

OFFICE OF ATTORNEY ETHICS
SUPREME COURT OF NEW JERSEY
P.O. Box 963
Trenton, New Jersey 08625
Trial Counsel: Jason D. Saunders
609-530-5808

SUPREME COURT OF NEW JERSEY
OFFICE OF ATTORNEY ETHICS
Docket No. XIV-2016-0155E
XIV-2016-0156E
XIV-2016-0157E
XIV-2016-0158E
XIV-2015-0183E
XIV-2015-0184E
XIV-2015-0182E
XIV-2015-0250E

OFFICE OF ATTORNEY ETHICS,
Complainant

v.

WILLIAM B. GALLAGHER, JR., ESQ.,
Respondent.

AMENDED COMPLAINT
Misconduct (Complex)
R. 1:20-4(b)

Complainant, Office of Attorney Ethics ("OAE") of the Supreme Court of New Jersey,
P.O. Box 963, Trenton, New Jersey 08625, by way of Complaint against Respondent, says:

GENERAL ALLEGATIONS

1. The Respondent, William B. Gallagher, Jr., Esq., was admitted to practice law in the State of New Jersey in 1968.
2. At the time of the events forming the basis for this Complaint, Respondent's law office was located at 1321 Memorial Drive, Asbury Park, New Jersey 07712 (Monmouth County).

3. At all relevant times herein, Respondent maintained the following accounts in connection with his law practice:
 - a. Attorney Trust Account 1 (“ATA1”) XXXXX1699 at Chase Bank [closed December 2010]; [Exhibit 1]
 - b. Attorney Trust Account 2 (“ATA2”) XXXXX5366 at PNC Bank; [Exhibit 2]
 - c. Attorney Business Account (“ABA”) XXXXX7875 at Chase Bank.
4. In December of 2010, Respondent transitioned his trust account banking from Chase Bank (ATA1) to PNC Bank (ATA2). [Exhibit 1a]
5. On January 27, 2014, David Levitt (“Levitt”), on behalf of Congregation Agudath Achim (“Congregation”) filed a grievance against the Respondent. [Exhibit 3]
6. On January 29, 2014, John Romeo (“Romeo”) filed a grievance against Respondent. [Exhibit 4]
7. On December 30, 2014, the OAE filed a Petition for Temporary Suspension against Respondent. [Exhibit 5]
8. Respondent did not respond to the Petition and on January 30, 2015, the Supreme Court of New Jersey ordered the immediate temporary suspension of Respondent. [Exhibit 6]
9. On January 7, 2015, Edward McCormack (“E. McCormack”) filed a grievance against Respondent on behalf of the Estate of George McCormack (“Estate”). [Exhibit 7]
10. On March 17, 2015, Anne DelMasto (“DelMasto”) filed a grievance against Respondent. [Exhibit 8]
11. On March 31, 2015, the Honorable Lisa P. Thornton, A.J.S.C. ordered the appointment of Thomas J. Smith III, Esq., (“Smith”) or (“Trustee”) as Attorney Trustee of Respondent’s law offices. [Exhibit 9]

COUNT ONE

Knowing Misappropriation of Escrow Funds in violation of RPC 1.15(a) and the Principles of In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985) by a Pattern of Lapping and the Unauthorized Disbursement of Funds to Respondent;

Commission of a Criminal Act that Reflects Adversely on the Lawyer's Honesty, Trustworthiness or Fitness as a Lawyer in other Respects in violation of RPC 8.4(b);

Failure to Safeguard Client Funds in violation of RPC 1.15(a);

Failure to Make Prompt Disposition of Client Funds in violation of RPC 1.15(b);

Failure to Communicate in violation of RPC 1.4(b);

False Statements to Disciplinary Authorities in violation of RPC 8.1(b) and RPC8.4(c);

Failure to cooperate with Disciplinary Authorities in violation of RPC 8.1(b).

(Congregation Agudath Achim/ David Levitt and John Romeo)

12. The General Allegations of the Complaint are repeated as if set forth fully at length herein.
13. On February 18, 2014, the OAE docketed both the Congregation and Romeo grievances.
14. On February 24, 2014, the OAE sent Respondent a letter requesting a written response to the two grievances. [Exhibit 10]
15. On March 7, 2014, Respondent responded to the Congregation grievance. [Exhibit 11]
16. Respondent failed to respond to the Romeo grievance.
17. On March 19, 2014, the OAE sent a letter again requesting an explanation to the Romeo grievance. [Exhibit 12]
18. Respondent again failed to respond.
19. On April 2, 2014, the OAE sent the Respondent a follow up letter requesting his response to the Romeo grievance. [Exhibit 13]

20. On April 3, 2014, the OAE scheduled Respondent for a demand audit interview on April 29, 2014 with regard to the Romeo and Congregation grievances. [Exhibit 14]
21. On April 17, 2014, Respondent submitted a written response to the Romeo grievance. [Exhibit 15]
22. Respondent represented Romeo in connection with a personal injury matter which settled on or about June 14, 2010 in the amount of \$239,800.00 [Exhibit 4]
23. A recorded demand audit interview of Respondent was held at the OAE on April 29, 2014. [Exhibit 16]¹
24. On April 30, 2014, the OAE sent Respondent a letter directing him to produce to the OAE records required by R. 1:21-6. [Exhibit 17]
25. On May 15, 2014, Respondent provided a number of client ledger cards but failed to provide all of the documents requested in the April 30, 2014 letter. [Exhibit 18]
26. Respondent represented the Congregation in connection with a real estate transaction. [Exhibits 3, 11, 16].
27. The Congregation was the seller in the real estate transaction. [Exhibits 3, 11, 16]
28. On June 9, 2008, Respondent received a \$50,000.00 deposit check #1009 which was deposited into ATA1. [Exhibit 19]
29. Respondent did not have authorization from the parties to use the \$50,000.00 escrow for any other purpose at any time. [Exhibits 20, 21]
30. In 2012, the buyers breached the real estate contract and pursuant to the contract the Congregation demanded the \$50,000.00 deposit from Respondent. [Exhibits 3, 22]

¹ Respondent was subject to three demand interviews on the following dates

1. April 29, 2014 which is marked as Exhibit 16 referred to as T.
2. July 16, 2014 which is marked as Exhibit 38 referred to as 2T.
3. October 8, 2014 which is marked as Exhibit 40 referred to as 3T.

