DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

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March 24, 2026

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

Re: **<u>In the Matter of David L. Chapman</u>**
Docket No. DRB 26-014
District Docket No. XIV-2021-0086E

Dear Ms. Baker:

The Disciplinary Review Board (the Board) has reviewed the motion for discipline by consent (reprimand or such lesser discipline as the Board deems appropriate) filed by the Office of Attorney Ethics (the OAE) in the above matter, pursuant to <u>R.</u> 1:20-10(b). Following a review of the record, the Board granted the motion and determined that a reprimand is the appropriate quantum of discipline for respondent's violation of <u>RPC</u> 1.5(b) (failing to set forth, in writing, the basis or rate of the legal fee); <u>RPC</u> 1.15(a) (failing to safeguard entrusted funds); <u>RPC</u> 1.15(d) (failing to comply with the recordkeeping requirements of <u>R.</u> 1:21-6); and <u>RPC</u> 8.1(b) (failing to cooperate with disciplinary authorities).

The stipulated facts in this matter are as follows.

On July 19, 2018, Hsiao Lan Fan and TAP Transactional Funding, LLC (TAP) executed a joint venture agreement (the JVA) to acquire real estate in New Jersey to lease for profit. The JVA provided that TAP would (1) acquire the real estate, (2) obtain loans, and (3) facilitate any construction projects. Fan, in turn, would make a $50,000 one-time investment toward the acquisition of the real estate. The JVA required that Fan deposit the $50,000 in investment funds in the attorney trust account (ATA) of TAP's lawyer, following which TAP would use the funds only to acquire the real estate.

Although respondent did not draft or negotiate the JVA, he previously had reviewed real estate contracts for Thomas Setteducato, the president of TAP, who executed the JVA on that entity's behalf. At Setteducato's request, respondent agreed to act as the escrow agent for the $50,000 in investment funds.

On July 26, 2018, Fan electronically transferred $50,000 to respondent's ATA. That same date, respondent disbursed $23,000 of the investment funds to TAP, in furtherance of the joint venture, and $2,000 of the funds to himself, for his legal fee for reviewing Setteducato's proposed real estate contracts associated with the joint venture. Although Setteducato authorized him to make those disbursements, respondent admittedly failed to either review the JVA or request Fan's permission to utilize the investment funds for his legal fee. Indeed, the JVA prohibited the use of the investment funds for any purpose other than acquiring the real estate.

Two weeks later, on August 9, 2018, respondent, at Setteducato's request, electronically transferred the remaining $25,000 in investment funds to TAP.

In or around 2020, following TAP's inability to acquire the real estate in connection with the joint venture, Fan filed a lawsuit, in the Superior Court of New Jersey, naming respondent, Setteducato, and TAP as defendants.

Subsequently, on September 25, 2023, the Superior Court issued a $2,000 judgment in favor of Fan and against respondent, determining that the terms of the JVA had not authorized him to utilize the investment funds for his legal fees. Approximately nineteen months later, on April 11, 2025, the Superior Court issued an order increasing the $2,000 judgment amount to $2,788.64, in order to compensate Fan for the legal fees incurred to recover those funds from respondent. Thereafter, Fan recouped his $2,788.64 in entitled funds.

Based on the above facts, respondent admittedly violated RPC 1.15(a) by failing to safeguard the investment funds for which he had agreed to act as the escrow agent. Specifically, although Setteducato permitted respondent to disburse $2,000 of the escrowed funds for his legal fee, neither Fan nor the JVA authorized him to utilize the investment funds for that purpose. Indeed, in issuing the $2,000 judgment against respondent, the Superior Court determined that the JVA did not permit him to take the investment funds for his legal fee. In the Board's view, respondent's admitted failure to both review the JVA and communicate with Fan regarding the propriety of his disbursement demonstrated a disregard of his fiduciary duty to safeguard the entrusted funds.

