

# DISCIPLINARY REVIEW BOARD

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February 24, 2012

Mark Neary, Clerk  
Supreme Court of New Jersey  
P.O. Box 970  
Trenton, New Jersey 08625

Re: In the Matter of Tama Vail Baran  
Docket No. DRB 11-396  
District Docket No. VII-2011-0012E

Dear Mr. Neary:

The Disciplinary Review Board reviewed the motion for discipline by consent (reprimand or such lesser discipline as the Board may deem warranted) filed by the District VII Ethics Committee, pursuant to R. 1:20-10(b). Following a review of the record, the Board determined to grant the motion. In the Board's view, however, no discipline is warranted for respondent's violations of RPC 1.7(a)(2) (conflict of interest) and RPC 8.4(a) (violation of the RPCs), on the principle of de minimis non curat lex.

Specifically, in July 2009, respondent undertook the representation of a client (the grievant in this matter) one month after respondent had begun an affair with the client's husband. Later that month, respondent undertook the representation of the husband. Both representations involved separate municipal court matters.

The grievant's municipal court date was in October 2009, where she was competently represented by respondent, although respondent was still involved in the affair with the grievant's husband. Between July 2009 and October 2009, respondent did not disclose the affair to the grievant, who remained unaware of the relationship during that time.

In January 2010, the grievant learned of the affair, through her husband. During the next six months, the grievant and respondent engaged in a series of communications in which respondent expressed regret over the affair, on the one hand, but, on the other hand, spoke of her "continued feelings" for the grievant's husband. At times, the grievant asked respondent to end all contact with her husband. At times, respondent stated that the affair had ended and expressed the "desire to be left out of ongoing marital discussions between Grievant and her husband." Yet, respondent continued with the affair during this time until she obtained a restraining order against the husband, in November 2010.

The Board determined that there was a conflict of interest, but, based on its decision in In the Matter of Salvatore Alfieri, DRB 11-013 (May 2, 2011), chose to impose no discipline on respondent because there was no assertion that respondent had placed the interests of herself or her client's husband above those of the grievant. Moreover, the stipulation expressly stated that the grievant was competently represented by respondent during the municipal court proceeding.

In mitigation, the Board took into consideration that respondent expressed remorse for the "inappropriate relationship" and that she had practiced law for twenty years without having any disciplinary action instituted against her.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated October 25, 2011.
2. Stipulation of discipline by consent, dated October 24, 2011.
3. Affidavit of consent, dated October 12, 2011.

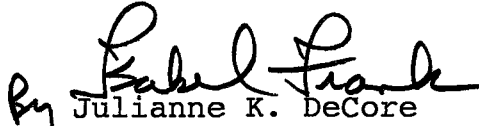
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4. Ethics history, dated February 24, 2012.

Very truly yours,

  
by Julianne K. DeCore  
Chief Counsel

JKD/paa  
encls.

cc: Louis Pashman, Chair, Disciplinary Review Board  
(w/o encls.)  
Charles Centinaro, Director, Office of Attorney Ethics  
(w/o encls.)  
John S. Eory, Chair, District VII Ethics Committee  
(w/o encls.)  
Alan G. Frank, Jr., Secretary, District VII Ethics  
Committee (w/o encls.)  
Tama Vail Baran, Respondent  
(w/o encls.)