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October 25, 2012

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

John W. Hargrave, Esq.
c/o Robert E. Ramsey, Esq.
Donini & Ramsey
2000 Hamilton Avenue
Hamilton, New Jersey 08619

RE: In the Matter of John W. Hargrave
Docket No. DRB 12-227
District Docket No. XIV-2010-0667E
LETTER OF ADMONITION

Dear Mr. Hargrave:

The Disciplinary Review Board reviewed the motion for discipline by consent (reprimand or such lesser discipline as the Board may deem appropriate) filed by the Office of Attorney Ethics (OAE) pursuant to R. 1:20-10(b). Following a review of the record, the Board determined to impose an admonition.

Specifically, in September 2000, William and Kathleen Schroeder retained you about a business matter. In May 2001, you filed a Chapter 7 bankruptcy petition on their behalf. In April 2006, the bankruptcy court ruled that the debts owed to two creditors, Thomas and Geoffrey Steiert, as well as a May 8, 2002 \$100,000 judgment granted to a state court receiver during the period of the litigation, were not dischargeable.

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Believing that the court's decision was unjust, knowing that Steiert's judgment would become a lien on their house, and hoping to negotiate a settlement with four other lienholders on their house, the Schroeders recognized that Steiert would benefit from the release of the other liens and that their desire to regain equity in their house would be eliminated. They, therefore, signed a promissory note in your favor, in the amount of \$137,000, which was the amount of the legal fees owed to you in the course of your six-year representation, and secured the payment by giving you a mortgage on their house. They did so in May 2006. You did not advise the Schroeders to consult with independent counsel, before they signed the promissory note and mortgage in his favor.

At the time of the bankruptcy, the Schroeders had zero equity in their house, which was subject to four other liens, totaling \$227,000. With the recording of the mortgage to you, Steiert was precluded from filing a lien on the property, given that the amount of the pre-existing liens exceeded the Schroeders' equity in the house.


In November 2007, eighteen months after the execution of the promissory note and mortgage, you filed a suit against them for the collection of your \$137,000 fee, which remained unpaid. You did so with prior notice to the Schroeders and with their full cooperation. When the Schroeders did not file an answer, a default judgment was entered against them, in April 2008. You also filed an execution against Mr. Schroeder's wages, in the amount of \$175.50 per week.

Your conduct was unethical and a violation of RPC 1.8(a). In imposing only an admonition, the Board considered numerous, compelling mitigating circumstances.

Specifically, (1) your motives were altruistic; your goal in obtaining a mortgage on the Schroeders' house was to place a lien ahead of Steiert's eventual lien, thereby allowing the Schroeders and their children to continue living in their house; (2) your lien was essentially worthless; the amount of three other liens on the property, which were ahead of yours, already exceeded the Schroeders' equity in the house; (3) the Schroeders acknowledged to the OAE that "this was just a plan that was put into place," that "[i]t was all part of what we had to do to protect our home and protect ourselves;" the suit against the

Schroeders and execution on Mr. Schroeder's wages, which were undertaken with the Schroeders' consent and cooperation, were a strategic move to help them and their children to remain in their residence, that is, to prevent a foreclosure, the inevitable result that would occur, when Steiert eventually filed a judgment against the Schroeders and then a lien against their house; (4) you were willing to continue to perform legal services for the Schroeders for six years, despite not having received any fees; (5) the Schroeders expressed their satisfaction with your services and their belief that you were trying to protect their home and family; (6) you acknowledged your wrongdoing by stipulating your conduct and RPC violation; and (7) prior to this incident, you had a lengthy, unblemished professional record of thirty-four years.

Very truly yours,


Julianne K. DeCore
Chief Counsel

JKD/tk

c: Chief Justice Stuart Rabner
Associate Justices
Mark Neary, 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
Maureen G. Bauman, Deputy Ethics Counsel
Office of Attorney Ethics