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SUPREME COURT OF NEW JERSEY

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May 26, 2023

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

Re: In the Matter of Mark S. Geschwer
Docket No. DRB 23-088
District Docket Nos. IIB-2022-0902E and XIV-2020-0308E

Dear Ms. Baker:

The Disciplinary Review Board has reviewed the motion for discipline by consent (reprimand or such lesser discipline as the Board deems appropriate) filed by the Office of Attorney Ethics (the 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 that an admonition is the appropriate quantum of discipline for respondent's violation of RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-(6)).

The stipulated facts are as follows. On January 8, 2020, the OAE conducted a random audit of respondent's financial books and records. The audit revealed the following deficiencies: (1) failure to maintain a separate ledger for attorney funds held in the attorney trust account (ATA) for bank charges; (2) inactive trust ledger balances in the ATA; (3) failure to maintain a separate ledger for each client; (4) old outstanding checks totaling approximately

\$208,977.54 and dating as far back as 1998; (5) improper designation of attorney business account (ABA) on checks and deposit slips; (6) improper designation of ATA on bank statements, checks, and deposit slips; (7) failure to prepare a schedule of clients' ledger accounts, and failure to reconcile such schedule to the ATA bank statements; (8) failure to include sufficiently detailed information in the ATA receipts journal; (9) failure to include a corporate designation on bank accounts; (10) failure to maintain client ledgers with accounting records, rather than in client files; and (10) images of processed checks displayed in excess of two checks per page.

The OAE directed respondent to retain a certified public accountant (CPA) to help him bring his records into compliance. In or around July 2020, “[r]espondent retained the services of his regular CPA who assisted [him] in correcting some but not all of the . . . deficiencies.” Specifically, “[t]he following deficiencies remained unaddressed:” (1) improper ABA designation on checks and deposit slips; (2) improper ATA designation on bank statements, checks, and deposit slips; (3) deficient corporate designation on bank accounts; and (4) improper display of images of processed checks. Additionally, “[r]espondent’s CPA advised there . . . remained old outstanding checks totaling \$123,316.48 that had not cleared the ATA since 2000.”

Eventually, respondent came to realize that his regular CPA’s assistance was not meeting the needs of the ongoing audit and he, thus, retained another CPA with specific expertise in trust accounting. With the second CPA’s assistance, respondent was able to correct all deficiencies.

The records does not clearly indicate when respondent brought his records into compliance. However, the parties stipulated that “[o]ver [a] two-and-a-half-year period, [respondent] was given multiple opportunities to correct his records,” but failed to do so.

In imposing only an admonition, the Board weighed, in mitigation, respondent’s unblemished history of nearly fifty years at the bar; his remorse and contrition; and his service as a member of the Justice James H. Coleman, Workers’ Compensation Inn of Court, since 2012.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated April 6, 2023.

2. Stipulation of discipline by consent, dated March 30, 2023.
3. Affidavit of consent, dated April 5, 2023.
4. Ethics history, dated May 26, 2023.

Very truly yours,

/s/ Timothy M. Ellis

Timothy M. Ellis
Acting Chief Counsel

TME/res
Enclosures

c: (w/o enclosures)
Hon. Maurice J. Gallipoli, A.J.S.C. (Ret.), Chair
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Johanna Barba Jones, Director
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Colleen L. Burden, Deputy Ethics Counsel
Office of Attorney Ethics (e-mail)
Roger K. Plawker, Esq., Respondent's Counsel (e-mail and regular mail)