

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 25-127
District Docket Nos. XIV-2024-0181E and IIIB-2024-900E

In the Matter of Melissa Franchio-Mingin
An Attorney at Law

Argued
July 16, 2025

Decided
October 14, 2025

Colleen L. Burden appeared on behalf of the
Office of Attorney Ethics.

Mark J. Molz appeared on behalf of respondent.

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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 recommendation for a reprimand filed by the District IIIB Ethics Committee (the DEC). The formal ethics complaint charged respondent with having violated RPC 1.15(a) (commingling); RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6); RPC 5.5(a)(1) (engaging in the unauthorized practice of law); RPC 8.1(b) (failing to cooperate with disciplinary authorities); and RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice).

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

Ethics History

Respondent earned admission to the New Jersey bar in 1998. She has no prior formal discipline. During the relevant timeframe, she maintained a practice of law in Mount Holly, New Jersey.

Effective June 30, 2023, the Court temporarily suspended respondent from the practice of law, pending her compliance with the Court's December 9, 2022

Order which required her to (1) comply with the Office of Attorney Ethics' (the OAE) outstanding requests for documents and information, and (2) appear for a clinical re-evaluation within forty-five days after the date of the Order, or be suspended from the practice of law, without further notice.

To date, respondent has not complied with the Court's Order and, thus, remains temporarily suspended.

Facts

On October 14, 2021, the OAE received an ethics referral from the Honorable Judge Jeanne T. Covert, A.J.S.C. (now retired), the former Assignment Judge of the New Jersey Superior Court, Burlington County, alleging discrepancies in respondent's financial records and client files, based on a report filed by Ellen McDowell, Esq., a court-appointed temporary attorney trustee.

On August 11, 2021, Judge Covert appointed McDowell to serve as temporary attorney trustee for the purpose of "protect[ing] the interests of [respondent's] clients." In this role, McDowell was required to conduct an inventory and a review of respondent's client files and bank accounts, including her attorney trust account (ATA) and her attorney business account (ABA), and to report any discrepancies to the court.

McDowell met with respondent on September 23 and September 27, 2021, following approximately six weeks of delay resulting from respondent's cancellation and rescheduling of previously scheduled meetings. During the course of her investigation, McDowell was able to determine that respondent had two Santander bank accounts. The first account (ending in 8270) was identified as her ABA¹ and titled "Law and Mediation Office of Melissa S. Franchio-Mingin, LLC." Respondent referred to the second account (ending in 9125) as her "escrow" account and treated it as her ATA.

Although McDowell asked respondent to produce bank statements from both accounts, she failed to produce any bank statements for her purported "escrow" account; however, she did produce a 2020 printout of annual activity for that account, which showed an ongoing balance of less than \$50, with almost no transactions occurring throughout the year and interest of only a few cents accruing each month. The OAE ultimately subpoenaed bank records for respondent's "escrow" account, which confirmed that the account had a balance of less than \$50 from February 2020 through April 2022.

¹ This account was not titled in a manner that clearly confirmed whether it was being used as respondent's ABA or ATA. However, as discussed herein, the evidence clearly and convincingly demonstrated that respondent deemed this account to be, and primarily treated it as, her ABA (although, the record also demonstrates that client funds were moved into and out of that account, at various points, during the relevant timeframe under investigation in this matter).

The bank records for respondent's ABA included several transactions designated as a "return of retainer," and multiple large deposits for "the Pope Estate," several of which were identified as "for Nina Kerr," "Nina Kerr Legal fees," and "Nina Kerr expenses." When McDowell asked respondent about the Kerr deposits and her relationship with Kerr, respondent stated that Kerr was a beneficiary of the Estate of Elizabeth Pope (the Pope Estate), which appeared to be one of respondent's most significant client matters, for which she had received payments – deposited exclusively in her ABA – totaling more than \$72,000 in a single year.² Respondent, however, provided no billing statements or descriptions of the work performed in connection with those fees.

Respondent also told McDowell that the executor of the Pope Estate had asked her to pay some of Kerr's expenses as an advance on Kerr's inheritance. Respondent's bank statements revealed that this money was flowing into and out of her ABA. Respondent, however, offered contradictory answers as to whether Kerr was her client – stating that, while she had done some legal work for Kerr, no formal retainer agreement had been executed, and she did not consider herself to be Kerr's attorney. In her report to the court, McDowell noted that "it would appear that any funds [respondent] received from the Pope Estate

² This sum does not include the checks received by respondent on behalf of Kerr.

on Ms. Kerr's behalf were client funds that should not have been deposited in [respondent's ABA], as they were not fees earned by [respondent]."

As stated above, respondent failed to provide McDowell with any billing statements for her review; instead, she claimed that she had none because she did not send bills to her clients. When McDowell asked her how she was paid for her services, respondent explained that she employed a type of prospective invoicing, pursuant to which she would regularly conduct a review of her files, approximately once every ninety days, in order to determine the amount of work that would be needed in each case, and what that work would cost the client. Respondent would then communicate those costs to the client, and the client would write a check for the anticipated amount due.

Although McDowell asked respondent to produce the Pope Estate file, respondent failed to do so; additionally, McDowell reported that she "did not attempt to speak with the Executor or the accountant for the estate to determine if they were in a position to adequately assess the appropriateness of the amounts [respondent] charged." As a result, she reported that she was "unable to formulate an opinion about whether the amounts [that respondent had] charged the [Pope] Estate were reasonable."

During the course of her investigation, respondent supplied McDowell with a document representing that she had sixteen active client matters;

however, she provided only one or two active client files for McDowell's review.³ In one file – the Leighton Estate client file – there was an executed retainer agreement that provided for the client to be billed at an hourly rate; however, McDowell discerned, from respondent's ABA account statements, that the client had paid respondent a lump sum of \$7,500, which she deposited immediately in her ABA, without corresponding documentation that the associated work had been completed. When asked about this deposit, respondent claimed that the retainer agreement erroneously referenced an hourly fee, despite the fact that the client knew and understood that she would be paying a flat fee for the estate planning services.

Respondent's ABA records also contained copies of several checks, which noted that they had been issued for a "return of retainer." In her report, McDowell noted that, because "retainers belonging to clients . . . should not be deposited in an attorney's business account, [the return of] . . . any such retainers from the business account indicates that improper commingling is taking place." McDowell's report reasoned that by depositing these client funds in her ABA, before completing the work for which those funds had been paid, respondent

³ In advance of her first meeting with respondent, which occurred on September 23, 2021, McDowell asked respondent to produce, at the meeting, all her current case files and bank records. In advance of her second meeting with respondent, which occurred on September 27, 2021, McDowell asked respondent to produce, at the meeting, all her bank statements and reconciliations from her "escrow" account, all her active client files, and all her billing records.

failed to properly segregate client funds from the business and personal funds contained in her ABA, in violation of RPC 1.15(a).

On October 11, 2021, McDowell's written report was submitted to Judge Covert and included with Judge Covert's ethics referral in this matter.

