

DISCIPLINARY REVIEW BOARD
OF THE
SUPREME COURT OF NEW JERSEY

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



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

TIMOTHY M. ELLIS
CHIEF COUNSEL
NICOLE M. ACCHIONE
FIRST ASSISTANT COUNSEL
BARRY R. PETERSEN, JR.
DEPUTY COUNSEL

SALIMA ELIZABETH BURKE
ADALINE KASER
ASHLEY KOLATA-GUZIK
NICHOLAS LOGOTHETIS
ALISA H. THATCHER
ASSISTANT COUNSEL

July 18, 2025

Heather Joy Baker, Clerk
Supreme Court of New Jersey
P.O. Box 970
Trenton, New Jersey 08625-0962

Re: **In the Matter of Walter A. Lesnevich**
Docket No. DRB 25-124
District Docket No. XIV-2023-0300E

Dear Ms. Baker:

The Disciplinary Review Board (the Board) has reviewed the motion for discipline by consent (censure or such lesser discipline as the Board deems appropriate) filed by the Office of Attorney Ethics (the OAE) in the above matter, pursuant to R. 1:20-10(b). Following a review of the record, the Board granted the motion and determined that a censure is the appropriate quantum of discipline for respondent's violation of RPC 1.15(a) (negligently misappropriating client funds), 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).

The stipulated facts are as follows. From December 1, 2022 through July 31, 2023, in connection with the Law Office of Walter A. Lesnevich, LLC,¹ (the

¹ Respondent previously was a named partner and managing shareholder of Lesnevich, Marzano-

Firm) respondent maintained four attorney accounts at Bank of America (BOA), including an attorney trust account (ATA) and three attorney business accounts (ABA).²

In January 2023, BOA notified respondent that a fraudulent check may have been issued from his ATA. He subsequently learned that, in February 2022, two fraudulent checks had been issued from his ATA. Specifically, on February 21, and February 22, 2022, BOA negotiated fraudulent ATA check #6167, in the amount of \$30,412.18, to Aniyah De Los Santos, and fraudulent ATA check #6183, in the amount of \$15,421, to Rita Rosario.³ Respondent filed fraud claims with BOA concerning the checks, which the bank would not honor because he had failed to file those claims within a required sixty-day period.

On July 7, 2023, respondent notified the OAE, in writing, of the two fraudulent ATA checks totaling \$45,842.18. At the time, he was holding funds for only one client, Ellen Hakes.

From July 2023 through March 2024, the OAE made numerous requests for respondent's books and records and granted multiple extensions of time to accommodate vacations and medical issues for respondent and his bookkeeper, Coretta Capers. Nevertheless, respondent failed to provide a complete accounting of his monthly bank charges and, through Capers, repeatedly submitted incomplete books and records, including improperly formatted ATA and ABA receipts and disbursements journals without monthly totals or complete transaction details, and improperly formatted and unbalanced three-way reconciliations.

Lesnevich, O'Cathain & O'Cathain, LLC (the former Lesnevich firm). On November 30, 2022, two of respondent's former partners at the former Lesnevich firm formed and incorporated a new entity, the O'Cathain Law Group, LLC (OLG). At the present time, respondent is "of counsel" to the OLG and does not handle recordkeeping.

² Respondent transferred the four existing trust and business accounts previously operated by the former Lesnevich firm to the Firm and continued operating those accounts.

³ The two check numbers were fraudulently duplicated after respondent issued legitimate checks. Specifically, respondent issued the ATA check #6167 to Optum for \$55.59 under the subaccount for client, Kavitha Veluswamy, and ATA check #6183 to Pashman Stein Walder Hayden for \$13,540 under the subaccount for client, Fred Rotger.

During the investigation and the demand audit, respondent acknowledged that the bank alerted him of the fraudulent checks, in January 2023, and that he had failed to uncover the fraudulent activity through his monthly reconciliation in February 2022 or for the remainder of 2022. He further stated that he maintained his Firm ATA and ABA records using the PCLAW software, which he admitted he was not familiar with and could not properly use. Capers conceded that the Firm prepared three-way ATA reconciliations “sometimes.” Last, respondent’s records reflected that he had failed to resolve the \$45,842.18 shortage created by the fraudulent checks.

