

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 24-143
District Docket No. XIV-2023-0231E

In the Matter of Jay Lowell Juckett
An Attorney at Law

Decided
November 20, 2024

Certification of the Record

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Introduction

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

This matter was before us on a certification of the record filed by the Office of Attorney Ethics (the OAE), pursuant to R. 1:20-4(f). The formal ethics complaint charged respondent with having violated RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6) and RPC 8.1(b) (two instances – failing to cooperate with disciplinary authorities).¹

For the reasons set forth below, we determine that a reprimand, with a condition, is the appropriate quantum of discipline for respondent’s misconduct.

Ethics History

Respondent earned admission to the New Jersey bar in 1987 and to the West Virginia bar in 1988. At the relevant time, he maintained a practice of law in Allenhurst, New Jersey.

Effective January 29, 2024, the Court temporarily suspended respondent from the practice of law for failing to cooperate with the OAE’s investigation

¹ Due to respondent’s failure to file an answer to the formal ethics complaint, and on notice to him, the OAE amended the complaint to include the second RPC 8.1(b) charge.

underlying this matter. In re Juckett, 256 N.J. 325 (2024). To date, he remains temporarily suspended.

Service of Process

Service of process was proper. On March 26, 2024, the OAE sent a copy of the formal ethics complaint, by certified and regular mail, to respondent's home address of record. On May 16, 2024, the certified mail was returned to the OAE as "unclaimed." The regular mail was not returned.

On April 30, 2024, the OAE sent a second letter, by certified and regular mail, to respondent's home address of record. The letter informed respondent that, unless he filed a verified answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the record would be certified to us for the imposition of discipline, and the complaint would be deemed amended to charge a willful violation of RPC 8.1(b) by reason of his failure to answer. The certified mail was returned to the OAE as unable to forward. The regular mail was not returned.

As of June 25, 2024, respondent had not filed an answer to the complaint, and the time within which he was required to do so had expired. Accordingly, the OAE certified this matter to us as a default.

On July 29, 2024, Chief Counsel to the Board sent respondent a letter, by certified and regular mail, to his home address of record, with an additional copy sent by electronic mail, informing him that the matter was scheduled before us on September 19, 2024, and that any motion to vacate the default must be filed by August 19, 2024. The certified mail was returned to the Office of Board Counsel (the OBC) as unclaimed. The letter sent by regular mail was not returned.

Moreover, on August 1, 2024, the OBC published a notice in the New Jersey Law Journal, stating that we would consider this matter on September 19, 2024. The notice informed respondent that, unless he filed a successful motion to vacate the default by August 19, 2024, his prior failure to answer the complaint would remain deemed an admission of the allegations of the complaint.

Respondent did not file a motion to vacate the default.

Facts

We now turn to the allegations of the complaint.

In connection with his practice of law, respondent maintained an attorney trust account (ATA) at TD Bank and an attorney business account (ABA) with

Citizens Bank. In addition, he maintained an escrow account with Citizen's Bank.

On June 16, 2023, TD Bank notified the OAE that respondent's ATA had been overdrawn, on June 15, 2023, by \$653.30. On June 28, 2023, the OAE directed respondent to submit a written explanation for the overdraft, along with his ATA bank statements for the prior three months, no later than July 28, 2023. Respondent failed to reply to the OAE's letter.

On August 9, 2023, the OAE sent respondent a second letter, noting his failure to respond to the OAE's previous letter and directing him to provide a written explanation for the overdraft by August 16, 2023. Respondent failed to reply.

On August 21, 2023, the OAE attempted to contact respondent via his office telephone number of record; however, a recording stated that the office telephone was no longer in service. On that same date, the OAE sent respondent an e-mail, again informing him of his failure to respond to the OAE's June 24 and August 9, 2023 letters and directing him to contact the OAE. Respondent failed to reply.

On September 1, 2023, the OAE attempted to hand deliver its letter to respondent at his office address of record. However, upon arrival at the address, the OAE observed what appeared to be a "home in an abandoned, dilapidated

state,” with “no trespassing” signs affixed to trees. The OAE left the letter in the office mailbox. That same date, the OAE also attempted personal delivery of its letter to respondent’s secondary address of record. The OAE observed respondent’s name affixed on the unit’s “doorbell/door viewer,” but no one answered the doorbell. The OAE, thus, slid the letter underneath the door.