On November 9, 2021, the OAE sent a copy of Judge Covert's ethics referral to respondent's attorney, Mark J. Molz, Esq. In its cover letter, the OAE directed respondent to submit a written reply, as well as copies of the following documents, by November 24, 2021: (1) client files for the Pope Estate matter and four other client matters, and (2) for the period January 2019 through November 2021, monthly three-way ATA reconciliations; ATA and ABA bank statements; receipts and disbursements journals; and client ledger cards.

On November 23, 2021, Molz sent the OAE a letter stating that respondent was ill but was gathering the requested documents; Molz also requested a thirty-day extension of the deadline. On November 24, 2021, the OAE granted the extension to December 31, 2021. Respondent, however, failed to submit the requested documents by the new deadline.

On January 13, 2022, the OAE sent Molz an e-mail directing that respondent submit the previously requested documents by January 20, 2022. On January 20, 2022, due to respondent's medical conditions, Molz requested an

additional thirty-day extension and attached a doctor's note stating that respondent should not return to work until January 30, 2022.

On February 28, 2022, the OAE sent Molz a follow-up e-mail, confirming receipt of his January 20 adjournment request but noting that, “[a]s of February 28, 2022, which is past 30 days from your date of request, the OAE still has not received respondent's documents related to this docket.” As a result, the OAE directed that the documents be produced by March 1, 2022, together with updated documentation or certifications setting forth the basis for the delay in production. The OAE additionally noted that no further extensions would be granted and that respondent's failure to cooperate with the OAE could subject her to an RPC 8.1(b) charge, as well as a motion for her immediate temporary suspension pursuant to R. 1:20-3(g)(4). Respondent, however, failed to submit any of the requested documents by the March 1 deadline.

On March 2, 2022, Molz sent the OAE a letter requesting another ninety-day extension of time to produce the outstanding information based on respondent's medical condition.

On March 7, 2022, the OAE requested medical documentation to support respondent's ninety-day extension request. On March 9, 2022, the OAE also sent Molz a follow-up e-mail, detailing the multiple attempts by the OAE to obtain the requested information and stating that the OAE considered respondent non-

cooperative with its investigation, contrary to RPC 8.1(b). The OAE cautioned respondent that, if the outstanding information was not produced by March 11, 2022, it would file a petition for respondent's immediate temporary suspension.

On March 10, 2022, Molz informed the OAE that respondent was actively being treated for a medical issue which had prevented her from attending to her normal duties. Molz attached to his e-mail a CT scan performed on February 4, 2022. Thereafter, on March 15, 2022, Molz, in further support of the extension request, submitted a doctor's note, dated March 10, 2022, excusing respondent from work until April 29, 2022.

On March 22, 2022, the OAE informed Molz that respondent had not provided an explanation regarding her failure to produce her financial records and client files. Accordingly, the OAE directed respondent to produce, no later than April 5, 2022, all financial records, as well as an explanation regarding how she was maintaining her law practice, given her expressed medical hardships. Respondent, however, failed to submit the requested documents or provide the requested explanation.

On April 8, 2022, the OAE interviewed McDowell. That same date, the OAE asked McDowell to provide copies of respondent's financial records, client files, and e-mail communications with McDowell. On April 11, 2022, McDowell provided the OAE with the documents in her possession.

On April 13, 2022, having not received any of the previously requested information or documents from respondent, the OAE filed with the Court a petition seeking her immediate temporary suspension, pursuant to R. 1:20-3(g)(4) and R. 1:20-11. On September 14, 2022, in response to a request from the then Deputy Clerk of the Supreme Court, the OAE filed a supplemental affidavit in support of its petition.

On December 9, 2022, the Court issued an Order requiring respondent to (1) comply with the OAE’s outstanding requests for documents and information, and (2) appear for a clinical re-evaluation within forty-five days of the date of the Order. The Court’s Order further stated that, upon the OAE’s submission of a certification confirming respondent’s failure to comply with the terms of the Order, “respondent shall be immediately temporarily suspended from practice without further notice.”⁴

On December 12, 2022, the OAE informed Molz that it had retained a physician to perform respondent’s clinical re-evaluation. In its letter, the OAE also directed Molz to have respondent submit information regarding her medical history and to select her preferred examination date – January 5, January 18, or February 2, 2023. On December 15, 2022, the OAE sent a supplemental letter

⁴ Forty-five days from the December 9 Order would have been on or about January 22, 2023.

notifying Molz that respondent's failure to select a date for the medical evaluation, or to submit updated medical records, by December 23, 2022, would result in the OAE refiling its petition for respondent's temporary suspension.

On December 19, 2022, Molz replied stating that respondent could be available for the required medical evaluation on February 2, 2023 (the last available examination date of the three proffered by the OAE).

On January 27, 2023, the OAE received an e-mail from Carol H. Gold, Esq., respondent's proctor, asking to confirm, on respondent's behalf, the scheduled time of the medical evaluation.⁵ However, on February 2, 2023 (the date of the scheduled medical evaluation), Gold left the OAE a voicemail message at 8:30 a.m., and sent the OAE an e-mail at 8:49 a.m., stating that respondent had informed her the previous evening that she would not be able to attend the scheduled medical evaluation due to illness. Gold additionally stated that a doctor's note would be forthcoming.

On February 7, 2023, the OAE sent a letter to Molz, directing him to (1) provide a doctor's note accounting for respondent's failure to appear at the February 2 clinical re-evaluation, (2) select, by February 13, 2023, one of three new dates (February 21, March 17, or April 4, 2023) for the clinical re-

⁵ On April 17 2019, Gold agreed to serve as a formal proctor for respondent.

evaluation, and (3) provide the OAE with the previously requested books and records.

On February 13, 2023, Molz notified the OAE, in writing, that respondent had selected an evaluation date of April 4, 2023 (again, the latest date proffered by the OAE) and attached a doctor's note, dated February 1, 2023, which requested that respondent be "excuse[d] . . . from participation in [the previously scheduled] evaluation with Dr. Greenfield due to" a current medical condition. On February 15, 2023, the OAE sent Molz an e-mail confirming the rescheduled April 4 evaluation date.

On February 24, 2023, the OAE again directed Molz to have respondent provide, no later than March 8, 2023, the previously requested books and records. Respondent, however, again failed to provide the documents by the deadline.

On April 3, 2023, the day before the rescheduled medical evaluation, Gold informed the OAE, in writing, that respondent would be unable to attend the April 4 appointment due to a previously scheduled CT scan appointment. On April 4, 2023, Gold submitted a doctor's note stating that respondent was having a pre-scheduled CT scan on that date. That same date, Gold advised the OAE that she had been informed about respondent's CT scan on April 3, but that she later learned that respondent's doctor had set up the appointment during the

preceding week. Gold further claimed that, although respondent had tried to change the appointment date, she had been informed that her failure to have a CT scan on the scheduled date could cause her treatment to be significantly delayed. Finally, Gold represented that respondent currently had only two client matters – for clients named Ramos and Fliss – the first of which was on hold, and the second of which was in negotiations. Gold additionally represented that she was handling another matter for respondent, captioned Page v. Page.

