

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 24-228
District Docket No. XIV-2024-0290E

In the Matter of John Michael Falzone, Jr.
An Attorney at Law

Argued
January 16, 2025

Decided
March 26, 2025

John J. Hays II appeared on behalf of
the Office of Attorney Ethics.

Respondent waived appearance for oral argument.

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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 disciplinary stipulation between the Office of Attorney Ethics (the OAE) and respondent. Specifically, respondent stipulated to having violated RPC 1.15(a) (commingling client and personal funds); RPC 1.15(b) (failing to promptly deliver funds to a client or third party); 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).

For the reasons set forth below, we determine that a three-month suspension, with conditions, is the appropriate quantum of discipline for respondent's misconduct.

Ethics History

Respondent earned admission to the New Jersey bar in 1984 and to the New York bar in 1985. At the relevant time, he maintained a practice of law in Red Bank, New Jersey.

On March 9, 2012, the Court censured respondent for his violation of RPC 1.15(a) (negligently misappropriating client funds); RPC 1.15(d); RPC 5.3(a) through (c)(3) (failing to supervise nonlawyer staff); RPC 8.1(a) (knowingly

making a false statement to disciplinary authorities); RPC 8.1(b); and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation). In re Falzone, 209 N.J. 420 (2012) (Falzone I).

In that matter, respondent was found to have negligently misappropriated \$279,482.70 in entrusted funds by failing to discover that his wife was stealing from his attorney trust account (ATA).¹ In the Matter of John Michael Falzone, Jr., DRB 11-245 (December 19, 2011) at 7. He ultimately acknowledged that his failure to reconcile his ATA, supervise his wife, and “take reasonable remedial action to prevent further thefts,” enabled his wife to make improper and undetected transfers from his ATA to his attorney business account (ABA), and then to herself. Id. at 7-8. Further, respondent knowingly made a false statement of material fact during the OAE’s investigation, initially claiming that his wife had destroyed his relevant ATA records. He also failed to provide his ATA and ABA records to the OAE for more than a year following the initial audit. Id. at 8.

In determining that a censure was the appropriate quantum of discipline for his misconduct, we weighed, in aggravation, that respondent had lied to the OAE, failed to cooperate with the disciplinary investigation, and refused to take

¹ Respondent’s wife refused to cooperate with the OAE’s investigation; however, she pleaded guilty, in Middlesex County, to charges related to the theft of the trust account funds.

swift action to uncover his wife's theft. Id. at 17. In mitigation, however, we weighed respondent's then lack of prior discipline in his twenty-seven-year career at the bar. Ibid.

Facts

Respondent and the OAE entered into a disciplinary stipulation, dated September 23, 2024, which set forth the following facts in support of respondent's admitted ethics violations.

In connection with his law practice, respondent maintained an ATA and ABA at Columbia Bank.

On July 19, 2022, the OAE notified respondent, in writing, that he had been selected for a random audit and directed him to produce, within thirty days, (1) his ABA and ATA bank statements for the prior twelve months, including cancelled checks and deposit slips; (2) all accounting records for the prior twelve months, including individual client trust ledger cards, ATA and ABA receipts and disbursements journals, and monthly three-way ATA reconciliations; and (3) any certificate of liability insurance he had filed with the Clerk of the Court.

On September 29, 2022, following respondent's initial production of documents, the OAE notified him that his records failed to comply with R.

1:21-6 recordkeeping requirements. Specifically, the OAE identified the following deficiencies:

1. Inactive trust ledger balances remained in his ATA for an extended period of time, in violation of R. 1:21-6(d) and RPC 1.15(b), including \$203,834.93 that should be disbursed to clients or to the Superior Court Trust Fund Unit (the SCTFU);
2. Attorney funds held in his ATA exceeded the \$250 permitted to pay bank charges, in violation of R. 1:21-6(a);
3. Unidentified funds held in his ATA, in violation of R. 1:21-6(C)(1)(b). Specifically, the audit revealed an ATA balance of \$125,038.42 that could not be attributed to any client matters;
4. Outstanding checks, totaling \$3,495.38;
5. Improper ATA designation, in violation of R. 1:21-6(a)(2);
6. ABA and ATA receipts and disbursements journals not fully descriptive, in violation of R. 1:21-6(c)(1)(A);
7. Failure to retain copies of ATA deposit slips and to perform and maintain monthly reconciliations for a period of seven years;
8. Failure to retain copies of ABA deposit slips for a period of seven years; and
9. Improper ABA check images, in violation of R. 1:21-6(b).

