

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket Nos. DRB 18-049 and 18-095  
District Docket Nos. XIV-2016-0461E;  
XIV-2017-0157E; and XIII-2017-0012E

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IN THE MATTERS OF  
MARTIN ALBERT GLEASON  
AN ATTORNEY AT LAW

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Decision

Decided: August 7, 2018

To the Honorable Chief Justice and Associate Justices of the  
Supreme Court of New Jersey.

These matters were before us on separate certifications of  
the record filed by the Office of Attorney Ethics (OAE) (DRB  
18-049), and the District XIII Ethics Committee (DEC) (DRB  
18-095), pursuant to R. 1:20-4(f), which we determined to  
consolidate for disposition.

In DRB 18-049, a one-count complaint charged respondent with  
violations of RPC 1.4(b) (failure to communicate with the client),  
RPC 1.15(a) (knowing misappropriation/failure to safeguard 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) (failure to promptly

deliver funds), RPC 1.15(d) and R. 1:21-6 (recordkeeping), RPC 8.1(a) (lying to ethics authorities), and RPC 8.1(b) (failure to cooperate with an ethics investigation).

In DRB 18-095, a one-count complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(b) (failure to communicate with the client), RPC 1.5(b) (failure to set forth in writing the rate or basis of the fee), and RPC 8.1(b) (failure to cooperate with an ethics investigation).

We recommend respondent's disbarment.

Respondent was admitted to the New Jersey bar in 1992. He received a reprimand in 2011 for negligent misappropriation of client funds, failure to communicate in writing the basis or rate of his fee, and failure to comply with recordkeeping requirements. In re Gleason, 206 N.J. 139 (2011).

On February 3, 2015, respondent received an admonition for failure to communicate with the client and to cooperate with the ethics investigation. In the Matter of Martin Albert Gleason, DRB 14-139 (February 3, 2015), In re Gleason, 220 N.J. 350 (2015).

By Court Order dated June 9, 2017, respondent was temporarily suspended for his failure to cooperate with the OAE's investigation in DRB 18-049. In re Gleason, 229 N.J. 327 (2017).

I. DRB 18-095 – District Docket No XIII-2017-0012E

Service of process was proper in this matter. On September 5, 2017, the DEC sent a copy of the complaint by certified and regular mail to respondent's office address, which was also his home address, in Bound Brook, New Jersey, 08805, in accordance with R. 1:20-7(h).

The certified mail receipt was returned, indicating delivery, having been signed on September 9, 2017. The signature is illegible. The regular mail was not returned.

On November 25, 2017, the DEC sent a second letter to respondent, to the same office address, also by regular and certified mail, informing him that if he did not answer the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted; that, pursuant to R. 1:20-4(f) and R. 1:20-6(c)(1), the record in the matter would be certified directly to us for imposition of sanction; and that the complaint would be amended to include a charge of a violation of RPC 8.1(b). The certified mail receipt was returned indicating delivery on November 30, 2017, but the signature is illegible. The regular mail was not returned.

The time within which respondent may answer has expired. As of January 16, 2018, respondent had not filed an answer. Thus, the

matter was certified directly to us for the imposition of discipline.

We turn to the facts alleged in the complaint. In April 2013, Jessica Marinaccio retained respondent in connection with a contract dispute with her former roommate.

According to the complaint, no progress was made in the matter, until it was scheduled for mediation in March 2014. Inclement weather, however, forced a postponement. Respondent thereafter failed to reschedule the mediation.

Although respondent told Marinaccio that a complaint had been filed, he failed to provide her with a copy of it. Marinaccio later learned that there was no record that a complaint had been filed. Moreover, despite Marinaccio's requests for a copy of her file, respondent never provided her with any documentation about the matter, alleged violations of RPC 1.1(a) and RPC 1.3.

On several occasions between November 22, 2015 and June 2, 2016, Marinaccio called respondent and e-mailed him with requests for: (1) information and guidance; (2) status updates; (3) replies to questions; and (4) a meeting. Respondent failed to reply to all of her requests.

Respondent also took no affirmative steps to keep Marinaccio informed about her matter. Rather, she had to initiate communications with respondent to obtain information about her

case. For example, on December 2, 2014, she sent respondent an e-mail inquiring about trial costs. Respondent did not reply. Similarly, on September 14, 2015, she e-mailed respondent with concerns about the "lack of direction" that he had given her, and "the legitimacy" of information about negotiations, settlement offers, and mediation. Once again, respondent failed to reply. The complaint alleged that respondent's actions violated RPC 1.4(b).

