

Office of Attorney Ethics
P.O. Box 963
Trenton, NJ 08625
(609) 530-4008
Trial Counsel: John McGill, III, Esq.

OFFICE OF ATTORNEY ETHICS	:	Supreme Court of New Jersey
	:	District XIV Ethics Committee
Complainant,	:	
	:	Docket No. XIV-99-142E
vs.	:	
	:	DISCIPLINARY ACTION
ROBERT S. BURRICK, ESQ.	:	
	:	COMPLAINT
Respondent,	:	(COMPLEX MISCONDUCT)
	:	[R.1:20-4(b)]

Complainant, Office of Attorney Ethics (OAE), by way of Complaint against respondent, Robert S. Burrick, Esq., says that:

GENERAL ALLEGATIONS

1. Respondent was admitted to the Bar of the State of New York in 1979 and to the Bar of the State of New Jersey in 1993.

2. At relevant times, respondent maintained an office for the practice of law as a partner at the firm of Sills, Cummis, Zuckerman, Radin, Tischman, Epstein & Gross ("Sills firm"), One Riverfront Plaza, Newark (Essex County) New Jersey 07102 and Pitney, Hardin, Kipp & Szuch, LLP ("Pitney firm"), 200 Campus Drive, Florham Park (Morris County) New Jersey 07932-0950.

3. At relevant times, respondent was an authorized signatory on the following Pitney firm attorney accounts:

<u>Bank</u>	<u>Number</u>	<u>Type</u>	<u>Reference</u>
-------------	---------------	-------------	------------------

Midlantic National	06406755	Trust	Trust #1
PNC	8100447885	Trust	Trust #2
PNC	8100460510	Business	Business

4. At relevant times, respondent was the Treasurer and a member of the Board of Trustees for the Millburn Soccer Club, Inc. ("Soccer Club"), P.O. Box 65, Short Hills, New Jersey 07076.

5. At relevant times, the Soccer Club maintained a business checking account no. 610-3803487 at the Bank of New York ("Soccer Club checking account") and a Working Capital Management Account no. 825-04E42 at Merrill Lynch ("Soccer Club Merrill Lynch account").

6. At relevant times, respondent maintained a personal checking account along with his wife, Karen Burrick, at Summit Bank ("Summit personal account") (Formerly known as United Jersey Bank).

7. At relevant times, respondent maintained a personal checking account along with his wife, Karen Burrick, at PNC Bank ("PNC personal account").

8. At relevant times, respondent maintained a credit card account along with his wife, Karen Burrick, at American Express ("respondent's American Express account").

9. On February 16, 2000, respondent was interviewed at the Office of Attorney Ethics ("OAE interview").

COUNT ONE
(Knowing Misappropriation of Kentile Funds)

1. In early 1992 while respondent was employed by the Sills firm, Sterling Optical, Inc. ("Sterling Optical") filed for Chapter 11 in the Bankruptcy Court in Manhattan, New York. Respondent was

retained by an Unofficial Committee of Sterling Optical Franchisees ("Sterling Franchisees") to represent over 300 franchisees in the bankruptcy case.

2. Respondent brought representation of the Sterling Franchisees with him, when he began his employment as a partner with the Pitney firm in May 1992. At the Pitney firm, respondent was the partner in charge of the matter.

3. During the course of the Sterling Optical bankruptcy case, Sterling Optical and its creditors decided that Sterling Optical would sell its operating assets to the bidder with the highest and best offer. Ultimately, Sterling Vision, Inc. ("Sterling Vision") was the successful bidder and purchased the assets of Sterling Optical.

4. While respondent was at the Sills firm, he was bankruptcy counsel for Shofar Kosher Foods ("Shofar") in a bankruptcy case. The Shofar bankruptcy was concluded while respondent was at the Sills firm.

5. Empire Kosher Poultry, Inc. ("Empire") was a creditor of Shofar in the Shofar bankruptcy case.

6. At relevant times herein, the Pitney firm represented the Official Creditors' Committee in the Kentile Floors, Inc. ("Kentile") Chapter 11 bankruptcy case. Respondent was the Pitney firm partner in charge of the Kentile matter.

7. Sterling Vision had no relationship to the Kentile matter and was not a proper creditor in the Kentile bankruptcy case.

8. Empire had no relationship to the Kentile matter and was not a proper creditor in the Kentile bankruptcy case.

9. Respondent authorized the disbursement of the following Pitney firm Trust #1 checks drawn on Kentile trust funds:

<u>Check Date</u>	<u>Check No.</u>	<u>Payee</u>	<u>Amount</u>	<u>Exhibit ID</u>
04/17/95	014005	Sterling Vision Inc.	\$17,800.00	C-A
01/24/95	013733	Empire	\$1,383.11	C-B
		TOTAL	\$19,183.11	

10. At the time respondent disbursed the Pitney firm Trust # 1 checks, Exhibits C-A and C-B, he knew that he lacked the authority to do so.

11. The \$17,800.00 Pitney firm Trust #1 check, Exhibit C-A, was deposited by Sterling Vision upon receipt into its account at the Chemical Bank in April 1995 and utilized in satisfaction of a prior agreement with the Pitney firm unrelated to the Kentile matter.

12. The \$1,383.11 Pitney firm Trust #1 check, Exhibit C-B, was deposited by Empire to its account and utilized in a manner unrelated to any Pitney firm matter or the Kentile matter.

13. Respondent's conduct as stated in this count, in knowingly disbursing Kentile trust funds without authority, constitutes knowing misappropriation of client funds in violation of In re Wilson, 81 N.J. 451 (1979), RPC 1.15(a) and RPC 8.4(c).

