DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

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March 26, 2026

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

Re: **In the Matter of David A. Faloni, Jr.**
Docket No. DRB 26-012
District Docket Nos. XIV-2020-0402E and XIV-2022-0328

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 R. 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 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).

Previously, on May 10, 2024, the Court reprimanded respondent for his violation of RPC 1.4(c) (failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation) and RPC 1.5(b) (failing to set forth, in writing, the basis or rate of the legal fee). In re Faloni, 257 N.J. 226 (2024). In that matter, in connection with three client matters, he failed to communicate with clients regarding their estate plans and, thus, left them without a means to make informed decisions. Moreover, he failed to set forth the basis or rate of his legal fee in connection with his representation of the clients.

The stipulated facts in this matter are as follows.

During all or part of the relevant timeframe, respondent maintained the following attorney accounts at TD Bank: (1) for the law firm Faloni Law Group, LLC, attorney trust accounts (ATAs) ending in -1706, -1756, -1764, and -8279, an Interest on Lawyers Trust Account (IOLTA) attorney trust account, and an attorney business account (ABA) ending in -8310;[1] and (2) for the law firm Faloni & Associates, LLC, an ABA ending in -7611, among other accounts. During the investigations underlying this matter, he closed several of his TD Bank accounts and opened attorney financial accounts at M & T Bank; however, none of the instant charges relate to his M & T accounts.

In October 2020, the OAE docketed an investigation of respondent's attorney accounts after it discovered recordkeeping irregularities while investigating the unrelated misconduct that ultimately gave rise to his 2024 discipline.

By letter dated January 20, 2021, the OAE advised respondent that it previously had sent him letters regarding the investigation and directed him to provide, no later than February 1, 2021, documented replies to deficiencies identified in his attorney financial accounts, as well as specified financial books and records for the period January 1, 2013 to October 23, 2020. Thereafter, respondent's counsel called the OAE, explained that respondent had not received the previous letters, and stated that respondent would submit the requested materials. Nevertheless, respondent failed to provide them by the deadline.

Accordingly, on February 8, 2021, the OAE wrote to respondent's counsel, advising that the requested documents were due immediately. Two days later, respondent, via counsel, advised the OAE that he had experienced delays due to the COVID-19 pandemic. Soon after, he submitted his initial responses to the OAE. In March 2021, he submitted additional materials.

[1] The stipulation also refers to an ATA ending in -8589, without further details.

By letter dated May 11, 2021, the OAE advised respondent that several items remained outstanding and requested further information. The OAE set a due date of June 2, 2021 for his response. He failed to comply.

By letter dated June 30, 2021, the OAE advised respondent that the outstanding materials were due immediately. The OAE also directed him to appear for a demand audit. On July 1, 2021, he submitted his replies to the OAE's requests. He subsequently made other submissions, as well.

Based on a September 15, 2021 demand audit and the OAE's review of respondent's written submissions, the OAE determined that respondent had failed to address numerous of its noted deficiencies and document requests. Specifically, he failed to explain (1) the August 2013 deposit, in his ABA, of a check for $9,000 from an ATA (later identified by the OAE as an account maintained by his father, David A. Faloni, Esq., who had issued the check), and (2) a January 2016 electronic transfer of $11,520 from his ATA to his ABA (later identified by the OAE as corresponding to two payments that he erroneously had deposited in his ATA rather than his ABA). Further, the OAE identified the following recordkeeping deficiencies: (1) improper designations of ABAs; (2) failure to retain client records and files for seven years; (3) improper maintenance of special fiduciary funds in his ATA; (4) client ledger cards that were not fully descriptive; and (5) improper electronic transfers from his ATA.

Respondent admittedly failed to correct the above recordkeeping deficiencies for almost two years following the demand audit.

In the interim, in September 2022, the OAE docketed a second investigation after it received notice of an August 4, 2022 overdraft of one of respondent's ATAs. When contacted by the OAE for further information, respondent explained that the overdraft had resulted when TD Bank erroneously paid the same $420 check twice.