Respondent and Marinaccio's first meeting took place in April 2013. At that time, she told respondent that, because she had limited financial resources, she needed to know about his legal fees and the costs associated with the representation. Respondent gave her no specifics, only that "they would square up once the matter was resolved."

On December 2, 2014, and almost a year later, on November 2, 2015, Marinaccio e-mailed respondent to inquire about his fees and any outstanding balance due, but he never replied. Ultimately, respondent never provided her with a retainer agreement or any writing that addressed his fees and costs, an alleged violation of RPC 1.5(b).

By letters dated May 25 and June 13, 2016, the DEC notified respondent of the grievance, and requested his written reply. Respondent received both letters, but never replied. On June 29, 2016, the DEC investigator placed a call to respondent's office.

Another attorney answered, telling the investigator that respondent was retiring from the practice of law, and stating that he was taking over respondent's law practice. The attorney also confirmed that he had signed for respondent's certified mail and had handed it directly to respondent.

Finally, the attorney told the investigator that he spoke regularly with respondent and would ask him to call the investigator. Respondent never did so. On July 6 and 10, 2016, the investigator called respondent, but he did not answer. On the latter date, a voicemail message was left for respondent to contact the DEC. Respondent did not return those calls.

Respondent received the grievance and the DEC's repeated requests for information about the matter. Nevertheless, he failed to provide any information or a written reply, an alleged violation of RPC 8.1(b).

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The facts recited in the complaint support some, but not all, of the charges of unethical conduct. Respondent's failure to file an answer is deemed an admission that the allegations of the complaint are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1). Nevertheless, each charge must contain sufficient facts to support a finding of unethical conduct.

In April 2013, Marinaccio retained respondent to represent her in a contract dispute. Although he claimed to have filed a complaint, there was no record of a complaint having been filed. After a March 2014 mediation was postponed, respondent took no further action to prosecute her claims, which constituted gross neglect and lack of diligence, violations of RPC 1.1(a) and RPC 1.3, respectively.

From December 2014 through June 2016, Marinaccio made numerous telephone and e-mail attempts to obtain information about her matter, but respondent replied to none of them, leaving his client in the dark about the status of her case, in violation of RPC 1.4(b).

Respondent did not provide Marinaccio with a writing setting forth the rate or basis of his fee, despite her requests for information about his fee. Rather, respondent told her that they would "square up once the matter was resolved." RPC 1.5(b) states that "when the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated in writing." Here, however, the complaint contains no facts alleging that respondent had not regularly represented Marinaccio. Thus, for lack of clear and convincing evidence, we dismissed the RPC 1.5(b) charge.

Finally, despite the DEC's May 25 and June 13, 2016 letter to respondent enclosing the grievance and requesting his written reply, respondent did not reply. On June 29, July 6, and July 10, 2016, the DEC called respondent and, on the latter occasion, left a voicemail message to return the call, yet respondent failed to do so. Respondent's actions in this respect amounted to failure to cooperate with an ethics investigation, in violation of RPC 8.1(b).

In sum, respondent is guilty of violations of RPC 1.1(a); RPC 1.3; RPC 1.4(b); and RPC 8.1(b).

**II. DRB 18-049 - District Docket Nos. XIV-2016-0461E and XIV-2017-0157E**

Service of process was proper in this matter. On September 1, 2017, the OAE sent a copy of the complaint by certified and regular mail to respondent's office and home address in Bound Brook, New Jersey, 08805, in accordance with R. 1:20-7(h).

The certified mail return receipt was returned indicating delivery, having been signed by respondent on September 2, 2017. The regular mail was not returned.

The time within which respondent may answer has expired. As of February 9, 2018, respondent had not filed an answer. Thus, the matter was certified directly to us for the imposition of discipline.



We turn to the facts alleged in the complaint. At all relevant times, respondent maintained accounts at Somerset Savings Bank, specifically, attorney trust account xxxxxxxx7041 (ATA), and attorney business account xxxxxxxx0405 (ABA).

On October 13, 2016, as the result of an overdraft in the ATA, the OAE conducted a demand audit of respondent's books and records. On October 21, 2016, the OAE sent respondent a letter requesting documentation about a \$13,000 deposit in the ATA on behalf of the Estate of Helen Cromonic. Although the letter required respondent to furnish the information by October 31, 2016, he failed to do so.

