

Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 21-056
District Docket No. XIV-2020-0478E

In the Matter of
Ronald L. Lueddeke
An Attorney at Law

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Decision

Argued: June 17, 2021

Decided: September 22, 2021

Colleen L. Burden 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 previously was before us on a motion for discipline by consent filed by the Office of Attorney Ethics (the OAE), pursuant to R. 1:20-10(b). The

parties had urged an admonition for respondent's stipulated violation of RPC 1.15(d) (failure to comply with the recordkeeping requirements of R. 1:21-6).

On November 23, 2020, we denied that motion, finding an admonition to be insufficient discipline for respondent's misconduct. We emphasized the more than \$400,000 in inactive client balances that had languished in respondent's trust account. Accordingly, we recommended that the parties either file a new motion for discipline by consent, expanding the range of discipline to include a three-month suspension or such lesser discipline as we may deem appropriate, or proceed by way of a disciplinary stipulation or formal ethics complaint. We further recommended, in the event of a new motion or stipulation, that the parties include the condition that respondent be required to complete two OAE-approved recordkeeping courses.

The parties have returned the matter to us on a disciplinary stipulation. Again, respondent has stipulated to having violated RPC 1.15(d).

For the reasons set forth below, we determine to impose a censure, with a condition.

Respondent earned admission to the New Jersey bar in 1976 and to the Florida bar in 1979. During the relevant timeframe, he maintained a solo practice of law in Spring Lake, New Jersey.

In 2015, respondent received an admonition for lack of diligence (RPC 1.3) and failure to communicate with a client. In the Matter of Ronald L. Lueddeke, DRB 15-018 (March 25, 2015).

Respondent and the OAE entered into a disciplinary stipulation, dated March 11, 2021, which sets forth the following facts in support of respondent's admitted ethics violations.

On December 14, 2017, the OAE conducted a random compliance audit of respondent's financial books and records for the period comprising November 1, 2015 to October 31, 2017. At the relevant times, respondent maintained the following three accounts in connection with his law office: a Bank of America (BOA) attorney trust account (ATA), an Investors Bank ATA, and an Investors Bank attorney business account (ABA). The OAE opened a disciplinary investigation because the random audit revealed, among other, technical recordkeeping violations, that respondent had failed to resolve (i) inactive client balances in his BOA ATA totaling \$410,943.21 and (ii) old, outstanding checks totaling \$3,335.03, despite the fact that a 2008 random audit had revealed those improprieties.

By letter dated January 5, 2018, the OAE notified respondent of the recordkeeping infractions, and afforded him forty-five days to correct the

deficiencies. By letters dated January 12 and March 29, 2018, respondent submitted to the OAE a certification representing that he had corrected all the recordkeeping deficiencies, attaching corresponding documents, and describing his curative steps.

Specifically, on January 23, 2018, respondent stopped payment on the four outstanding checks totaling \$3,335.03 (Bankers Savings - \$2,335.44; Reilly Oldsmobile - \$338.03; Paul Matousek - \$40.00; and Michael Buono - \$621.56), each of which had been issued in 1996. On May 1, 2018, he issued a \$2,335.44 ATA check to replace the outstanding check in the Bankers Savings matter, and subsequently transferred \$999.59 to the New Jersey Superior Court Trust Fund Unit (SCTFU) in connection with the Reilly Oldsmobile, Matousek, and Buono matters, thereby resolving the \$3,335.03 outstanding check deficiency.

On July 3, 2018 respondent deposited \$409,943.21 with the SCTFU, representing inactive client balances in fifteen client matters, leaving a \$1,000 unresolved balance, which he cured on April 17 and June 6, 2018, when he issued ATA checks to two additional clients in the amounts of \$250 and \$750, respectively. Respondent also corrected the designation on his Investors ABA, which had been improper.

In August 2019, the OAE received – in response to subpoenas it had issued to BOA and Investors Bank – respondent’s financial records for the period from January 1, 2018 through August 6, 2019.

On November 13, 2019, the OAE conducted a demand audit and interview of respondent regarding his financial records. Respondent detailed the steps he took to resolve all the outstanding balances and checks that the January 2008 and December 2017 random compliance audits had uncovered; he further conceded that he should have resolved the outstanding balances and checks in connection with the January 2008 random audit, but had failed to do so until after the December 2017 random audit. The OAE confirmed that respondent had resolved all the outstanding client balances and checks.

The November 2019 demand audit further revealed that respondent failed to maintain monthly, three-way ATA reconciliations, in violation of R. 1:21-6(c)(1)(H). By letter dated November 20, 2019, the OAE directed respondent to correct the deficiency by January 6, 2020. On December 27, 2019, respondent produced his monthly three-way reconciliations for the period comprising January 1 to July 31, 2019, and the OAE confirmed that respondent had cured his recordkeeping deficiencies in compliance with R. 1:21-6.

Respondent conceded that he was aware of his R. 1:21-6 recordkeeping obligations due to the 2008 and 2017 random audits; yet, until December 2019, he had failed to comply with the Rules.

Based on the above facts, respondent stipulated to having violating RPC 1.15(d) by failing to comply with the R. 1:21-6 recordkeeping requirements.

The stipulation cited, in aggravation, the more than \$414,000 in inactive client balances respondent had maintained for years; the resulting harm he caused to the corresponding clients; his prior admonition; and his failure to remediate his misconduct despite the 2008 and 2017 audits. In mitigation, the parties emphasized respondent's contrition and acceptance of wrongdoing, as evidenced by his entry into the stipulation.