In addition, the OAE required respondent to submit a certification regarding remediating his recordkeeping, a current ATA bank statement, and a “schedule of open balances reflected in the clients’ trust ledger and reconciled to the [ATA] bank statement.” To assist him in correcting these

deficiencies, the OAE provided him with a copy of its Outline for Recordkeeping Requirements under RPC 1.15 and R. 1:21-6 and directed him to correct the deficiencies by November 14, 2022.

On November 14, 2022, respondent submitted his reply to the OAE and asserted that he had (1) disbursed \$203,834.93 of the inactive trust ledger balances; (2) removed attorney funds exceeding \$250 from his ATA; (3) attached a list of all client names and ATA balances; (4) intended to issue a check for \$3,495.38 to the borrower in an outstanding real estate matter; (5) started “the process of correcting [his ATA] checks and deposit slips” by giving his bank manager a copy of the OAE’s September 29, 2022 letter; (6) attached a schedule of ledger cards; (7) created notebooks containing the ABA and ATA receipts and disbursements journals; (8) ordered deposit slips for his ATA and ABA, which he would maintain for seven years; (9) spoken with his bank’s assistant manager to correct the processed check images; and (10) attached the required certification. On January 30, 2023, the OAE docketed the matter for investigation.

On February 24, 2023, the OAE directed respondent to produce the following financial records, for the period January 1, 2021 to February 24, 2023, no later than March 17, 2023: (1) client ledgers; (2) ABA and ATA receipts and disbursements journals; (3) monthly three-way reconciliations; and

(4) documentation verifying his disbursement of \$203,834.93 in inactive client balances.

On March 21, 2023, respondent replied to the OAE and produced, for the period January to March 2023, the following records: (1) client ledgers; (2) ABA and ATA receipts and disbursements journals; (3) three-way reconciliations; and (4) proof of the disbursement of inactive client balances made in March 2023.² However, he indicated that he would need “approximately thirty days to provide the requested information for 2021 to the present.”

After reviewing this submission, the OAE determined that respondent had provided some, but not all, of the required records. Specifically, in addition to his failure to produce records for the period January 2021 through December 2022, he also failed to provide (1) individual client ledger cards; (2) an accurate summary of client ledger balances from January 1, 2021 to the present; (3) separate and fully descriptive ABA and ATA receipts and disbursements journals; (4) accurate three-way reconciliations;³ (5) an explanation as to why

² Twenty-nine disbursements, totaling \$26,690.05, were made on March 16, 2023.

³ Only one reconciliation appeared within this submission, indicating a \$371,138.75 book balance on January 1, 2023, and a \$353,893.54 book balance on February 28, 2023. The difference between the February 2023 book balance and \$436,608.04 bank balance was \$82,714.50, indicating that the balances were not properly reconciled.

he held excess funds of \$82,714.50 in his ATA; and (6) documentation proving that he had disbursed \$203,834.93 of inactive client balances. Consequently, on April 3, 2023, the OAE directed respondent to produce, no later than April 17, a complete submission with corrected records and an explanation regarding the excessive funds held in his ATA.

On April 17, 2023, respondent, again, produced incomplete records. Specifically, his individual client ledger cards revealed numerous “inactive balances dating back to 2002;”⁴ his ABA and ATA receipts and disbursements journals lacked the specificity that R. 1:21-6 requires; his monthly three-way reconciliations were incomplete; he had disbursed only \$26,688.67 of the \$203,834.93 in inactive client balances, contrary to his November 14, 2022 representation to the OAE that he had disbursed the entirety of the inactive balances;⁵ and, as of February 2023, he continued to hold \$82,714.50 in excess funds in his ATA.

Thus, on May 3, 2023, the OAE sent respondent a letter regarding his continued deficiencies and required that he produce, no later than May 20,

⁴ Fifteen ledger cards reflected balances ranging from \$50.67 to \$6,000, totaling \$36,496.22, with dates ranging from August 2003 through November 2016. Respondent’s expense “sub account” ledger card reflected a \$27.98 balance from January 2010. Ten ledger cards had nominal balances, ranging from -\$.30 to \$17.56 totaling \$39.55, from December 2003 through August 2009.

⁵ Respondent was not charged with knowingly making a false statement of material fact to the OAE, in violation of RPC 8.1(a).