On November 17, 2016, the OAE sent respondent a second letter, requesting the above information by November 25, 2016, and informing him that the OAE may seek his temporary suspension from the practice of law if he failed to comply. Nevertheless, respondent failed to provide the requested information.

On March 1, 2017, the OAE sent respondent a final request for the information by March 9, 2017, but respondent did not reply.

On March 20, 2017, the OAE filed a petition for respondent's immediate temporary suspension from the practice of law, which the Court granted on June 9, 2017.

In respect of the allegations that respondent failed to communicate with his client and lied to ethics investigators, the complaint states as follows.

On November 7, 2015, Helen Cromonic passed away. Neil Smith, the husband of Cromonic's niece, Nancy Smith, was named executor of her estate. On November 9, 2015, the Smiths retained respondent to represent the estate. At the time, respondent characterized the estate as a simple one, to be completed by January or February 2016, with the exception of an income tax rebate to be disbursed thereafter.

In furtherance of the representation, respondent received three checks payable to the estate. During the investigation, respondent told the OAE that he had opened a separate account for the estate at Somerset Savings Bank, ending in #9430, because he could not deposit the three checks directly into his ATA. He deposited the three checks into the estate account, on a date not identified in the complaint, and wrote checks payable to his trust account from the estate account. The complaint charged respondent with violating the recordkeeping requirements of R. 1:21-6(a)(1) and RPC 1.15(d).

Notwithstanding the above explanation, the complaint also asserted that respondent "sent the checks to executor [sic] that

were made payable to the Estate," presumably a reference to the above three checks.<sup>1</sup>

Respondent directed Smith to cash the checks, telling her that he would deduct the amount from Nancy Smith's inheritance. Smith declined, and sent the checks back to respondent with instructions to deposit them in the estate account and to use the funds for the estate's bills.

Thereafter, Smith repeatedly attempted to reach respondent by telephone, but respondent failed to return his calls. The complaint charged that respondent violated RPC 1.4(b).

On July 27, 2016, respondent issued ATA check number 17452, for \$23,242.65, to estate beneficiary Emil Ramirez. Because the balance in his ATA was only \$12,154.93, when check number 17452 was negotiated, it caused an \$11,087.72 overdraft.

In his August 30, 2016 reply to the OAE and during the October 2016 demand audit, respondent asserted that the overdraft was occasioned by an employee's inadvertent disbursement of check number 17452, which respondent had placed in an envelope on his desk before going on vacation. Although he had intended to mail the check upon his return, after transferring estate funds into

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<sup>1</sup> Exhibit 28 to the complaint does not contain checks payable to the estate. Rather, it is a single page, representing the front and back of an ATA check payable to "Estate of Arlene D'Alessandro." The memo line on the check reads "Cromonic."

the ATA for that purpose, an employee mailed the check to Ramirez while respondent was away.

Respondent further told the OAE that, when he learned about the overdraft, he immediately deposited \$13,000 from decedent Cromonic's Wells Fargo Bank account, and another \$9,693.10 from the estate account, to cure the ATA shortage.

Cromonic had opened a Wells Fargo Bank account naming her executor as the power of attorney on the account. Only one check was drawn on that account – a January 18, 2016 check from Smith to respondent, for \$81,918.54. The memo line on the check states "Estate of Helen Cromonic."

Contrary to respondent's explanation, according to the complaint, respondent's \$13,000 deposit had included \$10,000 from other clients' deposits in unrelated, pending real estate transactions, as follows: (1) \$3,000 for client Diaz; (2) \$1,000 for client James; (3) \$1,000 for client Orellana; and (4) \$5,000 for client Ijaz. The remainder of the deposit was \$3,000 in cash. Thus, the complaint charged that respondent knowingly misappropriated the funds of the above four clients by using their funds, without their consent, to cure the ATA overdraft.

The complaint, further alleged that, at the time respondent told the OAE that the funds to cure the shortage had come from

Cromonic's Wells Fargo account and the estate account, he knew the statement was false, a violation of RPC 8.1(a).

In addition, the complaint charged that respondent knowingly misappropriated estate funds on at least thirteen occasions between February 19 and July 27, 2016, as follows.

