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May 24, 2016

Jill Anne LaZare
c/o Robyn M. Hill, Esq.
P.O. Box 333
Lumberton, NJ 08048-0333

Re: In the Matter of Jill Anne LaZare
Docket No. DRB 16-027
District Docket No. XII-2013-0008E
LETTER OF ADMONITION

Dear Ms. LaZare:

The Disciplinary Review Board has reviewed your conduct in the above matter and has concluded that it was improper. Following a review of the record, the Board determined to impose an admonition.

Specifically, in late 2010, you represented the plaintiff-husband in a Monmouth County divorce action. Custody of the parties' two-year old daughter was contested, and each parent accused the other of prescription drug abuse.¹

In early 2012, in preparation for trial, your law office subpoenaed two affiliated doctors of New Jersey Pain Consultants (NJPC) for their testimony at trial on May 7, 2012. NJPC is a treatment facility that was apparently used by the wife. On May 2, 2012, NJPC obtained an abstract from the New Jersey Prescription Monitoring & Reporting System that detailed a one-

¹ The parties' names and identifiers have been redacted from the record.

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year period of the wife's narcotic drug prescriptions and the locations of pharmacies where those prescriptions were filled.

You spoke with one of the NJPC doctors on May 3, 2012 to confirm his intention to testify at trial on May 7, 2012. Unbeknownst to you, the doctor had already run the above report for you in hopes of avoiding an appearance at trial. During your conversation about his attendance, the doctor effectively told you that he would send you proof that the wife was a "drug addict" so that he need not testify. You were unaware at the time that the State of New Jersey maintained a prescription drug database or that the doctor accessed that database to send you an abstract listing the wife's prescription drug use. Rather, you did not know what he was sending you.

On May 7, 2012, during the trial, you called the wife as a witness and used the drug abstract to question her about her prescription drug use. You had not planned to call her as a witness that day or to use the document. At the ethics hearing, your memory was poor about when you first learned that the doctor had likely obtained the abstract improperly. The evidence suggests, however, that you may not have known until immediately after the wife left the witness stand and you returned to counsel table. Only then did your associate attorney, Christopher Ciotoli, Esq., who was present with you that day, inform you that the doctor was no longer treating the wife, and, thus, should not have accessed the prescription drug database.

At about that same moment, the wife's attorney, Edward Fradkin, Esq., approached you and asked the source of the document, which was not otherwise provided in discovery. You panicked, refused to disclose the source of the document, and, instead, told Fradkin that you received it from an "anonymous" source. Your statement to Fradkin was false and constituted a misrepresentation, a violation of RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), because you knew that the abstract had been sent to you by the doctors at NJPC.

Minutes later, at Fradkin's request, the trial judge, Honorable Dennis R. O'Brien, J.S.C., held a conference in his chambers about the incident. The judge asked you where the document had come from, and you told him that it was from an anonymous source. Judge O'Brien did not accept your answer as truthful, and demanded to know its real source. After ten to fifteen minutes of intense questioning by the judge, you finally told him the truth - that the doctors at NJPC had sent it to you. The Board concluded that your conduct in this regard violated RPC

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3.3(a)(1) (knowingly making a false statement of material fact or law to a tribunal) and RPC 8.4(d) (conduct prejudicial to the administration of justice). See In the Matter of Robin K. Lord, DRB 01-250 (September 24, 2001) (admonition for attorney who failed to reveal her client's real name to a municipal court judge, which would have allowed the court to discover other violations; but for the fact that the attorney notified the court of her client's true identity the following day, harsher discipline would have been imposed).

After a November 16, 2012 hearing, Judge O'Brien found you guilty of having violated the discovery rules, specifically those dealing with subpoenas. In a November 28, 2012 order and statement of reasons, the judge quashed nineteen subpoenas that you sent to doctors and pharmacies (with copies to your adversary) using the drug abstract. He awarded the defendant-wife \$9,571.25 in legal fees, and referred this matter to ethics authorities. Judge O'Brien did not, however, remove you from the case.

The Board dismissed the remaining charges in the amended complaint for lack of clear and convincing evidence: RPC 3.3(a)(5); RPC 3.4(a); RPC 3.4(c); and RPC 4.1(a). Rather, the Board believed that the conduct underlying these charges was more properly addressed by Judge O'Brien's November 28, 2012 order.

The Board considered, in mitigation, that you have had no prior final discipline since your 2001 admission to the New Jersey bar. The Board further considered that your misconduct was not the product of design. Rather, you panicked at trial upon learning that the doctor may have improperly obtained a prescription drug abstract, and that you acted in an attempt to protect him. Moreover, although you clearly misrepresented to the judge the source of document, you corrected that misrepresentation within a relatively short period of time.

In further mitigation, along with a heavy litigation schedule in early May 2012, the Board considered that you were dealing with two difficult family health issues involving your two sons, which required a good deal of your time and attention. Moreover, on the evening of May 8, 2012, you suffered a personal tragedy by the unexpected death of your young daughter.

Finally, the Board considered witness testimony and two character letters from individuals attesting to your qualities as a skilled attorney and an honest person.

Your conduct has adversely reflected not only upon you as an attorney but also upon all members of the bar. Accordingly, the

I/M/O Jill Anne LaZare, DRB 16-027

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Board has directed the issuance of this admonition to you. R.
1:20-15(f)(4).

Members Gallipoli and Rivera voted for a reprimand and would have found violations of RPC 3.3(a)(1), RPC 3.4(a) and (c), RPC 8.4(c) and RPC 8.4(d). They would have dismissed the RPC 4.1(a) and RPC 3.3(a)(5) charges for lack of clear and convincing evidence. Member Singer voted to dismiss.

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 invoice of costs will be forwarded under separate cover.

Very truly yours,



Ellen A. Brodsky
Chief Counsel

EAB/paa

c: Chief Justice Stuart Rabner
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Disciplinary Review Board
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Supreme Court of New Jersey
Gail G. Haney, Deputy Clerk
Supreme Court of New Jersey (w/ethics history)
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