

DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

BONNIE C. FROST, ESQ., CHAIR
EDNA Y. BAUGH, ESQ., VICE-CHAIR
PETER J. BOYER, ESQ.
BRUCE W. CLARK, ESQ.
HON. MAURICE J. GALLIPOLI
THOMAS J. HOBERMAN
EILEEN RIVERA
ANNE C. SINGER, ESQ.
ROBERT C. ZMIRICH



RICHARD J. HUGHES JUSTICE COMPLEX
P.O. BOX 962
TRENTON, NEW JERSEY 08625-0962
(609) 292-1011

ELLEN A. BRODSKY
CHIEF COUNSEL

PAULA T. GRANUZZO
DEPUTY CHIEF COUNSEL

MELISSA URBAN
FIRST ASSISTANT COUNSEL

TIMOTHY M. ELLIS
LILLIAN LEWIN

BARRY R. PETERSEN, JR.
COLIN T. TAMS

KATHRYN ANNE WINTERLE
ASSISTANT COUNSEL

July 29, 2016

CERTIFIED MAIL, R.R.R. AND REGULAR MAIL

Albert K. Marmero, Esq.
c/o K. Roger Plawker, Esq.
Pashman Stein Walder Hayden
21 Main Street – Suite 200
Hackensack, New Jersey 07601-7054

Re: **In the Matter of Albert K. Marmero**
Docket No. DRB 16-157
District Docket No. XIV-2012-0300E

LETTER OF ADMONITION

Dear Mr. Marmero:

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

Specifically, on March 8, 2011, OAE Assistant Chief of Random Audits Mary E. Waldman conducted a random audit of Long Marmero & Associates, LLP (the firm). The audit period spanned from April 1, 2009 to June 30, 2012. During this period, the firm had delegated its recordkeeping responsibilities to Colleen Redman, a nonlawyer employee, who maintained the accounting records for all of the firm's accounts using QuickBooks. You were an authorized signatory on those accounts.

July 29, 2016

Page 2 of 4

Waldman's audit revealed that, during the audit period, a total of \$199,255.42 was applied from client funds on deposit in the attorney trust account to pay firm liabilities, such as large sums transferred to the business account to cover overdrafts; sums used for ordinary payroll and compensation, as well as credit card bills; and sums used for repayment of a loan to the firm from your partner's brother. In addition, the trust account revealed substantial overdisbursements of funds on deposit for particular clients.

The audit further revealed that, during the audit period, a total of \$195,255.42 was "reimbursed" to the attorney trust account by large transfers from the business account to the trust account; the deposit of earned legal fees; transfers from the payroll account and from the credit card account; cash deposits from the firm partners; and a loan from your partner's brother.

During the audit, the OAE identified the following recordkeeping deficiencies and related violations, to which you have stipulated:

- A. A schedule of clients' ledger accounts not prepared and reconciled monthly to the trust account bank statement [R. 1:21-6(c)(1)(H)];
- B. Client ledger cards not maintained [R. 1:21-6(c)(1)(B)];
- C. Deposit slips not properly retained [R. 1:21-6(c)(1)];
- D. Client matters with debit balances [R. 1:21-6(d)];
- E. Trust receipt journals not fully descriptive [R. 1:21-6(c)(1)(A)];
- F. Trust disbursement journals not fully descriptive [R. 1:21-6(c)(1)(A)];
- G. Business receipt journals not fully descriptive [R. 1:21-6(c)(1)(A)];
- H. Business disbursement journals not fully descriptive [R. 1:21-6(c)(1)(A)];
- I. Business account frequently overdrawn [R. 1:21-6(c)];
- J. Electronic trust account transfers made without proper authorization [R. 1:21-6(c)(1)(A)];
- K. Improper image processed trust account checks [R. 1:21-6(b)];

July 29, 2016

Page 3 of 4

- L. Improper image processed business account checks [R. 1:21-6(b)];
- M. Checks disbursed against uncollected funds [R. 1:21-6, RPC 1.15(a) and ACPE Opinion 454].

As a result of the multiple and ongoing recordkeeping violations committed by Redman, you failed to safeguard funds held in trust on behalf of five separate clients. These clients' funds were negligently misappropriated to cover overdrafts in the firm's business account, to cover the firm's payroll, to make payments toward the firm's credit card, and to repay private loans. Hence, through the actions of Redman, and because you had signatory authority on all of the firm's accounts, you violated RPC 1.15(a) and RPC 1.15(d).

In imposing only an admonition, the Board considered, in mitigation, the community service your firm regularly provides, your relative inexperience with law firm accounting due to your prior position as in-house counsel, your immediate cooperation and remediation of the underlying causes of the recordkeeping issues, the passage of time since the audit concluded in early 2012, and your unblemished career of thirteen years at the bar.

Your conduct adversely reflected not only upon you as an attorney, but also upon all members of the bar. Accordingly, the Board has directed the issuance of this admonition to you. R. 1:20-15(f)(4).

A permanent record of this occurrence has been filed with the Clerk of the Supreme Court and the Board's office. Should you become the subject of any further discipline, it will be taken into consideration.

The Board also has directed that the costs of the disciplinary proceedings be assessed against you. An invoice of costs will be forwarded under separate cover.

Very truly yours,



Ellen A. Brodsky
Chief Counsel

EAB/lg

c: See attached list

I/M/O Albert K. Marmero, DRB 16-157

July 29, 2016

Page 4 of 4

Chief Justice Stuart Rabner

Associate Justices

Bonnie C. Frost, Chair

Disciplinary Review Board (via e-mail)

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

Jason D. Saunders, Deputy Ethics Counsel

Office of Attorney Ethics