

DISCIPLINARY REVIEW BOARD
OF THE
SUPREME COURT OF NEW JERSEY

HON. MARY CATHERINE CUFF, P.J.A.D. (RET.), CHAIR
PETER J. BOYER, ESQ., VICE-CHAIR
JORGE A. CAMPELO
THOMAS J. HOBERMAN
STEVEN MENAKER, ESQ.
PETER PETROU, ESQ.
EILEEN RIVERA
LISA J. RODRIGUEZ, ESQ.
REMI L. SPENCER, ESQ.



RICHARD J. HUGHES JUSTICE COMPLEX
P.O. BOX 962
TRENTON, NEW JERSEY 08625-0962
(609) 815-2920

TIMOTHY M. ELLIS
CHIEF COUNSEL
NICOLE M. ACCHIONE
FIRST ASSISTANT COUNSEL
BARRY R. PETERSEN, JR.
DEPUTY COUNSEL
FRANCES L. BOWDRE
SALIMA ELIZABETH BURKE
NICHOLAS LOGOTHETIS
ASSISTANT COUNSEL
ALISA H. THATCHER
AMY MELISSA YOUNG
ASSOCIATE COUNSEL

April 30, 2024

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

Re: **In the Matter of Laurence R. Sheller**
Docket No. DRB 24-033
District Docket No. XIV-2022-0231E

Dear Ms. Baker:

The Disciplinary Review Board (the 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 (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 reprimand, with a condition, for respondent's violation of RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6) and RPC 8.1(b) (failing to cooperate with disciplinary authorities).

Specifically, as set forth in the stipulation, on July 21, 2006, the OAE conducted a random compliance audit of respondent's financial records, which revealed numerous recordkeeping deficiencies. More than eight years later, on November 18, 2014, the OAE conducted a second random compliance audit of respondent's financial records. That audit revealed both existing and new deficiencies.

Subsequently, on July 13, 2022, the OAE docketed the instant matter for investigation and directed respondent to produce monthly three-way attorney trust account (ATA) reconciliations, updated client ledger cards, and monthly ATA and attorney business account (ABA) receipts and disbursements journals.

Following its review of respondent's financial records, the OAE notified respondent that his records failed to comply with the recordkeeping requirements. Specifically, respondent's (1) monthly ATA and ABA cash receipts and disbursements "information" were "largely illegible" and lacked required information, including case numbers, running balances, and dates of the transaction, and (2) client trust ledgers were "largely illegible," included partial transaction dates, and lacked running balances. Further, the OAE directed respondent to prepare and produce monthly three-way ATA reconciliations for the audit period which, to date, were wholly lacking. Finally, the OAE directed respondent to prepare a cash receipts journal for client funds deposited in his personal account. To assist respondent in correcting these deficiencies, the OAE provided him with a copy of its *Outline of Recordkeeping Requirements RPC 1.15 and R. 1:21-6*, with specific page references to assist him in bringing his records into compliance. The OAE directed respondent to correct the deficiencies by October 3, 2022.

On September 29 and September 30, 2022, respondent provided additional financial records to the OAE.

Subsequently, on November 18, 2022, the OAE notified respondent that it had scheduled his demand audit for December 19, 2022. Respondent's demand audit revealed numerous recordkeeping deficiencies. Specifically, the OAE identified more than twenty recordkeeping deficiencies relating to respondent's ATA, ABA, and a personal bank account, including improper ATA designation, excess check fees, and improper book balance. The OAE directed him to correct the deficiencies by January 31, 2023.

On January 31, 2023, respondent replied to the OAE's deficiency letter and provided a written response correlated to each numbered paragraph. Respondent produced most of the required records, but his three-way ATA reconciliations were still deficient.

Ultimately, the OAE's audit and subsequent investigation, which continued over the span of approximately fourteen months, revealed the following recordkeeping deficiencies: non-descriptive ATA client ledger cards;

no running balances of ATA client ledger cards; non-compliant three-way ATA reconciliations; inaccurate cash receipts and disbursement journals; separate cash receipts and disbursement journals not maintained; no imaged checks on ABA bank statements; and no fully descriptive ABA cash and receipt journals.

Based on the above facts, the parties stipulated that respondent violated RPC 1.15(d) and RPC 8.1(b).

RPC 1.15(d) requires all New Jersey attorneys to comply with the recordkeeping requirements of R. 1:21-6. The Board determined that respondent violated this Rule in various aspects. Specifically, despite (1) having participated in two prior audits (2006 and 2014), and (2) the OAE's persistent reminders that his recordkeeping deficiencies persisted, along with offers to assist, respondent failed to correct those violations. Specifically, as of the date of the stipulation, respondent still had the following deficiencies: non-descriptive ATA client ledger cards; no running balances of ATA client ledger cards; non-compliant three-way ATA reconciliations; inaccurate cash receipts and disbursement journals; separate cash receipts and disbursement journals not maintained; no imaged checks on ABA bank statements; and no fully descriptive ABA cash and receipt journals. Thus, respondent clearly violated RPC 1.15(d).

Additionally, an attorney who fails to comply with the requirements of R. 1:21-6 in respect of maintenance, availability, and preservation, or fails to produce to respond completely to questions regarding such records "shall be deemed to be in violation RPC 1.15(d) **and** RPC 8.1(b)." R. 1:21-6(i) (emphasis added). Here, despite respondent's timely replies to the OAE, he admittedly failed, over a prolonged period and despite the OAE's extensive efforts, to bring his financial records into compliance with R. 1:21-6. Indeed, on no less than four occasions, the OAE provided respondent with specific guidance as to what was lacking from the records he had produced to date and, further, what specific steps were required to bring his records into compliance. Notwithstanding the OAE's repeated good faith efforts to accommodate him, his productions consistently remained deficient. He, thus, failed to cooperate.