On March 6, 2024, respondent provided his final submission to the OAE, including proof that he had removed Capers, a nonlawyer, as a signatory on his ATA; replenished the ATA shortage created by the two fraudulent checks; and transferred the remaining Firm ATA client balances to the OLG ATA.

The OAE’s review of respondent’s financial books and records revealed recordkeeping deficiencies that he did, in fact, cure. Moreover, the OAE’s investigation revealed respondent’s recordkeeping featured many of the same deficiencies previously uncovered by a 2019 random audit, including prohibited electronic transfers from his ATA; negative and inactive ATA balances; improperly formatted ATA reconciliations; and improper check imaging. At the conclusion of the OAE’s investigation, certain deficiencies in respondent’s recordkeeping persisted, including (1) failing to properly maintain monthly client ledger card balances, in violation of R. 1:21-6(c)(1)(B), and (2) failing to conduct proper three-way reconciliations of his ATA, as R. 1:21-6(c)(1)(H) requires.

Negligent Misappropriation

The negotiation of the two fraudulent checks in February 2022 created a shortage of \$45,842.18 in respondent’s ATA, which, during the relevant period, held trust funds for forty-eight clients, totaling \$8,955,876.95. Despite BOA notifying him of the fraudulent activity in January 2023, respondent failed to correct the shortage until December 1, 2023. During the nearly two-year period of the shortage, respondent continued to disburse funds from the Firm’s ATA, as well as transfer funds to the OLG ATA, and, thus, the number of impacted clients fluctuated.

In 2022, respondent had additional shortages, totaling \$56.36, in the Firm ATA caused by four minor over-disbursements, which he corrected in February 2023: (1) on January 27, 2022, he over-disbursed attorney fees of \$19 in the Giordano matter; (2) on March 30, 2022, he over-disbursed attorney fees of \$10 in the Jamalkhani matter; (3) on August 10, 2022, he over-disbursed a payment of \$0.36 in the Stewart matter; and (4) at some point, he over-disbursed attorney fees of \$27 in the Longmire matter.

By the end of May 2023, respondent had disbursed all the funds held in the Firm ATA, except for the funds held on behalf of Hakes. By July 2023, respondent had transferred the remaining trusts funds for Hakes to the OLG ATA.

Based on the above facts, the Board determined that respondent violated RPC 1.15(a), RPC 1.15(d), and RPC 8.1(b).⁴ Specifically, he violated RPC 1.15(a) by negligently misappropriating client funds via his failure to promptly detect and report the negotiation of the two fraudulent ATA checks in February 2022; failing to fully replenish the client funds until December 1, 2023; and maintaining negative balances on four client ledgers from 2022 through February 2023. Moreover, he violated RPC 1.15(d) by failing to maintain his books and records as R. 1:21-6 requires.

Finally, the Board determined respondent violated RPC 8.1(b) by failing to fully cooperate with the OAE's exhaustive efforts, which spanned more than nine months, to investigate his financial records.⁵ Between July 2023 and March

⁴ Based on respondent's statements and a review of the records, the OAE determined that these over disbursements were a result of poor recordkeeping and were not intentional. As a result, the OAE did not find clear and convincing evidence that respondent engaged in knowing misappropriation of trust funds in violation of RPC 1.15(a) or the principles of In re Wilson, 81 N.J. 451 (1979), and In re Hollendonner, 102 N.J. 21 (1985). The undisputed facts support a theory of negligent, as opposed to knowing misappropriation because there is no evidence in the record to suggest that respondent intended to invade client funds or that he utilized client funds for his own purposes. Rather, from the facts presented, he was unaware of the fraudulent checks for nearly two years because he wholly failed to adhere to the recordkeeping requirements of R. 1:21-6, which resulted in the negligent misappropriation of clients' entrusted funds, in violation of RPC 1.15(a) and RPC 1.15(d).