31. Congregation attempted to contact Respondent on a number of occasions over the course of a year, however, Respondent failed to respond. [Exhibit 3]
32. Congregation hired Abraham Bielory, Esq. ("Bielory") due to Respondent's failure to respond. [Exhibit 3]
33. Respondent did respond to Bielory and provided portions of the client file and issued ATA2 check #1696 on October 30, 2013 to Bielory for \$50,000.00. [Exhibits 2, 23]
34. ATA2 check #1696 cleared the bank on January 3, 2014. [Exhibits 2, 23]
35. The primary source of the funds for check #1696 (\$50,000.00) was from the Estate of George F. McCormick ("Estate")
36. Respondent represented the Estate. [Exhibit 7]
37. On or about June 27, 2013, Respondent represented the Estate in the sale of a property located at 111 Thirteenth Avenue, Belmar, N.J. 07719 ("Belmar Property"). [Exhibit 7]
38. In connection with that sale, Respondent received an initial deposit of \$52,000.00 into ATA2 which cleared on April 23, 2013. [Exhibits 2, 7, 24]
39. Respondent's bank balance in ATA2 after the \$52,000.00 deposit was \$97,875.40. [Exhibit 2]
40. As of April 23, 2013, Respondent should have been safeguarding at minimum \$50,000.00 for the Congregation, \$59,045.66 for Romeo, and \$52,000.00 in escrow for the sale of the Belmar Property for a total of \$161,045.66.
41. Therefore, as of April 23, 2013, Respondent's ATA2 was short at least \$63,170.26.
42. Respondent's bank balance in ATA2 at the time of the closing on June 27, 2013 was \$50,745.40. [Exhibit 2]

43. Respondent's ATA2 was short \$110,300.26 at the time of the closing of the Belmar Property.
44. After the closing and on or about July 5, 2013, Respondent deposited into ATA2 \$445,443.30 which cleared on July 8, 2013. [Exhibits 2, 7, 25]
45. After the closing, Respondent should have been safeguarding at least \$606,488.96 (\$50,000.00 for Congregation, \$59,045.66 for Romeo and \$497,443.30 for the Estate of McCormick).
46. After the July 8, 2013 deposit cleared, Respondent's ATA2 bank balance was \$487,189.70.
47. Respondent's ATA2 was short \$119,299.26 after the July 8, 2013 deposit in connection with the Belmar Property.
48. Respondent represented Romeo in a personal injury matter. [Exhibit 4]
49. On June 14, 2010, Respondent received a settlement check in the amount of \$239,800.00 for Romeo which was deposited into ATA1. [Exhibits 1, 26]
50. On September 4, 2010, Romeo met with Respondent and executed the settlement sheet. [Exhibit 27]
51. Romeo's total share of the settlement proceeds was \$159,000.00. [Exhibit 27]
52. On September 4, 2010, Respondent issued ATA1 check #3723 in the amount of \$100,000.00 to Romeo as a portion of the total settlement proceeds. [Exhibits 1, 28]
53. Thereafter, Respondent should still have safeguarded \$59,045.66 on behalf of Romeo for a medical liens escrow.
54. According to the bank records obtained by the OAE, between September 1, 2009 and June 10, 2010, Respondent issued six attorney trust account checks to Klitzman &

- Gallagher totaling \$16,950.00 for attorney fees in Romeo prior to the actual receipt of the Romeo settlement check, thereby invading other client funds. [Exhibits 1, 29]
55. Romeo contacted or attempted to contact Respondent on numerous occasions to obtain the \$59,045.66 from Respondent and Respondent failed to return any of his calls. [Exhibits 4, 30]
 56. In late 2012/early 2013, Romeo appeared unannounced at Respondent's office in the hope of catching Respondent and was able to confront Respondent. [Exhibits 4, 30]
 57. Respondent recommended to Romeo to keep the funds in trust while Romeo's divorce was pending and Romeo reluctantly agreed. [Exhibits 16 [T125-1 to 134-11], 30]
 58. Romeo's divorce was finalized in May of 2013 and Romeo again contacted Respondent multiple times on his cell phone and office phone. [Exhibits 4, 30]
 59. Throughout 2013 and into early 2014, Romeo attempted to contact Respondent to no avail. [Exhibits 4, 30]
 60. On January 22, 2014, Romeo faxed Respondent a letter requesting a response from Respondent within five days. [Exhibit 4]
 61. Respondent did not respond to Romeo's letter of January 22, 2014. [Exhibit 16]
 62. Respondent admitted to the OAE that he ignored Romeo's letter. [Exhibit 16]
 63. Based upon the failure to communicate and the outstanding \$59,045.66, Romeo filed the grievance. [Exhibit 4]
 64. On April 2, 2014, after the OAE commenced the investigation, Respondent issued ATA2 trust check #1760 to Romeo in the amount of \$56,745.66 less \$2,300.00 retained by Respondent. [Exhibits 2, 31]
 65. Trust check #1760 cleared the bank on June 3, 2014. [Exhibits 2, 31]

66. Respondent admitted to the OAE that it was the filing of the grievance that caused him to disburse the funds to Romeo. [Exhibit 16; T80-19 to 23]
67. A source of the funds for trust check #1760 (\$56,745.66) was from the Estate funds deposited into the ATA2 on April 23, 2013 and July 5, 2013, and other client matters which Respondent was required to safeguard.
68. Having previously misappropriated the Romeo and Congregation funds by way of unidentified and unauthorized disbursements, Respondent did not have their respective funds available when checks #1696 and #1760 were disbursed. [Exhibits 1, 2, 23, 31]
69. In both the Congregation and Romeo matters, Respondent engaged in a pattern of lapping² by utilizing funds received in connection with the Estate along with other client matters to fund the disbursement of trust checks #1696 and #1760 respectively. [Exhibits 1, 2, 23, 31]
70. From June 9, 2008 to June 14, 2010, Respondent through numerous unidentified unauthorized round number withdrawals invaded and knowingly misappropriated the \$50,000.00 Respondent was required to safeguard for the Congregation. [Exhibits 1, 31a]
71. From June 14, 2010 to April 2, 2014, Respondent through numerous unidentified unauthorized round number withdrawals invaded and knowingly misappropriated the

² "Lapping" is the practice of using funds received for one client to cover monies needed for disbursement to another client. If the attorney does not take corrective action and intentionally uses a client's funds to pay another, the attorney is guilty of knowing misappropriation. Such practice is known as "lapping." See In re Brown, 102 N.J. 512, 514 (1986) (In Brown, the attorney issued trust account checks without waiting for a \$20,000.00 check from a client to clear. When the check was returned for insufficient funds, the attorney took no corrective action and, aware of the shortage, continued to make withdrawals from the account for a period of four and a half years. Some of the disbursements were for the attorney's own benefit.)

