

DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

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November 3, 2005

Stephen W. Townsend, Clerk
Supreme Court of New Jersey
P.O. Box 970
Trenton, New Jersey 08625-0962

Re: In the Matter of James C. Conlon
Docket No. DRB 05-251
District Docket No. XII-05-015E

Dear Mr. Townsend:

The Disciplinary Review Board reviewed the motion for discipline by consent (reprimand) 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 reprimand is the appropriate discipline for respondent's stipulated violation of RPC 1.8(c), which states that

[a] lawyer shall not prepare an instrument giving the lawyer or a person related to the lawyer as parent, child, sibling or spouse any substantial gift from a client, including a testamentary gift, except where the client is related to the donee.

Specifically, respondent prepared a will naming himself and his wife as substantial beneficiaries. They were not related to the client/donee, Joseph Clark. Respondent sought to explain his actions by asserting that he had been unaware that the RPCs proscribed him from drafting Joseph's will under the circumstances.

Admonitions and reprimands have been imposed for such misconduct, depending on the nature and degree of the benefit to the


attorney. See, e.g., In the Matter of Kenneth H. Ginsberg, Docket No. 02-449 (DRB February 14, 2003) (admonition for attorney who drafted a will for a client giving the attorney a bequest of \$10,000 out of a \$700,000 estate, in violation of RPC 1.8(c); prior reprimand); In re Hock, 172 N.J. 349 (2002)(reprimand imposed where attorney, in violation of RPC 1.8(c), drafted several wills for a client in which the attorney and his wife were left a large portion of the decedent's \$1.1 million estate); and In re Polis, 136 N.J. 421 (1994) (reprimand for attorney who engaged in a conflict of interest by preparing a will for an elderly client that gave most of her \$500,000 estate to the attorney's sister, in violation of RPC 1.8(c)). Unlike the \$10,000 bequest out of a \$700,000 estate in Ginsberg, respondent received all but \$45,000 of a \$410,000 estate, under conditions that were ripe for the use of undue influence – an elderly and infirm client with little family to fall back on after the death of his wife. The Board found this case akin to the reprimand cases, Hock and Polis.

In arriving at its determination, the Board gave considerable weight to the fact that respondent has had no prior encounters with the attorney disciplinary system in over fifty years at the bar.

Enclosed are the following documents:

1. Notice of motion for discipline by consent with attachments, affidavit of consent, and stipulation of discipline by consent.
2. Ethics history, dated November 2, 2005, and Client Protection Fund report, dated August 23, 2005.

Very truly yours,


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Julianne K. DeCore
Chief Counsel

Enclosures

c: (w/o encl.)

Mary J. Maudsley, Chair, Disciplinary Review Board
David E. Johnson, Jr., Director, Office of Attorney Ethics
Janice L. Richter, Deputy Ethics Counsel
Office of Attorney Ethics
James J. Burns, Esq., Respondent's Counsel