SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 25-261
District Docket No. XIV-2024-0131E

In the Matter of Harvey H. Gilbert
An Attorney at Law

Argued
February 19, 2026

Decided
April 13, 2026

Tara L. Hanna appeared on behalf of the
Office of Attorney Ethics.

Mark D. Miller 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 disciplinary stipulation between the Office of Attorney Ethics (the OAE) and respondent. Specifically, respondent stipulated to having violated RPC 1.15(b) (failing to promptly deliver funds to a client or third person entitled to receive them) and RPC 1.15(d) (failing to comply with the recordkeeping requirements of R. 1:21-6).

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

Ethics History

Respondent earned admission to the New Jersey bar in 1971, to the Illinois bar in 1970, and to the New York bar in 1980. During the relevant timeframe, he maintained a practice of law in Morristown, New Jersey. He has prior discipline in New Jersey.

Gilbert I

On July 2, 1996, the Court reprimanded respondent, on a motion for discipline by consent, for his negligent misappropriation of $10,303.23 in client funds, recordkeeping infractions (including the commingling of earned fees in his trust account), and failure to properly supervise his employees in connection with their maintenance of his trust and business accounts, in violation of RPC 1.1(a) (engaging in gross neglect); RPC 1.15(a) (commingling); RPC 1.15(d); RPC 5.3(a) and (b) (failing to supervise nonlawyer staff); and RPC 5.3(c) (rendering a lawyer responsible for the conduct of nonlawyer staff which would violate the RPCs if committed by the lawyer). In re Gilbert, 144 N.J. 581 (1996) (Gilbert I).

Gilbert II

Effective August 11, 1999, the Court suspended respondent for three months for his failure to promptly pay funds to, and his failure to respect the rights of, a third person, in violation of RPC 1.15(b) and RPC 4.4, respectively. In re Gilbert, 159 N.J. 505 (1999) (Gilbert II).

In that matter, respondent represented a recently divorced client in connection with her post-divorce purchase of an apartment in Manhattan. In the Matter of Harvey H. Gilbert, DRB 98-281 (December 11, 1998) at 2. At the time of the representation, his client still was living with her ex-husband, who was hoping to facilitate a prompt end to their cohabitation. Ibid. The client's ex-husband agreed to loan the client a sum of $6,400, sufficient to pay the total deposit amount necessary for her to proceed with the acquisition. Ibid. Despite respondent's written "assurance," to both his client and her ex-husband, that he would return the loaned funds in the event of the cancellation of the purchase agreement, we determined that he improperly retained and asserted a lien on the loaned funds, thereby effectively "holding them 'hostage,' as the DEC found, to induce [his client] to pay his outstanding legal fee." Id. at 11.

Effective November 24, 1999, the Court restored respondent's license to practice law. In re Gilbert, 162 N.J. 57 (1999).

Facts

On October 17, 2025, respondent and the OAE entered into a disciplinary stipulation setting forth the following facts in support of respondent's admitted ethics violations.

During the relevant period, respondent maintained an attorney trust account (ATA), an attorney business account (ABA), and a payroll account (PA) through ConnectOne Bank. His ATA included multiple sub-accounts, each of which featured distinct account numbers and designations.

On March 18, 2024, ConnectOne Bank notified the OAE of a March 15, 2024 overdraft, in the amount of $79,054.97, in one of respondent's ATA sub-accounts (designated "Escrow for 7 Boulderwood LLC"). The bank further informed the OAE that the overdraft occurred because respondent had "put the wrong sub-account number on the check."

The next day, March 19, 2024, ConnectOne Bank notified the OAE of a March 18, 2024 overdraft, in the amount of $5,082.80, in respondent's primary ATA. According to the bank, the overdraft was the result of "a returned deposited item hitting after all the daily work processed."

Consequently, the OAE commenced an investigation and notified respondent that it had scheduled a demand audit for September 26, 2024.

On June 5, 2024, prior to the scheduled demand audit, respondent participated in a trust and business accounting course, administered by the OAE, in connection with an unrelated investigation stemming from recordkeeping infractions and failing to return client funds.

The OAE's September 2024 demand audit revealed the following recordkeeping deficiencies in his accounts:

a. Inactive ATA balances,

b. Old and outstanding checks drawn from his ATA, and

c. Improper imaging of checks processed from his ABA.

More specifically, as detailed in the following two tables, the OAE's investigation revealed five ATA checks that remained outstanding, as well as ten ATA sub-accounts with inactive balances.

