Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 20-351
District Docket No. XIV-2018-0373E

In the Matter of	:
Barry J. Beran	:
An Attorney at Law	:

Decision

Argued: May 20, 2021

Decided: June 14, 2021

Timothy J. McNamara 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 recommendation for a three-year suspension filed by the District IV Ethics Committee (DEC). The formal ethics complaint charged respondent with having violated RPC 1.15(a) (negligent misappropriation of client funds); RPC 1.15(d) (failure to comply with the

recordkeeping provisions of R. 1:21-6); and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

For the reasons set forth below, we determine to reiterate to the Court our recent recommendation – that respondent be disbarred. In the Matter of Barry J. Beran, DRB 20-212 (May 5, 2021).

Respondent earned admission to the New Jersey bar in 1981 and to the Pennsylvania bar in 1980. During the relevant timeframe, he maintained a law office in Cherry Hill, New Jersey.

Respondent has a significant disciplinary history. In 2004, he received a reprimand for negligent misappropriation of client trust funds; failure to comply with recordkeeping requirements; and the improper advance of loans to personal injury clients. In re Beran, 181 N.J. 535 (2004).

In 2009, respondent received an admonition for failure to advise a client, for whom he was unable to negotiate credit card payoffs, of possible avenues available and of consequences that could result from the actions the client proposed (RPC 1.4(c)). Respondent also failed to communicate with the client or to provide her with a writing setting forth the basis or rate of his fee (RPC 1.4(b) and RPC 1.5(b)). In the Matter of Barry J. Beran, DRB 09-245 (November 25, 2009).

In 2016, respondent was censured for the improper advance of personal funds to three clients (RPC 1.8(e)); negligent misappropriation of client funds; failure to promptly disburse client funds (RPC 1.15(b)); and recordkeeping violations. In re Beran, 224 N.J. 388 (2016).

In 2017, the Court again censured respondent for lack of diligence (RPC 1.3) and failure to communicate with a client in a personal injury matter. The client did not receive her settlement funds until six years after she had signed a release. Although only one client was involved, we considered, in aggravation, respondent's ethics history and his failure to learn from prior mistakes. In re Beran, 230 N.J. 61 (2017).

In 2018, the Court suspended respondent for three months. In re Beran, 231 N.J. 565 (2018). In that matter, respondent overdrew his trust account when he inadvertently withdrew more funds from the account, as legal fees, than were on deposit. When he discovered the error, he immediately replenished the funds. At the time of the overdraft, no client funds were on deposit. The ensuing Office of Attorney Ethics (OAE) audit revealed several recordkeeping violations. Respondent was guilty of negligent misappropriation of trust funds, commingling (RPC 1.15(a)), and recordkeeping violations. The Court further ordered respondent to submit monthly reconciliations of his attorney accounts

to the OAE, on a quarterly basis, for a two-year period. On July 30, 2018, the Court reinstated respondent. In re Beran, 234 N.J. 264 (2018).

Effective April 10, 2020, in a default matter (DRB 19-092), the Court again suspended respondent, this time for six months, for his lack of diligence, failure to communicate with clients, and failure to cooperate with disciplinary authorities. In two matters, respondent failed to communicate with his clients and took no significant action to advance their bankruptcy matters. In a third case, respondent failed to reply to a client seeking modification of child support, alimony, and health insurance obligations. Respondent submitted to us a motion to vacate default (MVD), claiming that he had performed a significant amount of work on behalf of the three clients, but had failed to submit an answer to the formal ethics complaint because he was so upset and distraught over receiving the complaint that he could not respond in a coherent manner. We denied the motion, determining that respondent was familiar with the disciplinary process, because this was his sixth matter before us, and because respondent had replied to two of the three grievances before he ceased cooperating. In aggravation, we considered that the case involved three clients who were in dire financial straits, that respondent had a significant disciplinary history, and that he defaulted. In re Beran, 241 N.J. 255 (2020).

Effective September 23, 2020, in a second default matter (DRB 19-339), the Court suspended respondent for three years, for lack of diligence, failure to communicate with a client, and failure to cooperate with disciplinary authorities. In one matter, respondent failed to communicate with his client and took no significant action in his bankruptcy matter. Respondent submitted to us an MVD, claiming that he had performed a significant amount of work on behalf of this client's case, but failed to respond to the formal ethics complaint, because he "experienced significant personal, emotional and financial issues." Respondent did not elaborate on the nature of those various issues but acknowledged that they "should not have prevent[ed] [him] from having filed a timely Answer." We denied the MVD, determining that respondent was familiar with the disciplinary process, because this was his seventh matter before us. In aggravation, we again considered that the case once again involved a client who was in dire financial straits, that respondent had a significant disciplinary history, and that he again defaulted. In re Beran, 244 N.J. 231 (2020). Respondent remains suspended.

