

OFFICE OF ATTORNEY ETHICS
SUPREME COURT OF NEW JERSEY
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(609) 530-4008
Presenter: Maureen G. Bauman

SUPREME COURT OF NEW JERSEY
District XIV Ethics Committee
Docket No. XIV-2013-0487E

OFFICE OF ATTORNEY ETHICS,
Complainant

v.

WILLIAM J. TORRE,
Respondent

Disciplinary Action
COMPLAINT
R. 1:20-4(b)

Complainant, Office of Attorney Ethics of the Supreme Court of New Jersey (hereinafter "OAE"), by way of formal complaint against William J. Torre, Esq. (hereinafter "respondent"), says"

GENERAL ALLEGATIONS

1. Respondent was admitted to the bar of the State of New Jersey in 1984.
2. Respondent maintains offices for the practice of law at 181 Boulevard, Suite 2D, Hasbrouck Heights, New Jersey 07604.
3. At all relevant times herein, respondent maintained the follow accounts at TD Bank in connection with his law practice:
 - Attorney Trust Account Number xxx-xxx7668;
 - Attorney Business Account Number xxx-xxx8970.

COUNT ONE

*Negligent Misappropriation of Client Trust Funds
in violation of RPC 1.15 (a) and Willful Failure
to Comply with the Recordkeeping Requirements in
Violation of RPC 1.15 (d) and R. 1:21-6*

1. The General Allegations of the Complaint are incorporated herein as if repeated at length.
2. On September 13, 2013, the OAE received a notice of overdraft on TD Bank Attorney Trust Account no. xxx-xxx7668 owned by respondent. *Exhibit 1*
3. On September 26, 2013, William Ruskowski (hereinafter "Ruskowski"), Chief of Investigations, wrote to respondent requiring him to provide a written explanation for the overdraft in his trust account. *Exhibit 2*
4. On October 5, 2013, respondent wrote to Ruskowski providing his explanation for the overdraft. *Exhibit 3*
5. On October 18, 2013, Ruskowski wrote to respondent requiring him to provide additional information. *Exhibit 4* Respondent did not respond to Ruskowski's request.
6. On November 7, 2013, Ruskowski faxed a letter to respondent with a second request for additional information. *Exhibit 5* Respondent did not respond to Ruskowski's second request.
7. On November 22, 2013, Maureen G. Bauman (hereinafter "Bauman"), Deputy Ethics Counsel and Joseph Strieffler (hereinafter "Strieffler"), Disciplinary Auditor, were assigned to investigate.

8. On December 9, 2013, Strieffler faxed a letter to respondent with a third request for additional information. Strieffler included Ruskowski's letters of October 18, 2013 and November 7, 2013. *Exhibit 6*

9. On December 12, 2013, respondent provided Strieffler with the additional information that was previously requested by Ruskowski. *Exhibit 7*

10. The OAE's investigation revealed that the overdraft was caused by a bank error. Respondent made a deposit for a real estate transaction in the amount of \$103,900.79 on September 6, 2013. TD Bank only credited respondent's trust account with the first \$100.00 of the deposit. Respondent's check for the \$103,900.79 deposit was in the form of an official check from Sovereign Bank. Respondent deposited the check on the date of closing and disbursed against those funds on the same date. Respondent's trust account check no. 2247 payable to Gloria Hopf in the amount of \$92,431.14, representing the seller's proceeds, was negotiated on September 6, 2013. Because TD Bank only credited respondent's trust account with the first \$100.00 of the \$103,900.79 purchase deposit, the trust account appeared to be overdrawn.

11. Strieffler reviewed the additional records provided by respondent and determined that, although respondent's trust account was not overdrawn, respondent did not have sufficient funds in his Attorney Trust Account no. xxx-xxx7668 to satisfy his obligations to his clients. Based solely on the documentation provided by respondent, Strieffler estimated that respondent's Attorney Trust Account no. xxx-xxx7668 had a shortage exceeding <\$15,000.00>.

12. Respondent's trust account bank reconciliation dated September 30, 2013 showed uncleared deposits dated between June 1, 2010 and May 3, 2013 totaling \$16,173.67. *Exhibit 8*

13. Strieffler reviewed the client ledger detail on the matters in which these deposits were to have been credited and discovered that respondent had disbursed against the uncleared deposits.

14. On February 19, 2014, respondent appeared at the OAE for a demand audit with Strieffler and Bauman. During the audit, respondent stated that he is the only signatory on his trust account. Respondent stated that his office staff will enter deposits and checks into his bookkeeping software and that his accountant reconciles his trust account every month. Respondent stated that he reviews the reconciliations when they are completed and returned from the accountant.

