

Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 19-024
District Docket Nos. XIV-2017-0103E
and XIV-2017-0125E

In the Matter of
Hassen I. Abdellah
An Attorney at Law

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Decision

Argued: March 21, 2019

Decided: August 21, 2019

Joseph A. Glyn appeared on behalf of the Office of Attorney Ethics.

Gregg H. Hilzer 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 disciplinary stipulation between the Office of Attorney Ethics (OAE) and respondent. The OAE seeks an admonition for respondent's violation of RPC 1.15(d) (failure to comply with

the recordkeeping requirements of R. 1:21-6). We determine to impose a reprimand.

Respondent was admitted to the New Jersey bar in 1983. At the relevant times, he maintained an office for the practice of law in Elizabeth. Respondent has no disciplinary history.

At the relevant times, respondent maintained an attorney trust account with Bank of America (BOA). In February 2017, BOA notified the OAE that two trust account checks had been issued against insufficient funds. BOA honored both checks.

The OAE's subsequent investigation revealed that, on January 31, 2017, respondent issued a trust account check, in the amount of \$1,450, to Salvatore Iacovo for lawn care services provided to respondent's client, Valerie Van Baaren. Van Baaren's sub-account number was 00384.

When respondent issued the \$1,450 check, he erroneously applied the disbursement to sub-account number 00371, which was designated for his client, Latisha Drake. At the time, the Drake sub-account balance was zero, rendering the sub-account overdrawn by \$1,450.

On February 14, 2017, respondent made a \$1,450 internal trust account transfer from Van Baaren's sub-account to Drake's sub-account, thereby eliminating the negative balance in Drake's sub-account.

In February 2015, respondent's client Timothy Blake granted respondent power of attorney. Blake's funds were maintained in respondent's trust account, under the designated sub-account number 00375. When Blake required money, he provided respondent with instructions for disbursing the funds.

On December 1, 2016, the Blake sub-account balance was \$814.48. On that date, respondent issued a trust account check, in the amount of \$500, to Blake. Respondent failed to record the disbursement on the ledger.

On February 21, 2017, at Blake's request, respondent issued trust account check number 1369, in the amount of \$1,000, to Hassen Abdur-Rahman. Because the Blake sub-account balance was only \$314.48, the \$1,000 check resulted in a \$685.52 overdraft.

When BOA notified respondent of the overdraft, he corrected it by making a \$685.52 internal trust account transfer, representing his attorney fee in an unrelated client subaccount. Yet, the demand audit demonstrated that, even if the \$500 disbursement had not been made, the Blake sub-account

balance would have been \$814.48, which was \$185.52 less than the \$1,000 paid to Abdur-Rahman.

During a demand audit, respondent told the OAE that, to determine the balance in his sub-accounts, his practice was to "call the bank and review an Accutrack report." The Accutrack report, which the bank issued monthly, reflects each sub-account's activity for the month. Respondent admitted that, prior to disbursing the \$1,000 to Abdur-Rahman, on February 21, 2017, he did not check the Accutrack report to determine whether the Blake sub-account had enough funds to cover the check.

Respondent admitted, and the audit confirmed, that he did not maintain trust receipts and disbursements journals, as R. 1:21-6(c)(1)(a) requires, and that he did not perform three-way reconciliations, as required by R. 1:21-6(c)(1)(h). These violations led to the overdrafts in the Drake and Blake sub-accounts.

Respondent stipulated to having violated RPC 1.15(d). The parties agreed that, based on a "prior interaction with the OAE," respondent was aware of his obligation to maintain fully descriptive client ledger cards; to maintain trust receipts and disbursements journals; and to perform monthly

trust account reconciliations with client ledgers, journals, and checkbooks, as R. 1:21-6(c)(1)(b), (a), and (h) respectively require.

Respondent submitted a certification in which he (1) apologized to the OAE for the recordkeeping "errors," which were not intentional; (2) represented that, as soon as he learned of the errors, he corrected them; and (3) asserted that he has retained Sam Fisher, a certified public accountant, who will monitor his recordkeeping and ensure that he is performing three-way reconciliations correctly. Respondent also certified that he was registered to take a continuing legal education course on maintaining attorney trust and business accounts; that he takes his recordkeeping obligations "very seriously;" and that he is "currently devoting more time and energy to [his] recordkeeping obligations, and with Mr. Fisher's guidance, [he is] confident that [he] will not have issues in this area going forward."

Following a review of the record, we are satisfied that the facts contained in the stipulation clearly and convincingly support the finding that respondent violated RPC 1.15(d). He failed to maintain fully descriptive client ledgers, failed to maintain trust receipts and disbursements journals, and failed to perform three-way reconciliations.

An admonition is the usual form of discipline for recordkeeping violations that do not result in the negligent misappropriation of trust account funds. See, e.g., In the Matter of Andrew M. Newman, DRB 18-153 (July 23, 2018) (attorney failed to maintain trust or business account cash receipts and disbursements journals, proper monthly trust account three-way reconciliations, and proper trust and business account check images), and In the Matter of Leonard S. Miller, DRB 14-178 (September 23, 2014) (attorney recorded erroneous information on client ledgers, which also lacked full descriptions and running balances; failed to promptly remove earned fees from the trust account; and failed to perform monthly three-way reconciliations).

Although, at the time of respondent's infractions, he had an unblemished disciplinary record of twenty-four years, he should have been more mindful of his recordkeeping obligations due to a prior interaction with the OAE regarding his recordkeeping practices. We, thus, determine to impose a reprimand for respondent's violation of RPC 1.15(d). See In re Conroy, 185 N.J. 277 (2015) (reprimand imposed on an attorney whose recordkeeping violations did not result in negligent misappropriation, but who had been the subject of a prior random audit during which recordkeeping deficiencies were revealed; we found a reprimand to be appropriate because the attorney should

have been more mindful of his recordkeeping obligations. In the Matter of John S. Conroy, IV, DRB 05-173 (September 15, 2005)).

Members Joseph and Singer voted for an admonition. Member Gallipoli did not participate.

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
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Hassen I. Abdellah
Docket No. DRB 19-024

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Disposition: Reprimand

<i>Members</i>	Reprimand	Admonition	Recused	Did Not Participate
Frost	X			
Clark	X			
Boyer	X			
Gallipoli				X
Hoberman	X			
Joseph		X		
Rivera	X			
Singer		X		
Zmirich	X			
Total:	6	2	0	1


Ellen A. Brodsky
Chief Counsel