COUNT TWO
(Knowing Misappropriation of Syntrex Funds To Pay
Millburn Soccer Club)

1. Complainant incorporates the allegations of Count One, as if fully set forth herein.

2. From January 1998 until February 1999, respondent served as the treasurer of the Millburn Soccer Club. As Treasurer, respondent had signatory authority over the Soccer Club's checking and Merrill Lynch accounts and maintained the books and records for those accounts and undertook a fiduciary responsibility for any Soccer club funds on deposit.

3. On December 3, 1992, the Pitney firm began its representation as counsel for the Creditors' Committee in the Syntrex, Inc. ("Syntrex") bankruptcy case. By 1993, respondent was the Pitney firm partner in charge of the Syntrex matter.

4. The Soccer Club had no relationship to the Syntrex matter and was not a proper creditor in the Syntrex bankruptcy case.

5. Respondent authorized the disbursement of the following Pitney firm Trust #2 checks drawn on Syntrex trust funds:

<u>Check Date</u>	<u>Check No.</u>	<u>Payee</u>	<u>Amount</u>	<u>Exhibit ID</u>
02/01/99	021051	Soccer Club	\$1,641.60	C-D
02/01/99	021052	Merrill Lynch ¹	\$6,500.00	C-D-2
02/02/99	021056	Merrill Lynch	\$601.18	C-D-4
02/02/99	021057	Merrill Lynch	\$3,000.00	C-D-6
		TOTAL	\$11,742.78	

6. At the time respondent disbursed the Pitney firm Trust #2 checks, Exhibits C-D, C-D-2, C-D-4 and C-D-6, he knew that he lacked the authority to do so.

¹ Soccer Club's Merrill Lynch account.

7. As Soccer Club treasurer, respondent deposited the Pitney firm Trust #2 checks, Exhibits C-D, C-D-2, C-D-4 and C-D-6, to the Soccer Club's checking and/or Merrill Lynch account(s), where he used the funds for purposes unrelated to the Syntrex matter.

8. As stated in more detail in Count Four, paragraphs 3, 5, 6 and 7, respondent used the \$11,742.78 Syntrex funds (Exhibits C-D, C-D-2, C-D-4 and C-D-6) to reimburse funds to the Soccer Club which he had previously misused.

9. Respondent's conduct as stated in this count, in knowingly disbursing Syntrex trust funds without authority, constitutes knowing misappropriation of client funds in violation of In re Wilson, 81 N.J. 451 (1979), RPC 1.15(a) and RPC 8. 4(c).

COUNT THREE
**(Knowing Misappropriation of Syntrex Funds To Pay
Haight Firm Legal Fees)**

1. Complainant incorporates the allegations of Counts One and Two as if fully set forth herein.

2. In March 1993, the Pitney firm was retained by the Wilshire Credit Corp. of Portland, Oregon ("Wilshire"), in connection with a foreclosure involving property located in New York.

3. Wilshire had originally loaned \$875,000.00 to a partnership which owned property at 2-4 Narrows Road, Staten Island, New York. The partnership gave Wilshire a mortgage on the property as security for the loan and, thereafter, defaulted on the loan and Wilshire sought to institute a foreclosure action on the property.

4. Respondent was the Pitney firm partner in charge of the Wilshire matter.

5. During the course of the Wilshire representation, respondent retained the law firm of Haight, Gardner, Poor & Havens of New York ("Haight firm") to institute the New York foreclosure action on behalf of Wilshire.

6. During the course of its representation of Wilshire, the Haight firm performed legal services from the period March 25, 1993 through December 31, 1993.

7. Wilshire had no relationship to the Syntrex matter and was not a proper creditor in the Syntrex bankruptcy case.

8. The Haight firm had no relationship to the Syntrex matter and was not a proper creditor in the Syntrex bankruptcy case.

9. Respondent authorized the disbursement of the following Pitney firm Trust #2 checks all payable to the Haight firm drawn on Syntrex trust funds:

<u>Check Date</u>	<u>Check No.</u>	<u>Amount</u>	<u>Check Exhibit ID</u>	<u>Invoice Exhibit ID</u>
12/29/97	019030	\$5,681.15	C-H-1	C-H
10/13/98	020384	\$5,767.17	C-I-1	C-I
10/26/98	020449	\$9,716.31	C-J-1	C-J
11/30/98	020671	\$5,244.23	C-K-1	C-K
12/22/98	020800	\$6,023.70	C-L-1	C-L
12/22/98	020799	\$1,458.57	C-M-1	C-M
	TOTAL	\$33,891.13		

10. As referenced above in Paragraph 9, the Haight firm had sent respondent the following invoices for its legal services rendered in the Wilshire matter which were paid by the corresponding Pitney firm Trust #2 check:

<u>Inv. Date</u>	<u>Total</u>	<u>Services Rendered</u>	<u>Invoice Ex. ID</u>	<u>Check Ex. ID</u>
05/10/93	\$5,681.15	03/25/93 to 04/30/93	C-H	C-H-1
07/28/93	\$5,767.17	05/01/93 to 06/30/93	C-I	C-I-1
09/30/93	\$9,716.31	07/01/93 to 08/31/93	C-J	C-J-1
11/23/93	\$5,244.23	10/01/93 to 10/31/93	C-K	C-K-1
12/28/93	\$6,023.70	11/01/93 to 11/30/93	C-L	C-L-1
01/21/94	\$1,458.57	12/01/93 to 12/31/93	C-M	C-M-1
02/23/94		01/01/94 to 01/31/94		
07/25/94		05/01/94 to 06/30/94		
09/28/94		07/01/94 to 08/31/94		

11. At the time respondent disbursed the Pitney firm Trust #2 checks, Exhibits C-H-1, C-I-1, C-J-1, C-K-1, C-L-1 and C-M-1, he knew that he lacked the authority to do so.

