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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
ASHLEY KOLATA-GUZIK
NICHOLAS LOGOTHETIS
ALISA H. THATCHER
ASSISTANT COUNSEL

AMY MELISSA YOUNG
ASSOCIATE COUNSEL

May 28, 2024

VIA CERTIFIED, REGULAR & ELECTRONIC MAIL

Mark Williams, Esq.
3301C Route 66, Suite 224
Neptune, New Jersey 07753
mark@markwilliams.lawyer

Re: In the Matter of Mark Williams

Docket No. DRB 24-054

District Docket Nos. XIV-2021-0221E and IX-2022-0902E

LETTER OF ADMONITION

Dear Mr. Williams:

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. Following a review of the record, the Board granted the motion and determined to impose an admonition for your violation of RPC 1.15(a) (two instances – negligent misappropriation of client funds and commingling), and RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6).

Specifically, on June 10, 2021, you inadvertently issued attorney trust account (ATA) check #1291, for \$5,000, to yourself when you intended to issue an attorney business account (ABA) check. You negotiated ATA check #1291

and, thus, unintentionally reduced the balance in your ATA by \$5,000. That same date, you issued ATA check #1293, for \$3,508.58, written to Dawn Liedtka, and ATA check #1294, for \$3,508.59, written to Karen Redling.¹ On July 9, 2021, Ms. Redling presented check #1294 for payment, but there were insufficient funds in your ATA to cover the check. The check was returned, and you incurred a \$35 overdraft fee.

In July 2021, while investigating the overdraft, you discovered your error and subsequently, transferred \$1,536.26 from your ABA to your ATA to ensure there were sufficient funds to cover the outstanding ATA checks written to the clients. Ms. Redling again presented your ATA check #1294 for payment, at which time it was honored. You later realized that additional funds were needed in your ATA to cover the remaining outstanding ATA check #1293 to Ms. Liedtka. Accordingly, you transferred an additional \$3,463.33 from your personal bank account to your ATA, to ensure there was a sufficient balance to cover the outstanding ATA check.

At the time of the overdraft, you intended to resign from the practice of law and, thus, you were anxious to close your practice and the associated bank accounts. However, you could not close your accounts until the remaining ATA check cleared your ATA. Accordingly, you contacted Ms. Liedtka to inquire as to when she intended to present the check for payment, but she indicated that she did not know when she would do so. To expedite the closing of the accounts, you informed Ms. Liedtka that you would cancel ATA check #1293, transfer the ATA funds to a personal account, and issue a new check to her from your personal account, which you ultimately did.

At the time you transferred the \$3,628.88 from your ATA to your personal account, you included \$.55 in earned interest in connection with Interest on Lawyer Trust Accounts (IOLTA) program. Later, a debit posted to your ATA for the transfer of the IOLTA interest, leaving the ATA with a negative balance of \$.55. IOLTA interest subsequently was paid to your ATA in the amount of \$.01, thus, reducing the negative balance in the ATA to \$.54. You then transferred \$.54 to your ATA, bringing the balance to zero, and closed the account.

¹ Dawn Liedtka and Karen Redling are sisters and were associated with the Liedtka Estate and, thus, were entitled to the funds held in the ATA.

Although the OAE charged you with two violations of RPC 1.15(a) for negligent misappropriation of client funds and commingling, based on the facts of this case, the Board determined that there is insufficient evidence to support a finding of commingling. Accordingly, the Board has determined to dismiss the second charged violation of RPC 1.15(a), thus, leaving the remaining charged violations of RPC 1.15(a) for negligent misappropriation and RPC 1.15(d) for failing to maintain estate accounts separate from your ATA, as required by R. 1:21-6(a)(1), and your improper electronic transfer of funds from your ATA to a personal account.

Generally, a reprimand is the appropriate discipline for negligent misappropriation, even when accompanied by additional misconduct, including recordkeeping violations. In your matter, the Board considered, in aggravation, your heightened awareness of your recordkeeping obligations based upon your completion of a trust and business accounting course provided by the OAE only three years prior to this misconduct.

However, in imposing only an admonition, the Board accorded considerable mitigating weight to your lack of formal discipline in your fifty-two-year legal career and to the fact that your misconduct was directly tied to your efforts to close out your ATA to retire from the practice of law. In addition, the Board considered your full cooperation with the OAE's investigation and your decision to enter into a disciplinary stipulation, thereby accepting responsibility for your misconduct and conserving disciplinary resources. Last, the Board considered your assertion that you are no longer practicing law and agreed to file a certification of retirement within ninety days of the conclusion of this disciplinary matter.

Your conduct has adversely reflected not only on you as an attorney but also on all members of the bar. Accordingly, the Board has directed the issuance of this admonition to you. R. 1:20-15(f)(4).

A permanent record of this occurrence has been filed with the Clerk of the Supreme Court and the Office of Board Counsel. Should you become the subject of any further discipline, this admonition will be taken into consideration.

The Board also has directed that the cost of the disciplinary proceedings be assessed against you. An invoice of costs will be forwarded to you under separate cover.

Very truly yours,

/s/ Timothy M. Ellis

Timothy M. Ellis
Chief Counsel

TME/akg

c: Chief Justice Stuart Rabner
Associate Justices
Heather Joy Baker, Clerk
Supreme Court of New Jersey
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)
Rachael Weeks, Deputy Ethics Counsel
Office of Attorney Ethics (e-mail)