On April 10, 2023, the OAE notified Molz that, although Gold had provided notice regarding respondent’s inability to appear, the OAE was “unaware why Ms. Gold is contacting our office and not [respondent’s] counsel of record.” The OAE also stated that it had not received sufficient documentation justifying respondent’s failure to appear for the rescheduled clinical re-evaluation and, further, if proper documentation was not received by April 17, 2023, the OAE intended to refile a petition for her temporary suspension.

In reply, Molz notified the OAE that he had been busy with jury trials for the preceding month; however, he represented that he had supplied the OAE with all the documents in his possession which related to respondent’s matter, and again requested “reasonable accommodations until she recuperates.” He

further asserted that, as he understood it, “respondent has not taken on any new clients in a long time.”⁶

On April 28, 2023, the OAE filed a supplemental affidavit in support of respondent’s temporary suspension, based on her failure to comply with the Court’s previous Order in the matter. Consequently, the Court granted the OAE’s petition and, effective June 30, 2023, temporarily suspended respondent from the practice of law.

The OAE obtained, via subpoena, respondent’s bank records from Santander bank. Following a review of respondent’s financial records, the OAE identified the following recordkeeping deficiencies: (1) failure to maintain monthly three-way ATA reconciliations, in violation of R. 1:21-6(c)(1)(H); (2) ATA receipts and disbursements journals were not fully descriptive, in violation of R. 1:21-6(c)(1)(A); (3) failure to maintain ABA receipts and disbursements journals, in violation of R. 1:21-6(c)(1)(A); (4) failure to maintain individual client ledger cards, in violation of R. 1:21-6(c)(1)(B); (5) failure to maintain a ledger card identifying attorney funds for bank charges, in violation of R. 1:21-

⁶ Although the formal ethics complaint initially alleged that Molz had failed to reply to the OAE’s letter of April 10, 2023, respondent submitted documentary evidence, at the ethics hearing, confirming that Molz had sent a reply that same date. The disciplinary auditor also confirmed, during his testimony, that Molz had sent a letter on April 10, 2023 in which he (1) asserted that he had been busy with medical malpractice jury trials for the past month; (2) alleged the spurious nature of the accusation that he was not cooperating with the OAE; (3) represented that he had supplied the OAE with every relevant document in his possession; and (4) requested reasonable accommodations for respondent, until she recuperated from her medical issues.

6(d); (6) failure to maintain monthly client balances, in violation of R. 1:21-6(c)(1)(B); (7) commingling of personal attorney funds with client funds, in violation of RPC 1.15(a); (8) failure to maintain an Interest on Lawyers Trust Account (IOLTA) ATA, in violation of R. 1:28A; (9) improper electronic transfers, in violation of R. 1:21-6(c)(1)(A); (10) improper imaging of ABA checks, in violation of R. 1:21-6(b); and (11) improper ABA designation, in violation of R. 1:21-6(a)(2).

Based on the foregoing, the OAE charged respondent with having violated RPC 1.15(a) by commingling personal funds with client funds in her ABA; RPC 1.15(d) by failing to comply with the recordkeeping requirements of R. 1:21-6 and failing to fully respond to the OAE's demand for records; RPC 5.5(a)(1) by failing to designate her ATA as an IOLTA account and, thus, improperly retaining earned interest on her ATA; RPC 8.1(b) by failing to cooperate with the OAE's investigation and failing to submit to the medical evaluation; and RPC 8.4(d) by failing to comply with the Court's December 9, 2022 Order.

In her second amended answer, respondent, through counsel, denied having commingled funds, stating that she did "not know what this refers to." She admitted to having violated RPC 1.15(d). She denied having violated RPC 5.5(a)(1), stating that she "believed [she] had an IOLTA account," but admitting that she failed to designate her ATA as an IOLTA and, consequently, improperly

retained the earned interest. Respondent also admitted to having violated RPC 8.1(b) by failing to cooperate with the OAE’s investigation and by failing to cooperate with the medical examination required by the Court’s December 9, 2022 Order. However, she denied having violated RPC 8.4(d), stating that she had “been totally disabled with no ability to deal with these matters,” and apologized.

The Ethics Proceeding

On December 2, 2024, the ethics hearing in this matter was held, remotely, before a DEC hearing panel. Although Molz appeared on respondent’s behalf, she was not present at the hearing. During the hearing, the OAE presented the testimony of McDowell and the OAE disciplinary auditor.

Pre-Hearing Motions to Adjourn and to Withdraw as Counsel

Prior to opening statements, Molz urged the hearing panel to adjourn the hearing, citing respondent’s incapacity and inability to appear in her own defense. Apologizing for his late request, Molz explained that he had received a doctor’s note, via e-mail, after the close of business on November 30, 2024 (the preceding Friday), stating that respondent would be unable to appear at the

hearing; however, he did not see the e-mail until December 1, the day before the hearing, at which point, he immediately forwarded it to the hearing panel.

Although the hearing panel chair acknowledged receipt of respondent's doctor's note, he expressed concern that it had been written by a psychiatric nurse practitioner who was, apparently, a new medical provider for respondent – not the same doctor who had been seeing her throughout the pendency of the ethics investigation. The panel chair also raised concerns about the veracity of the date appearing on the note, which indicated that the nurse practitioner had seen respondent and written the note on Thanksgiving. He further found that, although the note stated that respondent was unable to participate in the hearing due to her use of a new medication requiring four to six weeks to fully take effect, the note failed to specify why respondent's use of that medication, in fact, made her incapable of participating in the virtual hearing. The chair additionally noted that repeated medical delays had formed the basis for the ethics complaint in this matter, with requests for medical-based postponements being submitted “[e]very time, literally the night before[] something has come

due.” Consequently, the panel chair denied respondent’s request for an adjournment.⁷

Next, Molz moved to withdraw as respondent’s counsel. He argued that withdrawal was necessary and appropriate because the OAE had, effectively, made him a witness in the case by alleging, in the formal ethics complaint, that he had failed to respond, or had failed to submit a timely response, to the OAE’s inquiries in the matter. He further asserted that he was a witness regarding respondent’s medical condition.

The OAE objected to Molz’s motion at this late juncture and denied that it had made, or would make, him a witness in the matter. After a brief discussion with the hearing panel, the chair denied Molz’s motion to withdraw as counsel.

