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March 20, 2018

VIA REGULAR MAIL AND E-MAIL

William M. Goldberg, Esq.
c/o Andrew M. Epstein, Esq.
Wilson Elser
200 Campus Drive
Florham Park, New Jersey 07932

Re: In the Matter of William M. Goldberg
Docket No. DRB 17-433
District Docket No. XIV-2014-0517E
LETTER OF ADMONITION

Dear Mr. Goldberg:

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, in approximately 2008, you undertook the representation of adult siblings, Jo-Anne Provenzano Olszewski and Daniel Provenzano, in an action against the lawyer who represented them in litigation related to the administration of their deceased father's estate. Because your clients did not have the financial means to pay a retainer, Mr. Provenzano assumed sole responsibility for the ultimate payment of your fees, which exceeded \$100,000. In this regard, he offered to give you the "first monies" recovered in the estate litigation. You agreed to that arrangement.

In November 2011, Mr. Provenzano suffered a disabling stroke. His son, Thomas, who held a general and a medical power of attorney for Mr. Provenzano, took charge of his affairs. Prior to Mr.

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Provenzano's stroke, you did not have any discussions with Thomas regarding his father's agreement to pay your legal fees. Indeed, throughout the representation, you communicated with Ms. Olszewski, who served as the contact person.

In January 2012, you met with Ms. Olszewski and Thomas to discuss the estate litigation, which was settled, in principle, at that time. The settlement beneficiaries included Ms. Olszewski, Mr. Provenzano, and the decedent's grandchildren, one of whom was Thomas. You claimed that, at that point, you were unaware of the power of attorney.

When the settlement agreement was executed, in June 2012, Thomas signed individually and for Mr. Provenzano, as power of attorney. Still, you claimed that you did not learn of the power of attorney until July 17, 2012, when you received a copy from another attorney.

In August 2012, you received two checks, each in the amount of \$89,750. One was payable to Mr. Provenzano; the other, to Ms. Olszewski. You did not inform Thomas of your receipt of his father's check. Rather, you obtained Ms. Olszewski's authorization to deposit both checks in your attorney trust account. You then applied Mr. Provenzano's funds to your outstanding fees, without informing Thomas or seeking his authorization, claiming that it "just didn't occur to [you]," because, in your view, Ms. Olszewski was your client, individually, and in her capacity as Thomas's representative.

In March 2013, seven months after you deposited Mr. Provenzano's check and applied the monies to your fees, Thomas asserted that his father had never agreed to pay all of your fees. He, thus, demanded that you turn over the funds to his attorney, Richard Galler. Despite ongoing communications between you and Mr. Galler regarding Mr. Provenzano's agreement, the issue of the \$89,750 could not be resolved. On November 13, 2013, you proposed that the parties arbitrate the dispute and offered to turn over the funds to Mr. Galler for deposit in his trust account, pending resolution of that matter. You received no reply.

Your failure to communicate with Thomas, following Mr. Provenzano's stroke, about his father's agreement to pay your legal fees from his distribution violated RPC 1.4(b) (failure to keep a client reasonably informed about the status of a matter). Moreover, you violated RPC 1.15(b) (failure to promptly notify a client or

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third person upon receipt of funds in which the client or third person has an interest and to promptly deliver those funds) when you failed to discuss with Thomas your receipt and disposition of Mr. Provenzano's distribution even though, by that point, you were well aware that he was acting on his father's behalf.

The Board did not agree that you violated RPC 1.15(c), which requires an attorney to keep disputed funds separate and intact until the dispute is resolved. By the time you learned of Thomas's objection to your disbursement of Mr. Provenzano's distribution, the funds already had been disbursed. Moreover, upon learning of Thomas's objection, you offered to arbitrate the dispute and to tender \$89,750 to Thomas's attorney for deposit in his trust account, pending resolution of that matter. Thus, the Board dismissed the RPC 1.15(c) charge.

In imposing only an admonition, the Board considered your admission of wrongdoing, your cooperation with the Office of Attorney Ethics in its investigation of the grievance, and the absence of final discipline in the past twenty-one years of your fifty-year career.

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 has also 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

In the Matter of William M. Goldberg, DRB 17-435

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c: Chief Justice Stuart Rabner
Associate Justices
Bonnie C. Frost, Chair
Disciplinary Review Board (e-mail)
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Thomas Provenzano, Grievant (regular mail)