15. During the February 19, 2014 demand audit, Strieffler attempted to review each of the uncleared deposits shown on respondent's trust account bank reconciliation. Respondent did not bring sufficient bank records and client files to review all of the outstanding items.

16. February 20, 2014, Strieffler provided respondent with a list of the names of clients that had outstanding deposits or negative ledger balances and required that respondent research the issues and report back on his findings. Strieffler explained to respondent what steps he should take with regard to researching each issue and what documentation should be submitted with each explanation for the clients specified. *Exhibit 9*

17. On March 28, 2014, respondent provided Strieffler with a partial explanation for each of the matters listed in Strieffler's February 20, 2014 letter and instead of providing proof to show he took the action required by the OAE, respondent stated, "I reserve the right to provide further proof . . ." *Exhibit 10*

18. The following client matters were not fully addressed by respondent as requested by Strieffler as set forth in his correspondence of February 20, 2014:

- a. Respondent stated he deposited \$142.00 into his trust account on behalf of his client, Kouletas, but failed to provide the OAE with a copy of his May 2011 trust account bank statement and deposit slip reflecting this deposit;
- b. Respondent stated he deposited \$82.00 into his trust account on behalf of his client, Moro, but failed to provide the OAE with evidence of this deposit;
- c. Respondent stated that he deposited \$350.00 into his trust account on behalf of his client, Settecase, but failed to provide the OAE with evidence of this deposit;
- d. Respondent stated he deposited \$148.58 into his trust account on behalf of his client, Holloway, but failed to provide the OAE with a copy of his March 2012 trust account bank statement and deposit slip reflecting this deposit;
- e. Respondent stated he deposited \$300.00 into his trust account on behalf of his client, DeBari, on April 18, 2010 but it was mislabeled to other DeBari and deposited \$354.50 into his trust account but failed to provide the OAE with a copy of his June 2010 trust account bank statement and deposit slip reflecting this deposit;
- f. Respondent stated he deposited \$0.05 into his trust account on behalf of his client, Diamond, but failed to provide the OAE with evidence that he adjusted his client ledger card to reflect this \$0.05 credit;
- g. Respondent stated he deposited \$1.00 into his trust account on behalf of his client, Danek, but failed to provide the OAE with evidence that adjusted his client ledger card to reflect this \$1.00 credit;
- h. Respondent provided a copy of a wire transfer of \$500.00 from his May 2013 trust account statement on behalf of his client, Canals, but failed to provide the OAE with the deposit slip reflecting this \$500.00 deposit; respondent stated he corrected the client ledger to reflect deposit of \$2,000.00 and deleted \$1,400.00 error but failed to void the \$1,400.00 check;
- i. Respondent stated he transferred funds in the amount of \$377.03 from "attorney funds account" on behalf of his client, Gad, and provided the WJT Attorney funds ledger, but failed to provide the OAE with a copy of his October 2012 trust account statement and deposit slip showing that his account was credited for \$377.03 and his findings as to whether more funds were disbursed than were received and if so, the corrective action taken by respondent to correct any negative balance;

- j. Respondent stated he deposited \$270.00 into his trust account on behalf of his client, Kouletas, to correct the negative balance but failed to provide the OAE with his findings as to a \$15,000.00 "escrow" payment and failed to provide the OAE with evidence showing that the funds were issued. *Exhibits 9 & 10*

19. By subpoena dated April 28, 2014, Strieffler received copies of respondent's TD Bank Attorney Trust Account no. xxx-xxx7668. *Exhibit 11* Strieffler utilized the records received by subpoena to reconstruct respondent's Attorney Trust Account no. xxx-xxx7668 from August 2008 to April 2014.

20. The result of Strieffler's reconstruction shows that respondent's trust account was short by <\$2,663.12> as of April 30, 2014. *Exhibit 12*

21. On June 2, 2014, Strieffler sent the results of the reconstruction to respondent. Strieffler required that respondent immediately rectify the trust account shortage and provide evidence of the correction by no later than June 6, 2014. *Exhibit 13*

22. On June 2, 2014, Michael Zola (hereinafter "Zola"), respondent's accountant, emailed Strieffler stating that as part of the reconciliation process he and respondent cleared up many of the issues in the trust account. Zola stated those corrections that have not been made and appearing on the April 2014 reconciliation will appear corrected on the May 2014 reconciliation. *Exhibit 14*

23. On June 30, 2014, Strieffler emailed respondent with a request for a copy of his May 2014 trust account reconciliation. *Exhibit 15*

24. On July 1, 2014, Zola provided a copy of respondent's May 2014 bank reconciliation for his TD Bank Attorney Trust Account no. xxx-xxx7668. The bank

reconciliation showed that respondent was still carrying negative client balances in his trust account totaling <\$2,498.66>. *Exhibit 16*

25. Strieffler reconciled respondent's trust account every month from August 2008 through April 2014. *Exhibit 17* The reconciliations showed that respondent had negative client balances in all 69 months during that time period. The smallest total of negative balances was <\$0.01> that occurred in November 2008. The largest total of negative balances was <\$7,887.32> that occurred in December 2013.