On September 13, 2023, the OAE contacted respondent at his secondary telephone number and spoke with him. During that telephone call, respondent confirmed that he had received the OAE’s “second letter” (presumably at his secondary address) regarding the overdraft of his ATA.

The next day, on September 14, 2023, respondent sent a written, unsigned, reply to the OAE. In his one-page letter, he claimed that the overdraft was caused by paying a \$1,371 check and then realizing that the “previous debt was too high.” He represented that the very next day, he deposited funds to replenish his account, attaching his bank statements in support of his explanation.

On September 15, 2023, the OAE sent respondent a letter, via certified and regular mail, and also by electronic mail, notifying him that his September 14, 2023 reply was inadequate and directing him to produce, no later than October 2, 2023, his firm’s financial records for the period January 1, 2021 through September 15, 2023. Further, the OAE informed respondent that it had

scheduled his demand audit for October 23, 2023. The OAE also advised him that, if he failed to comply with the OAE's requests, he would be subject to a complaint charging him with a violation of RPC 8.1(b) due to his failure to cooperate.

Respondent failed to provide the requested documents by October 2, 2023.

On October 5, 2023, respondent informed the OAE, via a telephone call, that he had received the OAE's September 15, 2023 letter but had not prepared any documents responsive to the OAE's request. The OAE advised respondent to request an extension, in writing, if he required additional time to submit the records.

On October 18, 2023, the OAE sent respondent a letter, via certified, regular, and electronic mail, reminding him that his records remained outstanding and that the demand audit would proceed on October 23, 2023. The OAE also included a copy of its September 15, 2023 letter.

On October 23, 2023, the OAE sent respondent an e-mail with the details of the demand audit, along with a link to join the meeting via Microsoft Teams. Respondent failed to appear for the audit.

On October 25, 2023, after respondent failed to appear for the demand audit, the OAE sent respondent another letter, via certified and regular mail, to his office address of record, with an additional copy via electronic mail,

recounting its efforts to obtain respondent's explanation for the overdraft and his financial records. The OAE notified respondent that the rescheduled demand audit would take place on November 13, 2023 and, further, that if he failed to appear, the OAE could seek his temporary suspension. Respondent failed to produce the outstanding records or to appear for the audit.

On December 13, 2023, the OAE filed a petition with the Court seeking respondent's immediate temporary suspension from the practice of law, pursuant to R. 1:20-11(a), due to his failure to cooperate with its investigation.

On December 15, 2023, the OAE received a voicemail from respondent seeking a return call. That same date, the OAE returned the call, during which respondent agreed to submit his financial records by December 22, 2023. Despite the extension, respondent failed to submit any records by that date.

On January 29, 2024, the Court granted the OAE's petition and temporarily suspended respondent from the practice of law.

Subsequently, the OAE obtained respondent's bank records via subpoena. Following its review of those records, as well as respondent's incomplete reply, the OAE identified the following recordkeeping deficiencies:

- (1) improper ATA designation, in violation of R. 1:21-6(a)(2);
- (2) failing to maintain ATA and ABA receipts and disbursements journals, in violation of R. 1:21-6(c)(1)(A);

- (3) failing to maintain individual ledger cards, in violation of R. 1:21-6(c)(1)(B);
- (4) failing to maintain monthly three-way ATA reconciliations, in violation of R. 1:21-6(c)(1)(H);
- (5) failing to maintain a running ATA checkbook balance, in violation of R. 1:21-6(c)(1)(G);
- (6) failing to identify the client on ATA deposit slips, in violation of R. 1:21-6(c)(1)(G);
- (7) electronic transfers made without proper authorization, in violation of R. 1:21-6(c)(1)(A);
- (8) improper image-processed ATA and ABA checks, in violation of R. 1:21-6(b); and
- (9) improper ABA designation, in violation of R. 1:21-6(a)(2).

Further, the OAE determined that respondent had commingled funds in his ATA.²

Due to respondent's failure to cooperate with the investigation, the OAE was unable to determine whether he had misappropriated entrusted funds. As of the date of the formal ethics complaint, respondent had failed to bring his books and records into compliance with the recordkeeping Rules.

