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July 28, 2016

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

Re: **In the Matter of Francis P. Crotty**
Docket No. DRB 16-133
District Docket Nos. IIA-2015-0016E
and IIA-2015-0017E

Dear Mr. Neary:

The Disciplinary Review Board reviewed the motion for discipline by consent (censure or such lesser discipline as the Board may deem appropriate), filed by the District IIA 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, a censure is the appropriate measure of discipline for respondent's misconduct.

Specifically, in February 2011, respondent maintained a law office in Franklin Lakes, New Jersey, as well as an "of counsel" position with the law firm of Arthur L. Porter, a New Jersey attorney with offices in Englewood Cliffs and New York City.

Mark Conway is a Pennsylvania attorney and Chapter 7 bankruptcy trustee for the Middle District of Pennsylvania, practicing law in Dunmore, Pennsylvania. Porter and Conway are the grievants herein.

Through respondent's efforts, Conway, as bankruptcy trustee, selected the Porter law firm to represent him as special litigation counsel for two claims against a bank: one matter was venued in New York state court and the other in the United States District Court for the Southern District of New York (SDNY). Respondent assumed responsibility for the matters in December 2010. Thereafter, beginning in October 2011, respondent failed to take action to keep the two matters moving forward, resulting in a dismissal or dismissals. He then failed to file motions to vacate the dismissal in the state court matter. Respondent admitted that his failure to properly attend to the matters constituted lack of diligence, a violation of RPC 1.3.

Respondent also failed to communicate with his client shortly after the inception of the matters. Despite repeated requests from Conway for information, respondent failed to reply, keeping the trustee in the dark about important events in the case, such as the dismissal and a June 2012 failed motion to vacate the dismissal. The dearth of information left Conway without information sufficient for him to make informed decisions about the representation, violations of RPC 1.4(b) and (c), respectively.

Despite respondent's appearance in the New York state and federal courts, he was not licensed to practice law in either jurisdiction. In so doing, respondent engaged in the unauthorized practice of law, a violation of RPC 5.5(a)(1).

Respondent also engaged in a pattern of misrepresentation. From the inception of the case, he misled everyone associated with it – Conway, Porter, the Pennsylvania bankruptcy court, the New York state court, and the SDNY that he was admitted to practice law in New York, a violation of RPC 8.4(c).

In June 2012, respondent misrepresented to Porter and Conway, by silence, that all was well in the case. That lie continued unabated until Conway learned on his own that respondent's motion to vacate an earlier dismissal of the complaint had been denied because he was not licensed to practice law in New York. By his silence, respondent again violated RPC 8.4(c).

In addition, respondent made statements in documents filed with three courts containing materially false information about his status to practice law in New York. By misrepresenting himself

to them, he lacked candor to those tribunals, in violation of RPC 3.3(a)(1) and (5).

Finally, in October 2012, respondent engaged in his most flagrant misconduct. After Porter terminated his "of counsel" position, respondent exacerbated his earlier lies, using outdated Porter law firm letterhead to send a letter to the SDNY judge seeking the dismissal of the federal complaint. By doing so, respondent again misled the SDNY that he was licensed to practice law in that court and that he was still affiliated with the Porter firm, violations of RPC 3.3(a)(1) and (5). Additionally, by using misleading letterhead, respondent made false or misleading communications about himself, violations of RPC 7.1(a)(1) and RPC 7.5(a).

Respondent's misconduct is similar to that of the attorney in In re Lawrence, 17 N.J. 598 (2002) who, in a default matter, was found guilty of the unauthorized practice of law in New York, failure to communicate with the client, lack of diligence, and the use of misleading letterhead. Lawrence received a three-month suspension, which was enhanced from a censure, based on the default nature of the proceeding. Here, respondent's misconduct was similarly serious, for he engaged in a year-long pattern of deception.

In mitigation, this is respondent's first brush with disciplinary authorities in an otherwise unblemished forty-year career. He also served in Vietnam as a military intelligence analyst, interpreter, and interrogator, and was awarded the South Vietnamese Cross of Gallantry, the Bronze Star, and the Army Commendation medal. His history of community service includes service to the YMCA since 1985, his town's recreation program, and the New Jersey Vietnam Veterans Memorial Foundation.

That notwithstanding, the Board concluded that the seriousness of respondent's misconduct rendered his lack of prior discipline, military service, and service to his community insufficient to justify the imposition of discipline less than a censure.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated February 13, 2016.

2. Stipulation of discipline by consent, dated April 4, 2016.

3. Affidavit of consent, dated March 17, 2016.

4. Ethics history, dated July 28, 2016.

Very truly yours,

Ellen A. Brodsky
Chief Counsel

EAB/paa
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District IIA Ethics Committee
Francis P. Crotty, Respondent
Mark Conway, Grievant
Arthur Porter, Grievant