Additionally, respondent admittedly violated RPC 1.5(b) by failing to set forth, in writing to Setteducato, the basis or rate of his $2,000 legal fee in connection with his review of the proposed real estate contracts involving the joint venture. Although respondent previously reviewed unrelated real estate contracts for Setteducato, he conceded that he never set forth, in writing, the basis or rate of his fee in connection with those prior legal services, thereby rendering the safe harbor provision of RPC 1.5(b) inapplicable to this matter.[1]

Meanwhile, following an ethics referral filed by Fan's attorney, respondent stipulated that he violated RPC 8.1(b) by failing to adequately cooperate with the OAE's financial audit of his attorney accounts.[2] Specifically, between June 2021 and October 2022, he repeatedly failed to comply with the OAE's numerous directives that he provide his financial records, written explanations regarding his handling of entrusted funds, and information concerning his attorney accounts and the status of Fan's lawsuit. Subsequently, between December 2024 and February 2025, following the reactivation of the investigation from untriable status, he failed to adequately cooperate with the OAE's multiple requests for a written explanation regarding his ATA transactions connected to the joint venture.

Throughout the investigation, respondent routinely failed to provide the OAE with all the required documents, despite having expressed his commitment

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[1] Pursuant to RPC 1.5(b), the basis or rate of the legal fee must be set forth in writing "[w]hen the lawyer has not regularly represented the client."

[2] Between November 2022 and December 2024, the OAE placed the disciplinary investigation on "untriable status," pending the outcome of Fan's lawsuit.

to cooperate. At times, he attributed his non-compliance to technological issues or an inability to locate his records, even though he was required, by Court Rule, to maintain and preserve those records for inspection. Frequently, respondent belatedly replied to the OAE's correspondence, often providing only some of the requested materials, despite the OAE according him multiple extensions and reminding him of his obligation to cooperate. On these undisputed facts, the Board concluded that respondent failed to cooperate fully with the OAE, requiring approximately eighteen total months of active investigation.

Finally, respondent admittedly violated RPC 1.15(d) by failing to maintain (1) proper attorney account designations; (2) individual client ledgers and a ledger for law firm funds held for bank charges; (3) adequately descriptive deposit slips; and (4) client identification information on checks, as R. 1:21-6 collectively requires. He also commingled personal funds in his ATA and made improper electronic transfers of ATA funds, as the recordkeeping Rules prohibit. Respondent corrected most of the foregoing recordkeeping deficiencies following the OAE's financial audit; however, as of January 12, 2026 – the date of the stipulation of discipline by consent – he had failed to demonstrate that he maintains an ATA ledger for attorney funds held for bank charges.

Absent serious aggravation or the presence of knowing misappropriation, the improper disbursement of entrusted funds typically results in an admonition or a reprimand. See In re McKenna, 258 N.J. 398 (2024) (admonition for an attorney who, while acting as an escrow agent, improperly disbursed his $54,312.25 legal fee from $800,000 in escrowed funds; although the attorney's clients consented to the disbursement of his fee, the attorney failed to obtain such authorization from either the Superior Court or the other parties who held an interest in the funds; in mitigation, eight years had elapsed since the single improper disbursement; no prior discipline), and In re DeClement, 214 N.J. 47 (2013) (reprimand for an attorney who improperly released $18,000 of the $75,000 in escrowed funds in connection with a joint venture between his client and a third party, without the third party's authorization; no escrow provision governed the attorney's actions, but the $75,000 escrow check identified the funds as an escrow deposit, and the joint venture agreement identified the lawyer as the "escrow attorney;" the attorney never received the joint venture agreement, and he improperly relied on his client's assurance that he could use some of the escrow funds to cover joint venture expenses; no prior discipline).

The quantum of discipline is enhanced, however, if additional aggravating factors are present. See In re Alfano, 238 N.J. 239 (2019) (censure for an attorney who, while acting as an escrow agent for $40,000 that a third party had advanced to her client, agreed to disburse those funds to the third party upon the closing of title to a real estate transaction; the attorney, without seeking authorization from the third party or confirmation that the business arrangement between the client and the third party had been modified, disbursed the entire escrow amount to various parties, pursuant to the client's instructions, for the client's benefit; the attorney's wholesale reliance on her client's representations was reckless; additionally, upon realizing that she had acted improperly, the attorney made egregious misrepresentations to her adversary, in an effort to conceal her wrongdoing or salvage the situation; in aggravation, the adversary suffered serious economic harm as a result of the attorney's actions; prior admonition for nearly identical misconduct).