The Ethics Hearing

The hearing panel first heard from McDowell, who testified concerning her appointment as a temporary attorney-trustee for the purpose of reviewing

⁷ The OAE noted for the record that R. 1:20-6, which provides that, although a “[r]espondent’s appearance at all hearings is mandatory in accordance with R. 1:20-7(1) . . . a respondent’s absence shall not delay the orderly processing of the case.” The OAE further cited R. 1:20-6, which similarly provides that “[a] respondent’s absence, non-responsiveness, or other failure to reply or to file any document, or to attend any required conference or hearing shall not delay the orderly processing of a case, provided the respondent has been properly served.” Finally, the OAE argued that respondent properly was served with notice of the December 2 hearing, per the case management order dated July 24, 2024, and by notice of hearing, which was sent by e-mail, to all parties, on November 27, 2024. The OAE did not move to amend the complaint to charge a violation of RPC 8.1(b) based on respondent’s failure to participate in the hearing.

respondent's attorney files and bank accounts. She described, in detail, her two meetings with respondent and her efforts to obtain respondent's records. Specifically, despite directing respondent to have all her case files and bank records available for review when McDowell arrived for the September 23, 2023 meeting, respondent provided her with only (1) a document, identified by respondent as a "case register," which represented that respondent had sixteen active client matters; (2) one or two of respondent's sixteen active client files; (3) "a couple of" bank statements for her ABA; and (4) "printouts from the bank showing that there was this other account," which respondent referenced as her "escrow" account.

McDowell further testified that, prior to their second meeting, she asked respondent to produce her remaining client files, all her billing records, and all her bank statements for her purported "escrow" account. However, although respondent did produce "a couple other client files" at that second meeting, she never produced any billing records or any bank statements for her purported "escrow" account.⁸

⁸ According to McDowell, respondent stated, at this second meeting, that the bank statements for her "escrow" account had been retrieved; however, she further represented that she was unable to provide the statements to McDowell, at the time of the meeting, because she had given them to her bookkeeper, who was still performing reconciliations. McDowell testified, however, that respondent ultimately failed to provide those statements or reconciliations, either to her or to the OAE.

The remainder of McDowell’s testimony focused on her specific findings, as detailed in her report to Judge Covert and as set forth above.

Of particular note, McDowell testified that respondent’s bank records included several ABA transactions of concern, which seemingly referenced and involved the deposit and withdrawal of client funds that were required to be held separately from respondent’s business funds. McDowell stated that, in her opinion, “what I saw was a pretty good indication that . . . the client money was being deposited into [respondent’s ABA].” In support of her position, she highlighted the facts associated with two case files – the Pope Estate matter and the Leighton Estate matter – which she found to be of particular concern. She additionally noted several deposits and withdrawals, appearing in the bank statements for respondent’s ABA, which were attributed to a Kerr, and which McDowell found to be “concern[ing].”

McDowell testified that her review of respondent’s bank statements had caused her to conclude that respondent had received approximately \$72,000, across a single year, in connection with the Pope Estate matter, which appeared to be one of her largest cases. McDowell stated that respondent never produced the Pope Estate client file, or any billing statements for the matter, for

McDowell's review.⁹ She further testified that, although she was unsure how respondent kept track of billing for the Pope Estate matter, she was concerned that "\$72,000 in one year for an estate representation was a little on the high side."¹⁰

With respect to the questionable transactions involving Kerr, McDowell testified that respondent represented, to her, both that (1) Kerr was a beneficiary of the Pope Estate, and (2) the executor of the Pope Estate had been sending funds to respondent, as an advance on Kerr's inheritance in that matter, for the purpose of paying certain of Kerr's living expenses. McDowell further testified that "all that money seemed to be going into the business account and going out, I guess, to pay those expenses" and, in her view "since it was not money that belonged to [respondent], it should have gone into an attorney trust account."

With respect to the Leighton Estate matter, McDowell testified (consistent with the findings in her report) that, although the retainer agreement provided for the client to be billed on an hourly basis, respondent's bank records showed

⁹ McDowell further testified that, at the time of her request for the Pope Estate file, respondent stated that she was in the process of organizing the file and could let McDowell look at it once it was organized.

¹⁰ The record does not reflect the value of the Pope Estate or what, if any, additional factors McDowell considered in rendering this opinion, presumably because respondent failed to produce her client file.

that a lump sum retainer of \$7,500 had been deposited into respondent's ABA, in connection with that client matter.

Next, the hearing panel heard from the OAE disciplinary auditor who had been assigned to the investigation since June 2022. He testified that, as a disciplinary auditor, he was responsible for reviewing all the financial records and other documents obtained by the OAE, as well as the transcript of the OAE's interview with McDowell. He confirmed that, between November 9, 2021 and March 22, 2022, the OAE had sent respondent (or her counsel) eight separate notices directing her submission of relevant documents in association with Judge Covert's referral. The auditor confirmed that respondent had failed to provide the OAE with any of the requested records or documents, or with any written reply to the allegations, by the final, extended deadline set forth in the OAE's March 22 correspondence.

The auditor further testified that the OAE had interviewed McDowell on April 8, 2022, following respondent's failure to respond to the OAE's final extension letter. He confirmed that, in response to the OAE's follow-up request, McDowell provided the OAE with all the documents she had received from respondent – a package that “seemed to . . . [include respondent's] ABA statements . . . [as well as] receipts and disbursements journals . . . show[ing]

the receipts into both the trust – the escrow account and into the business account, and disbursements from the business and the trust account.”

The OAE auditor further testified that respondent’s journals were incomplete and insufficiently descriptive because, although they identified the client name, date, and check number for each transaction, they failed to identify the payee, the payor, or the specific purpose or nature of each deposit or disbursement. He further testified that respondent had failed to provide any monthly disbursements and receipts journals for her ABA. Similarly, while the McDowell records package included a reconciliation of respondent’s ABA, the auditor noted that the package did not include any three-way reconciliations, and “most of the package concerned [the] business account statements . . . that [McDowell had] received from respondent.” He asserted that the package failed to include, and respondent otherwise failed to provide to the OAE, client ledgers for each of respondent’s individual clients, ledger cards identifying attorney funds for bank charges, and monthly client balance sheets.

The OAE auditor also testified that (1) respondent’s ABA was not formally designated as a “business” or an “operating” account; (2) respondent’s “escrow” account was not maintained as an IOLTA account; (3) at least one transfer of funds, from each of respondent’s accounts, was conducted through the use of electronic means; and (4) respondent’s bank statements failed to show

two checks per page, front and back, and instead showed only the front portions of eight checks associated with respondent's accounts.

Based on his review of respondent's records, the disciplinary auditor determined that "the majority of the client funds [held by] respondent were kept in a business account with respondent's personal and business funds." Although he admitted, on cross-examination, that this conclusion was not based on specific documentary evidence or direct interviews with, or complaints from, respondent's clients, he nonetheless testified that it was his educated determination and belief, based on his significant experience in this area and his review of respondent's available bank records, that respondent had commingled client, business, and personal funds in her ABA.

