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January 28, 2010

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

Michael S. Kimm
c/o Gerald D. Miller, Esq.
Miller Meyerson & Corbo
955 West Side Avenue
Jersey City, New Jersey 07306

Re: **In the Matter of Michael S. Kimm**
Docket No. DRB 09-351
District Docket No. IIB-06-027E
LETTER OF ADMONITION

Dear Mr. Kimm:

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 2004, in Joanne Lucas' personal injury matter, you improperly calculated your contingency fee on the gross recovery, rather than on the net recovery, thereby violating RPC 1.5(c). You also improperly advanced more than \$17,000 to your client, prior to the conclusion of her personal injury case, thereby violating RPC 1.8(e).

In imposing only an admonition, the Board considered that you made a mistake in calculating your fee. When the DEC brought the mistake to your attention, you promptly remitted the excess fee to your client. In addition, the advances you made to your client were for altruistic reasons. Your client was in excruciating pain and in dire financial straits. None of the three insurance

carriers involved in her personal injury matter would pay for her pain medication. You, therefore, advanced her the funds out of a desire to help her, with the understanding that you would be reimbursed when the case ended.

The Board also considered your ethics history, a censure, but determined that it was imposed for entirely different misconduct. Therefore, this was not a situation where you failed to learn from prior mistakes.

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.

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/tk

c: Chief Justice Stuart Rabner
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Supreme Court of New Jersey (w/ethics history)
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