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March 2, 2017

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

**Re: In the Matter of Jared Elliot Stolz**

Docket No. DRB 16-392

District Docket Nos. XIV-2016-0588E and XIV-2016-0589E

Dear Mr. Neary:

This matter originally was before the Board, in September 2016, on a motion for discipline by consent (reprimand or such lesser discipline as the Board shall deem warranted), filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-10(b)(1). At that time, the parties stipulated to respondent's violation of R. 1:20-20 (imposing certain restrictions on a suspended attorney) and, consequently, RPC 8.4(d) (conduct prejudicial to the administration of justice).

Although the Board determined that the stipulated facts clearly supported a violation of RPC 8.4(d) and, as a matter of law, RPC 8.1(b),<sup>1</sup> it denied the motion because the facts also supported a

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<sup>1</sup> Neither the affidavit of consent nor the stipulation of discipline by consent expressly referenced RPC 8.1(b). However, R. 1:20-20(c) provides, in pertinent part, that the failure of a

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violation of RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), which would warrant the imposition of a censure. The parties were informed, however, that, if they filed another motion for discipline by consent, which included the RPC 8.4(c) violation and expanded the range of discipline to include a censure, the Board would be inclined to consider it.

The parties followed the Board's suggestion and, accordingly, this matter was once again before the Board, at its February 16, 2017 session, on a motion for discipline by consent, seeking a censure or such lesser discipline as the Board deems warranted, for respondent's violation of R. 1:20-20 and RPC 8.4(c) and (d). The Board determined to grant the motion.

In the Board's view, the stipulated facts clearly and convincingly support the imposition of a censure for respondent's stipulated violations of RPC 8.4(c) and (d). As before, the Board also found that respondent violated RPC 8.1(b), as a matter of law.

Specifically, on October 3, 2014, the Court suspended respondent for three months for his violation of multiple RPCs. In re Stolz, 219 N.J. 123 (2014) (Stolz I). The underlying conduct involved respondent's sarcastic, sophomoric, and discriminatory comments to his adversary, in person and in writing, during the course of litigation. Further, in order to obtain more time to file written opposition and a cross-motion to his adversary's motion, respondent requested an extension of time based on the misrepresentation, to his adversary and to the trial judge, that the adversary's motion failed to contain the certifications upon which it was based. In the Matter of Jared E. Stolz, DRB 13-331 (March 18, 2014) (slip op.).

Although respondent was reinstated to the practice of law, on January 23, 2015, In re Stolz, 220 N.J. 345 (2015), the OAE received grievances from two attorneys, alleging that respondent had continued to use his firm's name after the October 3, 2014 effective date of his suspension. The OAE's investigation revealed that respondent had failed to notify the courts and opposing counsel of his suspension, as required by R. 1:20-20(b)(11). Further,

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suspended attorney to comply with the obligations of R. 1:20-20 shall constitute a violation of RPC 8.1(b) and RPC 8.4(d). Therefore, by admitting that he failed to comply with R. 1:20-20, respondent necessarily admitted that he violated both RPC 8.1(b) and RPC 8.4(d). See also In re Powell, 219 N.J. 128 (2014).

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although respondent had changed the law firm's name from "The Law Offices of Jared E. Stolz, LLC" to "Stolz & Associates LLC," the firm's financial records, including trust and business records, continued to be designated "Law Offices of Jared E. Stolz, LLC," a violation of R. 1:20-20(b)(5). Finally, during the period of suspension, the firm continued to issue business account checks, containing the designation "Law Offices of Jared E. Stolz, LLC," until those checks were replaced with checks identifying the firm as "Stolz and Associates."

During the period of suspension, respondent did not remove the surname "Stolz" from letterhead, records, pleadings, and websites, even though there was no other lawyer with that surname who practiced in either "The Law Offices of Jared E. Stolz, LLC" or "Stolz and Associates LLC." Rather, he retained the name Stolz for financial reasons.

Prior to his suspension, respondent's firm had defended the insureds of four insurance companies. In order to receive case referrals, the firm was required to be on an approved list. When respondent removed himself from the practice, as required by the suspension, he turned over the management of the firm to Alexander Carmichael, Esq. The firm's name was not changed to reflect Carmichael's name, however, because it would have taken too much time for Carmichael to be added to the insurance companies' approved lists. Thus, respondent retained the name "Stolz" in the new firm name in order to remain on the lists and to prevent the firm from losing clients, which, he believed, would have forced it out of business, resulting in irreparable financial harm.