\$59,045.66 Romeo settlement funds and/or the \$50,000.00 Congregation escrow.
[Exhibits 1, 2, 31b]

72. Respondent was directed to produce all of his attorney trust account bank statements from January of 2009 to the present at a demand audit held on April 29, 2014 in connection with the Congregation and Romeo matters. [Exhibit 14]
73. Respondent only produced the following bank statements at the demand audit:
- a. January 2009 to March 2009, September 2009 [ATA1]; [Exhibit 32]³
 - b. July 2010 [ATA1]; [Exhibit 33]
 - c. June 2011 through September 2011 [ATA2]; [Exhibit 34]
 - d. January and February 2012 [ATA2]; [Exhibit 35]
 - e. August through December 2013 [ATA2]; and [Exhibit 36]
 - f. January through March 2014 [ATA2]. [Exhibit 37]
74. Respondent stated to the OAE that the remaining statements were damaged by Super Storm Sandy (October 2012) and an additional storm in the winter of 2013-2014. [Exhibit 16 T25-12 to 26-8]; [Exhibit 38; 2T49-23 to 51-11; 2T64-2 to 23; 2T73-1 to 76-22; 2T103-15 to 109-23]
75. Each of the monthly statements Respondent produced reflects an ATA balance in excess of the sum of money Respondent was required to safeguard for the Romeo⁴ (\$59,045.66) and Congregation⁵ (\$50,000) matters. [Exhibit 38 2T60-5 to 66-23]

³ Exhibits 32 to 37 are copies of the front of the bank envelopes which enclose the trust account statements. The writing on the outside of the envelope reflects handwritten identification of each statement by Respondent or an employee of Respondent's firm. The statements themselves are contained in the envelopes and have not been separately exhibited due to the fact the OAE has already exhibited the subpoenaed records at Exhibits 1 and 2.

⁴ The Romeo Matter was deposited on June 14, 2010 and an initial disbursement of \$100,000.00 to Romeo occurred on September 4, 2010. From September 4, 2010 forward to April of 2014 Respondent should have safeguarded the remaining balance of \$59,045.66.

⁵ The Congregation funds were deposited on June 9, 2008 and from that date to October of 2013 Respondent should have safeguarded the \$50,000.00.

Month	Ending Monthly Bank Balance	Attorney Trust Account
January 2009	\$ 116,680.65	ATA 1
February 2009	\$ 111,520.65	ATA 1
March 2009	\$ 50,129.56	ATA 1
September 2009	\$ 70,789.49	ATA 1
July 2010	\$ 357,288.57	ATA 1
June 2011	\$ 156,610.32	ATA 2
July 2011	\$ 150,115.32	ATA 2
August 2011	\$ 192,542.32	ATA 2
September 2011	\$ 134,168.32	ATA 2
January 2012	\$ 122,721.27	ATA 2
February 2012	\$ 124,100.42	ATA 2
August 2013	\$ 570,549.52	ATA 2
September 2013	\$ 528,624.70	ATA 2
October 2013	\$ 524,205.10	ATA 2
November 2013	\$ 467,115.91	ATA 2
December 2013	\$ 409,699.91	ATA 2
January 2014	\$ 356,949.91	ATA 2
February 2014	\$ 323,245.31	ATA 2
March 2014	\$ 356,685.31	ATA 2

76. With regard to the months not produced, Respondent stated that the statements were all stuck together and were illegible from water damage. [Exhibit 16 T25-12 to 26-8] [Exhibit 38 2T49-23 to 51-11; 2T64-2 to 23 ; 2T73-1 to 76-22; 2T103-15 to 109-23]
77. On May 7, 2015 and May 8, 2015, the OAE reviewed Respondent's files and records at the Trustee's law office.
78. The OAE obtained from the Trustee the following original ATA bank statements that Respondent failed to produce at the demand audit and Respondent had insisted were destroyed and were illegible:
- a. April through December 2009;
 - b. January through June 2010;
 - c. August and September 2010.

[Exhibit 39]

79. Most of the ATA bank statements below the originals of which are undamaged in the manner described by Respondent reveal a bank balance below the \$109,045.66 Respondent was required to safeguard for the Romeo and the Congregation matters.

Month	Ending Monthly Bank Balance	Attorney Trust Account
April 2009	\$ 35,257.56	ATA 1
May 2009	\$ 17,285.56	ATA 1
June 2009	\$ 95,227.56	ATA 1
July 2009	\$ 28,231.56	ATA 1
August 2009	\$ 129,858.82	ATA 1
October 2009	\$ 61,622.49	ATA 1
November 2009	\$ 42,448.65	ATA 1
December 2009	\$ 24,285.65	ATA 1
January 2010	\$ 45,473.65	ATA 1
February 2010	\$ 31,691.81	ATA 1
March 2010	\$ 11,520.69	ATA 1
April 2010	\$ 55,670.69	ATA 1
May 2010	\$ 34,889.31	ATA 1
June 2010	\$ 334,161.02	ATA 1
August 2010	\$ 275,321.82	ATA 1
September 2010	\$ 89,797.30	ATA 1

80. Respondent produced only those bank statements which Respondent could offer in support of his claim he safeguarded the Romeo and Congregation funds.
81. Respondent withheld those statements from the OAE which demonstrated that the funds had not been safeguarded as reflected by the monthly ending bank balance.
82. Respondent unequivocally stated to the OAE in a recorded interview that he knew he was required to safeguard Romeo's \$59,045.66 and the Congregation's \$50,000.00. [Exhibit 38 2T38-3 to 41-8; 2T43-3 to 17]

83. Respondent unequivocally stated to the OAE in a recorded interview that he knew in his mind that he was required to safeguard the Romeo and Congregation funds in trust. [Exhibit 38 2T38-3 to 41-8; 2T43-3 to 17]
84. Respondent unequivocally stated to the OAE that he did not lose track of or forget that he was holding funds for Romeo and the Congregation. [Exhibit 38 2T38-3 to 41-8; 2T43-3 to 17; 2T90-22 to 95-10]
85. Respondent stated to the OAE that he reviewed the ATA bank statements. [Exhibit 38 2T38-3 to 18; 61-7 to 10; 71-24 to 72-25; Exhibit 40 3T8-11 to 10-6]
86. Respondent knew at the various times he disbursed funds against the Romeo and Congregation funds that he did not have authorization from the clients to utilize their funds for personal purposes or for any of Respondent's other clients. [Exhibits 20, 21, 30, 40; 3T7-21 to 23]
87. As examined in the charts below, on numerous dates between June 2008 to June 2010, Respondent's ATA balance fell below the \$50,000.00 that Respondent was required to safeguard for the Congregation:

CAA/Levit \$50,000.00 ATA funds		
Deposited: June 8, 2008; Disbursed: January 3, 2014		
Date	Daily Bank Balance	Shortage
April 1, 2009	\$47,129.56	\$(2,870.44)
April 29, 2009	\$35,257.56	\$(14,742.44)
May 11, 2009	\$21,490.06	\$(28,509.94)
May 29, 2009	\$17,285.56	\$(32,714.44)
June 2, 2009	\$14,785.56	\$(35,214.44)
July 22, 2009	\$36,306.56	\$(13,693.44)
October 13, 2009	\$37,789.49	\$(12,210.51)
November 10, 2009	\$48,922.49	\$(1,077.51)
November 25, 2009	\$46,498.65	\$(3,501.35)
December 18, 2009	\$42,285.65	\$(7,714.35)
January 27, 2010	\$47,973.65	\$(2,026.35)
February 8, 2010	\$44,191.81	\$(5,808.19)