For respondent's violation of RPC 1.15(d), as affected by the aggravating factors, the OAE sought the imposition of a censure, with the condition that, within ninety days of the Court's Order in this matter, respondent complete two, OAE-approved recordkeeping courses.

At oral argument before us, the OAE reiterated its request for a censure with conditions, emphasizing the harm respondent had caused to his clients. In turn, respondent apologized for his misconduct, thanked the OAE for its

assistance in rectifying his recordkeeping deficiencies, and expressed his acceptance of the censure recommendation.

Following a review of the record, we are satisfied that the facts contained in the stipulation clearly and convincingly support the finding that respondent committed numerous violations of RPC 1.15(d), despite his awareness of the most serious recordkeeping deficiencies following the 2008 audit. By the December 2017 audit, he should have resolved the specific outstanding balances and checks identified in the 2008 audit. More generally, he should have had a heightened awareness of his obligations pursuant to the recordkeeping Rule. Yet, he failed to perform proper monthly ATA reconciliations. As a result of respondent's most egregious misconduct, a total of \$414,278.24 in inactive client balances and outstanding checks had been languishing in his ATA for almost a decade.

In sum, we find that respondent violated RPC 1.15(d). There remains for determination the appropriate quantum of discipline to impose on respondent for his unethical conduct.

Recordkeeping irregularities ordinarily are met with an admonition where, as here, they have not caused a negligent misappropriation of clients' 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); In the Matter of Eric Salzman, DRB 15-064 (May 27, 2015) (after an overdraft in the attorney trust account, an OAE demand audit revealed that the attorney (1) did not maintain trust or business receipts or disbursements journals, or client ledger cards; (2) made disbursements from the trust account against uncollected funds; (3) withdrew cash from the trust account; (4) did not properly designate the trust account; and (5) did not maintain a business account, in violation of RPC 1.15(d) and R. 1:21-6); In the Matter of Leonard S. Miller, DRB 14-178 (September 23, 2014) (after the attorney made electronic transfers from his IOLTA account to cover overdrafts in his attorney business account, a demand audit uncovered several recordkeeping deficiencies: (1) errors in information recorded in client ledgers; (2) lack of fully descriptive client ledgers; (3) lack of running balances for individual clients on the clients' ledgers; (4) failure to promptly remove earned fees from the trust account; and (5) failure to perform monthly three-way reconciliation, in violation of RPC 1.15(d) and R. 1:21-6); and In the Matter of Sebastian Onyi Ibezim, Jr., DRB 13-405 (March 26, 2014) (for a period of six years, the attorney maintained outstanding trust balances for a number of clients,

some of whom were unidentified, in violation of RPC 1.15(d) and R. 1:21-6; the attorney was required to place all remaining unidentified funds in trust with the SCTFU).

Even in the absence of a negligent misappropriation, however, a reprimand may be imposed if the attorney failed to correct recordkeeping deficiencies that had been brought to his or her attention previously, as occurred here, or the attorney has prior discipline for similar misconduct. See, e.g., In re Michals, 224 N.J. 457 (2015) (reprimand by consent; an OAE audit revealed that the attorney had issued trust account checks to himself or others for personal or business expenses; however, because he maintained sufficient personal funds in his trust account, he had not invaded client funds; following a prior admonition for negligent misappropriation of client funds and recordkeeping violations, the attorney still failed to resolve several improprieties); In re Murray, 220 N.J. 47 (2014) (reprimand by consent; an OAE random compliance audit revealed that the attorney had not corrected some of the same recordkeeping violations for which he had been admonished one month earlier); and In re Colby, 193 N.J. 484 (2008) (attorney violated the recordkeeping Rules; although the recordkeeping irregularities did not cause a negligent misappropriation of

clients' funds, the attorney previously had been reprimanded for the same violations and for negligent misappropriation).

Here, to craft the appropriate discipline, we also consider aggravating and mitigating factors. In aggravation, respondent has a 2015 admonition, albeit for dissimilar conduct. Also, he corrected the outstanding balances and checks uncovered during the 2008 audit only after the OAE's second, 2017 audit, nine years later. After transfer of this audit for investigation, the OAE found, in 2019, that respondent was not performing monthly reconciliations. Alarming, for almost a decade, respondent had \$414,278.24 in client and third-party funds languishing in his ATA, impacting twenty-one clients.

In mitigation, respondent has forty-five years at the bar with one admonition; was contrite and remorseful; entered into the stipulation; corrected the recordkeeping deficiencies; and is now in compliance with the recordkeeping Rules.


On balance, considering respondent's heightened awareness of his recordkeeping obligations, and the significant amount of client funds at issue, the aggravating factors clearly outweigh the mitigating factors. Respondent's misconduct, thus, warrants a censure.

Considering respondent's repeated struggles with recordkeeping, we require him to complete two recordkeeping courses pre-approved by the OAE, with proof of completion to be submitted to the OAE within ninety days of the Court's Order in this matter.

Member Menaker voted to impose a six-month suspension, with the same condition. Member Rivera 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 Ronald L. Lueddeke
Docket No. DRB 21-056

Argued: June 17, 2021

Decided: September 22, 2021

Disposition: Censure

| <i>Members</i> | Censure | Six-Month 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