Based on the above facts, the parties stipulated to respondent's violation of RPC 8.4(c), by retaining his surname in the firm's name after the effective date of his suspension, and R. 1:20-20 and RPC 8.4(d), by violating the Order of suspension and "fail[ing] to take the steps required of all suspended attorneys."

The Board found that respondent's failure to notify the courts and opposing counsel of his suspension violated R. 1:20-20(b)(11); his retention of his surname in the new firm name violated R. 1:20-20(b)(4); and the continued use of the pre-suspension firm name, "Law Offices of Jared E. Stolz, LLC," on the firm's financial records, including trust and business records, as well as business account checks, violated R. 1:20-20(b)(5). By failing to comply with these provisions of R. 1:20-20, respondent violated RPC 8.1(b) and RPC 8.4(d). Powell, supra, 219 N.J. 128.

Contrary to the parties' stipulation, the Board found that the retention of respondent's surname in the new firm name itself did not violate RPC 8.4(c) because he fully disclosed the retention of that name in the affidavit. Rather, it was respondent's deceitful purpose in retaining the surname that violated the Rule.

The Board observed that respondent retained the surname for the sole purpose of allowing the firm to remain on the "approved" list of attorneys used by the various insurance companies that referred cases to him. By doing so, he sought to circumvent the very purpose of a suspension, that is, the complete removal of an attorney from the practice of law and the generation of business until reinstated by the Court. See R. 1:20-20(b)(6) (prohibiting a suspended attorney from "solicit[ing] or procur[ing] any legal business or retainers for the disciplined attorney or for any other attorney"). In the Board's view, respondent's purpose in retaining the surname was more than mercenary — it was deceitful, and, thus, a violation of RPC 8.4(c).

In determining the measure of discipline to impose on respondent for the above violations, the Board looked to its decision in In the Matter of Wayne Powell, DRB 13-404 (May 9, 2014) (slip op.). There, the Board observed that R. 1:20-20 cases, which often proceed as defaults, typically involve an attorney's failure to file the affidavit of compliance, which, in itself, is a violation of the Rule. Id. at 15. The threshold measure of discipline is a reprimand in those matters. In re Girdler, 179 N.J. 227 (2004); In the Matter of Richard B. Girdler, DRB 03-278 (November 20, 2003) (slip op. at 6).

Like respondent, however, the attorney in Powell filed an affidavit of compliance with R. 1:20-20, but failed to comply with other provisions of the Rule. In the Matter of Wayne Powell, supra, DRB 13-404 (slip op. at 15-16). One such failure involved the continued use of his firm's existing letterhead during the period of suspension. Id. at 16.

Powell had an extensive disciplinary history and, therefore, received a censure. Thus, although the Board did not establish in Powell a threshold measure of discipline to be imposed in cases involving attorneys who file R. 1:20-20 affidavits but fail to comply with other provisions of the Rule, that case supports such a conclusion. Thus, in the Board's view, a reprimand would be

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sufficient discipline for respondent's violation of RPC 8.1(b) and (d). There is, however, other misconduct to consider – specifically, respondent's violation of RPC 8.4(c).

The violation of RPC 8.4(c) typically requires the imposition of a reprimand. The Board, however, did not consider the facts underlying the RPC 8.4(c) violation in this case to be typical. The mercenary nature of respondent's deceit was so egregious as to warrant a censure.

The Board did not consider respondent's three-month suspension as an aggravating factor because this matter arises out of that suspension. The Board rejected as a mitigating factor respondent's stated reliance on the advice of counsel "with regard to the specific issue of the failure to notify the Court and opposing counsel of the suspension." Any such reliance is neither applicable nor reasonable in respect of respondent's continued use of his name for a deceitful purpose.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated October 25, 2016.
2. Stipulation of discipline by consent, dated November 14, 2016.
3. Affidavit of consent, dated November 11, 2016.
4. Ethics history, dated March 2, 2017.

Very truly yours,



Ellen A. Brodsky  
Chief Counsel

EAB/sl

encls.

c: See Attached List

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c: (w/o encls.)

Bonnie C. Frost, Chair

Disciplinary Review Board

Charles Centinaro, Director

Office of Attorney Ethics

Jason D. Saunders, First Assistant Ethics Counsel

Office of Attorney Ethics

Jared Elliott Stolz, Respondent

Steven Kraus, Esq., Grievant

Robert Feltoon, Esq., Grievant