It is well-settled that cooperation short of the full cooperation required by the Rules has resulted in the finding that the attorney violated RPC 8.1(b). See In the Matter of Marc Z. Palfy, DRB 15-193 (March 30, 2016) at 48 (wherein the Board viewed the attorney's partial "cooperation as no less disruptive and frustrating than a complete failure to cooperate[,]" noting that "partial

cooperation can be more disruptive to a full and fair investigation, as it forces the investigator to proceed in a piecemeal and disjointed fashion”) so ordered, 225 N.J. 611 (2016); In re Tobin, 249 N.J. 96 (2021) (the attorney, following an OAE random audit that uncovered several recordkeeping deficiencies, failed to provide the documents requested in the OAE’s seven letters and eight telephone calls, spanning more than one year failed to cooperate); In re Higgins, 247 N.J. 20 (2021) (the attorney failed, for more than seventeen months, to comply with the OAE’s numerous requests for information and written responses to the matters under investigation, necessitating his temporary suspension; although the attorney ultimately filed a reply to the ethics grievance, brought his recordkeeping deficiencies into compliance, and stipulated to his misconduct, the Board concluded that his lengthy period of non-compliance constituted a failure to cooperate).

Recordkeeping irregularities ordinarily are met with an admonition where, as here, they have not caused a negligent misappropriation of clients’ funds. However, a reprimand is imposed if the attorney has failed to correct recordkeeping deficiencies that previously were brought to the attorney’s attention. See In re Polcari, ___ N.J. ___ (2023) (reprimand for attorney who had a heightened awareness of her obligations under R. 1:21-6, having previously been the subject of a random compliance audit; no prior discipline in thirty-seven years at the bar), and In re Abdellah, 241 N.J. 98 (2020) (reprimand for attorney who should have been mindful of his recordkeeping obligations based on a prior interaction with the OAE regarding his recordkeeping, although that interaction had not led to disciplinary charges; no prior discipline in thirty-six years at the bar).

Likewise, admonitions typically are imposed for failure to cooperate with disciplinary authorities if the attorney does not have an ethics history. The quantum of discipline is enhanced, however, if the failure to cooperate is with an arm of the disciplinary system, such as the OAE, which uncovers recordkeeping improprieties in a trust account and requests additional documents. See In re Leven, 245 N.J. 491 (2021) (reprimand for an attorney who, following two random audits, repeatedly failed to comply with the OAE’s request for his law firm’s financial records; he also failed to comply with two Court Orders directing him to cooperate; the attorney, however, provided some of the required financial records; the Board found that a censure could have been appropriate for the attorney’s persistent failure to address his recordkeeping deficiencies and his prolonged failure to cooperate with the OAE; however, the

Board determined that a reprimand was the appropriate discipline based, in substantial part, on the attorney's lack of prior discipline in nearly forty-seven years at the bar).

Here, based on respondent's 2006 and 2014 random audits, and his attendance of the 2015 New Jersey Trust and Business Accounting Class, he had a heightened awareness of his recordkeeping obligations pursuant to R. 1:21-6. Additionally, like in Leven, multiple OAE audits, over a year, uncovered numerous recordkeeping violations in respondent's ATA and ABA. Like the attorney in Leven, who received a reprimand, respondent failed to fully address his recordkeeping deficiencies and failed to fully cooperate with the OAE over a prolonged period. Thus, respondent's misconduct could be met with a reprimand. However, to craft the appropriate quantum of discipline, the Board also must consider relevant mitigating and aggravating factors.

In mitigation, respondent admitted his wrongdoing and entered into a disciplinary stipulation. Additionally, respondent has no formal disciplinary history in his thirty-one years at the bar, a factor to which the Board and the Court accord significant weight. In re Grimes, __ N.J. __ (2022), 2022 N.J. LEXIS 1165 (accord significant weight to the attorney's unblemished disciplinary history of more than thirty years at the bar).

In aggravation, despite the OAE's requests, respondent's books and records still are not in compliance with the Rule, despite being given multiple opportunities to do so. In re Silber, 100 N.J. 517 (1985) (considering, in aggravation, the attorney's failure to remediate conduct despite opportunities to do so).

On balance, the Board determined that a reprimand is the appropriate quantum of discipline to protect the public and preserve confidence in the bar. Additionally, the Board determined that, as a condition, respondent be required to submit to the OAE quarterly reconciliations of his ATA, for a period of two years.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated February 15, 2024.
2. Stipulation of discipline by consent, dated February 14, 2024.

3. Affidavit of consent, dated February 1, 2024.
4. Ethics history, dated April 30, 2024.

Very truly yours,

/s/ Timothy M. Ellis

Timothy M. Ellis
Chief Counsel

TME/akg
Enclosures

- c: (w/o enclosures)
Hon. Mary Catherine Cuff, P.J.A.D. (Ret.), Chair
Disciplinary Review Board (e-mail)
Johanna Barba Jones, Director
Office of Attorney Ethics (e-mail and interoffice mail)
Jennifer Iseman, Deputy Ethics Counsel
Office of Attorney Ethics (e-mail)
Laurence R. Sheller, Esq., Respondent (e-mail and regular mail)