On January 25, 2016, respondent deposited Cromonic's \$81,918.54 into the ATA, as well as \$2,428.88 on behalf of client Loboski, the latter for a real estate matter, bringing the balance in the ATA to \$168,251.08. However, on February 19, 2016, respondent issued a number of checks unrelated to the estate, decreasing the ATA balance to \$3,549.12, or \$78,369.42 below the amount he should have been holding for the estate. On April 21, 2016, the ATA held only \$804.35.

After an April 22, 2016 wire deposit of \$205,000 on account of client Island Title, the ATA balance remained above the \$81,918.54 that respondent was required to hold on behalf of the estate, until May 23, 2016, when it fell to \$31,316.19, some \$50,602.35 below the amount that he should have been holding for the estate. On May 26, 2016, the ATA balance fell to \$29,273.29, representing a \$52,645.25 shortfall in the estate funds.

Days later, on June 2, 2016, the balance in the ATA further decreased to \$24,423.29, representing a \$57,495.25 shortfall in the amount to have been held in the ATA for the estate.

Also on June 2, 2016, respondent deposited \$61,000 of client funds into the ATA: (a) \$50,000 from Mi La's Debut School of Music; (b) \$5,000 from George Romo; and (c) \$6,000 from Gladys LLerena and Wilfredo Ponce. Those deposits increased the balance in the ATA to \$85,423.29.

That same day, respondent began issuing a number of ATA checks, representing disbursements on account of the estate, which cleared the ATA on the following dates: (1) on June 2, 2016, check number 17427, for \$257.66, payable to Discover Advanced Care Pharmacy; (2) on June 3, 2016, check number 17429, for \$260, payable to AJ Santaye; (3) on June 6, 2016, check number 17368, for \$1,178.61, payable to Smith; and (4) on June 6, 2016, check number 17426, for \$225, payable to Phillipsburg Memorial.

On June 27, 2016, ATA check number 17439, for \$4,500, made payable to Smith, cleared the trust account, reducing the balance to \$38,063.19, which was \$37,434.08 less than the \$75,497.27 respondent was required to hold in the ATA on behalf of the estate.

On June 30, 2016, the balance in the ATA fell to \$27,563.19, an amount \$47,934.08 less than the \$75,497.27 required to be held for the estate. On that same date, respondent deposited \$16,000 into the ATA on behalf of clients Lierina and Luedocke for their respective real estate transactions, which brought the balance in the ATA to \$43,563.19. Also on June 30, 2016, ATA check number

17437, for \$11,421.00, payable to "NJ Inheritance and State Tax," cleared the ATA. After issuing those checks, respondent should have been holding \$64,076.27 on behalf of the estate. Yet, after ATA check number 17437 cleared the bank on June 30, 2017, the balance in the ATA fell to \$32,322.19, some \$31,754.08 below the amount required to be held for the estate.

On July 12, 2017, respondent made a \$15,000 deposit into the ATA: (1) \$7,000 for client Song; (2) \$5,000 for "9 Violet Street;" and (3) \$3,000 belonging to "Orange Peel Nail and Spa." This deposit brought the ATA balance up to \$47,306.27, which was \$16,770 below the amount required to be maintained for the estate.

On July 19, 2016, ATA check number 17450, for \$7,263.32, payable to estate beneficiary Eileen Kohler, cleared the ATA, which decreased the ATA balance to \$39,836.95, or \$16,976 less than the \$56,812.95 required to be held in the ATA for the estate.

On July 25, 2016, ATA check number 17444, for \$23,698.97, made payable to executor (and beneficiary) Neil Smith, cleared the ATA, thereby reducing the balance in the account to \$15,869.59, some \$17,244.39 less than the \$33,113.98 required to be held in the account on behalf of the estate.

On July 27, 2016, ATA check number 17453, for \$3,361.66, made payable to estate beneficiary Arlene D'Allesandro, cleared the ATA, thereby reducing the balance in the ATA to \$12,154.93, an

amount \$17,597.39 less than the \$29,752.32 required to be held on account of the estate. On the same date, ATA check number 17452, for \$23,242.65, payable to beneficiary Emil Ramirez, cleared the ATA, reducing the balance in that account to -\$11,807.72, which was \$18,317.39 less than the \$6,509.67 required to be held on account of the estate alone. This check generated the previously noted \$11,087.72 overdraft.

