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April 21, 2020

CERTIFIED MAIL, R.R.R., REGULAR MAIL & E-MAIL

Brian Joseph Muhlbaier, Esq.
1174 Karin Street
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Re: In the Matter of Brian Joseph Muhlbaier
Docket No. DRB 20-006
District Docket No. XIV-2018-0138E
LETTER OF ADMONITION

Dear Mr. Muhlbaier:

The Disciplinary Review Board has reviewed the motion for discipline by consent (admonition) filed by the Office of Attorney Ethics (OAE) in the above matter, pursuant to R. 1:20-10. Following a review of the record, the Board granted the motion and determined to impose an admonition for your violation of RPC 1.15(d) (failure to comply with the recordkeeping provisions of R. 1:21-6) and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

Specifically, on June 4, 2018, the OAE directed you to produce, by June 20, 2018, your attorney trust account (ATA) monthly three-way reconciliations, client ledger cards, receipts and disbursements journals, and bank statements, for the period comprising March 2016 to May 2018. Because you did not comply with the OAE's request, the OAE submitted another request to you and extended the deadline to July 30, 2018.

On July 31, 2018, you provided a reply that the OAE deemed incomplete and illegible. Three days later, you faxed a letter to the OAE, explaining your July 31 reply and requesting proof of mailing for the OAE's June 4, 2018 letter.

On August 28, 2018, the OAE directed you to appear at its office, on September 13, 2018, and produce all books and records required to be maintained in accordance with R. 1:21-6. During the September 13, 2018 audit, you provided only your handwritten notes, including ledger cards. You also informed the OAE that you had not complied with its prior instruction to deposit in your ATA all funds that you collected on behalf of clients. Instead, you continued depositing the funds

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in your attorney business account (ABA) “until [you] would satisfy all [your] fees and expenses and then, without depositing any further collected funds into either [your] ATA or ABA, forwarding the collected funds directly to [your] clients.” Moreover, the September 13, 2018 audit uncovered numerous recordkeeping deficiencies which, as you have stipulated, constituted violations of RPC 1.15(d).

On September 14, 2018, the OAE requested that you provide additional documents by October 1, 2018. At your request, the OAE extended the deadline to October 8, 2018, but you did not comply with the new deadline. On October 11, 2018, the OAE reminded you of your duty to cooperate and directed you to provide the requested documents by October 17, 2018.

On October 18, 2018, you requested another deadline extension, claiming that a serious medical issue had rendered you unable to work. The OAE granted the request and directed you to provide, by November 8, 2018, the requested documents. On November 8, 2018, you informed the OAE that you would not provide all the documents requested in the September 14, letter. On November 13, 2018, you partially complied with the OAE’s September 14, 2018 request, which included the production of voluminous bank records. However, you did not provide any documents demonstrating how you had handled or monitored the collection funds that had been sent directly to your clients. Your failure to fully comply with the OAE’s requests constituted a violation of RPC 8.1(b).

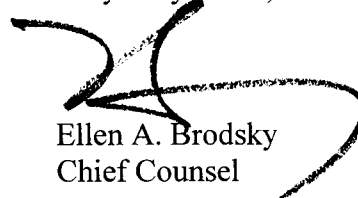
In imposing only an admonition, the Board considered that your two prior admonitions were issued more than ten years ago, and neither involved the type of misconduct at issue here.

Your conduct has adversely reflected not only on you as an attorney but also on 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, this admonition will be taken into consideration.

The Board also has directed that the costs of the disciplinary proceedings be assessed against you. An invoice of costs will be forwarded to you under separate cover.

Very truly yours,



Ellen A. Brodsky
Chief Counsel

For: Ellen A. Brodsky

EAB/jm

c: See attached list

I/M/O Brian Joseph Muhlbaier, DRB 20-006

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Chief Justice Stuart Rabner

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Supreme Court of New Jersey

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Gail G. Haney, Deputy Clerk

Supreme Court of New Jersey (w/ethics history)

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