2023, the following: (1) updated client ledger cards; (2) fully descriptive receipts and disbursements journals; (3) monthly three-way reconciliations from January 1, 2021 through May 3, 2023; (4) an explanation for the approximately \$177,000 of inactive client balances in his ATA;⁶ and (5) an explanation for the \$82,714.50 in excess funds in his ATA. The OAE directed respondent to review the recordkeeping outline it previously had provided to him for guidance and, further, provided specific appendix references to assist him in bringing his records into compliance.

On June 6, 2023, respondent produced, via e-mail, his client ledger cards and three-way reconciliations. However, following its review, the OAE determined that respondent had failed to (1) properly reconcile his ATA, (2) identify the parties entitled to the \$129,389 that remained in his ATA (he had identified them only in the aggregate as “Previous - 2009”), and (3) explain why his January 31, 2020 bank balance (\$408,503.35) exceeded his ledger card book balance (\$319,723.88) by \$88,779.47.

On June 9, 2023, the OAE notified respondent that it had scheduled his demand interview for July 7, 2023. Additionally, the OAE directed him to

⁶ The OAE also directed respondent to address why \$176,041.39 remained on the Christine Hull ledger card; however, respondent asserted, in his March 21, 2023 submission, that those funds were held in escrow because the matter was “ongoing.” He also indicated that the Latif (\$50,000) and American Shredder accounts (\$45,000) were active.

explain, in writing, why he had been holding \$82,714.50 in excess funds in his ATA as of February 28, 2023, and excess funds in the amount of \$111,272.23 when comparing a reconciled bank balance to the summary of client ledger balances for the same period.

Respondent's demand interview confirmed numerous deficiencies. Accordingly, the OAE required him to provide, no later than August 11, 2023, corrected monthly three-way reconciliations from January 1, 2020 through the then present time, as well as updated individual client ledger cards for all clients with balances. Further, the OAE directed him to account for all outstanding checks and to disburse the \$129,389 in funds marked "Previous - 2009" to the parties to whom the funds belonged or, alternatively, to the SCTFU. The OAE cautioned respondent that his failure to cooperate fully with its investigation could result in an additional charge of violating RPC 8.1(b).

On August 11, 2023, respondent produced additional documents, which included: (1) a breakdown of the \$45,124.85 in unclaimed client funds which he previously had identified, in the aggregate, as "Previous – 2009;" (2) an unsigned certification and a copy of the front of ATA check #2144, which indicated that he had deposited \$10,164.64 of the unclaimed funds with the SCTFU; (3) his ATA three-way reconciliations from January 2020 through July 2023; (4) an accounting of the active balances and outstanding checks in his

ATA; and (5) bank statements from March 2023 through July 2023. The OAE determined that respondent still had not explained \$84,264.15 of the “Previous - 2009” unclaimed funds and that his ATA was not properly reconciled.⁷

On November 17, 2023, the OAE sent respondent an e-mail inquiring about ATA check #190, which respondent issued to himself on January 2, 2020, in the amount of \$10,000, but had failed to negotiate until March 4, 2020. Respondent replied that same date, stating that it represented a legal fee in a divorce matter and admitting that he “sometimes save[d] checks in [his] drawer until [he needed] the money.” Likewise, on April 29, 2019, respondent issued to himself an ATA check, in the amount of \$4,092.19, for earned legal fees; however, he failed to negotiate the check until January 7, 2020, nearly eight months later.

The parties stipulated that, despite nearly sixteen months of intervention by the OAE, respondent still had failed to (1) correct the improper ATA designation on his bank statements; (2) provide fully descriptive ATA receipts and disbursements journals; (3) produce accurate monthly three-way reconciliations; (4) maintain all required ATA and ABA records for a period of seven years; and (5) maintain properly processed ABA check images.

⁷ In July 2023, respondent’s “adjusted bank balance of \$371,266.78 exceeded his ledger card book balance of \$320,498.22 by \$50,768.56.”

Respondent conceded that he had been holding \$10,164.64 in funds related to four matters dating back to 2005, at the earliest, and 2008, at the latest, and that he had neither allocated the remaining \$84,264.15 in unidentified balances to specific client ledger cards nor deposited them with the SCTFU. Moreover, he failed to explain the source of the excess funds in his ATA, which had persisted throughout the audit period, and he altogether failed to properly reconcile his ATA.⁸ He also admittedly commingled personal and client funds in his ATA because he occasionally saved checks for earned legal fees in a desk drawer and negotiated them only when he needed the money, sometimes months later.

