

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 24-192
District Docket No. XIV-2020-0509E

In the Matter of Michael A. Mishaan
An Attorney at Law

Argued
November 21, 2024

Decided
February 18, 2025

HoeChin Kim appeared on behalf of the
Office of Attorney Ethics.

Kim Ringler appeared on behalf of respondent.

Table of Contents

Introduction.....	1
Ethics History.....	1
Facts.....	2
Recordkeeping Deficiencies.....	2
The Sakkal Matter	4
The Hidary Matter	8
The Ethics Proceeding	10
The Parties’ Post-Hearing Submissions	21
Respondent’s Written Summation	21
The OAE’s Written Summation.....	25
The SEA’s Findings	26
The Parties’ Positions Before the Board.....	31
Analysis and Discipline	33
Violations of the Rules of Professional Conduct.....	33
Quantum of Discipline.....	39
Conclusion	45

Introduction

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

This matter was before us on a recommendation for disbarment filed by Special Ethics Adjudicator Glen J. Vida, Esq. (the SEA). The amended formal ethics complaint charged respondent with having violated RPC 1.15(a) and the principles of In re Wilson, 81 N.J. 451 (1979), and In re Hollendonner, 102 N.J. 21 (1985) (three instances – knowingly misappropriating client or escrow funds); RPC 1.15(a) (commingling client and personal funds); RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6); and RPC 8.4(c) (two instances – engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

For the reasons set forth below, we determine that respondent knowingly misappropriated entrusted funds and recommend to the Court that he be disbarred.

Ethics History

Respondent earned admission to the New Jersey bar in 1988 and to the New York bar in 1989. He has no prior discipline. During the relevant timeframe, he maintained a practice of law in Eatontown, New Jersey.

Facts

In connection with his law firm, respondent maintained the following attorney trust and business accounts:

- An attorney trust account ending in 7065 at J.P. Morgan Chase (also referred to in the record as an escrow account) (ATA 7065);
- An attorney trust account ending in 4018 at Wells Fargo (ATA 4018);
- An attorney business account ending in 2179 at Wells Fargo (ABA 2179); and
- An operating account ending in 4402 at J.P. Morgan Chase (used by respondent as an attorney business account) (ABA 4402).

Recordkeeping Deficiencies

On July 21, 2020, the OAE completed a random audit of respondent's financial records for the period August 1, 2018 to March 31, 2019. The auditor identified the following deficiencies:

- i. A separate ledger sheet was not maintained for firm funds in the ATA, in violation of Rule 1:21-6(d) for [ATA 4018];
- ii. The ATA was being used for funds unrelated to the legal practice, in violation of Rule 1:21-6(a)(1) and RPC 1.15(a) for [ATA 7065];
- iii. Funds received for professional services were not deposited into an ABA, in violation of Rule 1:21-6(a)(2);
- iv. The ABA designation was improper, in violation of Rule 1:21-6(a)(2);

- v. The ATA designation was improper, in violation of Rule 1:21-6(a)(2);
- vi. A trust receipts journal was not maintained, in violation of Rule 1:21-6(c)(1)(A) for [ATA 7065];
- vii. A trust disbursements journal was not maintained, in violation of Rule 1:21-6(c)(1)(A) for [ATA 7065];
- viii. The ABA receipts journal was not fully descriptive, in violation of Rule 1:21-6(c)(1)(A);
- ix. The ABA disbursements journal was not fully descriptive, in violation of Rule 1:21-6(c)(1)(A);
- x. Client funds in a lawyer's possession were not maintained in an approved financial institution in New Jersey in violation of Rules 1:21-6(a)(1) & (b) for [ATA 7065];
- xi. Fees received for professional services were not deposited into a New Jersey ABA, in violation of Rule 1:21-6(a)(2);
- xii. ABA image[] processed checks were not in compliance with Rule 1:21-6(b);
- xiii. ATA image[] processed checks were not in compliance with Rule 1:21-6(b); and
- xiv. Improper electronic transfers were made without signed written instruction, in violation of Rule 1:21-6(c)(1)(A).

[C¶¶6,7(b).]¹

¹ “C” refers to the amended formal ethics complaint, dated July 7, 2023.
“1T” refers to the transcript of the ethics hearing held on January 10, 2024.
“RS” refers to respondent’s summation brief, dated June 7, 2024.
“SEAR” refers to the Special Ethics Arbitrator’s report, dated August 26, 2024.

Respondent complied with the random audit process and, prior to the audit's completion, corrected most of his recordkeeping deficiencies.

Based on the above facts, the amended formal ethics complaint charged respondent with violating the Rules of Professional Conduct and Court Rules as follows:

a. RPC 1.15(a) – a lawyer shall not commingle funds not related to the legal practice with client funds held in the ATA; and

b. RPC 1.15(d) – a lawyer shall comply with the recordkeeping rule and the attendant provisions[.]

[C¶7.]

The Sakkal Matter

In October 2017, Jack and Isaac Rawas (the Rawas brothers) retained respondent to represent them in the sale of a single-family home in Deal, New Jersey, to buyers Jack and Jacqueline Sakkal.

On January 15, 2018, Jacqueline Sakkal's father, Martin Stein, provided a check toward the Sakkals' down payment on the home. The check, in the amount of \$270,000, was made payable to "Michael A. Mishaan, P.C. Escrow Agent."

On January 17, 2018, the parties entered into a contract of sale, which respondent signed in his capacity as escrow agent for the transaction. That contract provided that "[t]he check for the Down Payment shall be deposited by

Escrow Agent in a non-interest-bearing escrow account and the proceeds held and disbursed in accordance with the terms of this Contract.” The contract further provided that, upon closing, the escrow agent would deliver the down payment to the sellers. Alternatively, if either party demanded the down payment prior to closing, the other party would have ten days to object to the proposed payment; thereafter, if the other party did not object, the escrow agent would deliver the down payment to the party making the demand.

On January 18, 2018, respondent deposited Stein’s check in his ATA 7065, increasing the balance in that account from \$0 to \$270,000.

On January 22, 2018, respondent transferred the entirety of the \$270,000 balance from his ATA 7065 to a joint interest-bearing savings account he held with his wife. By doing so, he reduced the balance in his ATA 7065 back down to \$0. He admittedly failed to ask the Sakkals, Stein, or the Rawas brothers for their consent to remove the Sakkals’ down payment from his trust account.

Thereafter, between February 14 and April 17, 2018, respondent removed \$130,000 from his personal savings account, as follows:

02/14/2018	to personal checking account ²	\$15,000
03/07/2018	to personal checking account	\$7,500

² This personal checking account was held for respondent and/or his wife.

