

**DISCIPLINARY REVIEW BOARD**  
**OF THE**  
**SUPREME COURT OF NEW JERSEY**

BRUCE W. CLARK, ESQ., CHAIR  
HON. MAURICE J. GALLIPOLI, VICE-CHAIR  
PETER J. BOYER, ESQ.  
THOMAS J. HOBERMAN  
REGINA WAYNES JOSEPH, ESQ.  
PETER PETROU, ESQ.  
EILEEN RIVERA  
ANNE C. SINGER, ESQ.  
ROBERT C. ZMIRICH



RICHARD J. HUGHES JUSTICE COMPLEX  
P.O. BOX 962  
TRENTON, NEW JERSEY 08625-0962  
(609) 815-2920

ELLEN A. BRODSKY  
CHIEF COUNSEL  
  
TIMOTHY M. ELLIS  
DEPUTY COUNSEL  
  
BARRY R. PETERSEN, JR.  
DEPUTY COUNSEL  
  
ROCCO J. CARBONE, III  
ELIZABETH L. LAURENZANO  
COLIN T. TAMS  
KATHRYN ANNE WINTERLE  
ASSISTANT COUNSEL

November 25, 2019

Heather Joy Baker, Clerk  
Supreme Court of New Jersey  
P.O. Box 970  
Trenton, New Jersey 08625-0962

**Re: In the Matter of Mark J. Udren**  
Docket No. DRB 19-313  
District Docket No. XIV-2018-0077E

Dear Ms. Baker:

The Disciplinary Review Board has reviewed the motion for discipline by consent (censure or three-month suspension, or such lesser discipline as the Board shall deem warranted) filed by the Office of Attorney Ethics (OAE) in the above matter, pursuant to R. 1:20-10(b). Following a review of the record, the Board granted the motion and determined to impose a censure for respondent's violation of RPC 1.15(a) (negligent misappropriation of client funds and commingling client and personal funds), RPC 1.15(d) (failure to comply with the recordkeeping provisions of R. 1:21-6), and RPC 5.3(a) (failure to supervise nonlawyer staff).

Specifically, respondent's high-volume law practice focused on the representation of mortgage servicers and lenders in mortgage foreclosure actions, ejectment and eviction actions, loan workouts, bankruptcies, and real estate owned closings. Respondent's firm issued approximately five thousand checks per month. Respondent closed his practice in 2018, and, as of January 2019, has retired from the practice of law. The instant matter arose from a November 30, 2017 random audit conducted by the OAE.

The OAE audit revealed that respondent had violated RPC 1.15(a) by negligently misappropriating client funds, and by commingling personal and trust funds. The OAE identified transfers to and from an attorney trust account (ATA) maintained by respondent that improperly invaded client funds in that ATA, resulting in a shortage of \$9,133.55. As a result of the gross disorder of respondent's financial records, neither the OAE nor the accountant he eventually retained could determine which client's funds had been impacted.

Respondent additionally violated RPC 1.15(d) by failing to comply with the recordkeeping provisions of R. 1:21-6. Specifically, he failed to identify attorney funds for bank charges in ledger cards; failed to maintain fully descriptive trust receipts and disbursements journals; failed to maintain fully descriptive client ledger cards for each client matter; failed to maintain individual ledger cards for each client; commingled attorney personal and firm funds; maintained a facsimile signature rubber stamp used for ATA checks; and allowed electronic transfers without proper authorization.

Finally, respondent violated RPC 5.3(a) by failing to ensure that his nonlawyer employee, Loraine Geist, engaged in conduct compatible with respondent's professional obligations. Respondent improperly gave Geist authority to execute financial transactions online, including transfers to and from his ATA. He also improperly delegated his recordkeeping responsibilities to Geist, who then failed to maintain the firm's recordkeeping and never performed the required monthly three-way reconciliations of respondent's accounts.

