

Supreme Court of New Jersey  
Disciplinary Review Board  
Docket No. DRB 19-166  
District Docket No. XIV-2018-0152E

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In the Matter of  
Lawrence B. Sachs  
An Attorney at Law

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Decision

Argued: July 18, 2019

Decided: December 11, 2019

Ryan J. Moriarty appeared on behalf of the Office of Attorney Ethics.

Respondent appeared pro se.

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. Respondent stipulated to having

violated RPC 1.15(a) (failure to safeguard funds – negligent misappropriation) and RPC 1.15(d) (recordkeeping violations).

For the reasons set forth below, we determine to impose a reprimand.

Respondent was admitted to the New Jersey bar in 1983. He maintains a law office in East Brunswick, New Jersey.

In 2009, respondent received a reprimand for commingling earned legal fees and trust funds in his attorney trust account, failing to promptly deliver funds to clients, and failing to comply with the recordkeeping rules. In re Sachs, 200 N.J. 265 (2009). The Court ordered respondent to submit to the OAE, quarterly reports of his progress in identifying and returning client funds left in his attorney trust account.

On January 14, 2015, the Court ordered respondent to comply with its previous Order, to distribute funds to recipients who had been identified; to deposit the remaining unidentified funds with the Superior Court Trust Fund; and to submit proof of compliance to the OAE. In re Sachs, \_\_\_ N.J. \_\_\_ (2015). His failure to comply resulted in his temporary suspension on February 24, 2015. In re Sachs, 220 N.J. 492 (2015). On March 3, 2015, the Court reinstated respondent to the practice of law. In re Sachs, 220 N.J. 583 (2015).

In September 2015, respondent received another reprimand, this time for gross neglect, lack of diligence, and failure to communicate. He failed to negotiate payoff amounts of judgments against his clients' property and failed to communicate with the clients. In assessing the proper discipline to impose, we considered, in aggravation, respondent's prior discipline and the economic harm that his clients suffered as a result of his inaction, balanced against, in mitigation, his cooperation with disciplinary authorities by readily admitting the violations set forth in the disciplinary stipulation. In re Sachs, 223 N.J. 241 (2015).

We now turn to the facts of this matter.

As stated above, the Court had ordered respondent to provide the OAE with quarterly reports on his progress in identifying and disbursing client funds from his trust account. In accordance with that Order, respondent submitted to the OAE his quarterly three-way reconciliations and supporting documentation for November and December 2017, and January 2018. Along with the submission, respondent informed the OAE that, when his accountant was performing quarterly reconciliations, he discovered a discrepancy caused by respondent's inadvertent deposit, on November 13, 2017, of \$20,000 in escrow funds in his business account. Respondent admitted, both in an April 19, 2018

letter and at a May 31, 2018 demand audit, that he had mistakenly deposited three checks, for two different client matters, in his business account, rather than his trust account. It was not until he provided his accountant with his quarterly information that the error was discovered. Although the three checks were endorsed for deposit in respondent's trust account, he had used a business account deposit slip, rather than a trust account deposit slip, to deposit the funds. More specifically, two checks for client Lubna Khokar (\$9,000 and \$1,000), in connection with a real estate closing, and one for client Creative Modular (\$10,000), for a new construction closing, were erroneously deposited in the business account.

On November 20, 2017, when the Khokar closing took place, respondent issued a \$10,000 trust account check to the title company. Because the Khokar funds had been deposited in the business account, other client trust account funds were invaded. The Khokar and Creative Modular funds remained in respondent's business account until February 26, 2018, when respondent learned of the mistake and corrected it, by depositing \$20,000 into his trust account.

Although the Court had ordered respondent to provide his monthly three-way reconciliations and documentation to the OAE on a quarterly basis, respondent admitted that he did not reconcile his trust account monthly, but did

so only quarterly when his records were due for submission to the OAE. For that reason, respondent did not discover the mistake until he provided the records to his accountant.

As of November 23, 2017, respondent held \$285,804.66 of other clients' funds in his trust account. Therefore, when the \$10,000 trust account check cleared in the Khokhar matter, it invaded other client funds.

To prevent this type of mistake from occurring in the future, respondent obtained different trust account deposit slips.

Respondent, thus, stipulated that he had violated RPC 1.15(a) by negligently misappropriating client trust funds, and RPC 1.15(d) by failing to reconcile his trust account on a monthly basis, as R. 1:21-6(c)(1)(H) requires.