03/09/2018	to personal checking account	\$7,500
03/15/2018	to personal checking account	\$10,000
03/15/2018	to ABA 4402	\$5,000
04/17/2018	to personal checking account	\$85,000

At the ethics hearing, respondent admitted that, of the \$130,000, he used \$85,000 to pay his personal federal income taxes and the rest for miscellaneous personal expenses. At the time, he stated, he had “the capacity to draw down on a personal credit line and/or to sell stock to fund upcoming personal and business expenses” but chose to use the Sakkal funds, instead.

The closing on the Rawas property took place on May 11, 2018. As of May 9, 2018, respondent held in his ATA 7065 \$15,300 in escrow for the Hidary matter, as detailed below. On May 10, 2018, he transferred to ATA 7065 the following additional amounts:

from personal savings account	\$140,000
from ABA 4402	\$57,000
from personal checking account	\$47,888
TOTAL:	\$244,888

Combined with the Hidary funds, the above transfers brought the balance of respondent’s ATA 7065 to \$260,188, or \$9,812 less than the \$270,000 deposit

entrusted in the Sakkal matter. Respondent's legal fee in the Sakkal matter was \$9,812.³

Following the closing, respondent disbursed, on behalf of the Rawas brothers, the \$260,188 balance from his ATA.

In the interim, the Sakkal funds accrued interest while held in respondent's personal savings account. In January 2018, before respondent transferred the funds to that account, the balance in the account stood at \$25.19. Thereafter, between January 2018 and May 2018, he earned interest totaling \$59.61 on the account. On May 10, 2018, as stated above, he transferred the balance of the Sakkal down payment to his ATA; and, on May 22, 2018, he transferred \$50 from his personal savings account to a high school checking account maintained for one of his children, while retaining \$37.56 in his personal savings account. He neither advised the parties that he had earned interest on their funds nor disbursed any portion of the interest to them.

Based on the above facts, in the amended formal ethics complaint, the OAE alleged that, "from January 22, 2018, to May 10, 2018, respondent knowingly misappropriated the buyers' escrow deposit" and, further, "knowingly misappropriated \$50 of the earned interest on the escrow deposit in

³ In a March 26, 2021 letter to the OAE, respondent misstated his total legal fee as \$9,712. However, the OAE recognized, as early as November 2020, that respondent's invoices documented fees totaling \$9,812.

[his personal savings account] when he transferred said sum to [a] high school checking account.”

More specifically, the complaint charged him with violating the Rules of Professional Conduct as follows:

a. RPC 1.15(a) – in that a lawyer shall not knowingly misappropriate funds entrusted to his care in violation of the principles of In re Wilson, 81 N.J. 451 (1979)[,] and In re Hollendonner, 102 N.J. 21 (1985);

b. RPC 1.15(a) – in that a lawyer shall not knowingly misappropriate interest earned on entrusted funds in violation of the principles of In re Wilson, 81 N.J. 451 (1979), In re Hollendonner, 102 N.J. 21 (1985), and Rule 1:21-6(b) (all interest earned shall be the sole property of the client and may not be retained by the attorney); and

c. RPC 8.4(c) – in that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit[,], or misrepresentation.

[C¶35.]

The Hidary Matter

Respondent represented Michael Hidary in the closing of his sale of a home in Allenhurst, New Jersey to purchasers Mitchell and Kelly Sabbagh. The closing in that matter, which the parties at one point expected to occur on May 24, 2018, ultimately took place on June 8, 2018.

Before the May 11, 2018 Sakkal closing, respondent held, in his ATA 7065, \$15,300 in escrow in anticipation of the Hidary closing. That sum represented the remaining balance of the Sabbaghs' deposit of \$80,000, following authorized disbursements to Hidary (\$47,000) and to Hidary's tenants (\$17,700).

On May 10, 2018, respondent paid himself counsel fees totaling \$15,300, which he subsequently included in the funds he leveraged to complete the Sakkal transaction. At the time, according to his itemized invoices, he had earned \$7,220 in counsel fees in the Hidary matter.

Respondent admitted that the balance of the Sabbaghs' deposit should have remained in his ATA until the closing and that he lacked authorization from any party to withdraw his counsel fee prematurely. However, he asserted that, by May 10, 2018, Hidary understood that his legal fee would exhaust the \$15,300 balance.

Respondent's invoices in the Hidary matter, dated March 25 and June 8, 2018, detailed his legal services starting in February 2018 and concluding on the closing date. The total for his hourly entries, plus an expense of \$51.30, was \$15,726.30.

Based on the above facts, the amended formal ethics complaint alleged that, because respondent "did not obtain approval from his client Hidary or the

buyer to take [the \$15,300] almost one month prior to the actual closing date, [he] committed a knowing misappropriation of the \$15,300 escrow on May 10, 2018.” More specifically, the complaint charged him with violating the Rules of Professional Conduct as follows:

- a. RPC 1.15(a) – in that a lawyer shall not knowingly misappropriate funds entrusted to his care in violation of the principles of In re Wilson, 81 N.J. 451 (1979), and In re Hollendonner, 102 N.J. 21 (1985); and
- b. RPC 8.4(c) – in that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

[C¶51.]

The Ethics Proceeding

The ethics hearing took place on January 10 and March 28, 2024.

The OAE disciplinary auditor testified consistent with the facts summarized above. He confirmed that respondent had cooperated with the OAE’s investigation.

The auditor further testified that, during his investigation of the Sakkal matter, he made multiple telephone calls to Raymond Cohen, Esq., who had represented the Sakkals in their purchase of the Rawas property. He received a voicemail message in return, wherein Cohen stated that he had reviewed his file from the real estate purchase and that “we’re still looking, but so far, I haven’t

seen any document, agreement, writing, email that authorized use of the \$270,000 contract deposit before closing.” Cohen indicated that his office staff still planned to review additional e-mail communications, but that “based on what we’ve seen so far . . . the money should have remained in the attorney’s trust account [until the] closing.” After receiving this voicemail message, the OAE auditor testified that he did not hear from Cohen again.

Respondent testified on his own behalf, along with character witnesses Morris Bailey; Joseph Jerome; Gerri Bamira; Natalie Halawani; and Cohen.

Respondent first testified regarding his familial, social, and professional relationships with the individuals involved in the Sakkal and Hidary matters. Jack Rawas, one of his clients in the Sakkal matter, was his cousin by marriage; Jack Sakkal’s brother was married to respondent’s cousin; and respondent enjoyed a long-term friendship with Cohen, who represented the Sakkals. Moreover, he had known the Hidary family, as well as the Sabbaghs, for many years, and their children attended the same schools. He also knew the brokers and the attorney who represented the Sabbaghs in the Hidary matter. Nevertheless, he did not regard these relationships as excusing his mishandling of the entrusted funds.

Regarding the Sakkal matter, respondent admitted that he should have maintained the \$270,000 deposit, inviolate, in his ATA until the transaction

closed. However, he testified that, at the time, he had “not appreciate[d] the wrongfulness of [his] conduct.” He continued, as follows:

[RESPONDENT]: [T]he way I had looked at this, this was a personal loan, I had at all times had ample funds. Because I knew the parties so well, I – I knew from both sides that they intended to close the transaction.