Finally, in connection with respondent's third consecutive default matter (DRB 20-212), we voted to recommend to the Court that respondent be disbarred for lack of diligence; failure to communicate with a client; unauthorized practice

of law (RPC 5.5(a)); and failure to cooperate with disciplinary authorities.[1] Respondent submitted to us another MVD, claiming that he failed to reply to the formal ethics complaint because he "experienced significant personal, emotional and financial issues." Respondent further claimed that, because of COVID-19, he closed his office on March 20, 2020 and did not have secretarial staff. We denied the motion, determining that respondent was familiar with the disciplinary process, because this was his eighth matter before us and his third default. In aggravation, we noted respondent's deplorable disciplinary history, his failure to learn from prior mistakes, and the principle of progressive discipline. Finding that respondent was not salvageable, we determined to recommend his disbarment to protect the public and preserve confidence in the bar.

Here, in his amended answer, respondent admitted most of the conduct alleged in the complaint. Effective March 1, 2018, in connection with a disciplinary matter, he was suspended for three months. On May 4, 2018, respondent filed an affidavit, pursuant to R. 1:20-20, which governs suspended attorneys. The affidavit disclosed that, between February 28 and March 26,

[1] In connection with DRB 20-212, by Order dated May 11, 2021, the Court scheduled respondent to appear on September 13, 2021 to show cause as to why he should not be disbarred or otherwise disciplined.

2018, the balance of his TD Bank attorney trust account (ATA) was reduced from $24,163.41 to $0. Id.

In response to the OAE's inquiry concerning his ATA balance, respondent stated that, as of March 1, 2018, his ATA contained funds totaling $24,163.41 associated with three personal injury client matters: The Esther Feliciano matter, the Clement Pierson matter, and the Mark Lynch matter.

The Feliciano matter concerned a negligence claim that settled in November 2017, for $14,000, which sum respondent deposited in his ATA on November 16, 2017. On November 27, 2017, respondent disbursed to Feliciano her net settlement proceeds of $9,333.33. Respondent left the Feliciano file open in order to satisfy any medical bills owed by Feliciano and, on March 2, 2018, wrote an ATA check to himself, in the amount of $2,500, comprising a partial fee. Respondent failed, however, to record that disbursement on the Feliciano client ledger. The $2,500 disbursement reduced his ATA balance to $21,663.41.

On March 9, 2018, respondent disbursed another ATA check to himself, in the amount of $4,666.67, for what he believed was the remainder of his fee in the Feliciano matter. In so doing, respondent failed to account for the fact that he previously had paid himself $2,500 toward that fee. Thus, his ATA balance was reduced to $16,996.74. Respondent informed the OAE that, at that

point, he believed he had a zero balance on the Feliciano trust ledger and, thus, closed the file.

Consequently, respondent overpaid himself $2,500 in legal fees for the Feliciano matter and, by doing so, invaded the trust funds of other clients.

The Pierson matter settled on June 23, 2017, for $80,000, which sum respondent deposited in his ATA. On July 5, 2017, respondent disbursed to Pierson his net settlement proceeds of $42,384.91. On July 27, 2017, respondent informed the OAE that he had disbursed to himself, via six ATA checks, what he then believed was his full attorney's fees and costs for the Pierson matter, totaling $25,000. Respondent subsequently informed the OAE that his fees and costs should have totaled $27,000.60. Additionally, on March 16, 2018, respondent issued a check from his ATA, in the amount of $13,991.49, to Optum, Pierson's health insurance company, in satisfaction of a medical lien. Respondent then closed the Pierson file.

Accordingly, from the $80,000 settlement, respondent issued two ATA checks: one ATA check to Pierson for $42,384.91, and a second ATA check to Optum for $13,991.49, leaving a balance of $23,623.60 in the Pierson matter. Respondent then issued to himself ATA checks totaling $25,000. As a result, the balance of the Pierson ledger in his ATA was ($1,376.40).