12. Respondent's conduct as stated in this count, in knowingly disbursing Syntrex trust funds without authority, constitutes knowing misappropriation of client funds in violation of In re Wilson, 81 N.J. 451 (1979), RPC 1. 15(a) and RPC 8.4(c).

COUNT FOUR
(Dishonest Misuse of Soccer Club Funds)

1. Complainant incorporates the allegations of Counts One, Two and Three as if fully set forth herein.

2. Respondent disbursed from the Soccer Club's checking account check no. 1470 dated August 11, 1998 payable to respondent's American Express account in the amount of \$3,233.75. Exhibit C-E-1.

a. The check, Exhibit C-E-1, was credited to payment on respondent's American Express Statement of Account on August 13, 1998. Exhibit C-E-2.

b. At the time respondent disbursed Exhibit C-E-1, he knew that he lacked the authority to do so.

c. In the Soccer Club's check register for check no. 1470, respondent falsely noted that the check was made payable to "NJYSSA" for registration fees. Exhibit C-E-3.

d. At the OAE interview, respondent stated that "NJYSSA" was a reference for the New Jersey Youth Soccer Association.

3. Respondent disbursed from the Soccer Club's checking account check no. 1471 dated August 17, 1998 payable to himself in the amount of \$6,500.00, knowing that he lacked the authority to do so. The check was endorsed by respondent and deposited to his Summit personal account on August 17, 1998.

a. At the OAE interview, respondent stated that he intended that check no. 1471 would be deposited to the Soccer Club's Merrill Lynch account, and that he did not know how the check came to be deposited to his Summit personal account.

b. The original canceled check no. 1471 contains the notations "Merrill Lynch Account-MSA" in the memo section in the lower left

front corner of the check and "For Deposit Only" with the account number "82504E2" under respondent's endorsement signature on the back of the check. Exhibit C-E-4.

c. At the OAE interview, respondent admitted that all of the handwriting appearing on the original canceled check no. 1471, Exhibit C-E-4, was his. Respondent further falsely stated that he had made all of the handwritten notations appearing on the original canceled check no. 1471, at the time he prepared the check on August 17, 1998.

d. The copy of the cancelled check no. 1471 obtained from the Bank of New York's custodian of records demonstrates that, when it was presented to the bank for payment on August 18, 1998, the check contained none of the notations "Merrill Lynch Account-MS" in the memo section in the lower left front corner of the check nor "For Deposit Only" nor the Merrill Lynch account number "82504E2" under respondent's endorsement signature on the back of the check. Rather, the copy of the cancelled check no. 1471 obtained from the Bank of New York contained no notation in the memo section in the lower left front corner of the check, which was left blank, and did contain respondent's Summit personal account number "295016760" under respondent's endorsement signature on the back of the check. Exhibit C-E-4a.

e. The copy of the cancelled check no. 1471 obtained from the Bank of New York (Exhibit C-E-4a) is the same as that originally deposited to respondent's Summit personal account (Exhibit C-E-4c) on August 17, 1998 and demonstrates that the words, "Merrill Lynch Account-MS," "For Deposit Only" and "82504E2," all had been written

on the original canceled check by respondent, after the original check had been presented to the Bank of New York for payment by Summit Bank and returned to the Soccer Club by the Bank of New York as "canceled."

f. At the OAE interview, respondent could not explain the discrepancy between the condition of check no. 1471 as he stated it was in when he prepared it and that which it was in when originally deposited to his Summit personal account and then presented to the Bank of New York for payment.

g. Respondent made the notations, "Merrill Lynch Account-MS," "For Deposit Only" and "82504E2," on Exhibit C-E-4 to disguise his misuse of Soccer Club funds and to conceal the true facts surrounding his misconduct.

h. In the Soccer Club's check register for check no. 1471, respondent falsely noted that the check was made payable to the Soccer Club's Merrill Lynch account for deposit. Exhibit C-E-3.

4. Respondent disbursed from the Soccer Club's checking account check no. 1532 dated October 1, 1998 payable to respondent's American Express account in the amount of \$3,672.37. Exhibit C-E-5.

a. At the time respondent disbursed Exhibit C-E-5, he knew that he lacked the authority to do so.

b. In the Soccer Club's check register for check no. 1532, respondent falsely noted that the check was made payable to the Soccer Club's Merrill Lynch account for deposit. Exhibit C-E-6.

5. Respondent disbursed from the Soccer Club's checking account check no. 1563 dated November 1, 1998 payable to "Cash" in the amount of \$3,000.00. Exhibit C-E-7.

a. The check, Exhibit C-E-7, was endorsed by respondent and deposited to his Summit personal account on November 2, 1998, along with a check to him for \$32.50 (Exhibit C-E-7c) for a total deposit of \$3,032.50. The account balance prior to the deposit was \$71.55, on October 30, 1998. Exhibit C-E-7b.

b. On November 2, 1998, respondent's personal mortgage payment was automatically deducted from his Summit personal account in the amount of \$2,924.99, leaving a balance in the account of \$179.06. Exhibit C-E-7b.

c. Without respondent's deposit of the \$3,000.00 check, Exhibit C-E-7, there would have been insufficient funds in his Summit personal account on November 2, 1998 with which to pay his mortgage.

d. At the time respondent disbursed Exhibit C-E-7, he knew that he lacked the authority to do so.

e. In the Soccer Club's check register for check no. 1563, respondent falsely noted that the check was made payable to "Ricardo Levitte" for the "(diff. due) on training for Mystics". Exhibit C-E-8.

f. At the OAE interview, respondent gave inconsistent explanations for his use of the \$3,000.00 he obtained from the Soccer Club's checking account and for his notations of "Ricardo Levitte" for the "(diff. due) on training for Mystics" in the check register.

