

# DISCIPLINARY REVIEW BOARD

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SUPREME COURT OF NEW JERSEY

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RICHARD J. HUGHES JUSTICE COMPLEX  
CN 962  
TRENTON, NEW JERSEY 08625-0962  
(609) 292-1011

ROBYN M. HILL  
CHIEF COUNSEL

ISABEL FRANK  
DEPUTY CHIEF COUNSEL

LILLIAN LEWIN  
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COLIN T. TAMS  
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June 6, 1997

## Certified Mail - R.R.R. and Regular Mail

David Lustbader  
615 West Mt. Pleasant Avenue  
Livingston, New Jersey 07039

Re: In the Matter of David Lustbader  
Docket No. DRB 96-470  
**LETTER OF ADMONITION**

Dear Mr. Lustbader:

The Disciplinary Review Board has reviewed your conduct in the above matter and has concluded that it was improper. Following a careful review of the record, supplemented by oral argument, the Board determined to impose an admonition. Specifically, in February 1992 you were retained by Clifford Wexler to represent him in connection with a real estate closing. During the initial conference with you, Mr. Wexler inquired about the amount of the fee. You replied that it would be approximately \$750, depending upon the amount of time spent on the case. You did not discuss an hourly rate with Mr. Wexler and did not prepare a fee agreement at any time. At the closing of title, Mr. Wexler again inquired about the amount of your fee, which was not listed on the closing document. Your associate, who handled the closing, told Mr. Wexler to call you to discuss this fee. When Mr. Wexler did so, you indicated that you would forward him a bill after all of the work had been completed. Only then did Mr. Wexler learn that he would be billed at an hourly rate. Six months after the closing, you finally forwarded a bill to Mr. Wexler for \$3,500. The Board found that, although there was no convincing evidence of overreaching in this matter, your conduct in failing to prepare a written fee agreement to give your client notice of the amount of the fee violated RPC 1.5 (b).

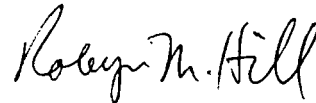
I/M/O David Lustbader  
DRB 96-470

Your conduct adversely reflected not only upon you as an attorney but also upon all members of the bar. Accordingly, the Board has directed the issuance of this admonition to you. R. 1:20-15 (f) (4).

A permanent record of this occurrence has been filed with the Clerk of the Supreme Court and the Board's office. Should you become the subject of any further discipline, it will be taken into consideration.

The Board has also directed that the costs of the disciplinary proceedings be assessed against you. An affidavit of costs will be forwarded under separate cover.

Very truly yours,



Robyn M. Hill

RMH:ms

- c. Chief Justice Deborah T. Poritz
- Associate Justices
- Stephen W. Townsend, Clerk
- Supreme Court of New Jersey
- Lee M. Hymerling, Esq., Chair
- Disciplinary Review Board
- David E. Johnson, Jr., Esq., Director
- Office of Attorney Ethics.
- Edward M. Callahan, Jr., Chair
- District VC Ethics Committee
- Philip McGovern, Jr., Secretary
- District VC Ethics Committee
- Clifford A. Wexler
- Grievant