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OF THE

SUPREME COURT OF NEW JERSEY



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RICHARD J. HUGHES JUSTICE COMPLEX  
P. O. Box 962  
TRENTON, NEW JERSEY 08625-0962  
(609) 292-1011

JULIANNE K. DECORE  
CHIEF COUNSEL

ISABEL FRANK  
DEPUTY CHIEF COUNSEL

ELLEN A. BRODSKY  
FIRST ASSISTANT COUNSEL

LILLIAN LEWIN  
DONA S. SEROTA-TESCHNER  
COLIN T. TAMS  
KATHRYN ANNE WINTERLE  
ASSISTANT COUNSEL

March 4, 2009

**VIA CERTIFIED MAIL & R.R.R.**

Thomas W. Moore, III, Esq.  
c/o Brian John Fruehling, Esq.  
66-68 Main Street  
Madison, NJ 07940

**In the Matter of Thomas W. Moore, III**

Docket No. DRB 08-345

District Docket No. VC-07-0044E

**LETTER OF ADMONITION**

Dear Mr. Moore:

The Disciplinary Review Board has reviewed your conduct in the above matter and has concluded that it was improper. Specifically, in the early 1990s, you represented Harry Richardson and Richardson Industrial Contractors, Inc. in a contract action. Following the settlement of the case, you received in escrow a substantial sum of money that was subject to an active dispute among several secured creditors, including the grievants in this matter, Larry Blumenstyk and Salvatore Arnone.

Despite your duty to hold the funds intact until the resolution of the dispute among the secured creditors, you removed your firm's \$240,000 legal fee from the escrow funds without the creditors' authorization or knowledge. Your conduct was unethical and a violation of RPC 1.15(c). The Board rejected your defenses as unsupported by the evidence or by law.

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Unlike the district ethics committee, the Board was unable to find that your failure to disclose to the creditors that you had removed the legal fees constituted a misrepresentation, in violation of RPC 8.4(c). First, as found by the committee, there is no clear and convincing evidence in the record that you intended to deceive the creditors. The misrepresentation contemplated in RPC 8.4(c) requires intent. Second, R. 1:20-4(b) requires the complaint to "set forth sufficient facts to constitute fair notice of the nature of the alleged unethical conduct, specifying the ethical rules alleged to have been violated." In this instance, the complaint did not relate the RPC 8.4(c) charge to your lack of disclosure. Instead, the complaint charged that, "b[y] taking a \$239,500 fee for his firm from the escrow account without notice to or consent from Blumenstyk and Arnone, respondent placed the interest of his firm ahead of the secured creditors of [the client] in violation of RPC 1.15 and RPC 8.4(c)." Because the complaint did not contain a charge of misrepresentation, the Board was unable to make a finding in this regard.

As to the charge that your removal of the fees violated RPC 8.4(c), the Board found no evidence in the record that you acted with dishonesty. More properly, such conduct constituted a failure to safeguard escrow funds prior to the resolution of a dispute and, therefore, a violation of RPC 1.15(c).

In mitigation, the Board considered that your firm was entitled to the amount of the fees taken, that ultimately the fees were deposited with the court, pursuant to a court order, and that no disciplinary infractions have been sustained against you since your admission to the New Jersey bar in 1974.

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

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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

JKD/sj

c: Chief Justice Stuart Rabner  
Associate Justices  
Stephen W. Townsend, Clerk, Supreme Court of New Jersey  
Gail G. Haney, Deputy Clerk, Supreme Court of New Jersey  
(w/ethics history)  
Louis Pashman, Chair, Disciplinary Review Board  
Charles Centinaro, Director, Office of Attorney Ethics  
Larry Blumenstyk, Grievant  
Salvatore Arnone, Grievant