6. Respondent disbursed from the Soccer Club's checking account check no. 1506 dated September 16, 1998 payable to the Pitney firm in the amount of \$1,641.60 for "Invoice 1891855". Exhibit C-E-9.

a. In the Soccer Club's check register for check no. 1506, respondent noted that the check was made payable to the Pitney firm for "Legal fees (reversed by deposit)." Exhibit C-E-10.

b. At the time respondent disbursed Exhibit C-E-9, he knew that he lacked the authority to do so.

7. Respondent disbursed from the Soccer Club's Merrill Lynch account check no. 109 dated December 2, 1998 payable to the Pitney firm in the amount of \$601.18. Exhibits C-G-1.

a. At the time respondent disbursed Check no. 109 referenced in Exhibits C-G and C-G-1, he knew that he lacked the authority to do so.

8. The only legitimate legal fees owed by the Soccer Club to the Pitney firm were for legal services pursuant to Pitney firm invoice no. 1881422. Exhibit C-E-11. Respondent had previously made proper payment for those services by disbursing Soccer Club checking account check no. 1388 dated March 15, 1998 payable to the Pitney firm in the amount of \$1,500.00.

a. For time served in his voluntary capacity as Treasurer and/or Board member, respondent had improperly billed the Soccer Club for legal services pursuant to Pitney firm invoices no. 1891855 in the amount of \$1,641.60 and no. 1895266 in the amount of \$601.18. Exhibit C-E-11.

9. As stated in Count Two, paragraph 8, respondent knowingly misappropriated Pitney firm trust funds (Exhibits C-D and C-D-4) to reimburse the Soccer Club for these alleged "legal fees" (Exhibits C-E-9, C-G and C-G-1).

10. Respondent disbursed from the Soccer Club's checking account check no. 1545 dated October 13, 1998 payable to "Cash" in the amount of \$1,020.00 and deposited those funds to his Summit personal account on October 13, 1998. Exhibit C-E-13.

a. At the time respondent disbursed Exhibit C-E-13, he knew that he lacked the authority to do so.

11. Respondent disbursed from the Soccer Club's Merrill Lynch account check no. 108 dated December 24, 1998 payable to himself in the amount of \$3,000.00. Exhibits C-G and C-G-1.

a. At the time respondent disbursed check no. 108 referenced in Exhibits C-G and C-G-I, he knew that he lacked the authority to do so.

12. In 1998, Candlewood Holdings, Inc. ("Candlewood") was a company which owned a car wash in New York. At the time, Alan Moore ("Moore") was the President of Candlewood and had been a long-time personal friend of respondent. Respondent had also served as attorney for Candlewood on occasion, which was owned at the time by Moore's wife, Rosalie.

13. Respondent disbursed from the Soccer Club's checking account check no. 1524 dated September 24, 1998 payable to Candlewood Holdings in the amount of \$10,000.00 for "Investment -Bd." Exhibit C-F.

a. At the time respondent disbursed Exhibit C-F, he knew that he lacked the authority to do so.

b. In the Soccer Club's check register for check no. 1524, respondent noted that the check was made payable to "Candlewood for savings, Board of Ed. contribution." Exhibit C-F-1.

c. On or about February 8, 1999, respondent deposited to the Soccer Club's checking account Candlewood check no. 1392 payable to the Soccer Club in the amount of \$10,400.00 for reimbursement of the alleged "investment" in Candlewood. Exhibit C-F-2a.

d. At the OAE interview, respondent admitted that he signed his PNC personal account check no. 1103 payable to Candlewood dated February 9, 1999 in the amount of \$10,400.00 (Exhibit C-F-3) and provided the check to Moore, to fund the reimbursement of the Candlewood "investment" to the Soccer Club.

14. Respondent's conduct as stated in this count, in knowingly disbursing Soccer Club funds for personal and other uses without authority, constitutes the dishonest misuse of Soccer Club funds in his capacity as a fiduciary in violation of In re Spina, 121 N.J. 378 (1990), In re Siegel, 133 N.J. 162 (1993) and RPC 8. 4(c).

COUNT FIVE
(Knowing Misappropriation of Pitney Firm Funds)

1. Complainant incorporates the allegations of Counts One, Two, Three and Four as if fully set forth herein.

2. After its purchase of Sterling Optical's assets in the bankruptcy case, Sterling Vision entered into commercial agreements with new purchasers desiring to become Sterling Optical franchisees, with regard to certain Sterling Optical store locations.

3. On March 22, 1999, Sterling Vision entered into a purchase and sale agreement (Exhibit C-Q) and a franchise agreement (Exhibit C-Q-I) with Supreme Solutions, Inc. ("Supreme Solutions") regarding

Sterling Optical store no. 173 located at Rockaway Townsquare Mall, Rockaway, New Jersey ("store no. 173").

4. Respondent was the Pitney firm partner who represented the franchisee, Supreme Solutions, in the store no. 173 agreements with Sterling Vision. Exhibit C-Q-1a

5. Respondent received Supreme Solutions' check no. 1200 dated 1/21/99 in the amount of 1,000.00 payable to Robert S. Burrick for legal fees in the store no. 173 matter. Exhibit C-Q-2.