Even if the transaction would not close, I would have a ten day – I would have ample opportunity to replace those funds and – you know, I took it upon myself to presume consent, which was wrong.

It was an abuse of the public trust, I – I do understand that. I understand that now, especially after having gone through this process. I will say that, you know, my thinking was – was muddy, at best.

I did benefit from that personal use of – of those funds, and that was inappropriate. And I regret that very much.

[RESPONDENT’S COUNSEL]: You’re not disputing that you knowingly took the funds from your account for your own use?

[RESPONDENT]: That’s correct. I think maybe in addition to being muddy thinking, it was wishful thinking so far as, you know, the contracts – the Rawas contract where I used that money, they didn’t specifically say that it needed to be held in my Attorney Trust Account.

Of course I can appreciate that the expectation was that it was going to be held in escrow, that it would be there for the parties, you know, it’s not my money, it would be there for the parties, but, you know, never did I intend, nor did I deprive the parties of their rightful claim to the money.

You know, the money required disposition, either upon closing or . . . joint direction after ten days' notice. So I, you know, rationalized that for my benefit.

[RESPONDENT'S COUNSEL]: During the time when the money was not continuously intact in trust, did you have funds sufficient to replace them, if need be, at any point in time?

RESPONDENT: Yes, I did. You know, that would have required me to sell some securities, it would have required me to pay interest, it would have required me, if I needed to dip into, you know, an IRA I would have had to pay the penalty.

So those are the selfish motivation for my inappropriate action.

[1T60:12-62:16.]

Respondent acknowledged that he had failed to obtain the required consent from the parties before withdrawing the funds. He explained that “there was a certain informality that I presumed, because I was dealing with people that I knew so well in my community,” and that this “presumption was unethical, it was illegitimate, it was something that I should have better understood.”

When asked by the SEA why he had used the entrusted Sakkal funds, respondent explained that he “knew everybody at the table;” based on knowing them and also knowing the circumstances of the sale, he regarded the transaction as “a foregone conclusion;” thus, “since nobody is gonna be using that money during that time, rather than, you know, myself incur expense, interest . . . sell

securities, any kind of penalties, there would be no – there was no harm.” The SEA then asked why he needed the money, to which he replied, “[t]here were some expenses,” including an \$85,000 payment for his personal federal income taxes, and “miscellaneous personal expenses for perhaps – you know, I don’t run a . . . credit card balance typically, but, you know, maybe to pay off credit cards or other [expenses].”

Respondent also admitted that he neither informed the Sakkal parties that he had earned interest on the deposit, nor disbursed the interest to any party to the transaction. However, contesting the OAE’s allegation that the amount of misappropriated interest was \$50 (the amount of his May 22, 2018 transfer to his child’s high school checking account), he argued that the correct calculation would be \$50 minus the \$25.19 already in his and his wife’s savings account when he deposited the Sakkal funds. Moreover, although he now understood that he was “not entitled to the interest that was earned,” he asserted that, at the time, he did not realize interest had accrued. In response to cross-examination, he stated, “I probably didn’t check . . . my personal bank statement at the time.” He also asserted that, although he did not recall giving the Rawas brothers the interest, he “did give [them] a discount on their bill of thousands of dollars.”

Regarding the Hidary matter, respondent admitted that he neither requested nor received his client’s permission to take his legal fee before the

closing. Asked why he took his fee in advance, he stated, “there was money that needed to be replaced for the Rawas transaction,” and that he included the Hidary funds in his transfer on behalf of one of the Rawas brothers following the Sakkal closing.

He argued, however, that, by May 10, 2018, when he paid himself the \$15,300 balance of the Sabbaghs’ deposit, Hidary “understood that there would be continuing work being done” and “there was a conversation, I believe I had with Mr. Hidary, that, listen . . . I’m not expecting anything out of the down payment, you know, you can cover whatever fees you will incur out of that down payment.” Although he admitted that the client had not agreed to a legal fee in the amount of \$15,300 when he used the funds, he asserted that when Hidary later received his bill, Hidary “had no issue with it.”

Respondent stated that he did not intend to deprive anyone of their money permanently or “even . . . temporarily, because I thought . . . if they want the money, they have to give me notice or the deal’s gonna close and I would have the funds to do that.” He conceded making a “stupid mistake . . . in misappropriating these funds” but argued that his “terrible lapse in judgment” did not reflect “intractable dishonesty,” an “irredeemable” character, or “unfit[ness] for a lifetime to exercise the privilege of practicing law.” Moreover, he accepted responsibility for his actions and expressed his regret.

Turning to his service to the community, respondent testified that he provided pro bono assistance to a widow, Natalie Halawani, enabling her and her children to avoid eviction. In addition, he served as a founding member, board member, and secretary of the Sephardic Community Alliance (SCA), which he described as an organization dedicated to supporting “growth through education,” “tolerance,” and imparting to children the importance of contributing to society at large. He also served as president of the Coalition for Deal Park, a community association of about two hundred families. During the COVID-19 pandemic, as an outgrowth of the Deal Park association, he and others founded Stand By Your Neighbors in COVID (SYNC), which delivered meals and boxes of N-95 masks to hospital personnel, police officers, and veterans in Ocean Township, and also raised funds and provided resources for 180 Turning Lives Around (an agency assisting victims of domestic violence), Catholic Charities, the Mercy Center, and other organizations. Further, he served as president and board member of Congregation Magen David in West Deal.

Respondent also testified regarding his leadership role in the work of the Council for the Rescue of Syrian Jews (CRSJ) from its inception in the late 1980s. He explained that, at that time, about 4,500 Jews lived in Syria and “increasingly their rights were being denied.” CRSJ “work[ed] . . . with others

to lobby the [George H.W.] Bush administration to put on its agenda free immigration for the Jews of Syria.” Their efforts met with success – the Hafez al-Assad regime agreed to permit these individuals to emigrate and, subsequently, almost all of them did. Later, respondent volunteered for Uprooted, an organization serving the children of these immigrants.

Finally, respondent testified that he had served on the Association of the Bar of the City of New York’s Mortgage Loan Opinion Committee.

In addition to his testimony and documents regarding the community service described above, respondent also submitted an image of an award for “Best Assistant Coach,” presented to him by the Hillel Yeshiva Hurricanes basketball team in 2013; a photograph of him with David Dinkins, then mayor of New York City, on the proclamation of “Syrian Jewry Day;” and letters of support from character witnesses Bailey, Jerome, Cohen, Bamira, and Halawani.

Moreover, he submitted a letter from Jack Rawas, praising his character and professionalism; explaining that Jack’s⁴ wife and his wife are first cousins; and stating that Jack would have granted him permission to use the Sakkal funds, had he asked. He also submitted an earlier letter, from Jack to the OAE, to the

⁴ Because Jack and Isaac Rawas share a last name, this decision refers to Jack by his first name to avoid any confusion.

same effect. Jack did not testify, although respondent initially planned for him to do so.