26. During the February 19, 2014 demand audit, respondent stated that he has his accountant reconcile his trust account every month. Respondent stated that he reviews the accountant's reconciliations each month, therefore he must have been aware that there were problems in his trust account as early as the completion of the August 2008 bank reconciliation when there was small shortage of <\$74.87>.

27. Respondent should have taken immediate corrective action to fix the negative balance that occurred in August 2008, and all negative balances that occurred in the following 68 months.

28. Strieffler reviewed respondent's trust account disbursements and found that the negative balances were caused by respondent's overpayment of trust funds to clients and third parties.

29. Respondent's conduct constitutes the negligent misappropriation of client trust funds in violation of *RPC 1.15 (a)* and willful failure to comply with recordkeeping requirements in violation of *RPC 1.15(d)* and *R. 1:21-6*.

COUNT TWO

Failure to Cooperate with Disciplinary Authorities in violation of R. 1:20-3 (g)(3) and RPC 8.1(b)

30. The General Allegations and the allegations in Count One are incorporated herein as if repeated at length.

31. On July 24, 2014, Strieffler notified respondent that he needed to correct the trust account shortage of <\$2,498.66>. Respondent was required to provide Strieffler with evidence that the trust account shortage was corrected by no later than August 4, 2014. *Exhibit 18*

32. On August 4, 2014, respondent sent Strieffler an email indicating that he is researching the trust account shortage. *Exhibit 19*

33. On August 5, 2014, Strieffler sent respondent an email stating that the shortage in his Attorney Trust Account must be rectified immediately. *Exhibit 20*

34. On August 8, 2014, respondent emailed Strieffler stating that his accountant, Zola, disagreed with Strieffler's allegation that respondent's trust account had a shortage of <\$2,498.66>. *Exhibit 21* Respondent did not state what Zola believed the trust account balance to be.

35. In his August 8, 2014 email to Strieffler, respondent included the July 2014 Attorney Trust Account bank reconciliation prepared by Zola. The trust account bank statement showed that respondent's ending bank account balance on July 31, 2014 was \$89,866.26. The trust account bank reconciliation showed that respondent had outstanding checks totaling \$89,992.70 as of July 31, 2014. The reconciliation showed that respondent had a reconciled trust account balance of <\$126.44> as of July 31, 2014. *Exhibit 22*

36. According to respondent's client ledger cards, he should be holding at least \$5,754.40 in his Attorney Trust Account for the following client matters:

Client Matter	Last Activity	Balance to be held in trust
Bruno.Sale	07/11/2014	\$4,000.00
Eldesouki.buy.09	06/23/2014	\$184.00
Kostyk.buy.2014	07/31/2014	\$1,570.40
		\$5,754.40

37. According to respondent's client ledger cards, he disbursed \$5,880.84 more than he had available to disburse from his Attorney Trust Account for the following client matters:

Client Matter	Last Activity	Balance as of July 31, 2014
Ali.buy	12/18/2012	<\$1,885.00>
Chermark.adv.Jensen	07/16/2014	<\$2,604.19>
Gad.buy	10/23/2012	<\$101.09>
Majid.sale	06/28/2014	<\$1,000.00>
Modero.sale	07/31/2014	<\$190.56>
Rodrigues.A.Buy	02/01/2012	<\$100.00>
		<\$5,880.84>

38. Respondent's Attorney Trust Account reconciliation for May 2014 showed that the account was carrying a general shortage of <\$2,498.66>. *Exhibit 16*

39. On multiple occasions, Strieffler advised respondent that the shortage must be corrected and that he needed to show proof that it was corrected.

40. To date, respondent has failed to correct the trust account shortage and the shortage increased to <\$5,880.84> in only two months.

41. Respondent's conduct as set forth above constitutes a failure to cooperate with ethics authorities in violation of *R. 1:20-3 (g)(3)* and *RPC 8.1 (b)*.

WHEREFORE, Respondent should be disciplined.

OFFICE OF ATTORNEY ETHICS

Dated: September 2, 2014

By: Charles Centinaro
Charles Centinaro, Director