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March 20, 2020

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

George W. Pressler, Esq.
334 Milltown Road
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Re: In the Matter of George W. Pressler
Docket No. DRB 19-423
District Docket No. VIII-2018-0002E
LETTER OF ADMONITION

Dear Mr. Pressler:

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, with a condition, for your violation of RPC 1.15(b) (failure to promptly deliver to the client or third person any funds that the client or third person is entitled to receive). The Board further determined to dismiss the charged violations of RPC 1.1(a) (gross neglect) and RPC 1.15(c) (failure to keep separate funds in which the attorney and a third party claim an interest).

Specifically, the grievant, Theodore Mosulak, and his sister, Ellen Rusnak, were equal beneficiaries of the Estate of Ellen Mosulak. On June 7, 2011, they were appointed as joint administrators to the estate. The primary asset of the estate was a single-family home which Mosulak occupied.

On December 16, 2013, Rusnak retained you to represent her interest in the estate matter. She sought the authority to sell the house and to compel Mosulak to vacate the home prior to such sale. It was undisputed that you and Mosulak had no attorney-client relationship. You obtained court orders granting Rusnak the authority to sell the home, and subsequently represented her in the sale of the property. After closing costs were paid, you deposited \$153,975 in net sale proceeds – property of the estate – in your attorney trust account.

On December 2, 2014, you mailed to Mosulak an informal accounting that you had prepared and, contemporaneously, distributed to Rusnak proceeds of the estate, despite the fact that Mosulak, as co-administrator, had not authorized those disbursements.¹ You testified that you distributed the entire net proceeds from the sale, but conceded that you failed to distribute the funds equally between Mosulak and Rusnak. You deducted your entire \$9,503.92 legal fee from Mosulak's share, and paid yourself from the sale proceeds on the same day that you distributed the funds, at which time Rusnak signed the informal accounting sheet confirming her approval. You also disbursed Rusnak's \$7,750 administrator's fee from Mosulak's share. The total of your legal fee plus the administrator's fee was \$17,253.92.² Mosulak did not agree to this distribution of funds, however, and neither consented to nor signed the informal accounting.

Consequently, after attempts to negotiate a resolution to the matter were unsuccessful, Mosulak filed an Order to Show Cause, through counsel, to determine his appropriate share of the estate funds. On May 23, 2016, the Honorable Frank M. Ciuffani, P.J.Ch., conducted a hearing; denied your application for counsel fees and administrator's fees; allowed additional debits from the estate funds, consisting of utility bills and property taxes; and entered an order determining Mosulak's share to be \$68,594.74.

On August 30, 2016, you issued a \$51,594.13 check to Mosulak, through his counsel, representing the remainder of the estate funds that you held in your attorney trust account. The balance already had been distributed to Rusnak and, as a result, you were short \$17,000.61 in respect of Mosulak's share of the estate.

On August 30, 2016, you notified Rusnak, in writing, that she was responsible for remitting \$17,000.61 to Mosulak (\$68,594.74 - \$51,594.13). You testified that, when you met with Rusnak after the ruling, she was understandably upset about having to pay the shortfall, because you had previously told her that she was entitled to the administrator's fee, yet, Judge Ciuffani had denied the fee. Rusnak offered you a check for \$17,000, but you did not accept it, and told Rusnak that you would file a motion for reconsideration. You then filed the motion for reconsideration, which was denied.

You testified that you were mistaken in failing to deposit Rusnak's \$17,000 check in your trust account, pending the outcome of the motion for reconsideration. If you had done so, you could have promptly remitted the shortfall to Mosulak after the denial of the motion. You subsequently attempted to recoup the funds from Rusnak, but were unsuccessful.

¹ Although you admitted the allegation in the complaint that you distributed the proceeds of the estate at the time you prepared the informal accounting, it appears that you distributed Rusnak's share at that time, but did not distribute Mosulak's share until August 30, 2016, more than twenty months later.

² The record refers to the executor's fee, but it is properly designated as the administrator's fee. Further, you refer to the administrator's fee as three percent, yet it was actually five percent.

The complaint alleged, and you admitted in your answer, that Mosulak had never been paid the \$17,000.61 owed to him. Early in the hearing, you stipulated that you had not paid Mosulak, but then later testified that you had paid Mosulak the shortfall seven months before the hearing. That testimony was not disputed.

You further testified that, in respect of mitigation, you take responsibility for and regret your decision not to deposit Rusnak's \$17,000 check; you were embarrassed that you have an ethics complaint against you; you proposed to the chair that you would enter a consent order admitting your violations; and you repaid the \$17,000 to Mosulak.

The Board agreed with the DEC's determination that you violated RPC 1.15(b) because, as you admitted, you deducted the administrator's fee and your attorney's fees from Mosulak's share of the funds and distributed the funds, without having received Mosulak's authorization for the accounting, resulting in the \$17,000 shortfall. You additionally failed to disburse any funds to Mosulak for more than twenty months.

The Board further agreed with the DEC determination to dismiss the RPC 1.1(a) charge because your conduct constituted, at most, simple neglect, which does not rise to the level of an ethics violation under the Rules of Professional Conduct.

Although the DEC concluded that you violated RPC 1.15(c), the Board determined to dismiss that charge, because that Rule is applicable when a current dispute exists concerning a lawyer's and another party's respective claims of interests in funds. Here, at the time you disbursed the estate funds, there was no dispute between you and Mosulak. The dispute came later, when Mosulak realized that the administrator's and attorneys' fees had been deducted solely from his inheritance. Accordingly, the Board determined that RPC 1.15(c) does not apply and that RPC 1.15(b) adequately addresses your improper disbursement of the funds.

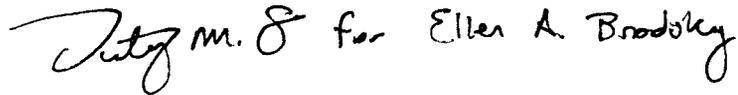
In imposing only an admonition, the Board considered, in mitigation, that you readily admitted your misconduct, expressed sincere remorse, and represented, under oath, that you had made Mosulak whole prior to the ethics hearing. In aggravation, your improper disbursement of the estate funds clearly caused harm to Mosulak, who suffered unnecessary delay in the receipt of monies to which he was entitled and was forced to hire an attorney to protect his interests.

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). Additionally, you are required, within thirty days of the date of this letter, to provide to the Board and to the Office of Attorney Ethics satisfactory proof of your claimed payment of the \$17,000.61 to Mosulak.

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,

A handwritten signature in black ink that reads "Judy M. S for Ellen A. Brodsky". The signature is written in a cursive style.

Ellen A. Brodsky
Chief Counsel

EAB/trj

- 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)
- Phillip Nettel, Chair
- District VIII Ethics Committee (e-mail)
- Barry J. Muller, Secretary
- District VIII Ethics Committee (regular mail and e-mail)
- Stuart I. Teicher, Presenter
- District VIII Ethics Committee (e-mail)
- Theodore R. Mosulak, Grievant (regular mail)