In addition to providing a letter of support, Bailey testified that he knew respondent and his family personally and through their shared community, and that respondent was well-respected, honest, compassionate, and caring and gave back to the community. He also described respondent's volunteer efforts as a leader of the SCA.

Jerome, who had known respondent for more than twenty years, spoke highly of the legal services that respondent had provided him over the years and highlighted the value he placed on respondent's friendship and advice. Additionally, he testified that respondent enjoyed a reputation for being trustworthy, reliable, family-oriented, honest, and law-abiding. In describing respondent's trustworthiness, Jerome stated, "to be frank, I just pay his invoices, I don't even look at them. I – that's how much I trust him."

Cohen testified that he had known respondent for about forty years, dating back to when respondent served as his camp counselor. Both had later become attorneys and, since then, engaged in "multiple transactions together where he would be representing [a] landlord or a seller or a buyer and I'd be representing the other side." Cohen and his family also knew respondent personally. He testified that respondent enjoyed an "impeccable" reputation and was known for

his integrity, honesty, diligence, and work ethic. Moreover, he described respondent as offering an exceptional level of professional competency and care.

The OAE cross-examined Cohen based on his role as attorney for the purchasers in the Sakkal matter. He testified that, during the OAE's underlying investigation, in response to the OAE auditor's queries, he had looked through his file on the matter without finding any document that authorized respondent to borrow or use the down payment.

Bamira testified that she had known respondent for more than thirty years, having first met him while working for the Jewish Federation of Monmouth County, when he stopped by the organization's office to express his interest in helping to address the plight of the Syrian Jews. Together, they had formed a committee to advocate for this population and, ultimately, the United States government successfully negotiated with Syria to allow thousands to emigrate. In her view, had these individuals remained in Syria, they would have been massacred.

Bamira further testified that she had attended respondent's wedding, she knew his family, and that he had employed and mentored her daughter. She further highlighted his leadership of their place of worship, his pro bono service to a social service agency in their community, and his creation of a charitable fund honoring his mother after she passed away. She described him as

“extremely well respected and loved in the community,” and a person of integrity and honesty.

Halawani testified that she attended the same place of worship as respondent and had known him for at least twenty years. She testified regarding the pro bono legal assistance that he had provided when her husband fell ill and, later, after her husband died, including his success in preventing her and her children from being evicted from their home. She stated that the members of their shared faith community regarded him as “a righteous man” and knew him for his ethics, integrity, kindness, and diligence in “sticking to the rules.”

All respondent’s character witnesses testified that they had been told about his misconduct underlying the present matter and, further, that this information did not diminish their high regard for him or detract from his community’s trust in him.

Finally, in support of respondent’s claim that he had “access to liquid funds in excess of \$130,000” during the relevant period, he submitted documentation from his Individual Retirement Account (IRA) (June 2018); TD Bank Loan Operations (February 2018); TD Bank Home Equity Statement (June 30, 2018); and J.P. Morgan Investment Statement (May 2018).

The Parties' Post-Hearing Submissions

Respondent's Written Summation

In respondent's post-hearing summation, through counsel, he again admitted that, in 2018, "he personally used funds entrusted to him as a fiduciary." He asserted, however, that he did so "without fully appreciating the significance of his actions;" had "knowledge that the monies would be replaced on time for disbursement;" did not intend to deprive anyone of their funds; and had not harmed anyone by using the funds. He argued, as well, that he had put forward "extraordinarily robust mitigation."

Respondent acknowledged that his conduct "allegedly constitutes knowing misappropriation of client and escrow funds" and that Wilson and Hollendonner support his disbarment. Nevertheless, he argued, "the time has come to remove the rigid permanent disbarment rule and replace it with a more reasonable standard," citing In re Wade, 250 N.J. 581, 586 (2022) where, in respondent's view, the Court "indicated that the rigidity and inflexibility of the automatic permanent disbarment rule merit re-examination." Accordingly, he urged that his misconduct warranted the imposition of a censure or other sanction short of disbarment.

More specifically, respondent argued, first, that "disbarment should be reserved for egregious misconduct" and asserted that the attorneys disbarred in

Wilson, Hollendonner, and In re Greenberg, 155 N.J. 138 (1998) (extending the principles of Wilson and Hollendonner to the knowing misappropriation of law firm funds), engaged in “more extensive misconduct than the wrongful acts committed by [him].”

Second, respondent argued that, in other cases, including In re Eagan, 256 N.J. 322 (2024); In re Gendel, 255 N.J. 500 (2023); In re Caruso, 248 N.J. 426 (2021); In re Lucid, 248 N.J. 514 (2021); In re Soriano, 232 N.J. 457 (2018); In re Arrechea, 208 N.J. 430 (2011); In re Simeone, 108 N.J. 515 (1987); and In re Templeton, 99 N.J. 365 (1985), the Court imposed sanctions short of disbarment on “attorneys who engaged in serious misconduct with more severe impact on clients.” He asserted that he:

did not forge or falsify records or make misrepresentations, knowing or otherwise. While he admittedly misappropriated the funds in question for his personal use, he replaced the transferred funds. At no time did he intend to defraud or deceive, nor did he have the intent required under RPC 8.4(c) to establish dishonesty, fraud, deceit[,] or misrepresentation. He did not steal client’s money, and no party suffered any actual harm whatsoever from his actions. He did not engage in conduct that could be construed as immoral, venal, corrupt or criminal. Furthermore, while he clearly understood that he was transferring funds deposited into his trust account into a personal account, he intended to replace the funds and, having maintained throughout all relevant periods ample personal funds from which to make restoration, he did so. Intending to return the funds, and doing so, did not sanitize his unauthorized withdrawals. However, the context of his

misconduct renders it distinguishable from the worst types of invasion of funds. The facts, therefore, should account for a fair and proportionate sanction short of disbarment.

[RS8.]

Third, respondent argued that “the Wilson-Hollendonner automatic, permanent disbarment rule is inconsistent with the purposes of attorney discipline and is not necessary to protect the public.” More specifically, he asserted that this rule “creates results that appear arbitrary and rather than preserve trust in the bar, actually undermine public confidence in the legal profession;” “threatens the independence of the disciplinary authorities to exercise discretion in its recommendations;” “may have a chilling effect on self-reporting or cooperation by attorneys because of the likely invariable draconian impact;” and “leads to unduly punitive results.” In support, he relied on briefs filed with the Court in Lucid, 248 N.J. at 514, by amici curiae the New Jersey State Bar Association, the Association of Professional Responsibility Lawyers, and the Bergen County Bar Association.