The complaint alleged that respondent's actions in the above regard constituted knowing misappropriation of client funds, in violation of RPC 1.15(a) and the principles of In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985); and RPC 1.15(a) by his failure to identify, keep, or appropriately safeguard client property or funds; RPC 1.15(b) by his failure to promptly turn over funds; and R. 1:21-6(a)(1) and RPC 1.15(d) because he "deposited funds from an Estate account into his ATA and failed to maintain the Estate funds in a separate account."

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Following a review of the record, we are satisfied that the facts recited in the complaint support the charges of unethical conduct. Respondent's failure to file an answer is deemed an admission that the allegations of the complaint are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).



Respondent's most serious misconduct involved his handling of the ATA over the five-month period between February and July 2016. He invaded real estate deposits belonging to clients Diaz (\$3,000), James (\$1,000), Orellana (\$1,000), and Ijaz (\$5,000), and used them to cover the overdraft caused by the disbursement to Ramirez, a beneficiary in the unrelated Cromonic estate matter. Respondent took those funds without the real estate clients' knowledge or authorization to do so.

Respondent also knowingly misappropriated estate funds on at least twelve occasions between February 19 and July 27, 2016: (1) on February 19, 2016, respondent issued ATA checks unrelated to the estate, causing the ATA balance to fall to \$3,549.12, a shortage of \$78,369.42; (2) on May 23, 2016, the ATA balance fell to \$31,316.19, a \$50,602.35 shortage; (3) on May 26, 2016, the ATA balance fell to \$29,273.29, a \$52,645.25 shortage; (4) on June 2, 2016, the balance in the ATA fell to \$24,423.29, a \$57,495.25 shortage; (5) on June 27, 2016, the ATA balance fell to \$38,063.19, a \$37,434.08 shortage; (6) on June 30, 2016, the ATA balance was \$27,563.19, a \$47,934.08 shortage; (7) on June 30, 2017, the ATA balance fell to \$32,322.19, a \$31,754.08 shortage; (8) on July 12, 2017, the ATA balance was \$47,306.27, a \$16,770 shortage; (9) on July 19, 2016, the ATA balance fell to \$39,836.95, a \$16,976 shortage; (10) on July 25, 2016, the ATA balance fell to

\$15,869.59, a \$17,244.39 shortage; (11) on July 27, 2016, the balance in the ATA fell to \$12,154.93, a \$17,597.39 shortage; and (12) also on July 27, 2016, when respondent's disbursement check to Ramirez cleared, the ATA balance fell to -\$11,807.72, an \$18,317.39 shortage.

In all twelve instances above, respondent either: (1) used other clients' funds held in the trust account to fund estate disbursements, without the other clients' knowledge or authorization to do so; or (2) used estate funds to pay the obligations of client matters or others unrelated to the estate, without the estate's knowledge or authorization to do so.

In respect of the nine ATA deposits on account of clients Loboski, Island Title, Mi La's Debut School of Music, George Romo, Gladys Llerena and Wilfredo Ponce, Lierina, Luedocke, Song, 9 Violet Street, and Orange Peel Nail and Spa, the evidence is insufficient to establish whether and/or to what extent respondent may have invaded those clients' funds. Thus, for lack of clear and convincing evidence of misappropriation, we made no findings in respect of those ATA deposits.

For the twelve invasions of estate funds, as well as the invasions involving clients Diaz, James, Orellana, and Ijaz, above, respondent is guilty of knowing misappropriation, in

violation of RPC 1.15(a) and the principles of In re Wilson, 81 N.J 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985).

Respondent also violated RPC 1.1(a), RPC 1.3, RPC 1.4(b), RPC 1.15(d) and R. 1:21-6, RPC 8.1(a), and RPC 8.1(b). Because respondent is guilty of knowing misappropriation, however, we need not consider the appropriate quantum of discipline for his other less serious violations in these two defaults.

Pursuant to Wilson and Hollendonner, we determine that respondent must be disbarred and we so recommend.

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

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SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of Martin Albert Gleason  
Docket Nos. DRB 18-049 and 18-095


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Decided: August 7, 2018

Disposition: Disbar

<i>Members</i>	Disbar	Recused	Did Not Participate
Frost	X		
Clark	X		
Boyer	X		
Gallipoli	X		
Hoberman	X		
Joseph	X		
Rivera	X		
Singer	X		
Zmirich	X		
Total:	9	0	0

  
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Ellen A. Brodsky  
Chief Counsel