On December 13, 2017, the Lynch matter, a negligence claim, settled for $10,000. On December 21, 2017, respondent deposited that sum in his ATA. The next day, respondent paid himself a partial attorney fee of $2,500, which he recorded on the Lynch trust account ledger. On February 1, 2018, respondent disbursed to Lynch an ATA check in the amount of $500, which was the amount Lynch was permitted to receive as net settlement proceeds, under the Medicaid statute. Thus, according to respondent's disbursements in the Lynch matter, the $10,000 settlement, less the $2,500 partial attorney fee and the $500 distribution to Lynch, should have left a balance of $7,000 in his ATA. Respondent informed the OAE that he left the file open to determine the extent of liens for Medicaid and any child support owed by Lynch.

Respondent understood that he was required to disburse the remaining balance of the Lynch funds in the ATA by March 31, 2018. Therefore, on March 16, 2018, he issued to himself an ATA check for $2,000, for what he believed was the balance of the fee owed to him in the Lynch matter. Respondent failed to record that disbursement on the Lynch trust account ledger. After respondent negotiated the $2,000 check, his ATA balance was reduced to $14,996.74.

On March 24, 2018, respondent contacted TD Bank to ascertain the balance of his ATA. Including a March 2018 interest credit of $6.13, the exact balance of his ATA was $1,011.38. Thus, on March 24, 2018, respondent issued

to himself an ATA check for $1,011.38, for what he believed was the balance of his fee for the Lynch matter. On March 26, 2018, the negotiation of this check reduced the ATA balance to zero and respondent closed the Lynch file, without recording the $1,011.38 disbursement on the Lynch trust account ledger. Respondent failed to note, but the OAE investigation revealed that, on February 13, 2018, respondent had also disbursed to himself a $2,000 check for legal fees.

On July 21, 2018, respondent discovered that the checks which he had written to himself for purported fees in the Lynch matter should not have been paid to him, but, instead, should have been held by him for either Medicaid reimbursement or for child support obligations. The next business day, July 23, 2018, respondent recalculated the closing statement in the Lynch matter, and returned to his ATA the sum of $5,560.99. Respondent calculated the sum of $5,560.99 from the $10,000 settlement by subtracting out respondent's costs of $908.52, respondent's attorney fee of $3,030.49, and Lynch's disbursement of $500.

Based on the foregoing, the complaint alleged that respondent invaded the $5,560.99 in client funds in the Lynch matter.

During its reconstruction of respondent's accounts, the OAE discovered four additional client matters in which respondent failed to correctly disburse

funds: the Shirley Taylor matter; the Dorothy Pritchett matter; the Sharon Daniels matter; and the Maria Reyes matter.

On January 30, 2017, respondent deposited $11,494.25 in his ATA on behalf of Taylor. On February 6, 2017, respondent issued to Taylor an ATA check for $7,122.93.

Between February 6 and June 23, 2017, respondent issued to himself five ATA checks, totaling $5,850, for legal fees in the Taylor matter. The result was a negative balance of ($1,478.68) on behalf of Taylor.

On June 23, 2017, respondent deposited in his ATA $15,000 on behalf of Pritchett. On June 28, 2017, the balance in respondent's ATA fell below the $15,000 he was required to maintain for Pritchett. Specifically, on June 28, 2017, the ATA balance was ($1,322.19), and on June 30, 2017, the ATA balance was ($3,822.19).

On June 28, 2017, respondent issued to Pritchett an ATA check in the amount of $7,708.80, which cleared respondent's ATA on July 3, 2017. On July 20, 2017, respondent issued a second check to Pritchett in the amount of $1,203.

Between June 24 and August 12, 2017, respondent issued four ATA checks to himself, totaling $7,588.20, for legal fees in the Pritchett matter, and created a negative balance of ($1,500) on behalf of Pritchett.

On July 24, 2017, respondent deposited in his ATA $140,000 on behalf of Daniels. On July 27, 2017, respondent issued to Daniels an ATA check for $78,870.94. On November 17, 2017, respondent issued to Daniels a second ATA check for $12,952.02.

Between July 27 and November 4, 2017, respondent issued to himself eleven ATA checks, totaling $40,000, for legal fees, and left a balance of $8,177.04 on behalf of Daniels. Those funds remained in respondent's ATA until March 26, 2018, when respondent's ATA balance was reduced to $0.

On November 24, 2017, respondent deposited in his ATA $29,832.11 on behalf of Reyes. On December 4, 2017, respondent issued to Reyes two ATA checks in the amounts of $15,037.42 and $542.69. The check for $542.69 remained outstanding through March 31, 2018.