6. Respondent did not remit the Supreme Solutions check no. 1200 to the Pitney firm, as he was required to do.

7. On or about February 1, 1999, respondent deposited the Supreme Solutions check, Exhibit C-Q-2, to the Soccer Club's checking account.

8. At the time respondent deposited the Supreme Solutions check to the Soccer Club's checking account, he was attempting to reimburse the Soccer Club for monies he had previously misused.

9. At the time respondent deposited the Supreme Solutions check to the Soccer Club's checking account, he knew that he lacked the authority to do so.

10. Respondent received Supreme Solutions' check no. 1230 dated 2/2/99 in the amount of \$750.00 payable to Robert S. Burrick, as legal fees in the store no. 173 matter. Exhibit C-Q-3.

11. Respondent did not remit the Supreme Solutions check no. 1230 to the Pitney firm, as he was required to do.

12. On or about February 8, 1999, respondent deposited the Supreme Solutions check, Exhibit C-Q-3, to his PNC personal account, Exhibit C-Q-4, where the funds were used for his own purposes.

13. At the time respondent deposited the Supreme Solutions check to his PNC personal account, he knew that he lacked the authority to do so.

14. In March 1999, Sterling Vision agreed to the sale by its franchisee, Budhi Investment Corporation, of the assets regarding Site for Sore Eyes store no. 513 located at Napa Town Center, Napa, California ("store no. 513") to Veritas Investments, LLC ("Veritas"). Exhibit C-Q-5a, b, c and d.

15. In February 1999, respondent was the Pitney firm partner retained to represent Veritas, in the store no. 513 purchase of assets. Exhibit C-Q-6.

16. Respondent received check no. 1115 dated 1/25/99 from Jay Mashouf in the amount of \$1,500.00 payable to Robert S. Burrick for legal fees on behalf of Veritas in the store no. 513 matter. Exhibit C-Q-4.

17. Respondent did not remit check no. 1115 of Jay Mashouf on behalf of Veritas to the Pitney firm, as he was required to do.

18. On or about February 8, 1999, respondent deposited the Jay Mashouf check on behalf of Veritas to his PNC personal account, Exhibit C-Q-4, where the funds were used for his own purposes.

19. At the time respondent deposited the Jay Mashouf check on behalf of Veritas to his PNC personal account, he knew that he lacked the authority to do so.

20. Respondent's conduct as stated in this count constitutes the knowing misappropriation of law firm funds in violation of In re Siegel, 133 N.J. 162 (1993}, In re Weiss, 147 N.J. 336 (1997) and RPC 8. 4(c).

WHEREFORE, Respondent should be disciplined.

OFFICE OF ATTORNEY ETHICS

DATE: January 16, 2001

/s/ David E. Johnson Jr.
Director

WALDER, SONDAK & BROGAN, P.A.
5 Becker Farm Road
Roseland, NJ 07068-1727
Attorneys for Robert S. Burrick

OFFICE OF ATTORNEY ETHICS	:	Supreme Court of New Jersey
	:	District XIV Ethics Committee
Complainant,	:	
	:	Docket No. XIV-99-142E
vs.	:	
	:	DISCIPLINARY ACTION
ROBERT S. BURRICK, ESQ.	:	
	:	VERIFIED ANSWER AND
Respondent,	:	AFFIRMATIVE DEFENSES
	:	[R.1:20-4(b)]

Respondent, Robert S. Burrick, by way of Answer to the Complaint, says that:

GENERAL ALLEGATIONS

1. Respondent admits the allegations in paragraph 1.
2. Respondent admits the allegations in paragraph 2.
3. Respondent is without sufficient knowledge as to the allegations in paragraph 3 except he admits that he was a signator as to the trust accounts at the Midlantic National and PNC Banks referenced in paragraph 3, but all checks were subject to review, approval and issuance by accounting personnel and others at Pitney, Hardin, Kipp and Szuch ("PHKS').
4. Respondent admits the allegations in paragraph 4.
5. Respondent admits the allegations in paragraph 5.
6. Respondent admits the allegations in paragraph 6 and further states that he had an additional checking account with his wife Karen

at Summit Bank (formerly known as United Jersey Bank) during the relevant time period.

7. Respondent admits the allegations in paragraph 7, and further states that he also had a brokerage account at the time with his wife Karen through PNC Brokerage (a subsidiary of PNC Bank), and also had other bank and brokerage accounts with other financial institutions during the relevant time period.

8. Respondent admits the allegations in paragraph 8.

9. Respondent admits the allegations in paragraph 9 and further states that he voluntarily appeared for the interview at the request of the OAE and in furtherance of his continuing cooperation with that office.

**COUNT ONE
(Kentile)**

1. Respondent admits the allegations in paragraph 1.

2. Respondent denies the allegations in paragraph 2, except he admits that his representation of the Unofficial Committee of Sterling Optical Franchisees continued when he joined the PHKS firm.

3. Respondent admits the allegations in paragraph 3, except to further state that Sterling Optical decided to sell its operating assets to the bidder with the highest offer, subject to the approval of the bankruptcy court, which approval was issued in this matter.

4. Respondent admits the allegations in paragraph 4.

5. Respondent admits the allegations in paragraph 5.

6. Respondent denies the allegations in paragraph 6, except that he admits that PHKS did represent the official creditors'

committee in the Kentile bankruptcy matter and he was the PHKS partner involved.