⁵ It is well-settled that cooperation short of the full cooperation required by the Rules has resulted in the finding that the attorney violated RPC 8.1(b). See In the Matter of Marc Z. Palfy, DRB 15-193 (March 30, 2016) at 48 (wherein the Board viewed the attorney's partial "cooperation as no

2024, the OAE granted multiple extensions to provide the required financial records and explanations for the recordkeeping deficiencies. Notwithstanding the OAE's repeated good faith efforts to accommodate respondent, he failed to provide the OAE with complete financial records. Ultimately, respondent failed to cure his recordkeeping deficiencies, including failing to properly maintain monthly client ledger card balances and failing to conduct proper three-way reconciliations of his ATA.

Generally, a reprimand is the appropriate discipline for recordkeeping deficiencies that result in the negligent misappropriation of entrusted funds. See, e.g., In re Gehret, 259 N.J. 522 (2025) (reprimand for an attorney, who, after two random compliance audits, did not correct his financial records; the attorney also mistakenly used ATA checks, rather than ABA checks, to pay personal expenses; he also failed to disburse nearly \$5,000 in escrow funds for more than two years; in mitigation, the attorney practiced more than fifty years and had no disciplinary history); In re Sherer, 250 N.J. 151 (2022) (reprimand for an attorney who, as a result of poor recordkeeping, negligently invaded \$3,366 in client and third-party funds; additionally, for a two-week period, the attorney commingled \$8,747 in personal funds in his ATA; the attorney also failed to comply with the OAE's demand audit requirements and failed to reimburse the parties impacted by his negligent misappropriation; in mitigation, the attorney had no prior discipline in a thirty-six-year legal career and was no longer practicing law); In re Osterbye, 243 N.J. 340 (2020) (reprimand for an attorney whose poor recordkeeping practices resulted in the negligent invasion of, and failure to safeguard, funds owed to clients and others in connection with real estate transactions; his inability to conform his recordkeeping practices, despite multiple opportunities to do so, also violated RPC 8.1(b); the attorney also commingled \$225 in personal funds he received from his tenant; no prior discipline).⁶

less disruptive and frustrating than a complete failure to cooperate[.]" nothing that "partial cooperation can be more disruptive to a full and fair investigation, as it forces the investigator to proceed in a piecemeal and disjointed fashion") so ordered, 225 N.J. 611 (2016).

⁶ The additional cases cited by the OAE is in accord. See In re Mitnick, 231 N.J. 133 (2017) (as the result of poor recordkeeping practices, reprimand for an attorney who negligently misappropriated client funds held in his trust account; violations of RPC 1.15(a), and RPC 1.15(d); in mitigation, the attorney had no prior discipline in a thirty-five-year legal career). But see In re Zonies, 240 N.J. 209 (2019) (in a motion for discipline by consent, three-month suspension for an attorney whose egregious recordkeeping resulted in commingling funds and negligently

In addition, even in the absence of a negligent misappropriation (which is present here), greater discipline may be imposed if the attorney has failed to correct recordkeeping deficiencies that previously were brought to the attorney's attention. See, e.g., In re Alsobrook, 258 N.J. 404 (2024) (censure for an attorney who failed to learn from a prior random audit and continued to negligently invade funds for many years, despite heightened awareness of her recordkeeping obligations; the attorney had previously been the subject of a random audit which revealed multiple deficiencies, although she was not disciplined for her violations; the attorney also practiced law without maintaining liability insurance); In re Spielberg, ___ N.J. ___ (2022); 2022 N.J. LEXIS 666 (in default matter, reprimand for an attorney who failed to correct recordkeeping infractions identified in a previous audit; the attorney also failed to communicate in one client matter, did not promptly return property to clients; and failed to cooperate with the OAE's investigation; despite default status, the baseline of reprimand was not enhanced to censure because of the attorney's unblemished nearly forty-five-year career at the bar); In re Abdellah, 241 N.J. 98 (2020) (reprimand for an attorney who should have been mindful of his recordkeeping obligations based on a "prior interaction" with the OAE in connection with his recordkeeping practices, although that interaction had not led to an allegation of unethical conduct).