Based on the foregoing facts, the parties stipulated that respondent violated RPC 1.15(a) by commingling personal and client funds in his ATA by failing, for more than eight months, to negotiate checks disbursed to himself for earned legal fees; RPC 1.15(b) by failing to promptly disburse funds to entitled parties; RPC 1.15(d) by failing to comply with the recordkeeping requirements of R. 1:21-6; and RPC 8.1(b) by failing to comply fully with the

⁸ The parties also stipulated that respondent failed to “explain the variation in excess funds from \$88,779.47 as of respondent’s January 31, 2020 three-way-reconciliations to \$50,768.56 in respondent’s July 2023 three-way reconciliation.”

OAE's requests for documentation and to make his records available, as R. 1:21-6(h) requires.

The Parties' Positions Before the Board

In recommending the imposition of a censure, the OAE emphasized that respondent was acutely aware of his recordkeeping responsibilities, considering his prior contact with the disciplinary system. Yet, as of the September 23, 2024 stipulation, he still had failed to bring his financial records into compliance with R. 1:21-6. The OAE also analogized respondent's conduct to attorneys who retained significant unresolved or inactive client balances for nearly a decade or longer, despite a heightened awareness of their responsibilities, given prior discipline, citing In re Lueddeke, ___ N.J. ___ (2022), 2022 N.J. LEXIS 456, In re Davis, 242 N.J. 141 (2020), and In re Esposito, 240 N.J. 174 (2019).

In mitigation, the OAE noted that respondent had accepted responsibility for his misconduct by entering into the disciplinary stipulation.

In aggravation, the OAE emphasized that respondent previously had been censured for committing recordkeeping violations and failing to cooperate with disciplinary authorities – misconduct again present here. Thus, the OAE argued that his instant misconduct represented a pattern of noncompliance with his recordkeeping obligations. See In re Kelly, 120 N.J. 679, 689 (1990). In further

aggravation, he failed to remediate his recordkeeping deficiencies despite numerous opportunities to do so. See In re Silber, 100 N.J. 517 (1985). Citing In re Marc Z. Palfy, DRB 15-193 (March 30, 2016), the OAE asserted that his partial cooperation with the OAE's investigation was no less disruptive and frustrating than a complete failure to cooperate.

As conditions to his discipline, the OAE recommended that respondent be required, within forty-five days of the Court's disciplinary Order in this matter, to (1) retain the services of an accountant and provide proof to the OAE that he has brought his records into compliance with R. 1:21-6; (2) provide an update to the OAE regarding his progress in (i) identifying the sources of the excess funds in his ATA, and (ii) disbursing inactive balances to the rightful parties; and (3) provide proof to the OAE that he remitted to the SCTFU any excess funds in his ATA and any inactive client funds which have not been successfully disbursed to the respective parties.

Next, the OAE recommended that, within six months of the Court's disciplinary Order, respondent be required to attend an OAE-approved course in trust and business accounting and provide proof of completion to the OAE.

Finally, the OAE recommended that respondent be required to submit to the OAE monthly three-way reconciliations, on a quarterly basis, for a period of one year following the Court's final Order of discipline.

During oral argument before us, the OAE emphasized that respondent had still failed to reconcile his ATA, that he continued to hold unidentified ATA balances, and that he had failed to disburse significant funds to entitled parties. In response to our questioning, the OAE agreed that, based on respondent's prior discipline that stemmed, in large part, from his financial carelessness, he continues to demonstrate an abdication of his responsibility to properly maintain his attorney books and records.

Analysis and Discipline

Violations of the Rules of Professional Conduct

Following a review of the record, we conclude that the stipulated facts in this matter clearly and convincingly support respondent's admitted violations of RPC 1.15(a); RPC 1.15(b); RPC 1.15(d); and RPC 8.1(b).

Specifically, respondent violated RPC 1.15(a) by failing to negotiate at least two ATA checks, one of which he held for more than eight months, after he had issued it to himself for earned legal fees. By leaving his earned legal fees in his ATA, he commingled his personal funds with client funds, in violation of the Rule.

Next, respondent violated RPC 1.15(b), which requires an attorney "to promptly deliver to the client or third person any funds . . . that the client or

third person is entitled to receive.” When the OAE conducted its initial audit, in September 2022, it determined that respondent had failed to disburse \$203,834.93 to the parties entitled to the funds. By April 2023, respondent had disbursed only \$26,688.67 of those funds, leaving \$177,146.26 in inactive balances. Even after the July 2023 demand audit, respondent had yet to disburse \$129,389, which he had identified only in the aggregate as “Previous – 2009,” and, a month later, he still had no explanation for \$84,264.15 of those funds. Although respondent purportedly deposited \$10,164.64 in the SCTFU, he had been holding those funds, in four matters, since 2005, 2006, 2007, and 2008, respectively. Thus, respondent violated RPC 1.15(b).