OUTSTANDING ATA CHECKS			
Sub-Account Number & Client Name	**Check Issue Date**	**Check Number**	**Check Amount**
X4272 – Reece	11/12/2023	Check No. 6140	$212.80
X4529 – 270-274 Irvington LLC	11/3/2023	Check No. 6137	$1,558.23
	11/3/2023	Check No. 6138	$1,556.26
	11/3/2023	Check No. 6139	$6,482.76
X4777 – Nagim	11/3/2023	Check No. 6277	$6,630.93

INACTIVE ATA BALANCES		
Sub-Account Number & Designation/Client Name	**Last Transaction Date**	**Remaining Inactive Balance**
X3679 – Kolla	9/30/2020	$358.42
X4551 – Alberto	8/31/2020	$480.77
X4567 – Reyes & Niszczak	6/30/2021	$500
X4645 – Parisi Builders	12/3/2020	$2,693.56
X4649 – Dubinsky	12/6/2020	$500
X4682 – Gilbert	12/31/2021	$2,650
X4747 – Hayek	10/31/2023	$110
X4750 – The Crossroads at Asbury Park	10/31/2023	$5.80
X4755 – Gilbert	10/31/2023	$3,177.61
X4272 – Reece	11/13/2023	$287.20

The parties further stipulated that, although the OAE had notified respondent, in connection with its unrelated 2024 investigation, that he needed to correct six of the above-listed inactive client balances (specifically, those balances remaining from 2020 and 2021), he failed to do so, despite his assurances that he would.

On October 2, 2024, the OAE notified respondent of the foregoing recordkeeping deficiencies and directed him to provide written confirmation of the corrective actions he had undertaken to address each deficiency, and to produce certain financial records, by November 1, 2024. Respondent, however, failed to reply.

On January 15, 2025, the OAE sent another letter to respondent, informing him that his reply remained outstanding, and warning him that his failure to submit the requested information and records, by January 31, 2025, could result in the OAE's filing of a motion for his temporary suspension.

On January 28, 2025, respondent sent a letter to the OAE, addressing the recordkeeping deficiencies and apologizing for his delayed reply. He claimed that he had been "organizing the sale of the building in which my practice was located and transitioning to . . . a home office," which contributed to the delay. He further stated that he had been hospitalized for several days during the immediately preceding two-week period.

Regarding the recordkeeping deficiencies, respondent informed the OAE that he had contacted ConnectOne Bank to formally request the correction of his ABA account statements. He acknowledged, however, that additional corrective action was needed to fully resolve his outstanding ATA checks. However, he explained that check numbers 6137, 6138, and 6139 had been contemporaneously issued, on November 3, 2023, from the Irvington LLC sub-account to the Township of Millburn, but had been lost in the mail, due to a change in the township office's address. Consequently, he asserted that those checks had been voided.

Respondent further asserted that check number 6277, though cited in the OAE's October correspondence, had not actually issued from the Nagim sub-account and was, in fact, not outstanding. Instead, he represented that check number 6277 had been issued to a different client (Buono), in the amount of $9,916.67, and had been properly processed. He admitted, however, that a different check had been issued from the Nagim sub-account to the Township of Millburn, on November 3, 2023, in the amount of $6,679.05. He explained that, because that check was never negotiated, it also had been voided.

Respondent failed to identify any corrective action he had taken to resolve check number 6140, which apparently had been issued, on November 12, 2023, from the Reece sub-account.

Respondent additionally described the corrective actions that he had taken, and was currently undertaking, to resolve the ten inactive ATA balances, as follows:

Subaccount Number & Client Name	**Remaining Client Balance**	**Corrective Actions Taken to Resolve Remaining Client Balance**
X3679 – Kolla	$358.42	"I am preparing an Affidavit of Unclaimed Funds to the Superior Court . . . [and]

		expect to mail the Affidavit to the Court within the next seven days."[1]
X4551 – Alberto	$480.77	"These funds have been sent to the client."
X4567 – Reyes & Niszczak	$500.00	"These funds have been sent to the client."
X4645 – Parisi Builders	$2,693.56	"$2,543.56 of the funds were disbursed to the lender as the Borrower was credited the amount as part of the loan payoff. $150 was disbursed to the firm for [the] administrative fee [due] under the terms of the loan."
X4649 – Dubinsky	$500.00	"A review of the closing statement revealed this was part of this firm's legal fee paid at my engagement. The funds were declared as POC on the closing statement."
X4682 – Gilbert	$2,650.00	"This is an active trust account holding a security deposit for a rental property."
X4747 – Hayek	$110.00	"Funds were paid to the firm for reimbursement of filing fees."
X4750 – The Crossroads at Asbury Park	$5.80	"The funds were disbursed to the lender as the Borrower was credited the amount as part of the loan payoff."
X4755 – Gilbert	$3,177.61	"This is an active trust account holding a security

[1] R. 1:21-6(j) permits an attorney to release unclaimed and unidentified trust account funds to the Superior Court Trust Fund if certain conditions are met.

		deposit for a rental property."
X4272 – Reece	$287.20	"I am preparing an Affidavit of Unclaimed Funds to the Superior Court …. [and] expect to mail the Affidavit to the Court within the next seven days."

