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OF THE

SUPREME COURT OF NEW JERSEY

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February 29, 2016

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

Re: In the Matter of Hae Yeon Baik
Docket No. DRB 15-395
District Docket No. XIV-2014-0040E

Dear Mr. Neary:

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)(1). 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 violations of RPC 1.5(b) (failure to set forth in writing the basis or rate of a fee); RPC 1.15(a) (failure to hold a client's property separate from the lawyer's own property, to keep funds in a separate account in a New Jersey bank, and to keep such records for seven years); RPC 1.15(c) (failure to keep separate property in which both the lawyer and another person claim interests); RPC 1.15(d) (failure to comply with R. 1:21-6, recordkeeping rules); RPC 5.5(a) (unauthorized practice of law); and RPC 8.4(b) (criminal act — the unauthorized practice of law). Notwithstanding the parties' stipulation that respondent's conduct violated RPC 1.5(a), RPC 5.5(b), and RPC 7.1(a), the Board did not find clear and convincing evidence to support those violations and, therefore, dismissed them.

In 2012, respondent represented New Jersey residents Moo and Eun Hyon in the purchase of real property and in the subsequent rental of that property, which was located in Camden County, New Jersey. Although respondent never affirmatively represented to the Hyons that she was a member of the New Jersey bar, she never informed them that she was neither admitted to practice in New Jersey nor otherwise authorized to do so. Thus, by this conduct, respondent violated RPC 5.5(a). Moreover, respondent stipulated that federal court actions brought against her by her former clients in 2009, which she successfully defended, nevertheless put her on notice that her representation of the Hyons in these real estate matters constituted the unauthorized practice of law in New Jersey. Accordingly, she stipulated that her unauthorized practice of law in New Jersey, for which she received a financial benefit in the form of legal fees, was a criminal act, in violation of both N.J.S.A. 2C:21-22 and RPC 8.4(b).

Earlier in 2012, respondent had represented the Hyons in a bankruptcy matter, but had provided no written agreement addressing legal fees. When respondent represented the Hyons in their subsequent New Jersey real estate matters, from 2012 through 2014, she again failed to provide a written agreement concerning legal fees. Respondent's conduct in this respect violated RPC 1.5(b).

At some point during her representation of the Hyons, respondent received a \$9,400 check made payable to "Moo Hyon and Eun Hyon, C/O Baik & Associates, P.C." Respondent deposited that check in her firm's Pennsylvania bank account, although it was not payable to her and she did not have the Hyons' authorization to do so. Respondent had no New Jersey trust or business accounts, as required by Rule 1:21-6, and had taken no steps to maintain these client funds in accordance with that rule. Respondent's conduct in this respect violated RPC 1.15(a) and RPC 1.15(d).

As noted previously, following the purchase of the Camden County property, the Hyons later rented the property to a tenant. Respondent deposited rent from the tenant into her firm's Pennsylvania account, and then, without the Hyons' authorization, disbursed portions of that rental income to her firm as legal fees. In doing so, respondent again violated RPC 1.15(a) and further violated RPC 1.15(c) and RPC 1.15(d).

In general, reprimands are imposed on New Jersey attorneys who practice law in jurisdictions where they are not licensed. See In re Bronson, 197 N.J. 17 (2008) (attorney practiced law in New York, a state in which he was not admitted, failed to prepare a writing setting forth the basis or rate of his fee in a criminal matter, and failed to disclose to a New York court that he was not licensed there; attorney was temporarily suspended following criminal guilty plea, for which final discipline was pending); In re Haberman, 170 N.J. 197 (2001) (on behalf of his New York/New Jersey law firm, attorney appeared in court in New Jersey, where he was not admitted, and did not advise the court that he was not admitted to practice law in New Jersey; the attorney also appeared as counsel at a deposition taken in connection with a Superior Court matter; the attorney's pro hac vice privileges in New Jersey also were suspended for one year; no prior discipline); In re Benedetto, 167 N.J. 280 (2001) (attorney pleaded guilty to the unauthorized practice of law, a misdemeanor in South Carolina; the attorney had received several referrals of personal injury cases and had represented clients in South Carolina, although he was not licensed in that jurisdiction; prior private reprimand for failure to maintain a bona fide office in New Jersey); In re Auerbacher, 156 N.J. 552 (1999) (although not licensed in Florida, attorney drafted a joint venture agreement between her brother and another individual in Florida and unilaterally designated herself as sole arbitrator in the event of a dispute; the attorney admitted to Florida disciplinary authorities that she had engaged in the unauthorized practice of law in that State; no prior discipline); and In re Pamm, 118 N.J. 556 (1990) (attorney filed an answer and a counterclaim in a divorce proceeding in Oklahoma, although she was not admitted to practice in that jurisdiction; the attorney also grossly neglected the case and failed to protect her client's interest upon terminating the representation; in a separate matter, the attorney obtained a client's signature on a blank certification; in a third matter, the attorney engaged in an improper ex parte communication with a judge). But see In re Kingsley, 204 N.J. 315 (2011) (censure imposed based on discipline in the State of Delaware, where the attorney was not licensed to practice, for engaging in the unlawful practice of law by drafting estate planning documents for a public accountant's Delaware clients, many of whom the attorney had never met; attorney also assisted the public accountant in the unauthorized practice of law by preparing estate planning documents based solely on the accountant's notes

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and by failing to ensure that the compiled documents complied with the clients' wishes; discipline enhanced due to attorney's continued participation in scheme with accountant after entry of a cease and desist order by a Delaware court; no prior discipline).


The Board found respondent's lack of prior discipline in both Pennsylvania and New Jersey to constitute the sole mitigating factor. The Board also considered the joint position of the parties in the stipulation, acknowledging the linchpin of respondent's unethical conduct to be her unauthorized practice of law in New Jersey, and noting that the additional infractions "follow the violation of RPC 5.5(a) . . . and are not presented here as violations that should enhance the category of discipline."

Here, based on the above precedent, respondent's lack of prior discipline, and the absence of aggravating factors, the Board concluded that respondent's misconduct warrants a reprimand.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated November 30, 2015.
2. Stipulation of discipline by consent, dated November 30, 2015.
3. Affidavit of consent, dated "November __, 2015."
4. Ethics history, dated February 29, 2016.

Very truly yours,


Ellen A. Brodsky
Chief Counsel

Enclosures

c: See attached list

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