March 30, 2010	\$11,520.69	\$(38,479.31)
May 4, 2010	\$49,670.69	\$(329.31)

[Exhibits 1, 2]

88. As examined in the charts below, on numerous dates between September of 2010 to June of 2014, Respondent's ATA balance fell below the \$109,000.00 that Respondent was required to safeguard for the Congregation and Romeo:

Romeo and Congregation \$109,045.66 ATA funds		
Hold in ATA: September 4, 2010; Disbursed: June 3, 2014		
Date	Daily Bank Balance	Shortage
September 17, 2010	\$80,002.30	\$(29,043.40)
April 4, 2011	\$2,245.93	\$(106,799.77)
May 6, 2011	\$132,020.85	\$22,975.15
May 27, 2011	\$108,765.85	\$(279.85)
May 31, 2011	\$147,465.85	\$38,420.15
June 13, 2011	\$82,298.85	\$(26,746.85)
November 2, 2011	\$107,828.32	\$(1,217.38)
March 12, 2012	\$99,961.76	\$(9,083.94)
September 17, 2012	\$92,808.66	\$(16,237.04)
October 24, 2012	\$6,874.46	\$(102,171.24)
November 9, 2012	\$7,774.46	\$(101,271.24)
July 7, 2013	\$41,746.40	\$(67,299.30)

[Exhibits 1, 2]

89. Respondent repeatedly failed to communicate with clients Congregation and Romeo who attempted to reach him via letter and phone. [Exhibits 3, 4, 20, 21, 30]
90. Respondent's knowing misappropriation was driven by a need for funds caused by Respondent's personal financial issues including business cash flow issues and tax issues. [Exhibits 41, 42, 43]

91. From January 2008 to January 2015, Respondent incurred \$60,479.79 in insufficient funds and bank service fees related to numerous overdrafts in the ABA. [Exhibit 44]⁶
92. Respondent's residence was sold by Order of the Federal Court for Respondent's failure to pay in excess of \$2,000,000.00 in income taxes, employment taxes (FICA), and unemployment taxes (FUTA). [Exhibits 41, 42, 43]
93. As a result of this financial need coupled with the practice of lapping, Respondent knowingly misappropriated trust funds belonging to clients Congregation and Romeo.
94. In so doing, Respondent violated the Rules of Professional Conduct as follows:
 - a. RPC 1.15(a) and the principles of In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985) – in that Respondent knowingly misappropriated escrow and client funds;
 - b. RPC 8.4(b) – in that Respondent committed criminal acts that reflect adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
 - c. RPC 1.15(a) – in that Respondent failed to safeguard client funds;
 - d. RPC 1.15(b) – in that upon receiving funds or other property in which a client or third person had an interest, Respondent failed to promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive; and
 - e. RPC 1.4(b) – in that Respondent failed to communicate with clients Congregation and Romeo in violation of RPC 1.4(b).
 - f. RPC 8.1(a) and RPC 8.4(c) – in that Respondent offered false statements to the OAE regarding the destruction of the attorney trust account statements.
 - g. RPC 8.1(b) – in that Respondent failed to respond to a lawful demand for information by not providing certain bank statements and then lying to the OAE about the statements.

COUNT TWO

⁶ The OAE did not exhibit the ABA statements to the complaint due to their size however; at hearing the OAE shall identify and move the same into evidence in support of Exhibit 44.

Knowing Misappropriation of Escrow Funds in violation of RPC 1.15(a) and the Principles of In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985) by a Pattern of Lapping and the Unauthorized Disbursement of Funds to Respondent;

Commission of a Criminal Act that Reflects Adversely on the Lawyer's Honesty, Trustworthiness or Fitness as a Lawyer in other respects in violation of RPC 8.4(b);

Failure to Safeguard Client Funds in violation of RPC 1.15(a);

Failure to Make Prompt Disposition of Client Funds in violation of RPC 1.15(b);

Engaging in Conduct Involving Dishonesty, Fraud, Deceit or Misrepresentation in violation of RPC 8.4(c);

False Statements to the OAE in violation of RPC 8.1(a);

Failure to Communicate in violation of RPC 1.4(b).

(Edward McCormack) (Anthony Cecala) (Glenn Morgan)

95. The General Allegations and the allegations in Count One of the Complaint are repeated as if set forth fully at length herein.
96. Respondent was retained by E. McCormack in connection with the sale of real property located at 111 Thirteenth Avenue, Belmar, N.J. 07719 ("Belmar property"). [Exhibit 7]
97. The Belmar property was part of the Estate of George McCormack. [Exhibit 7]
98. Closing of the Belmar Property occurred on June 27, 2013. [Exhibit 7]
99. Respondent was not the settlement agent for the closing. [Exhibit 7]
100. Prior to the closing date, the buyers provided a contract deposit of \$52,000.00 which was deposited into ATA2 on April 20, 2013 and cleared the bank on April 23, 2013. [Exhibits 2, 7, 24]
101. After the closing, Respondent received \$445,443.30 which was deposited into ATA2 on July 5, 2013, and cleared the bank on July 8, 2013. [Exhibits 2, 7, 25]

102. Respondent received in ATA2 a total of \$497,443.30 in connection with the Estate from the closing on the Belmar property. [Exhibits 2, 7, 24, 25]
103. Respondent was required to hold the funds in trust or alternatively place the same in an Estate account on behalf of the Estate.
104. Respondent did not place the funds in an Estate account and instead left the funds in ATA2. [Exhibits 2, 24, 25]
105. None of the beneficiaries of the Estate or the Executor of the Estate E. McCormack authorized any of the disbursements which Respondent paid to himself as fees or used to cover liabilities in other client matters. [Exhibits 7, 45, 46, 47]
106. E. McCormack attempted to speak with Respondent in person, by phone, and via letter throughout October, November and December of 2014 prior to filing the grievance in January of 2015. [Exhibits 7, 45, 46, 47]
107. During all relevant time periods that E. McCormack attempted to speak with Respondent, ATA2 did not have sufficient funds in connection with the Estate. [Exhibits 2, 7, 45, 46]
108. Respondent failed to adequately respond to E. McCormack and did not keep the client informed regarding the status of the Estate. [Exhibits 7, 45, 46]
109. Respondent failed to respond to E. McCormack in October, November and December of 2014 because Respondent was aware that ATA2 did not have sufficient funds to support payment of \$497,443.30 which was due to the Estate. [Exhibits 2, 7, 45, 46]
110. The bank balances for October, November and December 2014 are as follows:
 - October 2014: \$346,728.78
 - November 2014: \$393,449.78
 - December 2014: \$387,849.78

[Exhibit 2]