The Parties' Written Summations to the Hearing Panel

In her written summation to the hearing panel, respondent, through counsel, urged the hearing panel to disregard McDowell's report and testimony because she "was not qualified to offer expert opinions and testimony. . . [and] [h]er opinions are inconclusive and conflict with those of the OAE Investigator."¹¹

¹¹ Specifically, based on her testimony that this was her first time serving as temporary attorney-trustee, that she had no prior experience in financial audits, and that the Court had not ordered her

Next, respondent argued that the OAE's disciplinary auditor's testimony had confirmed that: (1) respondent's business account records were provided to McDowell, who then provided the records to the OAE; (2) there was no client money in respondent's "escrow" account; (3) there were no ledger cards for clients holding money in respondent's escrow account, because there was no client money in that account; (4) there were no bank charges accruing to respondent's escrow account; (5) she did not need a trust account reconciliation because money did not flow into the trust/escrow account; (6) she had provided McDowell and the OAE with ABA disbursements and receipts journals from 2020; (7) the auditor did not have any information as to what, if any, moneys should have been placed, by respondent, in an IOLTA account; and (8) other than the auditor's opinion, which admittedly was based on assumptions made by him, there was no documentary or other evidence clearly and convincingly establishing that respondent had commingled client funds with other funds contained in her ABA.

Respondent also argued that the OAE had failed to establish that she violated RPC 1.15(d), RPC 8.1(b), or RPC 8.4(d) because (1) the auditor admitted that respondent had supplied a doctor's note each time the OAE had

to perform a financial audit, respondent argued that McDowell lacked the authority and expertise necessary to offer expert opinions regarding the propriety of respondent's bookkeeping methods.

requested information from her, (2) the auditor “also admitted that he received the Respondent’s records as requested,” and (3) the only records not received by the OAE were ledger cards, reconciliations, and bank charge statements that were related to, but were not required to be maintained, in association with respondent’s management of her escrow account.

Finally, respondent argued that the OAE had not established a violation of RPC 5.5(a)(1) because it failed to demonstrate that respondent maintained any interest in an IOLTA trust account. Respondent further asserted that the disciplinary auditor had admitted, in his testimony, that his investigation had failed to disclose any trust account violations.

Based on the foregoing arguments – and despite having unequivocally admitted to having violated RPC 1.15(d), RPC 8.1(b), and the factual allegations underpinning the RPC 5.5(a)(1) charge, in her second amended answer that her attorney had prepared on her behalf – respondent, through counsel, urged the hearing panel to find the evidence insufficient to support any of the charged violations. In mitigation, respondent asserted that no client was harmed, she has no disciplinary history, and she no longer wished to engage in the practice of law.

In its written summation to the hearing panel, the OAE argued that each of the charged violations had been established through clear and convincing

evidence. With respect to the allegation that respondent commingled client and business funds, in violation of RPC 1.15(a), the OAE asserted that respondent “was representing the Pope Estate and receiving funds that should have been considered client trust funds and been placed within Respondent’s ATA.” Furthermore, the OAE argued that respondent had “performed legal work on behalf of the beneficiary, Kerr, and therefore, due to that attorney/client relationship should have also put money received from the Pope Estate on her behalf into her Attorney Trust Account.”

Next, the OAE highlighted the fact that respondent expressly admitted, in her May 24, 2024 answer to the complaint, that she failed to maintain her books and records as R. 1:21-6 requires, in violation of RPC 1.15(d). Specifically, she admitted that she: (1) had no ABA disbursements or receipts journals; (2) had no individual client ledgers for each client; (3) had made electronic transfers without proper authorization; and (4) was utilizing an improperly designated ABA.

The OAE further argued that, because the evidence demonstrated that respondent had “altogether failed to cooperate with the OAE’s investigation” by failing to provide the OAE with her financial records and failing to respond completely to the OAE’s questions regarding those records, despite multiple opportunities to do so, and because the evidence additionally demonstrated that

respondent's lack of cooperation "ultimately result[ed] in her temporary suspension from the practice of law," she violated RPC 1.15(d) and R. 1:21-6(h) and (i).

The OAE cited voluminous evidence related to respondent's failure to cooperate with its investigation, which clearly and convincingly established respondent's violation of RPC 8.1(b). The OAE also emphasized that respondent had admitted, in her answer to the formal ethics complaint, that she had violated RPC 8.1(b) on these bases.

Next, the OAE asserted that, by failing to comply with the Court's December 9, 2022 Order, respondent violated RPC 8.4(d), which prohibits lawyers from engaging in conduct prejudicial to the conduct of justice. Further, the OAE noted that by continuously providing late (day-before or day-of) notice of her inability to attend her clinical re-evaluation, respondent effectively prevented the doctor from scheduling and conducting any other medical evaluations on each of the days when he was scheduled to meet with her. Based on these facts, the OAE argued that the evidence clearly and convincingly established respondent's violation of RPC 8.1(b) and RPC 8.4(d).

Finally, the OAE argued that, because respondent admitted, in her answer to the complaint, that she failed to properly designate her "escrow" account as

an IOLTA account, as R. 1:28A-2 requires, the evidence clearly and convincingly established her violation of RPC 5.5(a)(1).

The OAE urged the hearing panel to recommend a reprimand or censure for respondent's misconduct. Although the OAE acknowledged that an admonition typically is imposed for violations of RPC 1.15(a); RPC 1.15(d); RPC 5.5.(a)(1); and RPC 8.1(b), the OAE noted that the quantum is enhanced in cases where the attorney's failure to cooperate is with an arm of the disciplinary system, which has uncovered recordkeeping improprieties and requested additional documentation. The OAE further observed that, in general, when a violation of RPC 8.4(d) is based on an attorney's failure to comply with a Court Order, it generally is met with a reprimand.

In mitigation, the OAE acknowledged respondent's lack of prior discipline.

In aggravation, the OAE noted that, as of the date of the parties' summations, respondent still had not complied with the OAE's requests for records and remained temporarily suspended from the practice of law on that basis. In further aggravation, respondent had failed to exhibit any contrition or remorse for her misconduct in the matter, thereby indicating that her misconduct was "likely to reoccur."

The Hearing Panel's Findings

The hearing panel determined that respondent violated RPC 1.15(a); RPC 1.15(d); RPC 8.1(b); and RPC 8.4(d). However, the panel found the evidence insufficient to support a finding that respondent violated RPC 5.5(a)(1).

As a preliminary matter, with respect to respondent's attorney accounts, the panel concluded that "[r]espondent clearly maintained two accounts – an attorney business account and an attorney trust account . . . [the latter of which] maintained a balance of only approximately \$46.00 for a prolonged period, accruing only a few pennies of interest during the period upon which the OAE's investigation occurred." Further, the hearing panel noted that the two witnesses credibly testified that the relevant financial activity pertained only to the ABA.

The hearing panel found that the evidence clearly and convincingly established respondent's violation of RPC 1.15(a), emphasizing that "the clearest demonstration of [respondent's] comingling of funds" was related to the financial activity associated with Kerr. Specifically, the panel reasoned as follows:

Funds from the executor of the Pope Estate, effectively the client interest here, provided an 'advance' of Nina Kerr's inheritance for various reasons. The record demonstrates that this money flowed directly into and out of the attorney business account for purposes of addressing the needs of Nina Kerr.