Fourth and finally, respondent argued that “robust mitigation should be relevant to the sanction.” Specifically, he contended that “[u]nlike other jurisdictions that take into account all relevant facts and circumstances, New Jersey at present is an outlier in its practice of rejecting consideration of mitigation.” Accordingly, he “urge[d] a change that would enable the Special

Hearing [Arbitrator] and the Court to consider the extraordinary amount of mitigating factors presented in this case.”

Respondent asserted the following in mitigation: cooperation and candor with the OAE; acceptance of responsibility; remorse; absence of disciplinary grievances in New Jersey and New York in his thirty-six years of legal practice; “isolated instances of misconduct within a narrow time frame in 2018 and two real estate transactions;” aberrational nature of misconduct “his reputation for honesty, trustworthiness, and reliability;” “remedial steps to maintain recordkeeping compliant with applicable rules;” and absence of additional misconduct and “adoption of remedial measures” during the years following his 2018 misconduct. He again described his community service, pro bono activities, and contributions to the legal profession, also including his role in organizing an annual family carnival and five-kilometer race to benefit a non-profit social service organization. Moreover, he asserted that he had “helped raise tens of thousands of dollars for charitable purposes without any suggestion of mishandling any funds.”

In addition, citing In re Noonan, 102 N.J. 157, 164 (1986), and Templeton, 99 N.J. at 373-74, 376, respondent argued that the record did not support a finding that he “is irredeemably unfit for law practice” and, thus, a sanction less

than disbarment would satisfy the protective purpose of attorney discipline.

Finally, he quoted a portion of our dissenting opinion in Lucid, as follows:

In our view, there is a world of difference between conduct showing bad character or wanton indifference and conduct that exhibits an isolated lapse of judgment unlikely to result in actual harm. Our ethics system, at its best, ought to take into account such meaningful distinctions in culpability in determining discipline – even for charges of knowing misappropriation.

[In the Matter of Karina Pia Lucid, DRB 20-216 (July 9, 2021), dissent at 2.]

The OAE's Written Summation

In its post-hearing summation, the OAE reiterated the charged violations and asserted, based on respondent's clear knowing misappropriation of escrow funds, that "disbarment must follow."

Citing Noonan, 102 N.J. at 159-60, the OAE emphasized that mitigation is not relevant for purposes of establishing the sanction in cases of knowing misappropriation. Moreover, it distinguished the present matter from the cases that respondent had cited in arguing for a sanction less harsh than disbarment. Specifically, the OAE asserted that, in those cases, "i) charges of knowing misappropriation were not brought against the attorney-respondent; ii) the [attorney-respondent] did not admit to having committed a knowing

misappropriation; and/or iii) the Court did not find a knowing misappropriation committed by the attorney-respondent.”

In contrast, the OAE argued, “respondent has admitted that he did not have authority to have used \$130,000 of the buyers’ deposit in the Rawas transaction for himself or the \$15,300 remaining from the buyers’ deposit in the Hidary transaction to make up the shortfall in the Rawas sale from either his clients, the sellers, or from the buyers.” Accordingly, the OAE urged, “unlike those attorneys who were found to have not committed a knowing misappropriation, and thus were not disbarred, respondent knowingly misappropriated those funds, as well as the interest earned on the Rawas funds, and faces disbarment.”

The OAE acknowledged that, following Wade, 250 N.J. at 608, the Court had convened a committee to study the potential readmission of disbarred attorneys; however, as of June 2024, all disbarments remained permanent. It asserted that, if the Court ultimately “authorize[s] disbarred attorneys the ability to seek readmission to the Bar, respondent may avail himself of that opportunity when the Court so authorizes a process.”

The SEA’s Findings

The SEA found, by clear and convincing evidence, that respondent, in the Sakkal and Hidary matters, violated RPC 1.15(a) and the principles of Wilson

and Hollendonner, as well as RPC 8.4(c). Further, based on his recordkeeping deficiencies, the SEA found that he violated RPC 1.15(a) (commingling) and RPC 1.15(d).

More specifically, in the Sakkal matter, the SEA found that respondent

admitted removing \$270,000 from his attorney escrow account . . . and depositing it into his personal account. He admitted that this was done in order to obtain the interest on the money which would not be available under those circumstances in his attorney trust account, and would not in any case have devolved to him. He further admitted that of this money \$85,000 was invad[ed] to pay his income taxes, approximately \$30,000^[5] for general bills. He firmly admitted that this was done intentionally and purposefully.

[SEAR9.]

The SEA acknowledged that Jack Rawas had submitted a letter, indicating that he would have consented to respondent's withdrawal of the deposit, had respondent sought his consent. However, the SEA observed that Isaac Rawas, his partner in the transaction, "provided no such letter;" Jack had not appeared for the disciplinary hearing, although listed as a witness; even if both brothers had consented, "the funds were not due them until closing;" and respondent had not contacted the purchasers of the property for their authorization.

⁵ "\$30,000" appears to be typographical error. Respondent's testimony did not include a sum of \$30,000 but, rather, addressed the balance of the \$130,000 that he acknowledged spending, after he described his use of \$85,000 to pay his personal income taxes.

The SEA also found, as a matter of fact, that respondent improperly retained interest generated on the \$270,000 that he improperly transferred to his personal savings account. However, the SEA did not include this fact in his analysis of the applicable Rules of Professional Conduct.

Turning to the Hidary matter, the SEA determined that respondent “admitted that in order to recover sufficient funds to close title in the Sakkal matter, he elected to take the entire escrow deposit of \$15,300 and apply [it] towards the other invaded account.” Moreover, the SEA found that respondent made the withdrawal in the Hidary matter, as in the Sakkal matter, without his client’s knowledge or consent. In addition, he withdrew his counsel fee prematurely, before the funds came due to his client at closing.

With respect to mitigating factors, the SEA found that respondent enjoyed an excellent reputation in his community; had no disciplinary history; readily admitted his wrongdoing; expressed contrition and remorse; had performed extensive community service; and cooperated with ethics authorities. See, e.g., In re Convery, 166 N.J. 298 (2001); In re Alum, 162 N.J. 313 (2000); In re Yacavino, 100 N.J. 50 (1985). The SEA wrote, however, that:

it is concerning that the scope and core of the mitigating factors center upon the trust and reliance placed upon the [r]espondent by the members of his religious community, in whom [sic] the extensive public service was performed. It was troubling to see one witness . . .

indicate that he would pay the [r]espondent's counsel fees without even examining the invoice.

This is a difficult milieu because that same trust and open reliance contributed to the withdrawal of the monies from the ATA for the [r]esponden[t]'s personal use. Were the client[s] more circumspect, these invasions may well have not occurred or been detected at an earlier date.

[SEAR11.]