7. Respondent admits the allegations in paragraph 7.

8. Respondent admits the allegations in paragraph 8.

9. Respondent admits the disbursements referenced in paragraph 9, but states that the withdrawal of the Kentile funds, which were for the benefit of United Capital Corporation, a public company, was an honest mistake. After learning of this mistake, United Capital Corporation continued and still continues to utilize the services of the Respondent. Respondent, during the relevant time period, had been drawing funds out of the Kentile monies for appropriate disbursements and signing many check requisitions and checks in that matter. Respondent neither sought nor received any personal benefit from this mistaken disbursement. The purpose of the disbursement to Sterling Vision, Inc. related to the division of fees and expenses arising out of the Sterling Optical Corporation bankruptcy matter, in keeping with a letter agreement between Sterling Optical Corporation and Pitney Hardin Kipp and Szuch ("PHKS"). The check was distributed on or about April 17, 1995 by PHKS in accordance with a bankruptcy court order fixing and allocating fees and the agreement between the parties.

Respondent has no knowledge as to why the funds of \$1,383.11 referenced in paragraph 9 were provided to Empire, or why Kentile funds were utilized. Respondent recalls that Empire was a creditor in the bankruptcy matter of Shofar Kosher Foods, which pre-dated Mr. Burrick's joining PHKS. Respondent was bankruptcy counsel for Shofar prior to his joining PHKS. Such a disbursement was in error.

Respondent further states that he received no personal benefit from the disbursement to Empire. The check requisition form was prepared by someone other than Respondent and his signature is the only writing by Respondent on the requisition. Empire was not a client of Respondent.

Respondent further states that the accounting department at PHKS reviews, approves and requires back-up documentation for such payments to third parties to ensure that monies are properly disbursed from the correct accounts. Apparently, despite this procedure, the accounting department failed to recognize the mistaken and erroneous distributions of the checks referenced in this Count.

10. Respondent denies the allegations in paragraph 10.

11. Respondent is without information or knowledge as to the allegations in paragraph 11, except that PHKS agreed and was obligated to split legal fees with Sterling Vision. See Answer in paragraph 9 above.

12. Respondent is without information or knowledge as to the allegations in paragraph 12. See answer in paragraph 9 above.

13. Respondent denies the allegations in paragraph 13.

COUNT TWO
(Syntrex Funds to Millburn Soccer Club)

1. Respondent repeats his responses to the General Allegations and to the allegations of Count One, as if fully set forth herein.

2. Respondent denies the allegations in paragraph 2, except he admits that he served as a volunteer as the Treasurer of the Millburn Soccer Club and had signatory authority as to its Bank of New York and

Merrill Lynch accounts from sometime in January 1998 until sometime in February 1999.

3. Respondent denies the allegations in paragraph 3, except to state that a Substitution of Attorney dated December 3, 1992 was signed by Timothy Greiner on behalf of the law firm of Pitney Hardin Kipp & Szuch ("PHKS") as substitute counsel for the Creditors' Committee in the post-Plan confirmation regarding the Syntrex, Inc. ("Syntrex") bankruptcy case. It appears that a plan was adopted prior to PHKS being substituted in this case. The Syntrex file had been brought to PHKS by other attorneys who had handled the file at another law firm. Attorneys other than Respondent worked on the Syntrex file on a regular basis.

4. Respondent is unaware of any relationship between Syntrex and the Millburn Soccer Club as referenced in paragraph 4.

5. Respondent admits the allegations in paragraph 5, but states that such distributions were mistakenly issued from the Syntrex account at PHKS. Respondent further states that the disbursements of \$1,641.60 and \$601.18 represented the reimbursement of certain legal fees to Millburn Soccer Club.

6. Respondent denies the allegations in paragraph 6, and incorporates by reference his answer in paragraph 5 above.

7. Respondent is without sufficient knowledge or information as to the allegations in paragraph 7 and he is unaware of any relationship between Syntrex and the Millburn Soccer Club.

8. Respondent denies the allegations in paragraph 8 and incorporates by reference his answers to Count Four, paragraphs 3, 5, 6 and 7.

9. Respondent denies the allegations in paragraph 9.

COUNT THREE
(Syntrex Funds to Pay Haight Firm Legal Fees)

1. Respondent repeats his responses to the General Allegations and to the allegations in Counts One and Two as if fully set forth herein.

2. Respondent admits the allegations in paragraph 2 except he is without sufficient knowledge or information as to the referenced date, and further believes that this matter involved bankruptcy issues aside from the foreclosure action.

3. Respondent admits the allegations in paragraph 3.

4. Respondent denies the allegations in paragraph 4, but states that the Wilshire Credit Corporation ("Wilshire") matters originated with another lawyer at PHKS from outside the Bankruptcy Department and, although the matter was assigned to the bankruptcy group within the firm, Respondent had little involvement in the Wilshire matters.

5. The allegations in paragraph 5 are denied, except to admit that during the course of the representation of Wilshire by PHKS, the law firm of Haight, Gardner, Poor and Havens of New York ("Haight firm") was retained to act as local counsel on behalf of Wilshire as required by New York State court rules. PHKS did not have a New York office at the time and local counsel was required.

6-8 Respondent admits the allegations in paragraphs 6, 7 and 8.

9. Respondent denies the allegations in paragraph 9, but states that such payments of legal fees to the Haight law firm from Syntrex were made in error and were mistakes. The PHKS accounting department requires invoices for payments prior to the approval and issuance of checks in order to prevent and correct such mistakes. Neither Respondent nor the accounting department at PHKS recognized these mistakes. Respondent denies any intentional misappropriation and further states that he received no personal benefit, direct or indirect, from these distributions.