When considering the Pope Estate as a whole, Respondent charged and was paid \$72,000.00 for services in a single year, however none of those funds at any time were placed into the attorney trust account. This client file was never made available to Attorney McDowell or the OAE, and there are no billing statements or descriptions of the work performed in exchange for \$72,000.00 in legal fees.

It would be expected that on the basis of an average of \$6,000.00 in legal work performed per month throughout the course of a year, there would be a clear transfer of funds between the attorney trust account and the attorney business account, based on Respondent's description of her billing practices . . . [which,] [p]er Attorney McDowell's report and testimony . . . [entailed] a roughly 90-day look ahead on files . . . [followed by a] request that the client advance anticipated funds for work to be done.

This practice would then require that those advance funds would be placed into the attorney trust account, and gradually transferred to the attorney business account as work was completed. However, clear evidence confirms that the balance in the attorney trust account did not change during the period contemplated by this grievance. Therefore, it is clear that these funds were only ever deposited into the attorney business account, and thus were comingled with the attorney's funds, and potentially [with] other client funds present in the attorney business account at that time.

Based on the foregoing, Respondent violated RPC 1.15(a).

[HPR at 15-16 (emphasis in original).]¹²

¹² "HPR" refers to the hearing panel report dated April 25, 2025.

In evaluating respondent's purported recordkeeping violations, the hearing panel's analysis focused on respondent's noncompliance with R. 1:21-6(h), which requires attorneys to cooperate with the OAE and to respond completely to the OAE's questions with respect to all transactions related to the records required to be kept under the Rule. In that respect, the panel found it "abundantly clear that Respondent did not comply with OAE requests for information and documentation as to this rule" and, further, that "[d]espite being granted numerous extensions spanning a period of almost two years, Respondent failed to produce more than two of sixteen client files and provided only incomplete bank statements and incomplete ledgers." The hearing panel additionally noted that respondent's failure to cooperate with the OAE had resulted in the Court's Order of temporary suspension.

Based on these facts, the hearing panel concluded that respondent had violated RPC 1.15(d) and RPC 8.1(b). In making this determination, the hearing panel cited R. 1:21-6(i), which specifically provides that attorneys who fail to comply with the Rule, in respect of the maintenance, availability, and preservation of accounts and records, or who fail to produce or to respond completely to questions regarding such records, are deemed in violation of RPC 1.15(d) and RPC 8.1(b).

Next, the hearing panel found that respondent violated RPC 8.4(d) by (1) failing to comply with the OAE's requests for documents, despite being granted multiple extensions, (2) failing to attend the clinical evaluation scheduled on two separate occasions, despite being provided with an option of dates for each scheduled evaluation, and with notice of her inability to appear, in both instances, being provided at the last minute – either the evening before or the day of the scheduled evaluation, and (3) failing to appear before the hearing panel, despite having more than four months notice of the hearing date.¹³ The hearing panel further found that the evidence demonstrated that respondent had, by design, “sought to delay or disrupt the OAE’s investigation into [her] bookkeeping irregularities.” Although it acknowledged that respondent had struggled with health issues during the pendency of the disciplinary proceeding, the panel deemed it significant that “none of the provided medical notes and documentation explained in any way why Respondent was incapable of complying with OAE requests for information and records that should have been immediately ready for inspection, or why she was incapable of participating in her own defense before this Hearing Panel.”

¹³ The hearing panel noted that respondent’s failure to appear at the hearing was the most significant factor in support of its determination that she had violated RPC 8.4(d).

However, the hearing panel concluded that the evidence failed to support a violation of RPC 5.5(a)(1). Specifically, the panel noted that “no evidence, let alone clear and convincing evidence, was offered by the OAE to demonstrate that Respondent at any time engaged in the practice of law when not authorized to do so. Respondent’s failure to designate her IOLTA account, despite annual registration requirements to the contrary, is not a violation contemplated by this RPC.”

In recommending a reprimand, the hearing panel weighed, in aggravation, the fact that respondent remained suspended from the practice of law, both due to her continued failure to comply with the OAE’s investigation and to submit to the evaluation the Court required. In mitigation, the panel noted respondent’s lack of prior discipline and the lack of any evidence to suggest that her recordkeeping deficiencies caused any harm to her clients.

The Parties’ Positions Before the Board

At oral argument before us, respondent, through counsel, urged us to dismiss all the charged violations for lack of clear and convincing evidence. Respondent highlighted the testimony of the OAE’s disciplinary auditor who, according to respondent, had admitted, during cross-examination, that the evidence did not clearly and convincingly establish any of the charges.

Respondent further asserted that the OAE had received all of the relevant records from McDowell and, further, that respondent had provided medical documentation to explain every instance of delay.

In response to our questioning, respondent's counsel stated that, during the two-and-a-half-year period following the issuance of the Court's December 6, 2022 Order, there had not been a single day on which respondent had been well enough to comply with that Order. Respondent also represented that her law practice had been focused primarily on mediation, that she is now semi-retired, and that she is not currently engaged in the practice of law. Respondent acknowledged that, if she decides to return to the practice of law, she will first be required to comply with the Court's Order temporarily suspending her.

The OAE, for its part, stated that it agreed with the hearing panel's report in most respects but urged us to depart from the hearing panel's determination to dismiss the RPC 5.5(a)(1) charge. Specifically, the OAE argued that the evidence demonstrated that respondent had practiced law without first establishing an IOLTA account, as R. 1:28A-2 requires. Thus, by doing so, she had engaged in the unauthorized practice of law. in violation of RPC 5.5(a)(1).

In mitigation, the OAE noted respondent's lack of prior discipline. In aggravation, the OAE emphasized respondent's ongoing noncompliance with the Court's December 9, 2022 Order, for which she remains temporarily

suspended. Further, the OAE stressed respondent's lack of remorse and the likelihood that her misconduct would recur. Considering the aggravating factors, the OAE urged us to impose a censure. Further, in response to our questioning as to whether respondent had offered any explanation for her failure to participate in the medical re-examination, the OAE stated that, although respondent had medical issues, she had not provided sufficient documentation to explain whether or how those medical issues actually made her incapable of complying with the Court's Order.

Analysis and Discipline

As a threshold matter, we decline to disturb the hearing panel chair's respective rulings denying (1) respondent's pre-hearing motion to adjourn the ethics hearing, and (2) respondent's counsel's motion to withdraw as counsel.

Violations of the Rules of Professional Conduct

Turning to our de novo review of the record, we determine that the hearing panel's finding that respondent's conduct was unethical is fully supported by clear and convincing evidence in connection with the charges that she violated RPC 1.15(a); RPC 1.15(d); RPC 8.1(b); and RPC 8.4(d). Similarly, in accord with the hearing panel, we dismiss the charge that she violated RPC 5.5(a)(1).