Between December 5, 2017 and January 12, 2018, respondent issued to himself five ATA checks, totaling $18,500, for payment of legal fees, and created a negative balance of ($3,705.31) on behalf of Reyes, invading other trust funds in the process.

On March 31, 2018, the balance in respondent's ATA was $0. However, at minimum, respondent should have been holding $542.69 in the ATA for the outstanding check he had issued to Reyes.

Notably, all clients addressed by the complaint ultimately received their correct ATA distributions and none filed an ethics grievance against respondent. The OAE directed respondent to provide an explanation for the inconsistent balances in the ATA, and respondent stated it was due to "sloppy recordkeeping." Indeed, the OAE's investigation revealed that, although respondent prepared monthly three-way reconciliations, his client ledger cards were incomplete. Further, respondent failed to prepare ATA receipts, and no running balance was maintained for the ATA. Although the OAE charged respondent with failing to prepare disbursement ledgers, respondent denied that charge in his answer.

The OAE's investigation revealed the following recordkeeping deficiencies, in violation of R. 1:21-6: client ledger cards not fully descriptive; no ATA receipts or disbursement journals; no running checkbook balance; old outstanding checks needed to be resolved; and client ledger cards had negative balances.

Additionally, the OAE instructed respondent to provide proof that the costs associated with the Pierson and Lynch matters were properly reimbursed, but respondent failed to do so. Respondent admitted this fact but claimed that he had been unable to contact Lynch to provide proper disbursement to him because, unknown to respondent, Lynch had died several months earlier, and the

family had not yet informed respondent whether an estate had been established for reimbursement. As to the Pierson matter, respondent stated that the costs were being disbursed to Pierson and attached a copy of the cost reimbursement check and transmittal to Pierson enclosing the check.

Based on the foregoing facts, the formal ethics complaint charged respondent with violating RPC 1.15(a), RPC 1.15(d), and RPC 8.1(b). Respondent admitted the charges, but qualified his RPC 8.1(b) concession, stating that the charge is "admitted concerning Respondent's failure to advise concerning the circumstances of the issues involved."

As an affirmative defense, respondent noted that he "is currently in the process of developing proper practices and procedures to ensure full and complete compliance with all ethical requirements pertaining to all attorney trust account matters." He represented that he had "engaged" an accountant, Abo and Company, LLC, of Mount Laurel, New Jersey, and remarked that he would be "supplying the Office of Attorney Ethics with any and all requested documentation concerning such future compliance matters."

On September 16, 2020, the DEC held an ethics hearing. Respondent appeared pro se and testified, and the presenter called the OAE auditor as a witness. At the hearing, respondent commented in his opening statement that,

"despite [his] attempts to keep [his] trust account correct, [he] was not able to do so." He further noted:

> And I engage the – the accounting firm of Abo & Company in Mount Laurel which is specializing in attorney matters to help me and guide me with first understanding exactly what it was that I have been doing wrong; the kind of problems that I have been causing. And actually at a considerable expense reviewed with me every detail that I engaged in my trust account during the past few years from 2018 onward.
>
> This has shown me that my lack of proper discipline in this area has been something that has caused me considerable problems, and caused my clients because of the unclear methods and improper methods that I have been taking. It has shown how I have caused myself a lot of problems in this area.
>
> I – and now Mr. Abo is now helping guide me on a monthly basis to show all of the – the basic areas in which I must improve, which include really the proper client ledger, record keeping, a balancing of my trust account which is something I did not do. And also provided a complete journal of each of the client funds which are in the account, and showing by analysis and what's called a three-way reconciliation exactly how I can keep all of the trust records in a very exact and correct fashion, and adhere to the ethical guidelines I'm required to have.
>
> I know that until I can properly handle my trust account on my own, I must keep Mr. Abo engaged for that.
>
> [T19-T20.][2]

[2] "T" refers to the September 16, 2020 hearing transcript.

The OAE auditor testified that, in the two weeks prior to the hearing, respondent provided certain financial records to the OAE.[3] The OAE reviewed the records, including client ledger cards; checkbook stubs and copies of his checkbook stubs; reconciliations; documents reconciling the balance in respondent's financial statements back to the balance in the ATA; his ATA statements; and copies of ledgers for trust receipts and trust disbursement journals. The OAE auditor testified that the documents were helpful and that the records provided were complete and demonstrated that respondent had begun complying with his recordkeeping obligations.

