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September 23, 2019

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

Re: **In the Matter of Carlos E. Perez**
Docket No. DRB 19-224
District Docket No. VC-2017-0036E

Dear Ms. Baker:

The Disciplinary Review Board has reviewed the motion for discipline by consent (reprimand or such lesser discipline as the Board deems appropriate) filed by the District VC Ethics Committee in the above matter, pursuant to R. 1:20-10(b). Following a review of the record, the Board granted the motion and determined to impose a reprimand for respondent's violation of RPC 5.5(a)(1) (practicing while ineligible). The Board determined to dismiss the charged violation of RPC 8.4(a) (violating the Rules of Professional Conduct).

Specifically, according to the stipulation, respondent violated RPC 5.5(a)(1) and RPC 8.4(a), as the result of his conduct in an August 2015 real estate transaction in which he represented the sellers. On August 13, 2015, the buyers' attorney sent an e-mail to respondent, notifying him that his name was on a list of ineligible attorneys and requesting proof that he was eligible to practice law. The following day, respondent informed the attorney that he was eligible and represented that he would send him proof of his eligibility. He never did. As it turned out, between August 14 and 19, 2015, respondent was ineligible to practice law due to nonpayment of the annual attorney assessment to the New Jersey Lawyers' Fund for Client Protection, and his failure to comply with the requirements of the Continuing Legal Education and the Interest on Lawyers Trust Account Programs.

On August 17, 2015, the buyers' attorney e-mailed to respondent a contract addendum.

Respondent replied that he had reviewed the addendum and sent it to his clients. In addition, respondent transmitted to the buyers' attorney a rider to the contract via letterhead bearing the banner "Law Offices of Carlos E. Perez." The rider stated that respondent's firm represented the sellers. Later, respondent sent the buyers' attorney an e-mail, stating that he had instructed his clients to sign the buyers' addendum.

As of August 19, 2015, the buyers' attorney had not received proof of respondent's eligibility to practice law. He, thus, sent an e-mail directly to the sellers, with a copy to respondent, stating that, due to respondent's ineligibility, the buyers would not consider respondent's rider. The buyers' attorney also advised the sellers to hire a different attorney. Prior to this e-mail, the sellers had been unaware of respondent's ineligibility.

According to the stipulation, there are no aggravating factors. In mitigation, the parties agreed that one of the sellers was respondent's friend and only client, whom respondent did not charge for the representation.

Between August 14 and 19, 2015, respondent was ineligible to practice law. Thus, the Board found that, by representing the sellers in a real estate transaction during that time, respondent violated RPC 5.5(a)(1).

The Board dismissed the stipulated violation of RPC 8.4(a), which prohibits an attorney from violating or attempting to violate the Rules of Professional Conduct, knowingly assisting or inducing another to do so, or doing so through the acts of another. In the Board's view, respondent's misconduct is captured by RPC 5.5(a), and a finding of a violation of RPC 8.4(a) would be redundant.

Consistent with precedent, the Board determined to impose a reprimand on respondent for his continued practice of law after the buyers' attorney had informed him of his ineligibility. See, e.g., 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), and In re Moskowitz, 215 N.J. 636 (2013) (reprimand imposed on attorney who practiced law knowing that he was ineligible to do so). The Board considered respondent's unblemished disciplinary history insufficient to justify an admonition because, with the exception of the subject real estate transaction, he has not practiced law since his admission to the bar.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated May 6, 2019.
2. Stipulation of discipline by consent, dated May 22, 2019.
3. Affidavit of consent, dated April 9, 2019.

4. Ethics history, dated September 20, 2019.

Very truly yours,



Ellen A. Brodsky
Chief Counsel

EAB/jm
Enclosures

- c. (w/o enclosures)
Bruce W. Clark, Chair
Disciplinary Review Board (e-mail)
Charles Centinaro, Director
Office of Attorney Ethics (e-mail and interoffice mail)
Isabel K. McGinty, Statewide Ethics Coordinator
Office of Attorney Ethics (e-mail)
Anthony M. Rainone, Chair
District VC Ethics Committee (e-mail)
John J. Zefutie, Jr., Secretary
District VC Ethics Committee (e-mail and regular mail)
Andrew C. Olesnycky, Presenter
District VC Ethics Committee (e-mail)
Rubin M. Sinins, Esq., Respondent's Counsel (e-mail and regular mail)
Keith A. Hyche, Grievant (regular mail)