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SUPREME COURT OF NEW JERSEY

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ASSISTANT COUNSEL

October 23, 2017

CORRECTED LETTER

VIA REGULAR MAIL AND E-MAIL

Flavio B. Van Boekel, Esq.
c/o Zachary D. Wellbrock, Esq.
McCusker Anselmi Rosen & Carvelli, PC
210 Park Ave, Suite 301
Florham Park, NJ 07932-1012

Re: In the Matter of Flavio B. Van Boekel

Docket No. 17-273

District Docket No. VA-2015-0004E

LETTER OF ADMONITION

Dear Mr. Van Boekel:

The Disciplinary Review Board has reviewed your conduct in the above matter and has concluded that it was improper. Following a review of the record, the Board determined to impose an admonition.

Specifically, on September 17, 2012, grievant Altair DaSilva retained you to pursue a claim against Wells Fargo Financial New Jersey, Inc. (Wells Fargo) based on the improper withdrawal of funds from DaSilva's Wells Fargo bank account. On October 27, 2012, you wrote to Wells Fargo and "asserted claims" on DaSilva's behalf.

On February 26, 2013, you filed a civil action against Wells Fargo in the Superior Court of New Jersey, Law Division, Union County, Special Civil Part (civil action). On April 4, 2013, counsel for Wells Fargo filed a motion to dismiss the civil action. Although you were

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served with a copy of the motion on the following day, you neither informed DaSilva of the motion nor submitted opposition to it.

On May 7, 2013, the court granted Wells Fargo's unopposed motion to dismiss the civil action, without prejudice. On that same date, you filed a certification of proof in the civil action. Either on, or shortly after May 8, 2013, you received a judgment card reflecting a default judgment in the civil action.

Upon receipt of the judgment card, you informed DaSilva that the scope of the legal representation did not include enforcement of the judgment. You, thus, referred DaSilva to Anita Mignone-Lazaro, Esq. for representation in a collection action.

On July 25, 2013, Mignone-Lazaro wrote to you and thanked you for the DaSilva referral. When she began to work on the collection case, she could not find a court order relating to the judgment. Mignone-Lazaro called you "on at least, if not more, five occasions" to discuss the order, but she was not able to speak with you. You did not return her calls, even though she left messages for you, and, further, you ignored four letters that she mailed and faxed to you in August and September 2013.

The Board found that your failure to inform DaSilva that you had received the motion to dismiss and to submit opposition to it or seek an extension of time within which to do so, violated both RPC 1.1(a) (gross neglect) and RPC 1.3 (lack of diligence). You also violated RPC 1.4(b) and (c), by failing to (1) keep DaSilva reasonably informed of the status of the civil action, including your receipt of the motion to dismiss and your failure to submit opposition; (2) provide DaSilva with sufficient information so that he could make informed decisions regarding matter; and (3) promptly comply with Mignone-Lazaro's reasonable requests for information about the civil action.¹ Your violation of the above RPCs warrants an admonition. See, e.g., In the Matter of Craig C. Swenson, DRB 16-278 (January 20, 2017) (attorney filed four workers' compensation claim petitions on behalf of his client; the employer's workers' compensation carrier offered to settle two of the claims for \$5,000, which the client agreed to accept, but the attorney failed to obtain the required approval from "Social Security/Medicare" and failed to monitor the client's matters; when counsel for the carrier filed a motion to dismiss three of the claims for lack of prosecution, the attorney failed to file opposition,

¹Your failure to respond to your former client's collection counsel more appropriately constitutes a violation of RPC 1.16(d).

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resulting in their dismissal; when counsel filed a demand for medical information for the remaining claim, the attorney failed to reply, resulting in its dismissal for lack of prosecution; the attorney failed to inform his client of the dismissals and failed to take action to have the petitions reinstated; violation of RPC 1.1(a), RPC 1.3, and RPC 1.4(b)), and In the Matter of Walter N. Wilson, DRB 15-338 (November 24, 2015) (attorney who was retained to file a tax appeal from the loss of a special assessment, neither filed the appeal nor advised his client of the deadline, thus depriving the client of the opportunity to perfect an appeal; violation of RPC 1.1(a) and RPC 1.3).


In imposing only an admonition, the Board took into consideration the absence of prior discipline imposed on you, your admission of wrongdoing, your cooperation with disciplinary authorities, your provision of pro bono representation to underserved members of your community in immigration and family matters, and your service to the American Immigration Lawyers Association.

Your conduct has 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/sl

c: (see attached list)

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c: Chief Justice Stuart Rabner (via hand-delivery)
Associate Justices (via hand-delivery)
Bonnie Frost, Chair
Disciplinary Review Board (via e-mail)
Mark Neary, Clerk
Supreme Court of New Jersey (via hand-delivery)
Gail G. Haney, Deputy Clerk, Supreme Court of New Jersey
(w/ethics history) (via hand-delivery)
Charles Centinaro, Director
Office of Attorney Ethics (via e-mail)
Isabel McGinty, Statewide Ethics Coordinator
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District VA Ethics Committee (via e-mail)
Natalie Watson, Secretary
District VA Ethics Committee (via e-mail and regular mail)
Richard Bernstein, Presenter
District VA Ethics Committee (via e-mail)
Altair DaSilva, Grievant (via regular mail)