DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

RICHARD J. HUGHES JUSTICE COMPLEX
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April 30, 2019

VIA CERTIFIED MAIL, R.R.R. & REGULAR MAIL

Stephanie Frangos Hagan, Esq.
c/o Mark M. Tallmadge, Esq.
Bressler Amery Ross
325 Columbia Turnpike, Suite 301
Florham Park, New Jersey 07932

Re: In the Matter of Stephanie Frangos Hagan
Docket No. DRB 19-051
District Docket No. XIII-2017-0009E
LETTER OF ADMONITION

Dear Ms. Hagan:

The Disciplinary Review Board has reviewed your conduct in the above matter and has concluded that it was improper.[1] Following a review of the record, the Board determined to impose an admonition for your violation of RPC 1.7(a) (concurrent conflict of interest). The Board further determined to dismiss the charged violations of RPC 1.9(a) (conflict of interest with a former client) and RPC 8.4(a) (violation, or attempted violation, of the Rules of Professional Conduct).

Specifically, on December 29, 2014, grievant A.A. had an initial consultation with you regarding his wish to obtain a divorce from his wife, B.A.[2] A.A. informed you that B.A. was having an affair and that, in his view, she and her paramour were involved in a "marital-like relationship" and were planning to "build a life together." On January 6, 2015, you and A.A. entered into a

[1] Member Hoberman was recused.

[2] Because this matter involves personal information, we identify the parties by initials to protect the parties' children.

written retainer agreement. From A.A.'s initial consultation with you, on December 29, 2014, until his termination of your representation, on September 30, 2015, he remained focused on the "marital-like relationship" between his wife and her paramour and their plan to "build a life together."

On January 12, 2015, you notified B.A., who was self-represented at that time, of your representation of A.A. Three days later, C.C. had an initial consultation with you. C.C. was B.A.'s paramour and a stay-at-home parent who was seeking alimony from his wife, D.C. On May 18, 2015, C.C. formally retained you for the limited purpose of reviewing the final divorce agreement that he and D.C. were in the process of mediating, without counsel.

The Board found that the record lacked clear and convincing evidence that you knew that C.C. was B.A.'s paramour either when A.A. retained you in January 2015 or when C.C. retained you in May 2015. Rather, you learned that C.C. was B.A.'s paramour on August 5, 2015, two days after A.A.'s and B.A.'s mediation had broken down over financial issues, including A.A.'s payment of alimony to B.A.

Although you informed A.A. and C.C. of the dual representation, you explained that there was no conflict of interest and that, if they disagreed, they would be required to retain other counsel. C.C. agreed that there was no conflict of interest and, thus, he was amenable to your continued representation of him. In contrast, A.A. believed that you did have a conflict of interest, but it was not feasible for him to seek other counsel at what he described as a "critical time to get this deal done." Therefore, A.A. proposed that you cease working on C.C.'s matter until after A.A.'s divorce had been finalized. Because you believed that C.C.'s divorce matter was all but resolved and would remain dormant until after A.A.'s divorce had concluded, you agreed to continue representing A.A. and to inform him when you would be resuming active representation of C.C., who was unaware of this agreement.[3]

As it turned out, A.A.'s matter was not resolved, and alimony remained an issue. On September 30, 2015, prior to the finalization of A.A.'s divorce, he terminated your representation because he believed that your representation of C.C. had compromised A.A.'s and B.A.'s mediation process. He retained new counsel, who, on October 21, 2015, filed an amended complaint, which included an adultery count. On October 22, 2015, you accompanied C.C. to court to finalize his divorce. A.A.'s divorce was finalized more than two years later, on December 31, 2017.

RPC 1.7(a)(2) prohibits an attorney from representing a client if there is a "significant risk" that the representation of one client will be "materially limited" by the attorney's responsibilities to another client. In the Board's view, when you learned that C.C. was B.A.'s paramour, RPC 1.7(a)(2) required you to withdraw from the representation of both A.A. and C.C., unless after full disclosure and consultation, you obtained informed, written consent from both of them, which you

[3] As an aside, the Board noted that your agreement to inform A.A. when you resumed work on C.C.'s case, without C.C.'s knowledge or consent, placed you at risk of violating the attorney-client privilege.

failed to do. RPC 1.7(b)(1). You, thus, violated RPC 1.7(a)(2).

You were privy to the financial information of both couples – A.A. and B.A., as well as C.C. and D.C. These clients' interests were not aligned. Because C.C. and B.A. were engaged in a "marital-like" relationship, they had common interests. Essentially, you represented both the husband and the paramour of B.A., whose interests were different. A.A.'s interest was to obtain a divorce with a provision for the lowest possible alimony obligation, while it was in C.C.'s interest, as B.A.'s paramour, for B.A. to receive the highest possible award of alimony. Therefore, a significant risk existed that your representation of C.C. materially limited your representation of A.A.

Thus, in the Board's view, in light of the relationship between B.A. and C.C., the two divorce matters were not at all similar to two trains traveling on parallel tracks, as your matrimonial law expert testified. Therefore, RPC 1.7(a) prohibited you from continuing with your representation of A.A. and C.C., after August 5, 2015.

The absence of evidence that you actually used A.A.'s financial information against him is not relevant to whether you violated RPC 1.7(a). The purpose of the Rule is to prevent harm to a client. In the Board's view, you were tainted by your access to the information and, thus, there was a substantial likelihood that your representation of A.A. would be materially limited by your responsibilities to C.C.

As stated previously, the Board concluded that you did not violate RPC 1.9(a) by continuing to represent C.C. after A.A. had terminated your representation of him. RPC 1.9(a) provides that a lawyer "who has represented a client in a matter shall not thereafter represent another client in the same or a substantially related matter in which that client's interests are materially adverse to the interests of the former client unless the former client gives informed consent confirmed in writing."

In the Board's view, once A.A. discharged you and retained new counsel, the two divorces were no longer intertwined and, thus, in the words of your expert, the matters became like two trains running on parallel tracks. Although you had acquired confidential financial information from A.A. during your representation of him, once A.A. terminated the representation and hired new counsel, you were no longer in a position to use that information against A.A. in your continued representation of C.C. in his divorce. Thus, the Board determined to dismiss the RPC 1.9(a) charge.

The Board also determined to dismiss the RPC 8.4(a) charge, as subsumed in your violation of RPC 1.7(a)(2).

Ordinarily, a reprimand is imposed on an attorney who engages in a conflict of interest. In re Berkowitz, 136 N.J. 148 (1994). In imposing an admonition, the Board took into consideration your untarnished disciplinary record in your thirty-four years at the bar; your reputation within, and service to, the legal community; and the absence of evidence that A.A. actually suffered

financial harm as the result of the conflict of interest.

Your conduct has adversely reflected not only on you as an attorney but also on 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, this admonition will be taken into consideration.

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

Very truly yours,

Ellen A. Brodsky
Chief Counsel

EAB/jm

c: Chief Justice Stuart Rabner
Associate Justices
Heather Joy Baker, Clerk
Supreme Court of New Jersey
Bruce W. Clark, Chair
Disciplinary Review Board (e-mail)
Gail G. Haney, Deputy Clerk
Supreme Court of New Jersey (w/ethics history)
Charles Centinaro, Director
Office of Attorney Ethics (interoffice mail and e-mail)
Isabel McGinty, Statewide Ethics Coordinator
Office of Attorney Ethics (e-mail)
Lisa M. Fittipaldi, Chair, District XIII Ethics Committee (e-mail)
Donna P. Legband, Secretary, District XIII Ethics Committee (regular mail and e-mail)
A.A., Grievant (regular mail)