Moreover, the SEA found it of "great concern" that the legal fee in the Hidary matter "precise[ly] match[ed]" the amount respondent held in his ATA at the time of the Sakkal closing, which also corresponded "to the amount needed to clean up the ATA" in the Sakkal matter. In addition, the prematurely withdrawn fee "was money to which his own client was not entitled and could not have consented," insofar as the funds remained the property of the buyer, not the seller, until title to the property transferred. Further, "none of the purchasers appeared to indicate that they would have consented to the premature withdrawals of their funds."

The SEA also expressed concern regarding the amount respondent had charged his client for counsel fees in the Hidary matter. While acknowledging that this did not form the basis for any charged violation of the Rules of Professional Conduct, the SEA pointed out that "[e]ven at the rate of \$475.00 per hour," the \$15,300 fee "translated to over thirty-two hours of work to close

a residential title” – a total he deemed “possible, but . . . questionable,” absent complications or litigation.

In aggravation, citing In re Forrest, 158 N.J. 428 (1999), the SEA noted that respondent engaged in “a continuing course of dishonesty and misrepresentation,” in that he undertook “successive invasions of his ATA, in both the Sakkal and Hidary matters.” In addition, the SEA found it “troubling” that respondent “indicated that when he misused the \$270,000.00 in Sakkal, he had the money available to himself but chose not to liquidate any of his own portfolio.”

The SEA acknowledged, however, that, in knowing misappropriation cases, neither mitigating nor aggravating factors are “outcome dispositive.” He further observed that, in Wade, the Court declined to revisit the Wilson rule, which the Court described as “outlin[ing] a clearer path” than had pre-Wilson cases: namely, “‘that disbarment is the only appropriate discipline’ when an attorney ‘knowingly use[s] his clients’ money as if it were his own.’” Wade, 250 N.J. at 595 (quoting Wilson, 81 N.J. at 453).

In conclusion, the SEA wrote, “the admission by the [r]espondent that he knowingly and purposefully invaded client’s funds within his attorney trust account on two occasions, and used them for his own benefit with neither the

permission nor the permissibility so to do, mandate the recommendation of disbarment.”

The Parties’ Positions Before the Board

In respondent’s brief and at oral argument before us, he reiterated, through counsel, the arguments that he had advanced before the SEA in support of his view that “the rigid permanent disbarment rule” of Wilson and Hollendonner should be “replace[d] . . . with a more reasonable standard” and, thus, he should receive a censure or other sanction short of disbarment for his admitted misconduct.

In addition, respondent pointed out that the SEA acknowledged his excellent reputation; lack of disciplinary history; admission of wrongdoing; expression of contrition and remorse; and cooperation with ethics authorities. He also reiterated his service activities and described their benefits to diverse communities. Moreover, he asserted that his counsel fee in the Hidary matter reflected the complexity of the work required and he “did not charge for additional time spent, essentially capping his fee at the \$15,300.00 amount.”

Respondent, through his counsel, acknowledged that current disciplinary precedent mandates disbarment but, nevertheless, urged us to depart from the “rigid inflexibility” of Hollendonner and Wilson. He emphasized Eagan, 256

N.J. at 322, in which the Court imposed a two-year suspension, notwithstanding our recommendation that the attorney be disbarred following his guilty plea and conviction, in federal court, for one count of conspiracy to commit bank fraud, based on our view that he knowingly misappropriated escrow funds by diverting reverse mortgage loan proceeds to two co-conspirators. Eagan, 256 N.J. at 322-23; In the Matter of Martin David Eagan, DRB 23-089 (October 3, 2023) at 18-21. Stressing that Eagan post-dated Wade and, yet, the Court imposed discipline short of disbarment, he invited us to “endorse or take a step towards being free to consider . . . the totality of the circumstances” in the present matter.

Respondent’s counsel also addressed the Court’s recent adoption of R. 1:20-21A, which permits a disbarred attorney to apply for readmission subject to specified conditions and procedures. She stated that, although this provides “a pa[th] back, it’s not an easy pa[th] back. And when you’re talking about a respondent in his 60’s, it’s a challenging pa[th] back.”

In its brief and at oral argument, the OAE, for its part, largely relied on the record below, its post-hearing summation, and the SEA’s conclusions to urge that, because disbarment is the sanction for proven knowing misappropriation, respondent must be disbarred. It argued that respondent sought a sanction not available under the Court’s disciplinary jurisprudence, including Wade. Moreover, the OAE asserted that, notwithstanding the Court’s recent adoption

of a path back from disbarment, the Court in Wade did not retreat from the bright-line imposition of disbarment for proven cases of knowing misappropriation. Finally, the OAE urged that respondent's actions in transferring \$270,000 in entrusted funds to his personal account, then depleting \$130,000 because he preferred using those funds to cover his personal expenses, rather than selling securities or incurring expense, interest, or penalties by using his own funds, did not inspire "confidence that [he] will be able to do what's right when no one is watching him."

Analysis and Discipline

Violations of the Rules of Professional Conduct

Following our de novo review of the record, we determine that the SEA's finding that respondent committed unethical conduct is supported by clear and convincing evidence. Specifically, we find that respondent, in both the Sakkal and Hidary matters, engaged in the knowing misappropriation of entrusted funds, in violation of RPC 1.15(a) and the principles of Wilson and Hollendonner, and, further, violated RPC 8.4(c). In addition, based on his commingling of client and personal funds and recordkeeping deficiencies, we determine that respondent violated RPC 1.15(a) and RPC 1.15(d), respectively.

In Wilson, 81 N.J. at 455 n.1, the Court described knowing misappropriation as follows:

Unless the context indicates otherwise, “misappropriation” as used in this opinion means any unauthorized use by the lawyer of clients’ funds entrusted to [the lawyer], including not only stealing, but also unauthorized temporary use for the lawyer’s own purpose, whether or not [the lawyer] derives any personal gain or benefit therefrom.

Six years later, the Court elaborated:

The misappropriation that will trigger automatic disbarment under In re Wilson, 81 N.J. 451 (1979), disbarment that is “almost invariable,” id. at 453, consists simply of a lawyer taking a client’s money entrusted to [the lawyer], knowing that it is the client’s money and knowing that the client has not authorized the taking. It makes no difference whether the money is used for a good purpose or a bad purpose, for the benefit of the lawyer or for the benefit of others, or whether the lawyer intended to return the money when [the lawyer] took it, or whether in fact [the lawyer] ultimately did reimburse the client; nor does it matter that the pressures on the lawyer to take the money were great or minimal. The essence of Wilson is that the relative moral quality of the act, measured by these many circumstances that may surround both it and the attorney’s state of mind, is irrelevant: it is the mere act of taking your client’s money knowing that you have no authority to do so that requires disbarment The presence of “good character and fitness,” the absence of “dishonesty, venality, or immorality” – all are irrelevant.

[Noonan, 102 N.J. at 159-60.]

