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February 20, 2009

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

Thomas F. Flynn, III, Esq.
c/o Carl D. Poplar, Esq.
1010 Kings Highway South
Building Two
Cherry Hill, New Jersey 08034

RE: In the Matter of Thomas F. Flynn, III
Docket No. DRB 08-359
District Docket No. XIV-04-266E
LETTER OF ADMONITION

Dear Mr. Flynn:

The Disciplinary Review Board has reviewed your conduct in the above matter and has concluded that it was improper. Specifically, in the course of an audit of your attorney trust account records, conducted by the Office of Attorney Ethics ("OAE") in 2005 and 2006 and covering the period from January 2001 to June 2003, several recordkeeping improprieties were detected.

First, although your office had a recordkeeping system in place, one of the essential steps to the reconciliation of trust account records was not performed, that is, a schedule of the client ledger sheets was not prepared and reconciled monthly to the trust account bank statement, as required by R. 1:21-6(c)(1)(H). That rule provides that attorneys shall maintain in a current status "copies of all records, showing that at least

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monthly a reconciliation has been made of the cash balance derived from the cash receipts and cash disbursements journal totals, the checkbook balance, the bank statement balance and the client trust ledger sheet balances." Your failure to perform one of the reconciliation steps violated R. 1:21-6 and also RPC 1.15(d) (a violation of the recordkeeping rules is a violation of RPC 1.15(d)).

Second, the audit revealed that numerous trust account checks remained uncashed for extended periods of time. R. 1:21-6 (d) states that "[t]he financial books and other records required by paragraphs (a) [a trust account] and (c) [among others, receipts and disbursements journals and a ledger book] of this rule shall be maintained in accordance with generally accepted accounting practice." "Trust Accounting is Zero Based Accounting." TRUST AND BUSINESS ACCOUNTING FOR ATTORNEYS, (Institute for Continuing Legal Education 2d ed., 1988) at 23. "A main goal of all trust accounting is to balance out the account. What comes in for one client must equal what goes out for that client; no more, no less. One goal, therefore, of good trust accounting is to "zero-out" each client's account as soon reasonably possible." Ibid. Your failure to zero-out your trust account balance violated R. 1:21-6 and, consequently, RPC 1.15(d).

Third, for years you withheld in trust about \$110,000 to satisfy liens in three client matters. Although initially you made some attempts to either pay off or compromise the amount of the liens, you offered no proof that, for the next several years, you made any efforts in that regard. The zero-out principle applies here with equal force. Trust funds cannot be allowed to languish in a trust account. They must be disbursed within a reasonable period of time, either to the lienholder or, if appropriate, to the client. In addition to being a violation of the recordkeeping rules (R. 1:21-6 and RPC 1.15(d)), your failure to promptly disburse the funds to parties entitled to them violated RPC 1.15(b).

Fourth, from December 2000 to at least March 2008, the date of the ethics hearing, your trust account contained \$6,091.76 in unidentified funds. You offered no evidence of any diligent

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attempt to identify their rightful owner(s) (either yourself or others). Here, too, your conduct violated R. 1:21-6(d) (failure to follow generally accepted accounting methods by not zeroing-out the account balance), R. 1:21-6(j) (failure to diligently ascertain the identity of the owner(s) of the funds) and, consequently, RPC 1.15(d).

In imposing only an admonition, the Board considered that you have had no final discipline since your admission to the New Jersey bar in 1982, that your attorney records are currently in compliance with the rules, that you have implemented a procedure to ensure that all liens are satisfied within a reasonable time after the resolution of the cases, and that you have disbursed the funds in question to the appropriate parties.

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,



Julianne K. DeCore
Chief Counsel

/tk

c: Chief Justice Stuart Rabner
Associate Justices
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Stephen W. Townsend, Clerk, Supreme Court of New Jersey
Gail G. Haney, Deputy Clerk, Supreme Court of New Jersey
(w/ethics history)
Charles Centinaro, Director, Office of Attorney Ethics
Dina Gattuso, Chair, District IV Ethics Committee
John M. Palm, Secretary, District IV Ethics Committee
W. Robb Graham, Esq., Grievant