

DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

LOUIS PASHMAN, ESQ. CHAIR
BONNIE C. FROST, ESQ. VICE-CHAIR
EDNA Y. BAUGH, ESQ.
BRUCE W. CLARK, ESQ.
JEANNE DOREMUS
HON. REGINALD STANTON
SPENCER V. WISSINGER, III
MORRIS YAMNER, ESQ.
ROBERT C. ZMIRICH



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 31, 2010

VIA CERTIFIED, R.R.R. and REGULAR MAIL

Dan Solomon Smith, Esq.
c/o Scott B. Piekarsky, Esq.
Piekarsky & Associates
191 Godwin Avenue
Wyckoff, New Jersey 07481

Re: In the Matters of Dan Solomon Smith
DRB Docket Nos. 09-369 and 09-370
District Docket Nos. VB-2007-020E and
VB-2006-055E
LETTER OF ADMONITION

Dear Mr. Smith:

The Disciplinary Review Board has reviewed your conduct in the above matters and has concluded that it was unethical.

Specifically, in the Williams matter (DRB 09-369), in December 2000, you filed a civil complaint on behalf of your client, Henry E. Williams, which was dismissed the following June for failure to prosecute. Although the complaint was reinstated and default was entered against the defendants in July 2002, you never followed through on the rescheduling of the proof hearing. Moreover, by your own admission, "not much was done" for the next four years, to the point where the file was eventually archived, even though the matter had not been resolved. During the same period, and after the January 2007 proof hearing, you either did not answer or return your client's telephone calls.

In the Matters of Dan Solomon Smith

Docket Nos. DRB 09-369 and 09-370

Page 2

In the Taylor matter. (DRB 09-370), you were retained in December 2003, to represent Barbara Taylor in an employment discrimination action. The retainer agreement did not expressly limit your representation to the trial court matter. Although you and your client frequently discussed her case in the early stages of the representation, as the matter progressed it became more and more difficult for her to communicate with you.

In May 2006, Ms. Taylor's employer was granted summary judgment, which you attributed to her poor performance at her deposition. You notified your client of the dismissal via telephone. Based on that conversation, Ms. Taylor understood that you would file an appeal. However, from May through October 2006, Ms. Taylor heard nothing from you and was unsuccessful in her attempts to communicate with you. Regardless of whether you and Ms. Taylor ever reached an agreement on the issue of the filing of a notice of appeal, it is clear that you discussed the issue and that you never clarified for her that you would not represent her on appeal.

After Ms. Taylor filed a grievance against you in November 2006, you met with her and stated that it was not too late to file a notice of appeal, which you did. However, you claimed, at the disciplinary hearing, that you did so only upon the instruction of the presenter for the District Ethics Committee.

Although you claimed that your illness was the cause of the communication difficulties, you also testified that you returned to the office in April 2003. Yet, your non-responsiveness to the client's attempts to contact you continued into early 2007.

Your conduct in both matters was unethical and a violation of RPC 1.3 and RPC 1.4(b).

Your conduct 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).

In imposing only an admonition, the Board took into consideration that the misconduct in both matters took place during the same time frame and that no disciplinary charges have been sustained against you since your admission to the bar in 1987.

In the Matters of Dan Solomon Smith

Docket Nos. DRB 09-369 and 09-370

Page 3

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 also has 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/paa

cc: Chief Justice Stuart J. Rabner
Associate Justices
Mark Neary, 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
Henry E. Williams, Grievant
Barbara Jean Taylor, Grievant