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March 28, 2019

Heather Joy Baker, Clerk
Supreme Court of New Jersey
P.O. Box 970
Trenton, New Jersey 08625-0962

Re: **In the Matter of Ian Zev Winograd**
Docket No. DRB 19-025
District Docket No. XIV-2017-0598E

Dear Ms. Baker:

The Disciplinary Review Board reviewed the motion for discipline by consent, an admonition or a reprimand, filed by the Office of Attorney Ethics (OAE), 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 measure of discipline for respondent's violations of RPC 5.5(a)(1) (unauthorized practice of law) and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation).

Specifically, in March 2014, Ousmane Al-Misri, Esq. hired respondent as a paralegal for New Jersey cases, and as an attorney for Pennsylvania cases, after respondent had been admitted to the Pennsylvania bar. On July 9, 2014,

Roberto Barnes hired Al-Misri's firm to file a civil complaint. Initially, Barnes met with both respondent and Al-Misri, but thereafter, regularly communicated only with respondent prior to the filing of a complaint. All of respondent's e-mail communications with Barnes, and the business card respondent provided to him, identified respondent as an attorney. The business card had the address and telephone numbers for the Newark office, and did not indicate where respondent was licensed to practice law. Respondent led Barnes to believe that he was handling his case in New Jersey; yet, respondent was not licensed in New Jersey.

On April 16, 2015, Barnes sent an e-mail to both respondent and Al-Misri, indicating that he "wanted to speak with the head attorney." Respondent replied the same day that, "Mr. Al-Misri has told me to inform you that I am still the one handling your case thus your communications will be with me until a time where he is not as busy . . . however, we have many cases going on. I will continue to work on your complaint for your signature. Very truly yours, Ian Z. Winograd, Esq."

The e-mail correspondence from respondent to Barnes neither identified him as a paralegal nor listed Al-Misri as the responsible attorney. Respondent left the firm several months before the statute of limitations expired on Barnes' cause of action.

Respondent admitted violating RPC 5.5(a)(1) by practicing law in New Jersey when he was not yet licensed to do so and RPC 8.4(c) by misleading Barnes to believe that respondent was representing him in his lawsuit in New Jersey, although when respondent was not licensed to practice law in this state.

In New Jersey, paralegals are permitted to sign routine, non-substantive correspondence to clients, adverse attorneys, or courts, provided that the attorney who supervises the paralegal is aware of the exact nature of the correspondence; the paralegal's identity and non-attorney status is noted; and the name of the responsible attorney is set forth in the correspondence. Joint Opinion No. 46 of the Committee on the Unauthorized Practice of Law and Opinion No. 720 of the Advisory Committee on Professional Ethics, 204 N.J.L.J. 57 (April 4, 2011) modifying Opinion No. 611 of the Advisory Committee on Professional Ethics, 121 N.J.L.J. 301 (February 18, 1988).

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Respondent admitted that, not only did he fail to identify himself as a paralegal and a non-attorney in New Jersey, but he also led Barnes to believe that respondent was the attorney handling his case. Respondent also admitted that he was responsible for the prosecution of the matter, notwithstanding his non-admitted status in this state. By handling the New Jersey-based civil action on behalf of Barnes, respondent violated RPC 5.5(a)(1). By misleading Barnes and allowing him to believe that he was eligible to practice law in New Jersey, respondent violated RPC 8.4(c).

An attorney who, like respondent, was licensed in other states, but employed as a paralegal in New Jersey, received an admonition for practicing law in New Jersey. See In the Matter of Sean T. Hogan, DRB 09-278 (December 2, 2009).

Respondent, however, has the added violation of making a misrepresentation to a client. A misrepresentation to a client requires the imposition of a reprimand. In re Kasdan, 115 N.J. 472, 488 (1989). A reprimand still may be imposed, even if the misrepresentation is accompanied by other, non-serious ethics infractions. See, e.g., In re Ruffolo, 220 N.J. 353 (2015) (respondent exhibited gross neglect and a lack of diligence by allowing his client's case to be dismissed, not working on it after filing the initial claim, and failing to take any steps to prevent its dismissal or ensure its reinstatement thereafter, violations of RPC 1.1(a) and RPC 1.3; the attorney also violated RPC 1.4(b) by failing to promptly reply to the client's requests for status updates; finally, his assurances that the client's matter was proceeding apace, knowing that the complaint had been dismissed, and that he should expect a monetary award in the near future were false, thereby violating RPC 8.4(c)).

Here, in mitigation, respondent acknowledged his wrongdoing by entering into a disciplinary stipulation, was not motivated by personal financial gain, caused no harm to the client, and is unlikely to repeat this misconduct. Although respondent has no disciplinary history, he was admitted as an attorney in 2014 in Pennsylvania, and his misconduct occurred soon thereafter. Therefore, on balance, the Board determined that a reprimand is the appropriate quantum of discipline.

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Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated January 11, 2019.
2. Stipulation of discipline by consent, dated January 11, 2019.
3. Affidavit of consent, dated January 4, 2019.
4. Ethics history, dated March 28, 2019.

Very truly yours,



Ellen A. Brodsky
Chief Counsel

EAB/trj

Encls.

c: (w/o enclosures)
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