Based on the foregoing, the OAE alleged that respondent violated RPC 1.15(d) by failing to comply with the recordkeeping requirements of R. 1:21-6,

² The OAE did not charge respondent with having violated RPC 1.15(a) by commingling funds unrelated to the practice of law in his ATA.

and RPC 8.1(b) both by failing to cooperate with the OAE's audit and investigation and by failing to file a verified answer to the complaint.

Analysis and Discipline

Violations of the Rules of Professional Conduct

We find that the facts set forth in the formal ethics complaint support all the charges of unethical conduct. Respondent's failure to file an answer to the complaint is deemed an admission that the allegations of the complaint are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).

The record clearly and convincingly demonstrates that respondent violated RPC 1.15(d) by failing to comply with the recordkeeping requirements of R. 1:21-6 in numerous respects. Specifically, the OAE's review of respondent's financial records revealed that he failed to: (1) properly designate his ATA and ABA; (2) maintain ATA and ABA receipts and disbursements journals; (3) maintain individual ledger cards; (4) maintain monthly three-way reconciliations for his ATA and a running checkbook balance; (5) identify the client on ATA deposit slips; (6) secure proper authorization for electronic transfers; and (7) properly image ATA and ABA checks. Further, respondent commingled funds in his ATA.

Moreover, R. 1:21-6(h) requires an attorney “to cooperate and to respond completely to questions by [the OAE] regarding all transactions concerning records required to be kept under this rule.” Subsection (i) of that same Rule states:

An attorney who fails to comply with the requirements of this rule in respect of the maintenance, availability and preservation of accounts and records or who fails to produce or to respond completely to questions regarding such records as required shall be deemed to be in violation of RPC 1.15(d) and RPC 8.1(b).

Here, respondent failed to produce his financial records to the OAE, despite repeated requests that he do so. Indeed, respondent altogether failed to cooperate with the OAE’s investigation, ultimately resulting in his temporary suspension from the practice of law. Thus, by failing to comply with the requirements of R. 1:21-6 and by failing to respond completely to the OAE’s questions regarding such records, respondent “shall be deemed to be in violation RPC 1.15(d)” R. 1:21-6(i).

Based on the same facts, it is equally clear that respondent violated RPC 8.1(b) by failing to respond to the OAE’s lawful demands for information and to produce records during the OAE’s investigation. R. 1:21-1(6)(i). To date, respondent has not produced the requested financial records and, consequently, he remains temporarily suspended from the practice of law. He violated RPC

8.1(b) a second time by failing to file an answer to the formal ethics complaint and allowing this matter to proceed as a default.

In sum, we find that respondent violated RPC 1.15(d) and RPC 8.1(b) (two instances). The sole issue left for our determination is the appropriate quantum of discipline for his misconduct.

Quantum of Discipline

Recordkeeping irregularities ordinarily are met with an admonition where, as here, they have not caused a negligent misappropriation of clients' funds. See In the Matter of David Stuart Bressler, DRB 22-157 (Nov. 21, 2022) (the attorney committed several recordkeeping violations, including failing to perform monthly three-way reconciliations, maintaining an improper ATA account designation, and failing to preserve images of processed checks; the attorney also commingled client and personal funds; in mitigation, the attorney rectified his recordkeeping errors, caused no ultimate harm to his clients, and had no disciplinary history), and In the Matters of Grant J. Robinson, DRB 21-059 and DRB 21-063 (July 16, 2021) (the attorney failed to properly designate his ATA, maintain ledger cards for bank charges, and maintain ABA receipts and disbursements journals; the attorney also allowed an inactive balance to remain in his ATA; the attorney's recordkeeping deficiencies resulted in the

return of more than twenty checks, which he had issued to the Superior Court, for insufficient funds; in mitigation, the attorney corrected his recordkeeping errors and took remedial measures to decrease the likelihood of a future recordkeeping violation).