On October 2 and October 8, 2020, respondent and the OAE, respectively, submitted written summations to the hearing panel. Respondent, noting that he had admitted the charges of the complaint, argued that, although he had been suspended from the practice of law for three years, he was "determined to regain and reinstate [his] law practice at the end of such period, and will be prepared to start [his] practice anew once the three-year period is completed with the lessons [he has] learned from the problems [he has] caused." He pointed to his retention of the accounting firm, as well as his own research in understanding

[3] By cover letter dated September 4, 2020, respondent submitted the financial documents, found in the record as Exhibits R1a through R3 to the hearing panel report. The exhibits include the recordkeeping documents, as well as client testimonials written for respondent, submitted as mitigation.

the continuing legal education handbook titled "Trust and Business Accounting for Attorneys." Respondent did not suggest an appropriate quantum of discipline for his misconduct.

In its summation brief, which it relies upon before us, the OAE sought a three-year suspension, to run concurrently with the Court's three-year suspension imposed on September 23, 2020. The OAE further recommended that respondent attend five hours of recordkeeping courses; five hours of law office management courses; and that, after reinstatement, he be required to provide the OAE with monthly reconciliations of his ATA, on a quarterly basis, for two years. The OAE also recommended the condition of semi-annual audits of respondent's attorney accounts and records. The OAE sought this discipline based on the facts in the instant matter and citing, in aggravation, respondent's extensive disciplinary history.

The DEC found that respondent violated all charged RPCs, based upon the admissions in respondent's answer, the testimony at the ethics hearing, and both parties' exhibits. The DEC noted that respondent's treatment of funds in his trust account was "careless and irresponsible, particularly given his history of similar misconduct."

As to the quantum of discipline, the DEC recommended that respondent receive a three-year suspension to run concurrently with the three-year

suspension the Court imposed on September 23, 2020. The DEC noted that it took no position on whether the suspension should be retroactive to the date on which respondent's current suspension began. Finally, the DEC recommended that the conditions suggested by the OAE, concerning courses, monitoring, and audits, be imposed.

The DEC credited respondent's testimony that he had retained an accounting firm to ensure that future recordkeeping violations do not occur, as well as respondent's client testimonials. However, the DEC also emphasized that "[r]espondent's curative efforts were not undertaken until after the complaint was filed," and that "the proof of the pudding will be during the two-year period of providing monthly reconciliations that we are recommending."

* * *

Following a de novo review of the record, we are satisfied that the DEC's finding that respondent's conduct was unethical is fully supported by clear and convincing evidence.

Specifically, respondent failed to properly account for and disburse client settlements that he deposited in his ATA and, as a result, haphazardly and improperly disbursed legal fees to himself, thereby invading clients' trust funds. Repeatedly, in seven client matters, respondent failed to account for his disbursements and legal fees, which resulted in incorrect disbursements to

clients and overpayment of his legal fees. Respondent blamed the negligent misappropriation on "sloppy recordkeeping." His improper use of client funds violated RPC 1.15(a).

Further, respondent failed to adhere to the recordkeeping requirements of R. 1:21-6 by disbursing legal fees to himself and failing to document disbursements in accordance with the Rule (the Feliciano matter; the Lynch matter); by failing to maintain descriptive client ledger cards; by failing to maintain ATA receipts and disbursements journals; by failing to maintain a running ATA checkbook balance; by failing to resolve outstanding ATA checks (the Reyes matter); and by maintaining client ledger cards with negative balances (the Pierson matter; the Taylor matter; the Pritchett matter; and the Reyes matter). Respondent's failure to maintain proper accounting records as required by the Court's recordkeeping Rules constituted per se violations of RPC 1.15(d).

Finally, when the OAE directed respondent to provide proof of postage, copies, and expenses noted on the Pierson and Lynch closing statements, in order to determine if the clients were properly reimbursed, respondent failed to provide the information. Although respondent offered a reason for the failure, he failed to do so until he provided his answer to the complaint. Respondent, thus, violated RPC 8.1(b).

In sum, we find that respondent violated RPC 1.15(a), RPC 1.15(d), and RPC 8.1(b). The sole issue remaining for determination is the appropriate quantum of discipline for respondent's misconduct.

Generally, a reprimand is imposed for recordkeeping deficiencies that result in the negligent misappropriation of client funds. See, e.g., In re Mitnick, 231 N.J. 133 (2017) (as the result of poor recordkeeping practices, the attorney negligently misappropriated client funds held in his trust account; violations of RPC 1.15(a), and RPC 1.15(d); significant mitigation included the attorney's lack of prior discipline in a thirty-five-year legal career); In re Rihacek, 230 N.J. 458 (2017) (attorney was guilty of negligent misappropriation of client funds held in his trust account, various recordkeeping violations, and charging mildly excessive fees in two matters; no prior discipline in thirty-five years); and In re Cameron, 221 N.J. 238 (2015) (after the attorney had deposited in his trust account $8,000 for the pay-off 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 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)).

