very truly yours,



Ellen A. Brodsky

Chief Counsel

w/o encls.

c: Bonnie C. Frost, Chair

Disciplinary Review Board (via e-mail)

Charles Centinaro, Director

Office of Attorney Ethics (via interoffice mail and e-mail)

Joseph A. Glyn, Deputy Ethics Counsel

Office of Attorney Ethics (via e-mail)

Rosalyn A. Metzger, Respondent's Counsel (via regular mail and e-mail)