More than forty years after Wilson, the Court re-affirmed its “bright-line rule . . . that knowing misappropriation will lead to disbarment.” Wade, 250 N.J. at 601. In Wade, the Court observed that “[w]hen clients place money in an attorney’s hands, they have the right to expect the funds will not be used intentionally for an unauthorized purpose. If they are, clients can confidently expect that disbarment will follow.” Ibid.

The Wilson rule also applies to other funds that the attorney is to hold inviolate, such as escrow funds. Hollendonner, 102 N.J. at 28-29. In Hollendonner, the Court extended the Wilson disbarment rule to cases involving the knowing misappropriation of escrow funds. The Court noted the “obvious parallel” between client funds and escrow funds, holding that “[s]o akin is the one to the other that . . . an attorney found to have knowingly misused escrow funds will confront the [Wilson] disbarment rule.” Id. at 28-29.

Here, in connection with the Sakkal matter, respondent admittedly withdrew the buyers’ \$270,000 in escrow funds from his ATA within days of receiving it; transferred it to a personal savings account; failed to replenish his ATA for more than three months; and, during that period, repeatedly used the funds for his own diverse personal expenses, eventually totaling \$130,000, before replenishing his ATA the day before the closing.

Based on the above facts, we determine that respondent knowingly misappropriated client and escrow funds, on multiple occasions, by drawing from the down payment for his personal expenses. He also engaged in misrepresentation by omission, as he avoided revealing to his clients that he had removed the deposit from trust and, in his own words, treated it as “a personal loan.”

However, the record before us does not clearly establish, as a separate act of knowing misappropriation, respondent’s retention of interest on the Sakkal funds. Cf. In re Goldstein, 116 N.J. 1, 2 (1989) (citing Wilson in declaring that an attorney’s improper withdrawal of interest from the attorney’s trust account, contrary to Opinion No. 326 of the Advisory Committee on Professional Ethics, 99 N.J.L.J. 298 (1976), “belies the public trust in the legal profession’s handling of clients’ funds;” because the matter marked the first time the Court had addressed the discipline of an attorney for the retention of interest from trust funds in violation of Opinion No. 326, the Court imposed a reprimand but cautioned that, “in the future, such conduct will be subject to more severe discipline.”).

Here, respondent admittedly failed to disburse the interest, but the record falls short of refuting his testimony that, at the time, he did not know he had

earned the interest. Thus, the clear and convincing evidence establishes a negligent, but not a knowing, misappropriation.

Accordingly, in the Sakkal matter, we determine that respondent violated RPC 1.15(a) and the principles of Wilson and Hollendonner; and RPC 8.4(c). However, we decline to find that he separately committed knowing misappropriation of entrusted funds by failing to disburse the accrued interest. Accordingly, we dismiss that charge.⁶

Turning to the Hidary matter, respondent admittedly withdrew the \$15,300 balance of the Sabbaghs' deposit almost a month before the closing, with no authorization to do so. When he used those funds for the Rawas brothers' disbursements in the Sakkal matter, he was not yet entitled to his counsel fees in the Hidary matter, which came due at closing; moreover, until title passed, the Sabbaghs retained an interest in the funds. See In re Warhaftig, 106 N.J. 529, 533-34 (1987) (disbarring an attorney who advanced fees to himself in real estate matters before the closings took place; the sums he took corresponded exactly to the amount of his anticipated fees; in determining that the conduct constituted knowing misappropriation, the Court concluded that the attorney "was effectively borrowing monies from one group of clients in order to

⁶ Although respondent's misconduct in this respect constituted the negligent misappropriation of entrusted funds, he was not charged under that theory. See In re Roberson, 210 N.J. 220 (2012).

compensate himself, in advance, for matters being handled for other clients”), and In re Lennan, 102 N.J. 518, 521-23, 525 (1986) (disbarring an attorney who admitted that he had knowingly misappropriated trust funds held as deposits on real estate transactions; over a two-year period, the attorney knowingly misappropriated \$13,000 in trust funds from four clients, then replaced the funds before the closing occurred). See also In re Cicala, ___ N.J. ___ (2022), 2022 N.J. LEXIS 663 (disbarring an attorney who, in six client matters, disbursed to himself legal fees, from his ATA, prior to depositing the corresponding settlement check in his ATA; by doing so, he knowingly and repeatedly invaded other clients’ funds he was required to hold, inviolate, without their knowledge or authorization).

In addition, respondent made a misrepresentation by omission when he failed to inform his client that he had paid himself prematurely and emptied the escrow account.

The record before us is too scant to permit a full assessment of the reasonableness of respondent’s \$15,300 fee. However, even if the fee were reasonable, as he claimed, he clearly was not entitled to withdraw his counsel fee at the time he did so and chose prematurely to pay himself, in the exact amount of the funds still held in escrow (although he had not yet earned even half that amount), so that he could use the entire balance for the Sakkal matter.

Accordingly, in the Hidary matter, we determine that he violated RPC 1.15(a) and the principles of Wilson and Hollendonner, as well as RPC 8.4(c).

Furthermore, it is uncontested that respondent commingled client and personal funds, in violation of RPC 1.15(a), and failed to comply with the recordkeeping requirements of R. 1:21-6, in violation of RPC 1.15(d).

In sum, we find that, in both the Sakkal and the Hidary matters, respondent committed knowing misappropriation of entrusted funds, in violation of RPC 1.15(a) and the principles of Wilson and Hollendonner (two instances), and also violated RPC 8.4(c) (two instances). Further, we find that he violated RPC 1.15(a) (commingling) and RPC 1.15(d). We determine to dismiss, however, the additional charge that respondent knowingly misappropriated funds in the Sakkal matter by failing to disburse the earned interest.

Quantum of Discipline

The crux of this case is respondent's knowing misappropriation of entrusted funds, violations which mandate his disbarment, pursuant to Wilson and Hollendonner, and in accordance with Wade. Accordingly, we need not determine the appropriate quantum of discipline for respondent's other ethics infractions.

Respondent urged that the mitigation in this matter warranted a sanction less harsh than disbarment. However, Wade and the precedent cited therein establish that mitigation does not alter the applicability of the Wilson and Hollendonner rules in knowing misappropriation cases.

More specifically, in Wade, the attorney argued that “the Wilson rule should be reevaluated when ‘no client is harmed and the mitigating factors clearly outweigh imposition of disbarment.’” 250 N.J. at 594. The Court observed that none of Wade’s clients lost money as the result of her misconduct and, further, acknowledged her “remarkable personal and professional accomplishments;” the fact that “[t]hroughout her legal career, she volunteered her time and skill and provided pro bono legal services to underserved clients;” and her unblemished disciplinary history, prompt implementation of remedial measures, cooperation with the OAE, ready admission to borrowing clients’ money without permission, and contrition. Id. at 584-85, 604. Nevertheless, the Court concluded that her asserted mitigation had no bearing on the applicability of the Wilson and Hollendonner mandatory disbarment rules. Id. at 586, 599-601.

