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RICHARD J. HUGHES JUSTICE COMPLEX
P.O. BOX 962
TRENTON, NEW JERSEY 08625-0962
(609) 815-2920

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 2, 2018

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

RE: In the Matter of Joseph Albano
Docket No. 18-103
District Docket No. XIV-2017-0118E

Dear Mr. Neary:

The Disciplinary Review Board reviewed the motion for discipline by consent (reprimand or censure) filed by the Office of Attorney Ethics, 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 censure is the appropriate measure of discipline for respondent's violation of RPC 5.5(a) (unauthorized practice of law).

Specifically, by Court Order effective November 17, 2014, and, again, by Court Order effective November 16, 2015, respondent, while an associate with the law firm of Leanza, Agrapidis & Maroules P.C. (Leanza), was declared ineligible to practice law for failure to comply with mandatory continuing legal education (CLE) requirements. On June 20, 2016, respondent was removed from the CLE ineligibility list. However, by Order effective November 21, 2016, he was again declared ineligible to practice law, again

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for failure to comply with CLE requirements. He was removed from the CLE ineligible list on March 10, 2017.

Respondent admitted to the OAE, during a July 10, 2017 demand interview, that he was aware of his administrative ineligibility, but continued to practice law on multiple occasions, over a four-month period, while employed at the Leanza firm.

Ordinarily, practicing law while ineligible is met with an admonition, if the attorney is unaware of the ineligibility. A reprimand may result if aggravating factors exist, such as other ethics improprieties are present, the attorney has an ethics history, the matter proceeded as a default, or the attorney had knowledge of the ineligibility and practiced law, nevertheless. See, e.g., In re Frayne, 220 N.J. 23 (2014) (default; attorney practiced law while ineligible; there was no evidence that he knew that he was ineligible at the time; the attorney also failed to communicate with the client); In re Fell, 219 N.J. 425 (2014) (attorney who was ineligible for a five-month period represented a matrimonial client, knowing of his ineligibility; in aggravation, the attorney had received a prior reprimand; in mitigation, the attorney readily admitted his conduct and provided service to his community); and In re Moskowitz, 215 N.J. 636 (2013) (attorney practiced law knowing that he was ineligible to do so).

Censures have been imposed where the aggravating factors have been more serious. See, e.g., In re D'Arienzo, 217 N.J. 151 (2014) (attorney's recklessness in not ensuring that payment of his annual assessment was sent to the New Jersey Lawyers' Fund for Client Protection was deemed "akin to knowledge on his part;" in aggravation, the attorney had an extensive disciplinary history, which included a 2013 reprimand for practicing while ineligible); In re Macchiaverna, 214 N.J. 517 (2013) (attorney knowingly practiced law while ineligible, and engaged in recordkeeping violations; an aggravating factor was the attorney's prior reprimand for recordkeeping violations that led to the negligent misappropriation of client funds; the attorney also did not appear on the return date of the Court's order to show cause); In re Payton, ___ N.J. ___ (2011) (2011 N.J. Lexis 704) (attorney practiced law while he was ineligible; mitigating factors were the attorney's poor financial situation caused by his ill health, and his quick admission of wrongdoing; aggravating factors were the attorney's knowledge of his ineligibility and his extensive disciplinary record - an admonition, a reprimand, and two three-

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month suspensions); and In re Lynch, 186 N.J. 246 (2006) (attorney, aware of his ineligibility, practiced law during that period; the attorney had a prior admonition and a reprimand).

Here, respondent's prior censure, serves as an aggravating factor, and his admission of wrongdoing and cooperation with ethics authorities are mitigating factors. Based on those factors and the above precedent, the Board determined that a censure is the appropriate quantum of discipline for respondent's misconduct.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, undated.
2. Affidavit of consent, dated March 14, 2018.
3. Stipulation of discipline by consent, dated February 23, 2018.
4. Ethics history, dated July 2, 2018.

Very truly yours,



Ellen A. Brodsky
Chief Counsel

EAB/paa

c: (without enclosures)
Bonnie C. Frost, Chair
Disciplinary Review Board (e-mail)
Charles Centinaro, Director
Office of Attorney Ethics (e-mail and interoffice mail)
Joseph Glyn, Deputy Ethics Counsel
Office of Attorney Ethics (e-mail)
Joseph Albano, Respondent (regular mail and e-mail)