10. Respondent denies the allegations in paragraph 10, but states that the Haight law firm invoices of 1993 and 1994 were not reviewed or presented when the check requisitions for the checks referenced in paragraph 9 were prepared 4 to 5 years later, in 1997 and 1998. Review by the accounting department at PHK&S, as well as relevant invoices, would have been required prior to the issuance of such checks.

11. Respondents denies the allegations in paragraph 11.

12. Respondent denies the allegations in paragraph 12.

COUNT FOUR
(Soccer Club Funds)

1. Respondent repeats his responses to the General Allegations and to the allegations in Counts One, Two and Three as if fully set forth herein.

2. Respondent admits the allegations in paragraph 2 of the Complaint.

a. Respondent admits the allegations in paragraph 2a, and further states that such check was for reimbursement of funds advanced by Respondent on behalf of the Millburn Soccer Club well in excess of the amount of this check.

b. Respondent denies the allegations in paragraph 2b, and further states that Respondent had authority to write checks on the Millburn Soccer Club checking account. Respondent further states that he expended substantial sums of personal funds on behalf of Millburn Soccer Club for expenses incurred relating to Millburn Soccer Club activities. At the initiation of his service as Treasurer, Mr. Burrick provided \$2,500 of his personal funds into the Millburn Soccer Club account in order to fund a shortfall and imbalance in the records which existed when he became Treasurer. Also, Respondent has paid out of his personal funds charges for facilities at The Racquets Club of Short Hills for Millburn Soccer Club Board Meetings, and other expenditures, which by way of example, include payments for meals for soccer club managers and volunteers, fees for referees, reimbursements to managers, cash payments to the Millburn High School custodial staff and Millburn police with respect to Millburn Soccer Club tournament events, tournament supplies, cash boxes, cash trays, paper, pens, calculators, sports-type equipment, soccer paraphernalia, and various other items to support the Millburn Soccer Club Program. These payments were reasonable and necessary for the soccer program.

c. Respondent denies the allegations in paragraph 2c and further states that the reference to the "NJYSSA" was merely a note to

himself relating to the need to pay registration fees to the NJYSSA, and not a reference to the payee of the check.

d. Respondent admits the allegations in paragraph 2d and refers to his response in paragraph 2c above.

3. Respondent denies the allegations in paragraph 3 and further states that Millburn Soccer Club check No. 1471 dated August 17, 1998 was intended to be deposited into the Soccer Club's Merrill Lynch account. The check was written to reduce the funds in the Millburn Soccer Club checking account with Bank of New York and to deposit the monies into the Merrill Lynch account which was a savings vehicle. Although Respondent endorsed the check, it was mistakenly and erroneously deposited into his personal account.

a. Respondent admits the allegations in paragraph 3a.

b. Respondent denies the allegations in paragraph 3b and refers to the referenced document.

c. Respondent denies the allegations in paragraph 3c and refers to the referenced document and full interview for the context of Respondent's statements.

d. Respondent denies the allegations in paragraph 3d and refers to the referenced document.

e. Respondent denies the allegations in paragraph 3e and refers to the documents referenced therein.

f. Respondent denies the allegations in paragraph 3f, but refers to his interview and the volume of checks referenced in the OAE interview for the full context of his statements with regard thereto.

g. Respondent denies the allegations in paragraph 3g.

h. Respondent denies the allegations in paragraph 3h and further states that it was Respondent's intention at all times that this check be deposited into the Millburn Soccer Club Merrill Lynch account.

4. Respondent admits the allegations in paragraph 4 and refers to his answer to paragraph 2b above.

a. Respondent denies the allegations in paragraph 4a and further refers to his answer to paragraph 2b above.

b. Respondent denies the allegations in paragraph 4b and further states that various references in the check register are reminder notes and did not refer to the particular payee.

5. Respondent admits the allegations in paragraph 5, but further states that the funds at issue were withdrawn in order to reimburse expenses which were expended personally by a team manager on behalf of the Millburn Soccer Club. See paragraph 5e below.

a. Respondent admits the allegations in paragraph 5a, but further states that he had substantial and sufficient funds available in other financial accounts to replenish the Summit Bank personal account referenced in paragraph 5a and would have done so, if necessary.

b. Respondent admits the allegations in paragraph 5b and refers to the relevant documents. See also the answer in paragraph 5a above.

c. Respondent denies the allegations in paragraph 5c and incorporates by reference his answer in paragraph 5a above.

d. Respondent denies the allegations in paragraph 5d and further incorporates by reference herein his answer in paragraph 2b of Count Four.

e. Respondent denies the allegations in paragraph 5e and states that the referenced check (Exhibit C-E-7) was advanced for the purpose of reimbursing a team manager for training fees paid to a trainer.

f. Respondent denies the allegations in paragraph 5f, and reference is made to the full interview.

6. Respondent admits the allegations in paragraph 6, and states that the check was issued to pay an invoice for legal services provided to the Millburn Soccer Club.

a. Respondent denies the allegations in paragraph 6a, but refers to the referenced document.

b. Respondent denies the allegations in paragraph 6b.

7. Respondent admits the allegations in paragraph 7 and states that the check was issued to pay an invoice for legal services provided to the Millburn Soccer Club.

a. Respondent denies the allegations in paragraph 7a.

8. Respondent denies the allegations in paragraph 8, and further states that a payment for legal services provided by PHKS was made by Millburn Soccer Club on March 15, 1998.

a. Respondent denies the allegations referenced in paragraph 8a.