Finally, admonitions typically are imposed for failure to cooperate with disciplinary authorities if the attorney has a limited or no disciplinary history. See In the Matter of Giovanni DePierro, DRB 21-190 (January 24, 2022) (the attorney failed to respond to letters from the investigator in the underlying ethics investigation, in violation of RPC 8.1(b); the attorney also violated RPC 1.4(b), RPC 1.5(c) (failure to set forth in writing the basis or rate of the attorney's fee in a contingent fee case), and RPC 1.16(d) (failure to protect the client's interests upon termination of the representation)).

The quantum of discipline is enhanced, however, if the failure to cooperate is with an arm of the disciplinary system, such as the OAE, which uncovers recordkeeping improprieties in a trust account and requests additional documents. See In re Leven, 245 N.J. 491 (2021) (reprimand for an attorney who, following two random audits, repeatedly failed to comply with the OAE's

misappropriating client funds; the Board found that respondent's "continuous and complete failure" to comply with his recordkeeping obligations warranted greater discipline; the matter was the attorney's fifth matter, which included two prior orders of final discipline addressing recordkeeping infractions).

request for his law firm's financial records; he also failed to comply with two Court Orders directing him to cooperate; the attorney, however, provided some of the required financial records; the Board found that a censure could have been appropriate for the attorney's persistent failure to address his recordkeeping deficiencies and his prolonged failure to cooperate with the OAE; however, the Board determined that a reprimand was the appropriate discipline based, in substantial part, on the attorney's lack of prior discipline in nearly forty-seven years at the bar), and In re Tobin, 249 N.J. 96 (2021) (censure, in a default matter, for an attorney who, following an OAE random audit that uncovered several recordkeeping deficiencies, failed to provide the documents requested in the OAE's seven letters and eight telephone calls, spanning more than one year; although we noted that a reprimand was appropriate for the attorney's recordkeeping violations and failure to cooperate, the Board 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).

Here, like the censured attorney in Alsobrook, whose poor recordkeeping practices resulted in the negligent misappropriation of client funds for periods spanning two and five years, respondent's failure to comply with the recordkeeping Rules resulted in a prolonged and significant invasion of entrusted funds. Specifically, for almost two years, between January 2022 and December 2023, respondent failed to hold client funds inviolate by maintaining ATA shortages totaling more than \$45,890.

Unlike the reprimanded attorneys in Sherer and Osterbye, who had no prior interactions with the disciplinary system, respondent had a heightened awareness of his obligations to comply with the recordkeeping Rules and to maintain client funds inviolate, in light of his 2019 random audit that revealed substantially similar infractions. Specifically, in connection with the 2019 random audit, the OAE discovered, among other deficiencies, the following: prohibited electronic transfers from his ATA; negative and inactive ATA balances; improperly formatted ATA reconciliations; and improper check imaging. Four years later, in connection with the underlying investigation, the OAE discovered that respondent's records reflected the same deficiencies.

By contrast, respondent lacks the aggravating factors found in Tobin, who received a censure, including the prior discipline for similar recordkeeping violations and the failure to cooperate with disciplinary authorities which

resulted in a default. Although respondent cooperated with disciplinary authorities, albeit partially and over a prolonged period, and ultimately stipulated to the misconduct, he nevertheless failed to fully cure the recordkeeping deficiencies at the time of the investigation.

On balance, the Board determined that a censure is the appropriate quantum of discipline to protect the public and preserve confidence in the bar.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated May 19, 2025.
2. Stipulation of discipline by consent, dated May 19, 2025.
3. Affidavit of consent, dated May 16, 2025.
4. Ethics history, dated July 18, 2025.

Very truly yours,

/s/ Timothy M. Ellis

Timothy M. Ellis
Chief Counsel

TME/akg
Enclosures

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