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November 25, 2019

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

**Re: In the Matter of Robert J. Michelini**  
Docket No. DRB 19-323  
District Docket No. XIV-2017-0250E

Dear Ms. Baker:

The Disciplinary Review Board has reviewed the motion for discipline by consent (censure or such lesser discipline as the Board deems appropriate) filed by the Office of Attorney Ethics 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 censure for respondent's violation of RPC 5.4(d)(1) (practicing law for profit, in association with a nonlawyer); RPC 7.1(a)(1) (making material misrepresentations of fact or law about the lawyer, the lawyer's services, or any matter in which the lawyer has or seeks professional involvement); and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation).

Specifically, according to the stipulation, from August 2000 through June 21, 2017, respondent was employed as an attorney at the Law Office of Federico Velez, in Newark, New Jersey (the Firm). On February 14, 2009, Velez suddenly died, leaving respondent as the only attorney employed at the Firm. For more than eight years following Velez's death, respondent continued to practice law, for profit, in association with Velez's widow, Mary, a nonlawyer. Respondent had obtained a legal opinion, in 2009, from George Conk, Esq., which correctly concluded that the Firm had to either be terminated or sold to an attorney. Rather than follow Conk's sound advice, and despite his awareness that his conduct was unethical, respondent simply continued the business of the Firm, with Mary, for more than eight years, representing more than 740 clients. Respondent, thus, violated RPC 5.4(d)(1).

Making matters worse, after respondent determined to leave the Firm and join another practice, he sent an improper letter to all of the Firm's clients. The letter wrongly implied that the clients' files could not remain with the Firm following respondent's departure, and further implied that, if the clients did not follow him to his new law firm, their cases would be abandoned. Moreover, respondent created misleading letterhead that gave the impression that the Firm had authorized the content and message of the letter, when that was not the case. Respondent admitted that his motivation, in part, was to solicit the Firm's clients for his new law firm. The material misrepresentations made in the letters to the Firm's clients, thus, violated RPC 7.1(a)(1) and RPC 8.4(c).

When an attorney assists a nonlawyer or an unlicensed lawyer in the unauthorized practice of law and commits other ethics violations, the discipline ranges from a reprimand to a suspension. See, e.g., In re Bevacqua, 174 N.J. 296 (2002) (reprimand for attorney who assigned an employee, whom he thought had been admitted to practice law in another state, to prepare a client for a deposition and to appear on the client's behalf; the employee, however, had not yet been admitted to practice law in any jurisdiction at that time; the attorney committed other violations, including gross neglect, pattern of neglect, and lack of diligence; multiple mitigating factors, including lack of disciplinary history, his inexperience as an attorney, and conduct resulting from poor judgment, rather than venality); In re Chulak, 152 N.J. 443 (1998) (three-month suspension for attorney who allowed a nonlawyer to prepare and sign pleadings in the attorney's name and to be designated as "Esq." on his attorney business account; the attorney then misrepresented to the court his knowledge of these facts); and In re Carracino, 156 N.J. 477 (1998) (six-month suspension for attorney who entered into a law partnership agreement with a nonlawyer; the attorney also agreed to share fees with the nonlawyer, engaged in a conflict of interest, displayed gross neglect, failed to communicate with a client, and failed to cooperate with disciplinary authorities; prior admonition).

In respect of the misleading letters that respondent sent, it is well-settled that misrepresentations to clients require the imposition of a reprimand. In re Kasdan, 115 N.J. 472, 488 (1989).

Similarly, admonitions and reprimands have been imposed on attorneys who, in their quest to solicit clients, make false or misleading communications in their general advertising campaigns, in violation of RPC 7.1(a)(1).

In aggravation, respondent proceeded to operate the firm with Mary, for profit, for more than eight years, despite having actual knowledge that such conduct was unethical. Arguably, such aggravation could enhance the appropriate level of discipline to a term of suspension. In respect of mitigation, however, the Board allocated substantial weight to respondent's unblemished disciplinary record, since his 1982 admission to the bar. Moreover, the record contains no evidence that any of the Firm's clients suffered economic harm as a result of respondent's misconduct, or that Mary actually engaged in the practice of law; respondent fully cooperated with the disciplinary proceedings by stipulating to his wrongdoing and consenting to discipline; and he has represented that he is no longer engaged

in the practice of law. On balance, the Board concluded that a term of suspension is unwarranted, and that a censure is the quantum of discipline necessary to protect the public and preserve confidence in the bar.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated September 5, 2019.
2. Stipulation of discipline by consent, dated September 5, 2019.
3. Affidavit of consent, dated August 29, 2019.
4. Ethics history, dated November 25, 2019.

Very truly yours,



Ellen A. Brodsky  
Chief Counsel

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)  
Christina Blunda, Deputy Ethics Counsel  
Office of Attorney Ethics (e-mail)  
Thomas Scrivo, Respondent's Counsel (e-mail and regular mail)