111. Therefore, at the various times in October, November and December of 2014 that E. McCormack demanded a return of funds owed, Respondent could not provide the Estate with the proceeds from the sale of the Belmar Property totaling \$497,443.30. [Exhibits 2, 7, 45, 46]
112. Respondent failed to provide E. McCormack any accounting of the estate funds held in trust. [Exhibits 7, 45, 46]
113. Respondent was aware of the shortages in the Estate matter ATA2 by virtue of Respondent's review and production of ATA2 bank statements from January through March 2014 in connection with Romeo and the Congregation investigations. [Exhibit 15]
114. For the ATA2 bank statements produced by Respondent on April 17, 2014, Respondent maintained the following monthly ending balances:
- January 2014: \$356,949.91
 - February 2014: \$323,245.31
 - March 2014: \$356,685.31
115. Respondent should have been safeguarding \$710,547.96 for just the four matters of Romeo, Congregation, Estate, and Anthony Cecala ("Cecala"), therefore, Respondent was short the following amounts:
- January 2014: \$353,598.05
 - February 2014: \$387,302.65
 - March 2014: \$353,862.65

116. Respondent falsely offered those ATA2 statements to the OAE as proof he was maintaining the funds in trust for Romeo and the Congregation when Respondent knew the funds then in trust in ATA2 were significantly short.
117. Respondent falsely stated to the OAE that he had not taken any fees from the Estate funds. [Exhibit 40; 3T69-20 to 71-6]
118. The ATA2 records demonstrate that Respondent took the following fees in connection with the Estate:

**Checks to Respondent or Respondent's Firm
Memo - The Estate Matter**

Date on Check	Made Payable to	Check #	Amount	ATA
April 18, 2013	William B. Gallagher, Jr.	1506	\$ 500.00	2
April 19, 2013	William B. Gallagher, Jr.	1508	\$ 250.00	2
April 20, 2013	Klitzman & Gallagher	1509	\$ 2,000.00	2
April 23, 2013	Klitzman & Gallagher	1513	\$ 2,000.00	2
April 24, 2013	Klitzman & Gallagher	1511	\$ 2,000.00	2
April 26, 2013	William B. Gallagher, Jr.	1518	\$ 250.00	2
April 26, 2013	Klitzman & Gallagher	1514	\$ 3,000.00	2
April 26, 2013	Klitzman & Gallagher	1515	\$ 2,250.00	2
April 26, 2013	Klitzman & Gallagher	1517	\$ 1,500.00	2
July 2, 2013	William B. Gallagher, Jr.	1562	\$ 250.00	2
TOTAL:			\$ 14,000.00	

[Exhibit 2]

119. At the time Respondent disbursed the above checks in the Estate matter, Respondent had not billed any fees or costs in connection with the Estate or the sale of the Belmar Property. [Exhibit 7, Exhibit 40; 3T69-20 to 71-6]
120. The \$52,000.00 which cleared into the ATA2 on April 23, 2013, represented an escrow deposit from the Buyer which Respondent was required to safeguard until the closing which occurring on June 27, 2013. [Exhibits 2, 7]

121. Respondent never provided any bills to E. McCormack or advised E. McCormack that he was taking fees against the escrow deposit. [Exhibit 7, Exhibit 40; 3T69-20 to 71-6]
122. Respondent did not have authorization from the buyer and seller to take fees against the escrow deposit.
123. Respondent could not have had any prior earned fees commingled in the trust account as of April 23, 2013, demonstrated by the fact that Respondent was required to safeguard Romeo (\$59,045.66), Congregation (\$50,000.00), Cecala (\$104,059.00) and Respondent ATA2 bank balance was only \$48,875.40 when he should have been safeguarding \$213,104.66 for the above three matters alone. [Exhibit 2]
124. The disbursement of funds as described above invaded and knowingly misappropriated the escrow deposit in connection with the Estate.
125. Respondent was not authorized by the parties to use those funds and Respondent specifically represented to the OAE that he had not taken any fees. [Exhibit 7, Exhibit 40; 3T69-20 to 71-6; Exhibits 45, 46]
126. Respondent failed to produce to the OAE the ATA2 statement from July of 2013, which would have revealed the Estate deposit of July 8, 2013. [Exhibits 32-37, Exhibit 38; 2T68-18 to 76-22]
127. The beginning monthly balance for ATA2 monthly statement from July 2013 has a beginning balance of \$48,646.40. [Exhibit 2]
128. On or about July 8, 2013, after the Estate deposit of July 5, 2013 cleared Respondent should have been safeguarding at least \$710,547.96 on behalf of the Congregation (\$50,000.00), Romeo (\$59,045.66), Cecala (\$104,059.00) and Estate matters (\$497,443.30). [Exhibit 2]

129. Respondent's ATA2 bank balance on July 8, 2013, was \$487,189.70 which was \$223,358.26 short of what Respondent should have been safeguarding. [Exhibit 2]
130. Respondent represented Cecala in a workers compensation matter.
131. On December 26, 2012 Respondent deposited into ATA2 \$104,059.00 representing a Medicare escrow for Cecala. [Exhibits 2, 48]
132. Respondent was not entitled to any portion of the Medicare escrow. [Exhibits 48, 49]
133. Respondent was required to safeguard those funds on behalf of Cecala for future medical treatment. [Exhibits 48, 49]
134. Cecala contacted the Respondent on several occasions to inquire about the Medicare escrow in December of 2014 to no avail. [Exhibits 48, 49]
135. As a result of Respondent's failure to communicate with Cecala and or provide him with access to the Medicare escrow funds, Cecala was forced to cancel medical procedures. [Exhibits 48, 49]
136. Respondent disbursed the following with regard to the Cecala matter:

Date	Payee	ATA Check #	Amount
9/18/2013	American Heart Center	1619	\$ 120.00
9/18/2013	American Heart Center	1620	\$ 208.60
10/28/2013	American Heart Center	1640	\$ 746.15
3/14/2014	Anthony Cecala	1743	\$ 1,500.00
3/14/2014	Anthony Cecala	1744	\$ 35.00
5/27/2014	Laser Spine Institute	1776	\$ 22,500.00
5/27/2014	Laser Spine Institute	1777	\$ 552.00
6/30/2014	American Heart Center	1799	\$ 511.25
7/2/2014	American Heart Center	1802	\$ 876.34
8/2/2014	Anthony Cecala	1815	\$ 2,190.70
8/22/2014	Anthony Cecala	1821	\$ 4,600.00
9/11/2014	Anthony Cecala	1828	\$ 600.00
11/19/2014	Anthony Cecala	1862	\$ 1,400.00
TOTAL:			\$ 35,840.04

[Exhibits 2, 48, 49]

137. After these disbursements, Respondent failed to make any further disbursements to Cecala or to third parties on his behalf and Respondent should still be safeguarding \$68,218.96 on behalf of Cecala.
138. Respondent's ATA2 was frozen by Order of the Supreme Court on January 30, 2015. [Exhibit 6]
139. On February 9, 2015, PNC Bank issued a check to the Superior Court for \$269,244.78 which the OAE forwarded to the Superior Court Trust fund. [Exhibit 50]
140. At the time ATA2 was frozen, Respondent should have been holding at minimum the following funds:

Client	Amount
Cecala	\$ 68,218.96
McCormack	\$ 458,172.22
Morgan	\$ 33,954.97
DelMasto	\$ 40,000.00
TOTAL:	\$ 600,346.15

141. ATA2 was short \$331,101.37 for just the above matters as of February 9, 2015.
142. Respondent represented Glenn Morgan in connection with a personal injury matter which settled on or about June 23, 2014. [Exhibit 51]
143. On or about July 25, 2014, Respondent received a settlement check in the amount of \$210,000.00. [Exhibit 52]
144. Morgan confirmed to the OAE that Respondent's contingent fee was 1/3 of the settlement amount, accordingly, Respondent would have been entitled to \$70,000.00 in legal fees. [Exhibit 53]
145. Prior to receipt of the settlement check in Morgan, Respondent disbursed \$56,055.00 in 24 separate checks to Respondent with reference to Morgan. [Exhibits 2, 52, 54]

146. The fees in the Morgan matters were disbursed by Respondent to himself prior to the settlement even being reached.
147. In so doing, Respondent invaded and knowingly misappropriated funds he was required to safeguard for Romeo, Congregation, Estate, and Cecala.
148. As examined above, Respondent knowingly misappropriated funds from the Estate, Cecala, and Morgan matters by numerous withdrawals payable to Respondent and by regular lapping of the client funds to pay liabilities in other client matters.
149. In so doing, Respondent violated the Rules of Professional Conduct as follows:
- a. RPC 1.15(a) and the principles of In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985) – in that Respondent knowingly misappropriated client funds;
 - b. RPC 8.4(b) – in that Respondent committed criminal acts that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
 - c. RPC 1.15(a) – in that Respondent failed to safeguard client funds; and
 - d. RPC 1.15(b) – in that upon receiving funds or other property in which a client or third person had an interest, Respondent failed to promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive;
 - e. RPC 8.4(c) and RPC 8.1(a) – in that Respondent engaging in conduct involving dishonesty, fraud, deceit or misrepresentation by offering false testimony and withholding attorney trust account statements; and
 - f. RPC 1.4(b) – in that Respondent failed to communicate with client McCormack in violation of RPC 1.4(b).

COUNT THREE

Knowing Misappropriation of Escrow Funds in violation of RPC 1.15(a) and the Principles of In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985) by a Pattern of Lapping and the Unauthorized Disbursement of Funds to Respondent;

Commission of a Criminal Act that Reflects Adversely on the Lawyer's Honesty, Trustworthiness or Fitness as a Lawyer in Other Respects in violation of RPC 8.4(b).

Failure to Safeguard Client Funds in violation of RPC 1.15(a);

Failure to Make Prompt Disposition of Client Funds in violation of RPC 1.15(b);

Engaging in Conduct Involving Dishonesty, Fraud, Deceit or Misrepresentation in violation of RPC 8.4(c);

Failure to Communicate in violation of RPC 1.4(b).

(Anne DelMasto)

150. The General Allegations and the allegations in Counts One and Two of the Complaint are repeated as if set forth fully at length herein.
151. DelMasto hired Respondent in connection with a personal injury matter on a contingent fee basis for a slip and fall incident that occurred at ShopRite on May 6, 2009. [Exhibits 8, 8a 55]
152. On December 3, 2013, Respondent sent DelMasto the release for a settlement in the amount of \$60,000.00. [Exhibit 8]
153. DelMasto signed the release accepting the settlement and returned the document to Respondent. [Exhibit 8]
154. After signing the release, DelMasto did not hear from Respondent again until June 2014. [Exhibit 8]

155. In June 2014, Respondent called Maria Casali ("Casali"), DelMasto's power of attorney, to inform her that he received \$5,000.00 from one defendant and would be reaching out to them shortly. [Exhibit 56]
156. Since that phone call in June 2014, DelMasto and Casali have not heard from Respondent. [Exhibit 56]
157. DelMasto was notified by Medicare of an outstanding \$23,377.84 balance due for the settlement funds that DelMasto never received from Respondent. [Exhibit 8]
158. Casali has made several attempts to reach Respondent on behalf of DelMasto to no avail. [Exhibits 8, 56]
159. Casali retained Richard J. Holwell, Esq. ("Holwell") of Holwell, Shuster & Goldberg to contact Respondent on her behalf. [Exhibit 8]
160. Holwell also attempted to contact Respondent several times requesting the DelMasto file. Respondent failed to respond to Holwell. [Exhibit 8]
161. The OAE's review of Respondent's ATA2 bank statements indicate that Respondent received a \$60,000.00 settlement in the DelMasto matter, via the following February and March 2014 deposits:

Date	Payor	Amount
2/10/2014	Stanley Black & Decker	\$ 5,000.00
2/10/2014	Boon Edam, Inc.	\$ 5,000.00
3/27/2014	Gallagher Bassett Services, Inc.	\$ 50,000.00
TOTAL:		\$ 60,000.00

[Exhibits 2, 57, 58]

162. ATA2 records demonstrate when Respondent spoke to Casali in June 2014, he had received and deposited to his attorney trust account \$60,000.00. [Exhibit 2]

163. Respondent misrepresented to Casali that he had only received \$5,000.00 in June of 2014. [Exhibits 2, 8, 56]
164. In fact, Respondent had already received and deposited the full settlement of \$60,000.00.
165. Respondent stated to the OAE that his fee arrangement with DelMasto was a contingent agreement specifying one third of the amount recovered as the attorney's fee. [Exhibit 38; 2T28-21 to 22; Exhibit 55]
166. At the demand interview on July 16, 2014, Respondent feigned ignorance of the DelMasto matter. [Exhibit 38; 2T27-25 to 30-22]
167. Respondent repeatedly claimed he could not remember any details regarding the settlement or the amount. [Exhibit 38; 2T27-25 to 30-22]
168. The final settlement in the DelMasto matter was deposited only a few months prior in March of 2014. [Exhibits 2, 57, 58]
169. Respondent was confronted by the OAE about the fees being in excess of the total settlement amount he continued to claim that he did not remember the total settlement amount. [Exhibit 38; 2T27-25 to 30-22]
170. Accordingly, Respondent was entitled to earned fees of only \$3,333.33 after the \$10,000.00 deposit cleared the bank on February 10, 2014 and the remaining \$16,666.67 after the \$50,000.00 cleared the bank on March 27, 2014. [Exhibits 55, 57, 58]
171. In the DelMasto matter, Respondent disbursed funds to himself or third parties prior to receipt of the settlement proceeds. [Exhibits 2, 59]
172. In the DelMasto matter, Respondent disbursed fees totaling \$88,300.00 to himself or third parties in excess of the total settlement amount of \$60,000.00. [Exhibits 2, 59, 60]