RPC 1.15(a)

RPC 1.15(a) requires attorneys to hold and safeguard client funds, separately and apart from the attorney’s personal and business funds, in a properly designated trust fund.¹⁴ Here, respondent deposited entrusted funds in connection with the Pope Estate matter in her ABA rather than her ATA. It is uncontested that respondent also used her ABA for legal and personal funds, including retainer fees in unrelated matters. Further, the record clearly and convincingly established that respondent repeatedly disbursed funds from her ABA, on behalf of Kerr, a beneficiary to the Pope Estate, as advances of her inheritance. Accordingly, her deposit of entrusted funds into that account violated the requirement that an attorney “hold property of clients . . . separate from the lawyer’s own property.”

With limited exception, we have found that “commingling” applies to an attorney’s improper use of an ATA to house personal funds, rather than the deposit of client funds into an ABA. See In the Matter of Chadwick L. Hooker, DRB 24-147 (September 19, 2024) at 42-43 (we dismissed, as inapplicable, four

¹⁴ RPC 1.15(a) specifically provides, as follows: “A lawyer shall hold property of clients or third persons that is in a lawyer’s possession in connection with a representation separate from the lawyer’s own property. Funds shall be kept in a separate account maintained in a financial institution in New Jersey. Funds of the lawyer that are reasonably sufficient to pay bank charges may, however, be deposited therein. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of seven years after the event that they record.”

RPC 1.15(a) commingling charges, which were based on the allegations that the attorney held entrusted escrow or client funds, together with his personal funds and other unidentified funds, in his ABA, because “the term ‘commingling’ typically applies to an attorney’s improper use of an ATA to house personal funds, rather than the deposit of client or escrow funds into an ABA”).

Nevertheless, we have not hesitated to sustain a commingling violation where an attorney intentionally uses their ABA in lieu of their ATA. For example, in In re Collins, 258 N.J. 446 (2024), the attorney intentionally deposited entrusted funds, in connection with two client matters, in his ABA rather than his ATA, because he was prohibited from making ATA disbursements without the signature of an OAE-approved cosignatory.¹⁵ In the Matter of John J. Collins, DRB 23-280 (June 17, 2024) at 4, 6. Specifically, the attorney deposited in his ABA \$15,000 in settlement proceeds on behalf of one client and, thereafter, issued two ABA checks (\$5,000 for medical expenses and \$10,000 to the client). In the second client matter, the attorney deposited in his ABA a check in the amount of \$23,246.19 in connection with a client’s divorce

¹⁵ The co-signatory requirement was ordered by the Court in connection with Collins’ reinstatement to the practice of law following a term of suspension in an unrelated disciplinary matter. In re Collins, 228 N.J. 235 (2017).

matter. He then made seven disbursements on the second client's behalf. Id. at 7-8. The attorney also used his ABA for legal fees and personal funds. Id. at 9.

The attorney conceded that he had used his ABA, rather than his ATA, and, further, that he had disbursed funds from his ABA because he wanted to get the funds to his clients as quickly as possible. Id. at 11-12. Based on the foregoing, we acknowledged that commingling typically applies to the improper use of an ATA. However, we concluded that Collins' intentional deposit of client funds into his ABA violated the requirement that an attorney "hold property of clients . . . separate from the lawyer's own property" and, thus, his admitted intentional use of his ABA, in lieu of his ATA, established the commingling violation by clear and convincing evidence. Id. at 25-26, and n.5.

Likewise, here, we conclude that respondent's intentional use of her ABA to hold and disburse entrusted funds, in connection with the Pope Estate matter and on behalf of Kerr, while simultaneously using her ABA to deposit retainers and legal fees in unrelated matters, constituted commingling, in violation of RPC 1.15(a).

RPC 1.15(d) and RPC 8.1(b)

RPC 1.15(d) obligates an attorney to comply with the recordkeeping provisions of R. 1:21-6. Moreover, R. 1:21-6(h) requires an attorney "to

cooperate and to respond completely to questions by the [OAE] regarding all transactions concerning records required to be kept under this rule,” and R. 1:21-6(i) states that an attorney who fails to comply with the Rule’s requirements “in respect of the maintenance, availability and preservation of accounts and records or who fails to produce or to respond completely to [the OAE’s] questions regarding such records as required shall be deemed to be in violation of [RPC] 1.15(d) and [RPC] 8.1(b).”

Here, respondent violated RPC 1.15(d) and RPC 8.1(b) by failing to comply completely, as R. 1:21-6 (h) and (i) expressly require, with the OAE’s exhaustive efforts to obtain her financial books and records, ultimately resulting in her temporary suspension from the practice of law. Further, the OAE’s review of respondent’s limited financial records revealed numerous infractions, including her failure to (1) maintain ABA receipts and disbursements journals; (2) maintain individual client ledger cards; (3) maintain a proper ABA designation; (4) maintain an IOLTA ATA; and (4) conduct proper electronic transfers. Moreover, she failed to cooperate with the OAE, by failing to participate in the medical evaluation, as directed by the Court’s December 9, 2022 Order. Thus, respondent violated RPC 1.15(d) and RPC 8.1(b).

RPC 5.5(a)(1)

We determine to dismiss, however, the charge that respondent violated RPC 5.5(a)(1) which states, in relevant part, that a “lawyer shall not . . . practice law in a jurisdiction where doing so violates the regulations of the legal profession in that jurisdiction.” The OAE alleged that respondent violated this Rule by failing to designate her ATA as an IOLTA account, as R. 1:28A-2 requires, thereby disabling the financial institution’s ability to remit interest to the IOLTA Fund.¹⁶

This RPC, however, has not been applied to attorneys who fail to maintain the appropriate financial accounts while engaged in the practice of law in New Jersey. See In the Matter of Andrew C. Bitar, DRB 23-219 (March 12, 2024) at 16-17 (we declined to find a violation of RPC 5.5(a)(1) based on the attorney’s failure to update his financial institution information within thirty days following his departure from his previous law firm, as R. 1:20-1(c) requires; we reasoned that RPC 5.5(a)(1) had never been applied to attorneys who “merely” fail to update their financial account information), so ordered, 257 N.J. 574 (2024).

¹⁶ R. 1:28A-2(a) provides that “every attorney who practices in this State shall maintain in a financial institution in New Jersey, in the attorney's own name or in the name of a partnership of attorneys, or in the name of the professional corporation or limited liability entity of which the attorney is a member, or in the name of the attorney or partnership of attorneys by whom employed, an IOLTA non-interest-bearing trust account or accounts for all clients' funds that are not placed at interest for the benefit of the client.”

Here, respondent's failure to comply with the IOLTA requirements of R. 1:28A-2 did not result in the Court's issuance of an Order declaring her administratively ineligible to practice law on that basis. If the Court had done so, and if the record established that respondent had practiced law while administratively ineligible, a charge pursuant to RPC 5.5(a)(1) would be appropriate. However, we determine that respondent's failure to maintain an IOLTA account, standing alone, is more aptly addressed by her violation of RPC 1.15(d), and R. 1:21-6(a) in particular, which requires that "[o]ne or more of the trust accounts shall be the IOLTA account or accounts required by Rule 1:28A." Thus, in accord with the hearing panel, we determine to dismiss the RPC 5.5(a)(1) charge.