Respondent also attached, to his January 2025 reply, copies of the letters he sent to his clients enclosing the required disbursements.[2] He further represented that he would provide the OAE with copies of the Affidavits of Unclaimed Funds, "when those [affidavits] are sent to the Superior Court."

According to the stipulation, respondent subsequently indicated, in his verified answer to the formal ethics complaint, that "[his] inactive balances have been resolved," as described in the following table.

Subaccount Number & Client Name	**Remaining Client Balance**	**Corrective Actions Taken to Resolve Remaining Client Balance**
X3679 – Kolla	$358.42	Funds were submitted to and accepted by the Superior Court Trust Fund, as unclaimed.
X4551 – Alberto	$480.77	$480.77 check was sent to client on 1/23/25.
X4567 – Reyes & Niszczak	$500.00	$500.00 check was sent to client on 1/23/25.
X4645 – Parisi Builders	$2,693.56	$2,543.56 was disbursed to lender on 1/23/25; $150.00

[2] Although respondent's January 28, 2025 letter to the OAE was included in the record before us, the letters appended to that letter were not included.

		was disbursed to firm for administrative fee.
X4649 – Dubinsky	$500.00	$500.00 fee was disbursed to firm, per closing statement, on 1/23/25.
X4682 –Gilbert	$2,650.00	No corrective disbursement of funds was made from this sub-account, because it is an active trust account holding a security deposit.
X4747 – Hayek	$110.00	$110.00 was paid to firm for reimbursement of filing fees.
X4750 – The Crossroads at Asbury Park	$5.80	$5.80 was disbursed to lender on 1/23/25.
X4755 – Gilbert	$3,177.61	No corrective disbursement of funds was made from this sub-account, because it is an active trust account holding a security deposit.
X4272 – Reece	$287.20	Funds were rejected by the Superior Court Trust Fund, and respondent has been directed to resolve the disputed funds by interpleader action.

According to the stipulation, respondent also confirmed, in his verified answer, that he successfully voided and reissued all his outstanding ATA checks, and that ConnectOne Bank had corrected the improper images of his ABA checks.

Based on the foregoing facts, the parties stipulated that respondent had violated RPC 1.15(b) and RPC 1.15(d).

The Parties' Positions Before the Board

The OAE recommended the imposition of an admonition or a reprimand for respondent's misconduct. The parties further urged us to recommend, as a condition of discipline, that respondent be required to submit proof to the OAE that he had corrected all remaining recordkeeping deficiencies, including proof that all inactive balances were cleared and that all reissued ATA checks were negotiated.

Citing relevant precedent, discussed below, the parties noted that, in the absence of negligent misappropriation, recordkeeping violations ordinarily are met with an admonition. However, the parties acknowledged that greater discipline may be imposed if the attorney has committed other ethics infractions, has a disciplinary history, or has failed to remedy previously identified recordkeeping deficiencies. The parties further noted that an attorney's failure to deliver funds to a client or third party, even when accompanied by other ethics infractions, ordinarily warrants an admonition or reprimand.

In recommending the imposition of discipline no greater than a reprimand, the parties highlighted the fact that respondent's recordkeeping infractions did not result in a negligent misappropriation of entrusted funds and, further, that the total amount of inactive client funds in his ATA did not exceed $5,000.

The parties further noted, in mitigation, that respondent stipulated to his misconduct, fully cooperated with the OAE's investigation in this matter, and undertook prompt and appropriate action to correct his identified recordkeeping deficiencies.

In aggravation, the parties acknowledged that, of the ten total inactive ATA balances revealed by the instant investigation, six previously had been identified by the OAE, in early 2024. Despite respondent's assurance to the OAE, at that time, that he would take prompt action to address those six balances, he failed to do so. The parties further noted that, based on his prior contacts with the OAE, respondent clearly had a heightened awareness of his recordkeeping obligations.