When an attorney fails to cooperate with disciplinary authorities, and previously has been disciplined, but the attorney's ethics record is not serious, reprimands have been imposed. See, e.g., In re Larkins, 217 N.J. 20 (2014) (default; attorney failed to reply to the ethics investigator's attempts to obtain information about the grievance and failed to file an answer to the formal ethics complaint; although we noted that a single violation of RPC 8.1(b), in a default matter, does not necessitate enhancement of the discipline from an admonition to a reprimand, a reprimand was imposed based on a prior admonition and, more significantly, a 2013 censure, also in a default matter, in which the attorney had failed to cooperate with an ethics investigation); In re Wood, 175 N.J. 586 (2003) (attorney failed to cooperate with disciplinary authorities; prior admonition for similar conduct); In re DeBosh, 174 N.J. 336 (2002) (failure to cooperate with disciplinary authorities; prior three-month suspension); and In re Williamson, 152 N.J. 489 (1998) (attorney failed to cooperate with disciplinary authorities; prior private reprimand for failure to carry out a contract of employment with a client in a matrimonial matter and failure to surrender the client's file to a new attorney).

Respondent's utter disregard of his recordkeeping responsibilities directly correlates with his invasion of client trust funds. Respondent improperly used the trust funds of seven clients, despite his obligation to maintain their respective settlements, inviolate, and to properly disburse them. The record is replete with evidence that respondent repeatedly engaged in the negligent misappropriation of his clients' funds. Based on New Jersey disciplinary precedent, a sanction of a reprimand or censure is the baseline sanction for the totality of respondent's misconduct. In crafting the appropriate quantum of discipline, however, we also consider aggravating and mitigating factors.

In our view, respondent continues to demonstrate an alarming failure to learn from his past mistakes. The Court has signaled an inclination toward progressive discipline and the 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).

Here, just as in Kantor, severe progressive discipline is warranted in light of respondent's significant disciplinary history: a 2004 reprimand; a 2009 admonition; a 2016 censure; a 2017 censure; a 2018 three-month suspension; and the six-month and three-year suspensions imposed in 2020. Notably, our May 2021 recommendation that the Court disbar respondent remains pending.

This is respondent's ninth time before us, three of which have been defaults, and his fourth time before us on negligent misappropriation charges.

Through this ninth disciplinary matter, respondent has established a penchant for breaching his duties to his clients and failing to cooperate with disciplinary authorities. Simply put, his behavior exhibits a disdain toward his clients and New Jersey's disciplinary system that cannot be countenanced.

As in our May 2021 determination to recommend to the Court that respondent be disbarred, here, we can neither ignore nor accept what is clearly respondent's dangerous, improper practice of law. Nor can we ignore respondent's lack of integrity or accept that he is incapable of following the most basic regulations imposed on New Jersey attorneys.

There is no mitigation for us to consider. Although respondent testified at the ethics hearing that he has hired an accountant and is finally learning how to manage his firm's accounts and comply with the recordkeeping Rule, his efforts come too late. The imposition of prior discipline has not convinced respondent to change his ways. Despite his extensive disciplinary history, spanning from 2004 through the present, respondent failed to alter his practices until this matter, again charging misappropriation, and the January 2020 hiring of the accounting firm. We find respondent to be, in a word, unsalvageable, and, as in our May 2021 determination, we endeavor to protect the public from his

pernicious practices. Accordingly, we again recommend to the Court that respondent be disbarred.

Member Joseph voted to impose a concurrent three-year suspension.

Member Boyer was absent.

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
Hon. Maurice J. Gallipoli, A.J.S.C. (Ret.),
Chair

By: 
Johanna Barba Jones
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Barry J. Beran
Docket No. DRB 20-351

Argued: May 20, 2021

Decided: June 14, 2021

Disposition: Disbar

Members	Disbar	Three-year suspension	Absent
Gallipoli	X		
Singer	X		
Boyer			X
Campelo	X		
Hoberman	X		
Joseph		X	
Menaker	X		
Petrou	X		
Rivera	X		
Total:	7	1	1

Johanna Barba Jones
Chief Counsel