Next, respondent violated RPC 1.15(d) by failing to comply with the recordkeeping requirements of R. 1:21-6 in numerous respects. Indeed, despite nearly sixteen months of intervention by the OAE, respondent still failed to (1) correct improper ATA designation on his bank statements; (2) provide fully descriptive ATA receipts and disbursements journals; (3) conduct accurate monthly three-way reconciliations; (4) maintain all required ATA and ABA records for a period of seven years; and (5) maintain properly processed ABA check images.

Respondent also violated RPC 8.1(b) by failing to cooperate fully with the OAE’s investigation. Specifically, between July 2022 and November 2023, the

OAE contacted respondent eight times. Although he consistently replied to the OAE's correspondence, he failed to provide the complete and accurate records the OAE directed him to produce. The OAE even provided its recordkeeping outline for guidance and pointed to specific appendices, which instructed respondent how to correct his records. Despite the OAE's exhaustive efforts, respondent failed to produce complete financial records and unnecessarily delayed the OAE's investigation in this matter. Ultimately, he was unable to bring his records into compliance with the Rules. As of the date of oral argument before us, he still had failed to comply with the recordkeeping obligations required of all attorneys.

It is well settled that partial compliance with a disciplinary authority's lawful demands for information does not satisfy an attorney's obligations. In the Matter of Marc Z. Palfy, DRB 15-193, at 48 (describing the attorney's "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 on a piecemeal and disjointed fashion"), so ordered, 225 N.J. 211 (2016). See also In the Matter of Laurence R. Sheller, DRB 24-033 (April 30, 2024) (we concluded that the attorney violated RPC 8.1(b) by failing to cooperate fully with the OAE's investigation; despite the attorney's timely replies to the OAE, he failed, over a

prolonged period of time and despite the OAE's exhaustive efforts, to bring his financial records into compliance; the attorney's productions to the OAE consistently remained deficient), so ordered, 257 N.J. 495 (2019).

In sum, we find that respondent violated RPC 1.15(a); RPC 1.15(b); RPC 1.15(d); and RPC 8.1(b). The sole issue left for our determination is the appropriate quantum of discipline for respondent's 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. The quantum of discipline is enhanced, however, when the recordkeeping deficiencies are accompanied by aggravating factors, such as the existence of significant unidentified or inactive balances that remained outstanding for lengthy periods of time. See, e.g., In re Mensching, 257 N.J. 497 (reprimand for an attorney who allowed more than \$400,000 in client funds to languish in his firm's trust account for an extended period of time; the attorney's books and records remained non-compliant, despite the OAE's numerous directives to cure the deficiencies; in significant mitigation, the attorney had no prior discipline in forty-year career at the bar and stipulated to his misconduct); Lueddeke, __ N.J.__ (2022); 2022 N.J. LEXIS 456 (censure

for an attorney who, among other recordkeeping violations, allowed more than \$414,000 in inactive client balances to languish in his trust account for almost a decade, despite his heightened awareness of his recordkeeping obligations following previous random audits; prior admonition for unrelated misconduct); Davis, 242 N.J. 141 (censure for an attorney who allowed \$181,022.27, related to 116 client matters, to linger in his ATA, with balances dating back nearly fifteen years; in determining to recommend a censure, we weighed, in aggravation, his failure to cooperate with the OAE and his prior discipline, consisting of two reprimands); Esposito, 240 N.J. 174 (censure for an attorney who, among other recordkeeping infractions, held \$169,043.43 in unidentified funds and numerous inactive balances in his trust account; the attorney also failed to promptly disburse excess fees to entitled parties in real estate matters; no prior discipline and the attorney corrected all his recordkeeping deficiencies, including the inactive balances).

Admonitions typically are imposed for 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

documents. See In re Schlachter, 254 N.J. 375 (2023) (reprimand for an attorney who committed recordkeeping infractions, in violation of RPC 1.15(d), 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 records 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, in violation of RPC 8.1(b); 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, he stipulated to his misconduct, and he had no disciplinary history in sixteen years at the bar), and 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, however, the attorney had been practicing law for sixty-three years

and suffered serious health problems prior to the continuation date of the random audit).