Analysis and Discipline

Violations of the Rules of Professional Conduct

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

Respondent violated RPC 1.15(d) by failing to conform his recordkeeping practices to the requirements of R. 1:21-6. Specifically, he failed to ensure that his image-processed checks for his ABA were compliant with the recordkeeping

Rules. He also retained inactive ATA balances for a prolonged period and allowed several checks to remain outstanding for more than a year.

Next, respondent violated RPC 1.15(b), which requires an attorney to "promptly deliver to the client or third person any funds of other property that the client or third person is entitled to receive," by allowing at least $4,935.81[3] in entrusted funds to languish, for years, in his ATA. Specifically, of the inactive funds retained in respondent's various ATA sub-accounts, he admittedly owed and disbursed a total of $980.77 (from ATA sub-accounts X4551 and X4567) to the clients named on those sub-accounts, and he admittedly owed and disbursed a total of $2,549.36 (from ATA sub-accounts X4645 and X4750) to entitled third-party lenders.[4] Furthermore, despite the OAE's directive in early 2024, in connection with another investigation, to correct three of the four sub-account balances (which, together, included $3,524.33 in inactive client and third-party funds), he failed to disburse those funds to the entitled parties until early 2025, in connection with the OAE's investigation in the instant matter.

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[3] This total does not include the two balances that were held in sub-accounts X4682 and X4755, which were determined to constitute actively held security deposits.

[4] According to the stipulation, a total of $760.00 (from sub-accounts X4645, X4649, and X4747) was owed and disbursed to respondent's firm, for administrative and filing fees; a total of $358.42 (from sub-account X3679) was accepted by the Superior Court Trust Fund, as unclaimed; and a total of $287.20 (from sub-account X4272) was rejected by the Superior Court, based on its determination that the funds were disputed.

In sum, we find that respondent violated RPC 1.15(b) and RPC 1.15(d). The sole issue left for determination is the appropriate quantum of discipline for respondent's misconduct.

Quantum of Discipline

In the absence of negligent misappropriation, recordkeeping infractions ordinarily result in an admonition, even when accompanied by violations of RPC 1.15(b). However, a reprimand is imposed if the attorney has failed to correct recordkeeping deficiencies previously brought to the attorney's attention. See, e.g., In re Sheller, 257 N.J. 495 (2024) (a random compliance audit of the attorney's financial records revealed recordkeeping deficiencies that the OAE had identified in a random audit eight years earlier; the second random audit revealed more than twenty deficiencies; the attorney also failed to cooperate with the OAE's investigation despite four specific prompts from the OAE; in mitigation, the attorney had no prior discipline in thirty-one years at the bar and stipulated to his misconduct); Polcari, 255 N.J. 403 (reprimand for an attorney who violated recordkeeping requirements and also failed to timely disburse more than $27,000 to her clients; in aggravation, the attorney had a heightened awareness of her obligations under R. 1:21-6, having previously been the subject of a random compliance audit; no prior discipline in thirty-seven years at the bar); Abdellah, 241 N.J. 98 (reprimand for an attorney who should have been mindful of his recordkeeping obligations based on a prior interaction with the OAE regarding his recordkeeping, although that interaction had not led to disciplinary charges; no prior discipline in thirty-six years at the bar).

Where an attorney's prior recordkeeping deficiencies were not only previously brought to the attorney's attention but also resulted in the imposition of prior discipline, a reprimand or censure has resulted. See, e.g., In re Michals, 224 N.J. 457 (2015) (reprimand for an attorney who previously had received an admonition for several of the same recordkeeping violations and for negligent misappropriation); In re Colby, 193 N.J. 484 (2008) (reprimand for an attorney who previously had received a reprimand for several of the same recordkeeping violations and for negligent misappropriation); In re Druz, 231 N.J. 190 (2017) (censure for an attorney who previously received a reprimand and an admonition for the same recordkeeping violations).

Similarly, we recently weighed an attorney's repeated violation of the recordkeeping requirements in In the Matter of Michael P. Balint, DRB 25-175 (September 23, 2025) at 6-7, so ordered, 262 N.J. 378 (2025). In recommending a censure, we considered (among other aggravating factors) that, in 2002, the attorney was reprimanded for substantially similar infractions. Ibid. (citing In re Balint, 172 N.J. 408 (2002)). Further, in his 2002 matter, as a condition to his discipline, the Court had required the attorney to submit quarterly ATA reconciliations to the OAE, for one year, until further Order of the Court. Id. at 6. Nevertheless, subsequently, he once again failed to comply with his recordkeeping responsibilities and, consequently, allowed substantial sums of unidentified and inactive funds to amass in his ATA, including more than $150,000 that he could not identify at the outset of a 2023 random audit. Ibid.