9. Respondent denies the allegations in paragraph 9.

10. Respondent admits the allegations in paragraph 10, and further states that such monies constituted reimbursement toward funds which Respondent personally expended for the benefit of Millburn Soccer Club.

a. Respondent denies the allegations in paragraph 10a.

11. Respondent admits the allegations in paragraph 11, and refers to his answer in paragraph 2b above.

a. Respondent denies the allegations in paragraph 11a.

12. Respondent denies the allegations as stated in the first sentence of paragraph 12, but states that Candlewood owned a company at the time in question known as Cutlass Enterprises which owned a car wash in the Bronx, New York. Respondent further states that Candlewood was involved in various business activities other than its interest in the car wash. Respondent admits the balance of paragraph 12.

13. Respondent admits the allegations in paragraph 13.

a. Respondent denies the allegations in paragraph 13a.

b. Respondent admits the allegations in paragraph 13b.

Respondent further states that this transaction constituted an investment of Millburn Soccer Club funds with Candlewood for the purpose of obtaining interest on such funds which were earmarked for a payment by the Millburn Soccer Club for the Millburn Board of Education in return for use of the fields made available to the Soccer Club by the Board of Education. Such gift was a traditional annual occurrence, and was in lieu of a use fee for the utilization of the soccer fields. It was anticipated that the gift would be made in the Spring of 1999.

c. Respondent denies the allegations of paragraph 13c, except Respondent admits that on or about February 8, 1999 he deposited to the Millburn Soccer Club checking account Candlewood check No. 1392 payable to the Soccer Club in the amount \$10,400 which represented the Soccer Club's investment and interest return on the \$10,000 referenced in paragraph 13b above.

d. Respondent denies the allegations in paragraph 13d, but states that he utilized his personal check because certain representatives of the Millburn Soccer Club sought to have funds prematurely returned to the Millburn Soccer Club account. Reference is made to the interview with the OAE for its full context.

14. Respondent denies the allegations in paragraph 14.

COUNT FIVE
(Pitney Firm Funds)

1. Respondent repeats his responses to the General Allegations and the allegations in Counts One, Two, Three and Four as if fully set forth herein.

2. Respondent admits the allegations in paragraph 2.

3. Respondent admits the allegations in paragraph 3.

4. Respondent denies the allegations of paragraph 4, and further states that other representatives of PHKS were also involved with this matter.

5. Respondent denies the allegations of paragraph 5, but references Exhibit C-Q-2 for its content.

6. Respondent denies the allegations of paragraph 6 and any conduct or omission as alleged was due to mistake and inadvertence.

7. Respondent is without sufficient knowledge or information as to the allegations in paragraph 7.

8. Respondent denies the allegations in paragraph 8.

9. Respondent denies the allegations in paragraph 9.

10. Respondent denies the allegations in paragraph 10, but refers to Exhibit C-Q-3 for its content.

11. Respondent denies the allegations in paragraph 11 and any conduct or omission as alleged was due to mistake and inadvertence.

12. Respondent denies the allegations in paragraph 12.

13. Respondent denies the allegations in paragraph 13.

14. Respondent admits the allegations in paragraph 14.

15. Respondent admits the allegations in paragraph 15.

16. Respondent denies the allegations in paragraph 16, but refers to Exhibit C-Q-4 for its content.

17. Respondent denies the allegations of paragraph 17 and further states that any conduct or omission as alleged was due to a mistake and inadvertence.

18. Respondent denies the allegations in paragraph 18.

19. Respondent denies the allegations in paragraph 19.

20. Respondent denies the allegations in paragraph 20.

AFFIRMATIVE DEFENSES

FIRST SEPARATE DEFENSE

No loss was suffered by any client or by anyone else.

SECOND SEPARATE DEFENSE

Respondent acted in good faith at all times and did not receive any personal gain.

THIRD SEPARATE DEFENSE

Any alleged actions or omissions by Respondent were the result of carelessness or negligence, but were not knowing, intentional or wilful.

FOURTH SEPARATE DEFENSE

Respondent has at all times cooperated fully with the Office of Attorney Ethics.

FIFTH SEPARATE DEFENSE

Respondent has attempted to resolve all of the alleged deficiencies resulting from mistakes or inadvertence, and has in fact resolved and settled most of these alleged deficiencies.

SIXTH SEPARATE DEFENSE

Respondent had authority regarding disbursements from the Millburn Soccer Club accounts.

SEVENTH SEPARATE DEFENSE

As to Count Four, such disbursements referenced therein were the product of mistake and/or reimbursement of monies expended by Respondent for the benefit of the Millburn Soccer Club.

EIGHTH SEPARATE DEFENSE

As to Count Five, such deposits as referenced therein were the product of mistake and not any intentional or knowing misconduct.

NINTH SEPARATE DEFENSE

PHKS' accounting department and management reviewed all disbursements and authorized the issuance of checks. Respondent relied on others within PHKS and upon the accounting department within PHKS

to assure that all related disbursements and payments were appropriately issued.

Respectfully submitted,

Walder, Sondak & Brogan, P.A.
Attorneys for Respondent,
Robert S. Burrick

By: /s/ Justin P. Walder

Dated: March 14, 2001

CERTIFICATION

I have reviewed the facts set forth in the Answer and I certify them to be true to the best of my knowledge. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

/s/ Robert S. Burrick

Dated: March 14, 2001

REQUEST FOR HEARING

In accordance with R. 1:20-4(e) Respondent hereby requests a hearing with respect to the allegations set forth in the Complaint.

Respectfully submitted,

Walder, Sondak & Brogan, P.A.
Attorneys for Respondent,
Robert S. Burrick

By: /s/ Justin P. Walder

Dated: March 14, 2001