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November 27, 2019

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

Re: **In the Matter of Daniel B. Zonies**
Docket No. DRB 19-312
District Docket No. XIV-2016-0551E

Dear Ms. Baker:

The Disciplinary Review Board has reviewed the motion for discipline by consent (three-month suspension or such lesser discipline as the Board deem appropriate) 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 three-month suspension for respondent's violations of RPC 1.15(a) (commingling personal and client funds; failing to safeguard funds; and negligently misappropriating client funds) and RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6).

Specifically, the record demonstrates that respondent's egregious recordkeeping led to his commingling of personal and client funds in seventeen matters (the Jefferson Hospital referral fee, the Bell matter, and fifteen other matters), and his failing to safeguard client funds, leading to negligent misappropriation in the Vanderslice and Galezniak client matters. Moreover, in the Strickland matter, respondent improperly provided financial assistance to a client, advancing \$9,000 to her three weeks prior to receiving her corresponding settlement proceeds. That conduct was violative of both RPC 1.15(a) and RPC 1.8(e) (improper financial assistance to a client), but, because respondent was not charged with the latter misconduct, we do not find a violation of that Rule.

The core of respondent's misconduct is his continuous and complete failure to comply with recordkeeping requirements, including: R. 1:21-6(c)(1) (failing to maintain trust account records contemporaneously); R. 1:21-6(c)(1)(A) (failing to maintain a cash receipts and disbursements journal for trust account; failing to maintain fully-descriptive monthly cash disbursements journals); R. 1:21-6(c)(1)(B) (failing to maintain fully descriptive client ledger cards); and R. 1:21-6(c)(1)(H) (failing to maintain monthly three-way reconciliations for a trust account; failing to maintain individual client ledger cards).

Generally, a reprimand is imposed for commingling, recordkeeping deficiencies, and negligent misappropriation of client funds. See, e.g., In re Bucci, 238 N.J. 244 (2019) (attorney violated a number of provisions of R. 1:21-6, including maintaining negative trust account balances, which she improperly offset by commingled attorney fees); In re Christoffersen, 220 N.J. 2 (2014) (attorney negligently misappropriated funds destined for the satisfaction of a lien, failed to segregate funds that were subject to a dispute between the lawyer and his clients, commingled personal and trust funds, and failed to comply with recordkeeping requirements; violations of RPC 1.15(a), (c), and (d); the Board considered the attorney's unblemished record of thirty years at the New Jersey bar, his reputation for honesty, and his considerable contributions to the community, especially to his church and the Boy Scouts organization); and In re Wecht, 217 N.J. 619 (2014) (attorney's inadequate records caused him to negligently misappropriate trust funds, violations of RPC 1.15(a) and RPC 1.15(d)).

However, this is not respondent's first, or even second, contact with the disciplinary system. Rather, it is his fifth. Furthermore, respondent twice has been disciplined for recordkeeping infractions – a 2003 reprimand and a 2018 censure. Although some of the recordkeeping misconduct under scrutiny in this case began before imposition of the 2018 sanction, respondent has been on notice of his recordkeeping deficiencies since 2003, when the OAE first investigated similar misconduct. Moreover, in 2015, the OAE again investigated his lack of recordkeeping. In 2017, the OAE informed respondent that his accounting records were grossly incomplete and in violation of the Rules. Yet, respondent's recordkeeping deficiencies continued through the date of the execution of the stipulation, in August 2019. Based on the timeframe of the OAE's investigation of respondent's recordkeeping practices, he had, or should have had, a heightened awareness of his obligations under RPC 1.15(d) and R. 1:21-6. Yet, respondent failed to learn from his prior mistakes.

The Court has signaled an inclination toward progressive discipline and stern treatment of repeat offenders. In such situations, enhanced discipline is appropriate. See In re Kantor, 180 N.J. 226 (2004) (disbarment for abandonment of clients and repeated failure to cooperate with the disciplinary system). On balance, with emphasis on respondent's continuous failure to fulfill his recordkeeping obligations, the Board concluded that a three-month suspension is the quantum of discipline necessary to protect the public and preserve confidence in the bar.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated August 16, 2019.

November 27, 2019

Page 3 of 3

2. Stipulation of discipline by consent, dated August 16, 2019.
3. Affidavit of consent, dated August 7, 2019.
4. Ethics history, dated November 27, 2019.

Very truly yours,



Ellen A. Brodsky
Chief Counsel

EAB/
Enclosures

- c: (w/o enclosures)
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Disciplinary Review Board (e-mail)
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Office of Attorney Ethics (e-mail and interoffice mail)
Timothy J. McNamara, Esq., Assistant Ethics Counsel
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