Respondent, however, also failed to cooperate with the OAE's investigation of his financial records. Admonitions typically are imposed for an attorney's failure to cooperate with disciplinary authorities if the attorney does not have an ethics history, if the attorney's ethics history is remote, or if compelling mitigation is present. 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 documentation. See, e.g., In re Schlachter, 254 N.J. 375, 376 (2023) (reprimand for an attorney who committed recordkeeping violations, including failing to maintain adequately descriptive receipts and disbursements journals, ledger cards, and checkbooks with running balances; the attorney also failed to properly designate his ATA and to retain checks for seven years; the attorney repeatedly failed, for almost a year, to comply with the OAE's numerous record requests and ultimately provided only a portion of the requested records; although the OAE attempted to help the attorney take corrective action, he remained non-compliant with the recordkeeping Rules; in

mitigation, his misconduct resulted in no harm to his clients and he had no disciplinary history in sixteen years at the bar); In re Leven, 245 N.J. 491 (2021) (reprimand for an attorney who, following two OAE random audits uncovering numerous recordkeeping deficiencies, including an unidentified client ledger card that held a negative \$50,200.35 balance, repeatedly failed, for more than three months, to comply with the OAE's requests for his law firm's financial records, including trust account reconciliations, client ledger cards, disbursements journals, and two specific client files; thereafter, although the attorney, for more than eight months, repeatedly assured the OAE that he would provide the required records, he failed to do so, despite two Court Orders requiring him to cooperate; the attorney, however, provided some of the required financial records; we 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, we imposed a reprimand in light of the lack of injury to the clients and the attorney's remorse, contrition, and otherwise unblemished forty-seven-year career at the bar); In re Tobin, 249 N.J. 96 (2021) (censure for an attorney who, following an OAE random audit that uncovered several recordkeeping deficiencies (including more than \$800,000 in negative client balances), failed to provide the documents requested in the OAE's seven letters and eight telephone calls, spanning more than one

year; although we noted that a reprimand was appropriate for the attorney's recordkeeping violations and failure to cooperate, we imposed a censure in light of the attorney's prior reprimand for recordkeeping violations and the default status of the matter; in mitigation, the attorney had been practicing law for sixty-three years and suffered serious health problems prior to the continuation date of the random audit).

Based upon the foregoing precedent, we conclude that the baseline discipline for respondent's misconduct is a reprimand. Like the disciplined attorneys in Schlachter and Leven, respondent failed to comply with the OAE's repeated efforts to obtain his financial records and requests for information. In crafting the appropriate discipline, however, we also must consider mitigating and aggravating circumstances.

In mitigation, respondent has no disciplinary history in his thirty-seven-year career, a factor which we and the Court assign significant weight. In re Convery, 166 N.J. 298, 308 (2001).

In aggravation, respondent still has not fully complied with the OAE's requests for information. Consequently, he remains temporarily suspended pending his compliance.

In further aggravation, like the censured attorney in Tobin, respondent allowed this matter to proceed as a default. "[A] respondent's default or failure

to cooperate with the investigative authorities operates as an aggravating factor, which is sufficient to permit a penalty that would otherwise be appropriate to be further enhanced.” In re Kivler, 193 N.J. 332, 342 (2008).

Conclusion

On balance, in view of compelling mitigation including respondent’s otherwise unblemished thirty-seven-year career at the bar balanced against the default status of this matter, we determine that enhanced discipline is unnecessary. Thus, we conclude that a reprimand is the quantum of discipline necessary to protect the public and preserve confidence in the bar. As a condition to his discipline, however, we recommend that respondent be required to fully cooperate with the OAE’s investigation.

Member Campelo was absent.

Members Hoberman, Menaker, and Spencer voted to impose a censure, with the same condition.

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. Mary Catherine Cuff, P.J.A.D. (Ret.),
Chair

By: /s/ Timothy M. Ellis
Timothy M. Ellis
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Jay Lowell Juckett
Docket No. DRB 24-143

Decided: November 20, 2024

Disposition: Reprimand with condition

<i>Members</i>	Reprimand	Censure	Absent
Cuff	X		
Boyer	X		
Campelo			X
Hoberman		X	
Menaker		X	
Petrou	X		
Rivera	X		
Rodriguez	X		
Spencer		X	
Total:	5	3	1

/s/ Timothy M. Ellis

Timothy M. Ellis
Chief Counsel