Likewise, on April 1, 2026, we transmitted to the Court our decision In the Matter of Maury R. Winkler, DRB 25-254 (April 1, 2026), in which we weighed an attorney's repeated failure to comply with the recordkeeping requirements of R. 1:21-6, notwithstanding the OAE's repeated intervention.[5] In recommending a censure, we considered that the attorney, in aggravation, had failed to learn from the OAE's prior random audits and, additionally, had received two prior reprimands – respectively imposed in 2003 and in 2006 – for misconduct that included similar recordkeeping infractions. We also found it significant that the attorney, in connection with his 2006 reprimand, had completed an OAE-approved recordkeeping course and provided the OAE with quarterly account reconciliations, prepared by a certified public accountant, for a period of two years. Nevertheless, as revealed by a subsequent OAE audit, by

[5] Our decision in Winkler remains pending with the Court.

2021, the attorney was no longer preparing quarterly account reconciliations and had accumulated over $27,000 in unidentified funds in his ATA – more than $24,000 of which was determined to belong to four clients and the rest of which remained unidentified. Id. at 22.[6]

Here, like the attorneys in Balint and Winkler, respondent should have been acutely aware of his recordkeeping obligations, due to his previous interactions with the disciplinary system for similar misconduct and, more recently, his 2024 attendance at an OAE-administered trust and accounting course, following an unrelated investigation of his books and records. Indeed, as a result of the unrelated investigation, respondent was on notice that he had recordkeeping deficiencies to address, yet failed to promptly remediate those deficiencies, six of which remained unresolved at the time of the OAE's September 2024 demand audit in the instant matter.

Based upon the foregoing disciplinary precedent, Winkler and Balint in particular, we determine that a censure is the baseline discipline for respondent's misconduct. To craft the appropriate discipline in this matter, however, we also

[6] In mitigation, we considered that the attorney: (1) had fully rectified all deficiencies identified in the OAE's 2021 audit, and had no client funds then remaining in his ATA; (2) had retained a CPA to help prepare his monthly three-way reconciliations and other required records; (3) had completed several CLE courses on attorney trust accounting; (4) had expressed remorse, apologized, and accepted responsibility for his misconduct; (5) had engaged in significant pro bono work and provided significant services to the community; (6) had presented testimony and letters speaking to his good reputation and character; and (7) had represented that he had altered his real estate practice, so as to no longer hold buyers' deposits in escrow. Id. at 22-23.

consider mitigating factors and aggravating factors.

In aggravation, respondent has a disciplinary history consisting of a reprimand and a three-month suspension, in 1996 and 1999, for similar misconduct. Specifically, in 1996, he was reprimanded for recordkeeping violations, including negligent misappropriation and commingling funds. Three years later, in 1999, the Court suspended him for three months for failing to promptly deliver funds to an entitled third party. However, we considered respondent's prior discipline and past interactions with the disciplinary system in setting the baseline at a censure and, thus, do not accord additional weight to those factors.

In further aggravation, despite being informed, in early 2024, about the need to remediate six of his inactive ATA balances, respondent nevertheless failed to do so. In re Silber, 100 N.J. 517 (1985) (the attorney's failure to remediate conduct despite opportunities to do so considered in aggravation). This factor also was considered in setting the baseline and, thus, we do not it accord additional weight

In mitigation, respondent stipulated to his misconduct thereby conserving disciplinary and judicial resources. See In the Matter of John L. Conroy, Jr., DRB 23-142 (September 22, 2023) at 2 (viewing, in mitigation, the attorney's entry into a disciplinary stipulation), so ordered, 256 N.J. 169 (2024).

Conclusion

On balance, we determine that the mitigating factor does not warrant a downward departure from the baseline and, thus, conclude that a censure remains the appropriate quantum of discipline necessary to protect the public and preserve the integrity of the bar.

In addition, as a condition to his discipline, we recommend that respondent be required to submit proof to the OAE, within ninety days of the Court's disciplinary Order in this matter, that he has corrected the remaining recordkeeping deficiencies identified in the stipulation, including proof that all inactive ATA balances have been resolved and that all reissued checks have been negotiated.

Vice-Chair Boyer voted to impose a reprimand with the same condition.

Members Modu 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 Harvey H. Gilbert
Docket No. DRB 25-261

Argued: February 19, 2026

Decided: April 13, 2026

Disposition: Censure

Members	Censure	Reprimand	Absent
Cuff	X		
Boyer		X	
Campelo	X		
Hoberman	X		
Menaker	X		
Modu			X
Petrou			X
Rodriguez	X		
Spencer	X		
Total:	6	1	2

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