Generally, a reprimand is imposed for recordkeeping violations and negligent misappropriation of client funds. See, e.g., In re Cameron, 221 N.J. 238 (2015) (after the attorney had deposited into his trust account \$8,000 for the payoff of a second mortgage on a property that his two clients intended to purchase, he disbursed \$3,500, representing legal fees that the clients owed to him for prior matters, leaving in his trust account \$4,500 for the clients, in addition to \$4,406.77 belonging to other clients; when the deal fell through, the attorney, who had forgotten about the \$3,500 disbursement, issued an \$8,000 refund to one of the clients, thereby invading the other clients' funds; a violation of RPC 1.15(a); upon learning of the overpayment, the attorney collected \$3,500 from one of the clients and replenished his trust account; a demand audit of the attorney's books and records uncovered "various recordkeeping deficiencies," a violation of RPC 1.15(d)) and In re Wecht, 217 N.J. 619 (2014) (attorney's inadequate attorney records caused him to negligently misappropriate trust funds, violations of RPC 1.15(a) and 1.15(d); no prior discipline in twenty-five years at the bar).

Respondent, however, also violated RPC 5.3(a). Attorneys who fail to supervise their nonlawyer staff typically receive discipline ranging from an admonition to a censure, depending on the presence of other ethics infractions, prior discipline, or aggravating and mitigating factors. See, e.g., In re Mariconda, 195 N.J. 11 (2008) (admonition for attorney who delegated his recordkeeping responsibilities to his brother, a paralegal, who then forged the attorney's signature on trust account checks and stole \$272,000 in client funds); In re Deitch, 209 N.J. 423 (2012) (reprimand for attorney who failed to supervise his paralegal-wife, who stole client or third-party funds via thirty-eight checks payable to her, by either forging the attorney's signature or using a signature stamp; no prior discipline); and In re Key, 220 N.J. 31 (2014) (censure for attorney who failed to ensure that his nonlawyer employees recorded the attorney's time spent on client matters, a violation of RPC 5.3; the attorney also violated RPC 3.1 when, while his appeal from an adverse fee arbitration award was pending, he filed an answer to his clients' civil complaint seeking to enforce the award and asserted a counterclaim for the purpose of relitigating the reasonableness of his fee; the

November 25, 2019

Page 3 of 3

attorney knew that the court was without jurisdiction while the fee appeal was pending and, further, that he was barred from relitigating the fee arbitration panel's determination; in addition, after we dismissed his appeal from the fee award, he did not withdraw his counterclaim; the attorney also failed to record expenses and costs incurred on behalf of his clients, a violation of RPC 1.15(d); two prior admonitions and a reprimand for recordkeeping violations).

The Board considered, in mitigation, that respondent has no prior discipline in over fifty years at the bar; readily admitted his misconduct; promptly reimbursed client funds; expressed genuine remorse; and took immediate remedial measures, including retaining an accountant to reconstruct his firm's financial records. Although the stipulation cited no aggravating factors, the Board considered, in aggravation, that the OAE was unable to determine which clients' funds were affected, due to respondent's complete failure to maintain decipherable records, and that the infractions were discovered only because of the random audit. On balance, the Board determined to grant the motion and impose a censure to protect the public and preserve confidence in the bar.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated July 26, 2019.
2. Stipulation of discipline by consent, dated July 29, 2019.
3. Affidavit of consent, dated August 20, 2019.
4. Ethics history, dated November 25, 2009.

Very truly yours,



Ellen A. Brodsky  
Chief Counsel

Enclosures

- c: (w/o enclosures)  
Bruce W. Clark, Chair  
Disciplinary Review Board (e-mail)  
Charles Centinaro, Director  
Office of Attorney Ethics (e-mail and interoffice mail)  
Steven J. Zweig, Deputy Ethics Counsel  
Office of Attorney Ethics (e-mail)  
Madelaine P. Hicks, Esq., Counsel for Respondent (e-mail and regular mail)