

# DISCIPLINARY REVIEW BOARD

OF THE

## SUPREME COURT OF NEW JERSEY

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May 24, 2017

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

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Re: In the Matter of Nicholas R. Doria  
Docket No. DRB 17-084  
District Docket No. XI-2015-0010E

Dear Mr. Neary:

The Disciplinary Review Board reviewed the motion for discipline by consent (reprimand or such lesser discipline as the Board deems appropriate), filed by the District XI 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 reprimand is the appropriate discipline for respondent's violation of RPC 1.5(a) (unreasonable fee).

Specifically, on May 14, 2013, Pinar Tosun retained respondent for representation on a motion, filed by her former husband, to terminate his alimony obligation and to reduce his child support obligation. Respondent previously had represented Tosun in an appeal from another post-judgment matrimonial motion. The fee in that matter was not in dispute.

As to the subsequent motion, respondent charged Tosun a \$35,000 fixed fee, which she paid. He obtained an adjournment of

the motion because of the pending appeal. He filed two letter-briefs, contending that the court lacked jurisdiction to hear the matter, based on the pending appeal. On June 21, 2014, the court denied the former husband's motion. On August 23, 2014, the Appellate Division remanded the equitable distribution matter to the trial court for a plenary hearing.

In late August 2013, Tosun's former husband filed another motion to terminate alimony and to reduce child support payments. On September 4, 2013, respondent informed Tosun that he required a new retainer for this latest representation, because he had exhausted the fixed fee she had paid in May 2013.

Tosun objected to the request and retained new counsel. Counsel sought the turnover of Tosun's file and a refund of a significant portion of the \$35,000 retainer, noting that respondent had performed services during a period of fewer than two months in 2013. Respondent refused to refund the retainer, prompting Tosun to file a fee arbitration request, in December 2013. The fee arbitration panel awarded Tosun \$34,100, concluding that respondent was entitled to only \$900. On appeal, the Board upheld the fee arbitration panel's determination. Respondent, thereafter, promptly refunded \$34,100 to Tosun.

The Board determined that respondent's fee was so excessive that it evidenced an intent to overreach. Such a finding ordinarily results in the imposition of a reprimand. See, e.g., In re Read, 170 N.J. 319 (2000) (attorney charged grossly excessive fees in two estate matters and presented inflated time records to justify the high fees; strong mitigating factors considered); In re Hinnant, 121 N.J. 395 (1990) (in a real estate matter, attorney attempted to collect a \$21,000 fee, including commissions on the purchase price; a conflict of interest also was found); and In re Mezzaca, 120 N.J. 162 (1990) (attorney engaged in a pattern of overreaching by taking contingent fees on gross recoveries; attorney also delayed the return of a client's funds and failed to provide clients with written contingent fee agreements).

In the absence of aggravating factors, and in light of the fact that respondent has no history of public discipline, the Board determined that a reprimand is warranted for his misconduct.

May 24, 2017

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Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated January 5, 2017.
2. Stipulation of discipline by consent, dated January 7, 2017.
3. Affidavit of Consent, dated January 4, 2017.
4. Ethics history, dated May 24, 2017.

Very truly yours,



Ellen A. Brodsky  
Chief Counsel

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EAB/sl

Enclosures

c: (w/o enclosures)

Bonnie C. Frost, Chair

Disciplinary Review Board

Charles Centinaro, Director

Office of Attorney Ethics

Isabel McGinty, Statewide Ethics Coordinator

Office of Attorney Ethics

Mary Tom, Presenter

District XI Ethics Committee

Robert B. Hille, Esq.

Respondent's Counsel