173. Prior to receiving the first DelMasto settlement funds, Respondent issued twenty-five ATA2 checks, totaling \$76,300.00, to himself or his firm or third parties invading other clients' funds. [Exhibits 2, 59]
174. Between March 2012 and February 2014, Respondent issued twenty-five ATA2 checks against funds he was required to safeguard for Romeo, Congregation, Cecala, the Estate and other client funds. [Exhibits 2, 59]
175. Therefore, on February 10, 2014 when Respondent deposited the \$10,000.00 settlement funds for DelMasto, he had already disbursed funds totaling \$76,300.00 referencing DelMasto. [Exhibits 2, 59]
176. After depositing the \$10,000.00 partial settlement on February 10, 2014, Respondent issued seven more checks to himself or his firm or third parties totaling \$12,000.00. [Exhibits 2, 60]
177. As a result, Respondent disbursed \$28,300.00 in excess of the total DelMasto settlement. [Exhibits 2, 59, 60]
178. The entire settlement was knowingly misappropriated prior to the settlement checks being issued or received. [Exhibits 2, 8, 8a, 59]
179. None of the funds were disbursed to DelMasto. [Exhibits 8, 8a, 56] [Emphasis Added]
180. DelMasto is a 90 year old women whose main source of income is social security. [Exhibit 8]
181. As a result of Respondent's knowing misappropriation, DelMasto's social security payments have been reduced to offset this settlement which was never received by the client. [Exhibit 8]

182. Casali and DelMasto both stated to the OAE that they did not authorize Respondent to utilize the settlement funds for any other purpose other than in connection with DelMasto's case. [Exhibits 8, 8a]
183. Casali and DelMasto reviewed the settlement checks and the file in the DelMasto matter at the law offices of Smith and Shaw after Respondent's temporary suspension. [Exhibits 8, 56]
184. Casali and DelMasto state that the signatures on the back of the three settlement checks are not DelMasto's signature. [Exhibit 56]
185. Respondent signed the settlement checks and deposited the checks into ATA2. [Exhibits 2, 57, 58]
186. Respondent knowingly misappropriated DelMasto's funds and did not provide DelMasto with any portion of the settlement. [Exhibits 2, 8, 8a, 56, 57, 58, 59, 60]
187. Respondent knew at the time he issued the checks in the DelMasto matter prior to the settlement being received that he was required to safeguard funds for Romeo, Congregation, Cecala, and the Estate.
188. Respondent knew at the time he issued checks to himself in the DelMasto matter that no settlement checks had in fact been received. [Exhibits 2, 57, 58, 59]
189. Respondent knew at the time he issued checks to himself in advance of the DelMasto matter that he was knowingly misappropriating other clients' funds including but not limited to Romeo, Congregation, Cecala, and the Estate.
190. In so doing, Respondent violated the Rules of Professional Conduct as follows:
 - a. RPC 1.15(a) and the principles of In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985) -- in that Respondent knowingly misappropriated client funds;

- b. RPC 8.4(b) – in that Respondent committed a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects;
- c. RPC 1.15(a) – in that Respondent failed to safeguard client funds;
- d. RPC 1.15(b) – in that upon receiving funds or other property in which a client or third person had an interest, Respondent failed to promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive;
- e. RPC 8.4(c)– in that Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of RPC 8.4(c) by misrepresenting the receipt of funds to the client; and
- f. RPC 1.4(b) – in that Respondent failed to communicate with client DelMasto in violation of RPC 1.4(b).

COUNT FOUR

Knowing Misappropriation of Escrow Funds in Violation of RPC 1.15(a) and the Principles of In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985) by a Pattern of Lapping and the Unauthorized Disbursement of Funds to Respondent;

Commission of a Criminal Act that Reflects Adversely on the Lawyer’s Honesty, Trustworthiness or Fitness as a Lawyer in Other Respects in violation of RPC 8.4(b).

Failure to Safeguard Client Funds in violation of RPC 1.15(a);

Failure to Make Prompt Disposition of Client Funds in violation of RPC 1.15(b);

Practicing law While Administratively Intelligible in violation of RPC 5.5(a)

(Daniel Lees)

- 191. The General Allegations and allegations in Counts One, Two and Three of the Complaint are repeated as if set forth fully at length herein.
- 192. Respondent by Order of the Supreme Court was declared administratively ineligible effective October 27, 2014. [Exhibit 61]
- 193. Respondent failed to register his IOLTA attorney trust account [ATA2] with IOLTA fund since 2013. [Exhibit 61]

194. On November 11, 2014, Respondent sent a letter to the OAE indicating that he could not appear at the OAE on November 12, 2014 because of a trial scheduled in Ocean County.
[Exhibit 62]
195. Respondent was in fact representing Daniel Lees in connection with a personal injury matter under Docket No. OCN-L-1403-12. [Exhibits 62, 63]
196. The Lees matter was scheduled for trial on November 10 and 12, 2014. [Exhibit 63]
197. Respondent settled the personal injury matter for \$550,000.00 during the trial. [Exhibits 63, 64]
198. At the time of the trial and settlement, Respondent was administratively ineligible.
[Exhibits 61, 63, 64]
199. Respondent deposited the settlement check for \$550,000.00 into ATA2 on or about November 21, 2014. [Exhibits 2, 65]
200. Respondent disbursed check #1865 dated November 25, 2014 to Daniel Lees in the amount of \$362,728.00 representing the client's share of the settlement. [Exhibits 2, 68]
201. Respondent's ATA2 records demonstrate that between February 2013 and November 2014, Respondent issued 19 attorney trust account checks totaling \$48,035.00 to Respondent referenced to Lees. [Exhibits 2, 66]
202. The fees in the Lees matters were disbursed by Respondent to himself prior to the settlement even being reached. [Exhibits 2, 64, 66]
203. Prior to the Lees settlement, Respondent was on direct notice by multiple demand interviews with the OAE of the significant issues and client shortages in ATA2.
[Exhibits 38, 40]

204. On October 8, 2014, the OAE had the following interchange with Respondent at a demand interview:

Q. So, you're -- you're playing a game of fire here with your trust account and -- and frankly, our impression to date has been that you're not taking this very seriously.

A. I am.

Q. Okay? Well, I would expect if you were taking it seriously after, you know, we've lectured you twice on the importance of record keeping, we have given you book after book, that you wouldn't, again, revert back to this concept that, you know, it'll all equal at the end and the money's secured.

A. All right.

[Exhibit 40 3T91-18 to -22]

205. Respondent was additionally asked the following with regard to massive shortages in ATA2:

Q. Have you ever opened up a statement and it be like \$7,000 and you're shocked that it's \$7,000 or something really low? I made up the number 7,000, but I believe there is one where the bank account statement is very low, March of 2011, it's \$3,495. When you open up that statement and see \$3,495, does it dawn on you that you definitely don't have enough money because you only have \$3,495? At that point, you should be holding \$109,000.