Respondent also failed to cooperate with the OAE's investigation of his financial records, which uncovered recordkeeping deficiencies. Attorneys who fail to cooperate with financial audits that reveal recordkeeping infractions typically receive reprimands or censures, even if accompanied by violations of RPC 1.5(b) and RPC 1.15(a). See, e.g., In re D'Agostino, 261 N.J. 536 (2025) (reprimand for an attorney who, several years after a prior random audit, again failed to maintain compliant records and, thereafter, failed to demonstrate that he had rectified his deficiencies, in violation of RPC 8.1(b); the attorney also engaged in commingling and committed negligent misappropriation by invading entrusted funds for more than twenty months in connection with eight client matters; the attorney's unresolved recordkeeping errors included maintaining client ledgers with negative balances; no prior discipline); 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; no prior discipline); In re Hu, 261 N.J. 524 (2025) (censure for an attorney who failed to adequately cooperate with the OAE's financial audit, which uncovered serious recordkeeping deficiencies, including maintaining more than $800,000 in inactive ATA funds; the attorney also committed at least twelve violations of RPC 1.5(b) and commingled substantial sums of earned legal fees and costs with entrusted funds; despite the OAE's intervention, the attorney failed to correct many of his serious recordkeeping errors; in aggravation, a 1998 random audit uncovering similar infractions gave the attorney a heightened awareness of his recordkeeping obligations; no prior discipline).

Here, like the admonished attorney in McKenna and the reprimanded attorney in DeClement, respondent, with his client's permission, improperly utilized $2,000 of the escrowed funds for his legal fee, without securing Fan's authorization or reviewing the JVA. In addition to his improper disbursement of his legal fee, he disbursed $48,000 of the escrowed funds to TAP, at the sole direction of his client. Although the JVA, fortunately, did not appear to prohibit the disbursements to TAP, respondent's failure to both review the JVA and secure Fan's authorization before making such disbursements placed those entrusted funds at risk of misuse.

Compounding his misconduct, respondent's disregard of his fiduciary duty forced Fan to institute litigation to recover the $2,000 in improperly disbursed investment funds. Nevertheless, unlike the censured attorney in Alfano, respondent's actions did not appear to result in any ultimate harm to Fan, who, in 2025, recovered $2,788.64 from respondent, a sum comprising both the improper disbursement amount and the fees and costs Fan had incurred to recoup those funds.

Additionally, like the reprimanded attorneys in D'Agostino and Schlachter, respondent failed, for approximately eighteen total months, to adequately cooperate with the OAE's financial audit, which uncovered recordkeeping deficiencies. However, unlike D'Agostino, whose invasion of entrusted funds spanned more than twenty months and impacted multiple clients, respondent's violation of RPC 1.15(a) was limited to a single improper disbursement that occurred nearly eight years ago, as occurred in McKenna.

Moreover, in contrast to the attorney in Schlachter, who failed to make any meaningful effort to correct his recordkeeping errors and allowed his non-cooperation with the OAE to persist, respondent, eventually, cooperated with the OAE and rectified most of his recordkeeping errors. Further, unlike D'Agostino and the censured attorney in Hu, who both had a heightened awareness of their recordkeeping obligations as a result of prior random audits, this matter marks respondent's first encounter with the disciplinary system in his otherwise blemished twenty-nine-year career at the bar, a factor that the Board and the Court consistently have accorded considerable weight. See In re

Convery, 166 N.J. 298, 308 (2001). Finally, respondent stipulated to his misconduct and, thus, conserved disciplinary resources.

Consistent with disciplinary precedent, the Board determined that a reprimand is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar. In addition, in light of respondent's recordkeeping errors, the Board determined to adopt the parties' proposed conditions to discipline and, thus, recommended that respondent be required to (1) complete an OAE-approved recordkeeping course, at a date set by the OAE, and (2) provide the OAE with monthly reconciliations of his attorney accounts, on a quarterly basis, for two years.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated January 12, 2026.

2. Stipulation of discipline by consent, dated January 12, 2026.

3. Affidavit of consent, dated December 31, 2025.

4. Ethics history, dated March 24, 2026.

Very truly yours,

/s/ Timothy M. Ellis

Timothy M. Ellis
Chief Counsel

TME/knd
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)
Corsica D. Smith, Deputy Ethics Counsel
Office of Attorney Ethics (e-mail)
David L. Chapman, Respondent (e-mail and regular mail)