In recommending a reprimand or lesser discipline, the OAE balanced respondent's prior two reprimands against his ready admission of wrongdoing, prompt correction of the error, and full cooperation with disciplinary authorities. Respondent agreed to conduct monthly reconciliations, and to provide them to the OAE "in a manner consistent with the [Court's] Order;" to attend the New Jersey Institute for Continuing Legal Education New Jersey Trust and Business Accounting course, or an OAE equivalent program, which will not count toward

the annual continuing legal education (CLE) requirements; and to “pre-pay all costs associated with this condition.”

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(a) and RPC 1.15(d). The stipulation established that respondent’s failure to conduct the required monthly reconciliations prevented him from discovering that he had mistakenly deposited \$20,000 of trust funds in his business account, until his accountant performed the quarterly reconciliations. Thus, when respondent issued a \$10,000 trust account check to the title company in connection with the Khokar closing, he negligently misappropriated other clients’ trust funds. Respondent’s conduct, thus, violated RPC 1.15(a) and RPC 1.15(d).

Generally, a reprimand is imposed for recordkeeping deficiencies and negligent misappropriation of client funds. See, e.g., In re Cameron, 221 N.J. 238 (2015) (after the attorney deposited \$8,000 in his trust account to pay off a second mortgage on a property that two clients intended to purchase, he disbursed \$3,500 for legal fees that the clients owed for prior matters, leaving only \$4,500 for the two clients and \$4,406.77 for his other clients; when the clients’ deal fell through, the attorney issued the full \$8,000 refund to one of the

clients, forgetting the earlier disbursement to himself, thereby invading other client funds; the attorney replenished the funds in his trust account when he learned about the overpayment; a demand audit uncovered various recordkeeping deficiencies); In re Wecht, 217 N.J. 619 (2014) (attorney's inadequate records caused him to negligently misappropriate funds); and In re Gleason, 206 N.J. 139 (2011) (attorney negligently misappropriated client funds by disbursing more funds than he had collected in five real estate transactions in which he represented a client; the excess disbursements, which were the result of poor recordkeeping practices, were solely for the benefit of the client; the attorney also failed to memorialize the basis or rate of his fee).

A reprimand may still result even if the attorney has a disciplinary record that includes a prior recordkeeping violation or other ethics transgressions. See, e.g., In re Johnson, 236 N.J. 121 (2018) (attorney's failure to prepare monthly three-way reconciliations of his trust account resulted in the significant negligent misappropriation of client funds; he also failed to deposit earned legal fees in his attorney business account; prior admonition for failure to safeguard funds; no compelling mitigating factors were present); In re Toronto, 185 N.J. 399 (2005) (attorney negligently misappropriated \$59,000 of client funds and engaged in recordkeeping violations; prior three-month suspension for a

conviction of simple assault, and a reprimand for a misrepresentation to ethics authorities; mitigating factors were considered); and In re Regojo, 185 N.J. 395 (2005) (attorney negligently misappropriated \$13,000 of client funds as a result of his failure to properly reconcile his trust account records and engaged in other recordkeeping violations; one of the attorney's two prior reprimands stemmed from negligent misappropriation; mitigating factors considered).

Here, in mitigation, we considered that respondent notified the OAE about the mistake; once it was discovered, he took prompt action to transfer funds into his trust account; although other client funds were invaded, there was no indication that any clients were harmed; he cooperated fully with the OAE and admitted his wrongdoing; he agreed to various conditions (conducting the required monthly reconciliations and participating in a trust and business accounting course, in addition to the annual CLE requirements); and he has a lengthy, although not unblemished, legal career – approximately thirty-six years. Based on these mitigating factors and the above precedent, we determine to impose a reprimand, but conclude that the conditions to which respondent agreed are not necessary to protect the public.

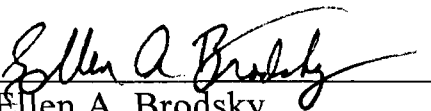
Member Joseph agrees with the quantum of discipline, but voted to impose the conditions to which respondent agreed - that he submit to the OAE monthly



reconciliations of his trust account on a quarterly basis, and that he attend and prepay the cost of an OAE-approved trust and business accounting course. Member Petrou 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  
Bruce W. Clark, Chair

By:   
Ellen A. Brodsky  
Chief Counsel

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SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of Lawrence B. Sachs  
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Argued: July 18, 2019

Decided: December 11, 2019

Disposition: Reprimand

<i>Members</i>	Reprimand	Recused	Did Not Participate
Clark	X		
Gallipoli	X		
Boyer	X		
Hoberman	X		
Joseph	X		
Petrou			X
Rivera	X		
Singer	X		
Zmirich	X		
Total:	8	0	1

  
Ellen A. Brodsky  
Chief Counsel