On January 5, 2023, the OAE conducted a demand audit of respondent's financial books and records for the period August 2021 through November 2022, which revealed that he had yet to rectify a number of deficiencies. Moreover, he had made nine more electronic transfers from his ATA without proper authorization, even though the OAE previously had informed him that such transfers violated the recordkeeping Rules.

Subsequently, in March 2023, respondent made further submissions to the OAE. In May 2023, the OAE asked for additional information and records, which he provided between then and September 2023.

The OAE's review of respondent's financial books and records for the period August 2021 to November 2022 revealed the following recordkeeping deficiencies: (1) improper ATA and ABA designations; (2) improper electronic transfers from respondent's ATA; (3) improper monthly three-way reconciliations of ATAs; (4) failure to maintain individual ledger cards for each client; (5) failure to maintain ATA and ABA disbursements and receipts journals; and (6) improper images of processed ATA checks.

As of September 7, 2023, respondent had brought his financial records into compliance with R. 1:21-6.

Based on the above facts, the parties stipulated that respondent violated RPC 1.15(d) and RPC 8.1(b). Specifically, he violated RPC 1.15(d) by failing to comply with the recordkeeping provisions of R. 1:21-6, and RPC 8.1(b) by failing to produce complete and corrected financial records to the OAE.

In the absence of negligent misappropriation, recordkeeping infractions ordinarily result in an admonition. The quantum of discipline is enhanced, however, if the attorney also fails to cooperate with the OAE's investigation of improprieties in a trust account, fails to correct recordkeeping deficiencies previously brought to the attorney's attention, or both. See, e.g., In re Barrett, 258 N.J. 550 (2024) (reprimand for an attorney who committed recordkeeping violations notwithstanding his heightened awareness of his recordkeeping obligations; despite the OAE's exhaustive efforts, over a prolonged period, the attorney failed to fully cooperate with the investigation or to bring his ATA reconciliations into compliance with R. 1:21-6; prior reprimand); In re Hopkins, 258 N.J. 519 (2024) (reprimand for an attorney after a random audit uncovered numerous recordkeeping violations; the attorney also failed to cooperate fully with the OAE's investigation, which spanned more than three years, despite the OAE's repeated efforts to accommodate him; at the time he entered the disciplinary stipulation, his records remained noncompliant; no prior discipline in thirty-three-years at the bar); In re Sheller, 257 N.J. 495 (2024) (reprimand for an attorney after a random audit revealed recordkeeping deficiencies, despite his heightened awareness due to the OAE previously identifying deficiencies in a random audit eight years earlier; the attorney failed to cooperate 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 and stipulated to his misconduct).

Based on the foregoing disciplinary precedent, the Board determined that the baseline level of discipline for respondent's misconduct is a reprimand. To craft the appropriate discipline in this case, however, the Board also considered mitigating and aggravating factors.

In mitigation, respondent's misconduct did not harm any clients. Moreover, he entered into the present disciplinary stipulation, thereby conserving disciplinary resources, and he ultimately brought his books and records into compliance with the recordkeeping Rules.

In aggravation, respondent failed to correct recordkeeping deficiencies that the OAE previously brought to his attention in 2020. However, this factor was considered in setting the baseline discipline and, thus, the Board did not accord it additional aggravating weight.

In further aggravation, the Board also considered the timeline of respondent's prior discipline. As stated above, in 2024, respondent was reprimanded for misconduct unrelated to the instant matter. However, the conduct at issue here predated that reprimand. Accordingly, the concept of progressive discipline does not apply.[2]

Importantly, respondent's misconduct in the instant matter differed from the misconduct underpinning his 2024 disciplinary matter. Thus, notwithstanding the overlapping timeframes, respondent's 2024 reprimand would not have served as a global sanction for his misconduct, had the matters been consolidated for the Board's review and imposition of discipline.

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

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[2] The Court has signaled an inclination toward progressive discipline and the stern treatment of repeat offenders. In such scenarios, enhanced discipline is appropriate. See In re Kantor, 180 N.J. 226 (2004) (disbarment for abandonment of clients and repeated failure to cooperate with the disciplinary system).

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 22, 2025.

4. Ethics history, dated March 26, 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)
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