Attorneys who fail to promptly deliver funds to clients or third persons, even when accompanied by other ethics violations, ordinarily receive an admonition or a reprimand, depending on the circumstances. See In the Matter of George W. Pressler, DRB 19-423 (March 20, 2020) (admonition for an attorney who, in an estate matter, deducted his entire legal fee and the administrator's fee from a non-client beneficiary's share of the estate without the non-client beneficiary's authorization; in addition, he failed to disburse any funds to the non-client beneficiary for more than twenty months, in violation of RPC 1.15(b); significant mitigation), and In re Anderson, __ N.J. __ (2021), 2021 N.J. LEXIS 1327 (reprimand for an attorney who failed to promptly disburse \$24,575 in escrow funds; the attorney also failed to safeguard funds, negligently misappropriated client funds, and had numerous recordkeeping deficiencies; no prior discipline).

Respondent's misconduct is most closely analogous to that of the censured attorney in Lueddeke who, like respondent, allowed an excessive amount of unidentified and inactive funds to languish in his trust account for a prolonged period. Unlike Lueddeke, however, whose heightened awareness of his recordkeeping obligations stemmed from prior random audits – not

disciplinary matters related to his recordkeeping – respondent previously was disciplined for his complete abdication of his recordkeeping obligations. In that content, we find respondent’s ongoing failure to properly reconcile his records particularly alarming, considering that his failure to do so in Falzone I allowed his wife to steal nearly \$280,000 in entrusted funds.

Furthermore, the \$10,164.64 that respondent finally deposited with the SCTFU had been lingering long before Falzone I, and almost twice as long as the attorney in Lueddeke had allowed inactive balances to remain. Not only did respondent fail to correct balances that existed prior to his 2012 censure, he continued to maintain wholly deficient recordkeeping practices, allowing significant unresolved balances to remain in his ATA for the better part of twenty years. In our view, it appears that the circumstances that precipitated his wife’s theft have not been resolved, and it is questionable whether respondent has learned from his prior discipline.

Based upon the above precedent, Lueddeke in particular, we determine that a censure is the baseline quantum of discipline for respondent’s misconduct. To craft the appropriate discipline in this case, however, we also consider mitigating and aggravating factors.

In mitigation, respondent admitted his wrongdoing and entered into this disciplinary stipulation, thereby accepting responsibility for his misconduct and

conserving disciplinary resources.

In aggravation, we accord significant weight to respondent's prior discipline in connection with Falzone I. The instant matter represents an exacerbated pattern of noncompliance with both his recordkeeping obligations and the OAE's requests for production of financial records. Respondent failed to remediate his recordkeeping deficiencies over the course of sixteen months, and his partial compliance with the OAE thwarted its investigation. Moreover, discrepancies between respondent's book balances and bank balances persist and, worse, he admittedly continues to maintain \$50,837.94 of unidentified funds in his ATA, thereby depriving the rightful parties of money that belongs to them. Moreover, there remains the unexplained balance of \$84,264.15 of unclaimed client funds, previously identified as "Previous – 2009."

Conclusion

On balance, in view of the serious aggravation, we determine that a three-month suspension is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

In addition, considering respondent's ongoing failure to fully produce his financial records or to bring his records into compliance with the recordkeeping Rule, we recommend that he be required, within forty-five days of the Court's

disciplinary Order in this matter, to (1) retain the services of an accountant and provide proof to the OAE that he has brought his records into compliance with R. 1:21-6; (2) provide an update to the OAE as to his progress in (i) identifying the source of the excess funds in his ATA, and (ii) disbursing inactive client balances to their owners; and (3) provide proof to the OAE that he remitted to the SCTFU any excess funds in his ATA and any inactive client funds which have not been successfully disbursed to their owners.

Next, we recommend that respondent be required to attend, within six months of the Court's disciplinary Order, an OAE-approved trust and business accounting course and provide proof of completion to the OAE, and to submit proof to the OAE that he has brought his records into compliance with R. 1:21-6.

Finally, we recommend that, upon his reinstatement to the practice of law, respondent be required to submit to the OAE, on a quarterly basis, his monthly three-way reconciliations, for a period of two years.

Chair Cuff and Vice-Chair Boyer voted to impose a censure with the same conditions.

Member Campelo was absent.

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 John Michael Falzone, Jr.
Docket No. DRB 24-228

Argued: January 16, 2025

Decided: March 26, 2025

Disposition: Three-month suspension

<i>Members</i>	Three-month suspension	Censure	Absent
Cuff		X	
Boyer		X	
Campelo			X
Hoberman	X		
Menaker	X		
Modu	X		
Petrou	X		
Rodriguez	X		
Spencer	X		
Total:	6	2	1

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