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SUPREME COURT OF NEW JERSEY

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January 23, 2014

Mark Neary, Clerk
Supreme Court of New Jersey
P.O. Box 970
Trenton, New Jersey 08625-0962

Re: In the Matter of Kimberley S. Tyler
Docket No. DRB 13-336
District Docket No. VA-2012-0025E

Dear Mr. Neary:

The Disciplinary Review Board has reviewed the motion for discipline by consent (reprimand or such lesser discipline as the Board may deem warranted) filed by the District VA Ethics Committee, pursuant to R. 1:20-10(b). Following a review of the record, the Board determined to grant the motion. In the Board's view, a reprimand is the appropriate discipline for respondent's failure to communicate with her client, a violation of RPC 1.4(b).

Specifically, Quanta Cabbal retained respondent to re-open a Chapter 7 bankruptcy on his behalf in order to add a previously omitted creditor and to discharge that particular debt. After July 23, 2012, despite reasonable requests for information from her client, respondent ceased communicating with him and never informed him that the creditor had indeed been added to the bankruptcy schedules, the debt discharged, and the bankruptcy closed.

In the Matter of Kimberley S. Tyler

Docket No. DRB 13-336

Page 2

Typically, attorneys who fail to communicate adequately with their clients are admonished. See, e.g., In the Matter of David A. Tykulsker, DRB 12-040 (April 24, 2012) (attorney failed to inform his client that the court had denied a motion to vacate an order dismissing the client's claim; the client did not learn of this development until he called the attorney, twelve days later, to inquire about the outcome; the attorney also failed to comply with the client's multiple requests for a copy of the court's orders until several months later, when the client appeared at his office to obtain them) and In the Matter of Shelley A. Weinberg, DRB 09-101 (June 25, 2009) (for a one-year period, attorney failed to advise his client about important aspects of a Social Security disability matter; the attorney erroneously advised the client that his claim had been denied and then failed to explain his error; he also failed to notify the client that he had terminated the representation and had retained the "excess" portion of his fee while exploring avenues of appeal; no disciplinary infractions since 1988 admission to the bar).

If the attorney has a disciplinary record, a reprimand may result. See, e.g., In re Wolfe, 170 N.J. 71 (2001) (failure to communicate with client; reprimand imposed because of the attorney's ethics history: an admonition, a reprimand, and a three-month suspension).

Here, in mitigation, respondent acknowledged her wrongdoing by entering into a stipulation with the OAE; she was suffering from health problems at the time of her conduct; she did successfully complete the services for which she was retained; and there is no indication that Mr. Cabball sustained any harm due to respondent's failure to inform him that the debt had been discharged and the matter had been closed.

On the other hand, respondent does have a prior reprimand for, among other things, failure to communicate in six bankruptcy cases. The Board determined that none of the mitigating factors were compelling enough to reduce the appropriate quantum of discipline, given that respondent unquestionably has not learned from her prior ethics errors. Accordingly, the Board determined that a reprimand for her violation of RPC 1.4(b), rather than the typical admonition, should be imposed in this matter. Moreover, the Board determined to require respondent to provide to the OAE proof of fitness to practice law, within ninety days of the date of the Court order.

In the Matter of Kimberley S. Tyler

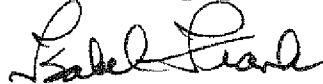
Docket No. DRB 13-336

Page 3

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated September 9, 2013;
2. Stipulation of discipline by consent, dated September 9, 2013;
3. Affidavit of consent, dated September 9, 2013;
4. Ethics history, dated October 8, 2013.

Very truly yours,



Isabel Frank

Acting Chief Counsel

IF/tk

c: Bonnie C. Frost, Chair,
Disciplinary Review Board (w/o enclosures)
Charles Centinaro, Director,
Office of Attorney Ethics (w/o enclosures)
Frank J. DeAngelis, Esq., Chair,
District VA Ethics Committee (w/o enclosures)
John J. Zefutic, Jr., Esq., Secretary,
District VA Ethics Committee (w/o enclosures)
Kimberly S. Tyler, respondent