Here, as in Wade, respondent’s “personal and professional history does not provide a defense to a Wilson violation.” Id. at 604. Nor does his asserted mitigation provide a basis for overturning Wade or reverting to the pre-Wilson

era, when “the Court’s consideration of mitigating factors . . . led to varied outcomes” and “New Jersey’s . . . approach to disciplining attorneys who misappropriated client funds was ‘unpredictable’ and ‘uneven.’” Id. at 595 (quoting James R. Zazzali, The Whys and Hows of Permanent Disbarment: New Jersey’s Wilson Rule, 21 Geo. J. Legal Ethics 311, 313 (2008)).⁷

As recognized by the SEA, respondent put forward significant mitigation. He has performed extensive and far-reaching community service; enjoys an excellent reputation in his community; has no disciplinary history; admitted his wrongdoing; and expressed contrition and remorse. In addition, he replenished the funds that he knowingly misappropriated, but for the amounts that he ultimately charged in legal fees. Further, he cooperated with ethics authorities and, although such cooperation is required pursuant to R. 1:20-3(g)(3) (providing that “[e]very attorney shall cooperate in a disciplinary investigation”), the Court acknowledged such cooperation, in the context of a knowing misappropriation matter, in Wade. Moreover, in comparison to a number of knowing misappropriation matters and other cases cited by

⁷ While rejecting Wade’s contention that the Court should weigh mitigation to impose a sanction short of disbarment, the Court concluded that her “accomplishments raise[d] important questions about New Jersey’s longstanding system of attorney discipline. In particular, should disbarment be permanent in all Wilson cases?” Wade, 250 N.J. at 604. Subsequently, on October 15, 2024, the Court adopted Rule 1:20-21A, permitting attorneys who have not been permanently disbarred after that date or disbarred a second time to file a petition for readmission “forty days prior to the expiration of five years from the effective date of the disbarment.” R. 1:20-21A(b), (c).

respondent, his misconduct spanned months, not years, and did not entail theft, forgery, misrepresentations to a tribunal, or other such related actions.

However, we decline respondent's invitation to disregard clear, longstanding precedent establishing the brightline disbarment rule for matters in which attorneys knowingly misappropriate client or escrow funds. Most recently, in Wade, the Court rejected an attorney's contention that mitigating circumstances warrant relaxation of the Wilson and Hollendonner disbarment rules and set forth, at length, the compelling rationale for having done so.

Respondent knowingly misappropriated client and escrow funds, not because he needed them but, rather, to avoid the potential financial penalties, interest, or other expenses associated with accessing his own credit line, selling securities, or withdrawing funds from his IRA. Not only did he find client and escrow funds convenient for paying his annual personal income taxes, which came to nearly \$85,000 in April 2018, but he also spent, in less than four months, \$45,000 on expenses that he recalled only as "miscellaneous."

The attorney in Wade put forward evidence that she "needed the money to cover personal and business expenses;" her practice focused on an underserved population, including clients who did not have the means to pay her fees; and she indicated she was aware of the danger in borrowing from clients. 250 N.J. at 584, 592, 603-04. In contrast, respondent had no need for the funds

and submitted no evidence that his clients were lower income individuals who struggled to pay their legal bills. Egregiously, he denied putting clients or third parties at any risk, notwithstanding the obvious risk, in the Sakkal matter, associated with removing \$270,000 from trust; putting this sum in a personal account jointly maintained with his spouse, thereby giving her access and legal entitlement to the funds; expending \$130,000, unbeknownst to any of the parties; and then using the entire balance of the Hidary real estate deposit (in which not only his client, but also the Sabbaghs, maintained an interest) to make up for the shortfall in the Sakkal matter.

In our view, the fact that, in both the Hidary and Sakkal matters, respondent knew many of the individuals involved, makes his misconduct no less troubling. Indeed, as the SEA observed, familiarity likely rendered the parties more trusting and less likely to review his actions and fees, and one character witness described trusting him to such a degree that the witness did not even review his invoices for legal services.

Respondent's reliance on Gendel, 255 N.J. at 500; Caruso, 248 N.J. at 426; Lucid, 248 N.J. at 514; Soriano, 232 N.J. at 457; Arrechea, 208 N.J. at 430; Simeone, 108 N.J. at 515; and Templeton, 99 N.J. at 365, which he cited to urge a sanction other than disbarment, is misplaced. None of those cases involved the Court's imposition of discipline on an attorney who admitted, or whom the Court

found guilty of, knowingly misappropriating client or escrow funds, in violation of the principles of Wilson and Hollendonner.

The Court's Order in Eagan, 256 N.J. at 322, cannot be read as overturning the clear precedent, reiterated in Wade, that mandates disbarment for an attorney who knowingly misappropriates client or escrow funds in a manner that comes squarely within the purview of Wilson and Hollendonner. In that matter, we recommended that Eagan be disbarred based on our conclusion that he had knowingly misappropriated escrow funds by intentionally diverting entrusted, reverse mortgage funds, contrary to the lenders' closing instructions, in violation of RPC 1.15(a) and the principles of Wilson and Hollendonner. In the Matter of Martin David Eagan, DRB 23-089 at 12-13. The Court issued an order to show cause and, following oral argument, issued an Order imposing a two-year suspension without expressly addressing the contested legal and factual issues. Eagan, 256 N.J. at 323. Given the nature of the Court's Order and the multiple, distinguishing factual features of that matter, we decline to read Eagan as supporting a departure from the well-established disciplinary precedent that mandates disbarment where, as here, an attorney's knowing misappropriation of client or escrow funds clearly comes within the scope of the disbarment rule set forth in Wilson and Hollendonner, as most recently reiterated in Wade.

Moreover, as noted above, on October 15, 2024, the Court announced a path back from disbarment and adopted R. 1:20-21A, setting forth a readmission process for disbarred attorneys. Accordingly, should the Court disbar him, respondent may, in the future, seek to avail himself of the opportunity to seek readmission, to the extent permitted by and in accordance with the Court Rules.

Conclusion

In Wade, the Court wrote: “Because there is clear and convincing evidence in the record, including [r]espondent’s own admissions, that she knowingly took client and escrow funds without permission on multiple occasions, an order of disbarment will be entered.” 250 N.J. at 601. Here, the clear and convincing evidence in the record, including respondent’s own admissions, establishes that he knowingly took and used, without permission and for his own benefit, client and escrow funds, on multiple occasions.

We, thus, recommend to the Court that respondent be disbarred.

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 Michael A. Mishaan
Docket No. DRB 24-192

Argued: November 21, 2024

Decided: February 18, 2025

Disposition: Disbar

<i>Members</i>	Disbar
Cuff	X
Boyer	X
Campelo	X
Hoberman	X
Menaker	X
Petrou	X
Rodriguez	X
Spencer	X
Total:	8

/s/ Timothy M. Ellis

Timothy M. Ellis
Chief Counsel