MR. SAUNDERS: That's a pretty big difference.

MR. GALLAGHER: Yeah.

[Exhibit 40 3T115-14 to -25]

206. Notwithstanding the fact that the OAE had made Respondent aware of client shortages in ATA2, Respondent issued four additional ATA2 checks totaling \$96,500.00 to Respondent for fees in connection with the Lees matter following the settlement, instead of reconciling and correcting existing client shortages in ATA2 that . [Exhibits 2, 67]

207. On November 20, 2014, prior to the Lees settlement Respondent was required to safeguard in ATA2 \$68,218.96 for Cecala, \$458,172.22 for McCormick, \$33,954.97 for Morgan, \$40,000.00 for DelMasto for a total of \$600,346.15.
208. Respondent's ATA2 bank balance on November 20, 2014 was \$283,977.78, therefore, Respondent's ATA2 account was \$316,368.37 short of what he should have been safeguarding.
209. So at the time Respondent disbursed \$96,500.00 to himself as fees in connection with the Lees matter, the OAE had placed Respondent on notice of significant client shortages and issues in ATA2.
210. By disbursing fees to himself prior to the settlement, Respondent invaded and knowingly misappropriated the funds of other clients including Romeo, Congregation, DelMasto, and the Estate as examined in Counts One to Three above.
211. In so doing, Respondent violated the Rules of Professional Conduct as follows:
- a. RPC 1.15(a) and the principles of In re Wilson, 81 N.J. 451 (1979) and In re Hollendorner, 102 N.J. 21 (1985) – in that Respondent knowingly misappropriated client funds;
 - b. RPC 8.4(b) – in that Respondent committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
 - c. RPC 1.15(a) – in that Respondent failed to safeguard client funds;
 - d. RPC 1.15(b) – in that upon receiving funds or other property in which a client or third person had an interest, Respondent failed to promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive; and
 - e. RPC 5.5(A) – in that Respondent practiced law while administratively ineligible.

COUNT FIVE

Failure to cooperate with the Office of Attorney Ethics and Failure to Abide by an Order of the Supreme Court of New Jersey in violation of R. 1:20-20, RPC 8.1(b) and RPC 8.4(d).

212. The General Allegations and the allegations of Counts One, Two, Three and Four are repeated as if set forth fully at length herein.
213. Respondent appeared at the OAE for three separate demand audits. [Exhibits 16, 38, 40]
214. After each audit, the OAE sent Respondent letters outlining financial documents and other information for production to the OAE.
215. Letters were sent to Respondent on the following dates requiring Respondent to produce documents and financial records to the OAE:
- April 30, 2014; [Exhibit 17]
 - July 17, 2014; [Exhibit 69]
 - August 22, 2014; [Exhibit 70]
 - September 9, 2014; [Exhibit 71]
 - October 9, 2014; [Exhibit 72]
 - November 12, 2014; [Exhibit 73]
 - November 19, 2014. [Exhibit 74]
216. On each of the above occasions, Respondent failed to produce the records as requested by the OAE.
217. On October 8, 2014, Respondent met with the OAE and agreed to timely respond to telephone calls and agreed to be fully cooperative with the OAE's investigation. [Exhibit 40]
218. Following this meeting, Respondent continued his pattern of not producing documents as requested by the OAE and failing to return telephone calls to the OAE. [Exhibits 72, 73, 74]
219. After November 11, 2014, Respondent failed to respond to the OAE.

220. One of the many specific pieces of information requested was the name of the Executor of the Estate. [Exhibit 72]
221. Respondent failed to produce to the OAE the name of the Executor.
222. The OAE separately obtained the name of the Executor, Edward McCormack.
223. Despite numerous requests, Respondent failed to provide the OAE with his attorney trust account and attorney business account records as required by R.1:21-6 and RPC 8.1(b).
224. On December 29, 2014, the OAE filed a petition for Respondent's temporary suspension with the Supreme Court of New Jersey. [Exhibit 5]
225. Respondent failed to respond to the OAE's petition.
226. On January 30, 2015, Respondent was temporarily suspended by Order of the Supreme Court of New Jersey. [Exhibit 6]
227. As ordered by the Court, Respondent was required to file a R. 1:20-20 Affidavit within 30 days of the date of the Supreme Court's Order. [Exhibit 6]
228. Respondent failed to file the required affidavit within 30 days, or at any time thereafter to the present.
229. Following the Petition for Temporary Suspension, numerous grievances were filed by Respondent's clients.
230. In each of the grievances, the OAE requested a written response from Respondent to the grievance.
231. Respondent failed to respond or cooperate with the OAE investigations of any of the above grievances.
232. Respondent has failed to cooperate with the OAE by failing to produce R. 1:21-6 records to the OAE as required by Court Rule.

233. In so doing, Respondent violated the Rules of Professional Conduct as follows:
- a. RPC 8.1(b) – in that Respondent failed to cooperate with multiple OAE investigations and numerous requests for documents; and
 - b. RPC 8.4(d) and R. 1:20-20 – in that Respondent failed to file the affidavit required by R. 1:20-20.

COUNT SIX

Failure to Maintain Required Records in violation of RPC 1.15(d) and R. 1:21-6;

234. The General Allegations and the allegations of Counts One, Two, Three, Four and Five of the Complaint are repeated as if set forth fully at length herein.
235. The OAE investigation revealed the Respondent does not maintain financial records as required by R. 1:21-6 with the exception of ATA statements.
236. Respondent did produce client ledgers which were regularly illegible and did not accurately reflect receipts and disbursements in the client matters. **[Exhibits 2, 18]**
237. Respondent was unable to produce all client ledger cards.
238. Respondent did not maintain a trust receipts journal. [R.1:21-6(c)(1)(A)].
239. Respondent did not maintain a trust disbursements journal. [R.1:21-6(c)(1)(A)].
240. Respondent did not maintain accurate client ledger cards. [R.1:21-6(c)(1)(B)].
241. Respondent did not maintain a client ledger card identifying attorney funds for bank charges. [R.1:21-6(d)].
242. Respondent did not prepare three-way reconciliations of his trust account on a monthly basis. [R.1:21-6(c)(1)(H)].
243. Respondent did not maintain a business receipts journal. [R.1:21-6(a)(2)].
244. Respondent did not maintain a business disbursements journal. [R.1:21-6(c)(1)(A)].

245. In so doing, Respondent violated the Rules of Professional Conduct as follows:

a. RPC 1.15(d) and the provisions of R. 1:21-6 ("Recordkeeping") of the Court Rules.

WHEREFORE, Respondent should be disciplined.

Office of Attorney Ethics

By: Charles Centinaro
Charles Centinaro, Director

Date: June 21, 2016