RPC 8.4(d)

Finally, respondent violated RPC 8.4(d), which prohibits an attorney from engaging in conduct that is prejudicial to the administration of justice, by failing to comply with the Court's December 9, 2022 Order directing her to produce her records to the OAE and to appear for a clinical re-evaluation. Her ongoing failure to comply with the OAE's directives, including the OAE's exhaustive efforts to obtain her financial records and to schedule her clinical re-evaluation, despite a Court Order requiring her to do so, necessitated the OAE's subsequent

filing of a supplemental affidavit in support of respondent's temporary suspension, thereby wasting judicial resources. See In the Matter of AnnMarie F. De Primo, DRB 24-207 (February 28, 2025) (the attorney violated RPC 8.4(d) by failing to comply with the Court's Order directing her to produce her financial records to the OAE, thereby necessitating the OAE's subsequent filing a renewed petition for her suspension), so ordered, 260 N.J. 431 (2025), and In the Matter of Lawrence A. Leven, DRB 20-002 (December 7, 2020) at 5-6 (we sustained an RPC 8.4(d) charge for an attorney who disobeyed two Court Orders by failing to provide the OAE with required financial records, despite repeatedly promising to do so), so ordered, 245 N.J. 491 (2021).

Contrary to the hearing panel, however, we decline to find that respondent separately violated RPC 8.4(d) by failing to appear at the ethics hearing in this matter. Although respondent failed to attend the hearing, she was not charged with having violated RPC 8.4(d) under that theory. Because she was never put on notice of such an allegation, nor afforded the opportunity to mount any defense to it, as due process requires, we cannot consider her subsequent uncharged conduct to support a violation of any RPC charged in the complaint. See R. 1:20-4(b); In re Roberson, 210 N.J. 220 (2012).

In sum, we find that respondent violated RPC 1.15(a); RPC 1.15(d); RPC 8.1(b); and RPC 8.4(d). For the reasons set forth above, we dismiss the charge

that respondent violated RPC 5.5(a)(1). The sole issue left for our determination is the appropriate quantum of discipline for respondent's misconduct.

Quantum of Discipline

Standing alone, commingling personal funds with client funds will be met with an admonition, even if accompanied by other recordkeeping infractions. See In the Matter of David Stuart Bressler, DRB 22-157 (November 21, 2022) (admonition for an attorney who commingled personal funds in his ATA; due to his poor recordkeeping practices, the attorney failed, for two months, to remove his personal funds from his ATA; the attorney also committed several recordkeeping violations, including failing to perform three-way reconciliations, maintaining an improper account designation, and failing to preserve images of processed checks; no prior discipline).

Likewise, recordkeeping irregularities ordinarily are met with an admonition where, as here, they have not resulted in the negligent misappropriation of entrusted funds. The quantum of discipline is enhanced, however, if the attorney fails to cooperate with an arm of the disciplinary system, such as the OAE, which uncovers recordkeeping improprieties in the attorney's ATA and requests additional documents. See e.g., In re Sheller, 257 N.J. 495 (2024) (reprimand for an attorney after a random audit revealed recordkeeping

deficiencies that the OAE previously had identified in a random audit eight years earlier; the attorney failed to cooperate fully with the OAE's investigation, despite the passage of fourteen months and multiple prompts from the OAE; in mitigation, the attorney had no prior discipline in thirty-one-year career and stipulated to his misconduct); In re Wachtel, 257 N.J. 359 (2024) (reprimand for an attorney who failed to provide the OAE with complete financial records and to correct his recordkeeping deficiencies, despite five extensions granted by the OAE; by the date of the parties' stipulation, the attorney still had not provided the OAE with records demonstrating that he had resolved these deficiencies; in mitigation, the attorney had no disciplinary history and his misconduct did not harm any client); In re Schlachter, 254 N.J. 375 (2023) (reprimand for an attorney who committed recordkeeping violations and, for almost a year, failed to comply with the OAE's numerous record requests; ultimately, the attorney provided only a portion of the requested records; although the OAE attempted to help the attorney take corrective action, he remained non-compliant with the recordkeeping Rules; in mitigation, the attorney's misconduct resulted in no harm to his clients and he had no disciplinary history in sixteen years at the bar); In re Tobin, 249 N.J. 96 (2021) (censure for an attorney who, following an OAE random audit that uncovered several recordkeeping deficiencies (including more than \$800,000 in negative client balances), failed to provide the documents

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

Here, respondent's misconduct is most similar to that of the reprimanded attorneys in Sheller, Wachtel, and Schlachter. Further, like those attorneys, respondent has no prior discipline and her misconduct did not result in any demonstrable harm to clients. The aggravating circumstances present in Tobin, which warranted a censure, are not present in this case. Specifically, unlike the attorney in Tobin, who allowed the matter to proceed as a default, respondent filed an answer to the formal ethics complaint. Further, unlike respondent, Tobin had prior discipline.

Based on the foregoing disciplinary precedent, we conclude that the baseline discipline for respondent's misconduct is a reprimand. To craft the appropriate discipline in this case, however, we also consider aggravating and mitigating factors.

In aggravation, respondent has neither complied with the OAE's various requests for information and documents nor participated in the Court-ordered medical evaluation and, thus, remains temporarily suspended from the practice of law.

In mitigation, respondent has an unblemished twenty-seven-year career at the bar, a factor that both we and the Court accord significant weight. In re Convery, 166 N.J. 298, 308 (2001).

In further mitigation, we consider the significant medical issues respondent was experiencing throughout the pendency of this matter. Nevertheless, given the fact that none of her medical documentation identified specific reasons as to why her various medical conditions and treatments made her incapable of participating in the ethics investigation, we accord limited mitigating weight to this factor.

Conclusion

On balance, we determine that the aggravating and mitigating factors are in equipoise and do not warrant a departure from the baseline discipline. Thus, we conclude that a reprimand is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

As conditions to her discipline, we recommend that respondent be required to attend, within sixty days of the Court's disciplinary Order in this matter, a recordkeeping course pre-approved by the OAE. Additionally, we recommend that respondent be required, following her reinstatement to the practice of law, to submit to the OAE, on a quarterly basis, her monthly three-way ATA reconciliations for a period of two years and until further Order of the Court.

Vice-Chair Boyer and Members Hoberman and Petrou were 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 Melissa Franchio-Mingin
Docket No. DRB 25-127

Argued: July 16, 2025

Decided: October 14, 2025

Disposition: Reprimand

Members	Reprimand	Absent
Cuff	X	
Boyer		X
Campelo	X	
Hoberman		X
Menaker	X	
Modu	X	
Petrou		X
Rodriguez	X	
Spencer	X	
Total:	6	3

/s/ Timothy M. Ellis

Timothy M. Ellis
Chief Counsel