

DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

BONNIE C. FROST, ESQ. CHAIR
EDNA Y. BAUGH, ESQ. VICE-CHAIR
BRUCE W. CLARK, ESQ.
JEANNE DOREMUS
HON. MAURICE J. GALLIPOLI
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

April 15, 2013

Mark Neary, Clerk
Supreme Court of New Jersey
P.O. Box 970
Trenton, New Jersey 08625-0962

Re: In the Matter of Stanley E. Marcus
Docket No. DRB 12-433
District Docket No. XIV-2012-0069E

Dear Mr. Neary:

The Disciplinary Review Board reviewed the motion for discipline by consent (censure or such lesser discipline as the Board deems 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 grant the motion.

In the Board's view, a censure is the appropriate measure of discipline for respondent's violations of RPC 5.4(a) (sharing legal fees with nonlawyer employees) and RPC 7.3(d) (compensating or giving anything of value to a person to recommend or secure the lawyer's employment by a client, or as a reward for having made a recommendation resulting in the lawyer's employment by a client).

Specifically, respondent's non-lawyer employees frequently referred friends, family members, and acquaintances to respondent's office. Respondent had a practice of not charging employees legal fees and charging reduced fees to members of his staff's families.

April 15, 2013

Page 2 of 3

From approximately 1997 through 2008, respondent gave employees who referred clients to his firm fifteen percent of the firm's fee, in cash, if the referred case was successfully resolved. The non-lawyer employee who referred the case to the firm would serve as the client's contact with the office and would assume oversight responsibility for the file. In no case did the referral payment represent more than a fraction of the employee's annual compensation.

Respondent's referral payments to the employees were voluntary and were taken from his personal income from the firm, all of which he reported on his personal income tax return. Respondent voluntarily stopped the practice in 2008, when he was advised by one of his attorney staff members that it might pose ethical issues. Respondent's non-lawyer employees have continued to refer cases to his office. His payments did not come within the runner statute, N.J.S.A. 2C:21-22.1.

Respondent conceded that his conduct violated RPC 5.4(a) and RPC 7.3(d). In the past, similar misconduct resulted in the imposition of a reprimand. See, e.g., In re Agrapidis, 188 N.J. 248 (2006) (where the attorney paid twelve referral fees based upon a percentage of the total fee received by the firm to his nonlawyer employees, totaling \$20,000, during a four-year period; fee shares were paid through payroll, taxes were deducted, payments were kept in the ordinary course of business, and IRS 1099 forms were issued to the recipients; the attorney did not know that the payment of fee shares, which he considered to be bonuses, was improper and discontinued the practice prior to the OAE's investigation, when he "read about a somewhat similar practice in a legal periodical and recognized that sharing fees with his office staff was questionable.").

Although this case is akin to Agrapidis, there is, however, a major distinction between Agrapidis and this case. Agrapidis had no disciplinary history. Respondent, on the other hand, has been reprimanded three times. Although the underlying conduct, standing alone, may not warrant a censure, in light of respondent's ethics history, a censure is appropriate. After three brushes with the disciplinary system, respondent should have been more fully acquainted with the RPCs and more attuned to his responsibilities as a member of the New Jersey bar. In short, respondent should have known better.

April 15, 2013

Page 3 of 3

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated December 20, 2012.
2. Stipulation of discipline by consent, dated December 14, 2012.
3. Affidavit of consent, dated December 14, 2012.
4. Ethics history, dated April 15, 2013.

Very truly yours,



Julianne K. DeCore
Chief Counsel

JKD/tk
encls.

cc: Louis Pashman, Chair, Disciplinary Review Board
(w/o encls.)

Charles Centinaro, Director, Office of Attorney Ethics
(w/o encls.)

Michael Perle, Respondent's Counsel
(w/o encls.)