DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

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November 24, 2020

VIA CERTIFIED MAIL, REGULAR MAIL & E-MAIL
Andrew Michael Carroll, Esq.
c/o Marc D. Garfinkle, Esq.
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Re: In the Matter of Andrew Michael Carroll
Docket No. DRB 20-195
District Docket No. I-2018-0016E
LETTER OF ADMONITION

Dear Mr. Carroll:

The Disciplinary Review Board has reviewed your conduct in the above matter and has concluded that it was improper. Following a review of the record, the Board 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). The Board further determined to dismiss the charged violations of RPC 1.3 (lack of diligence) and RPC 1.16(a)(3) (failure to withdraw from the representation after the lawyer is discharged).

Specifically, in approximately September 2017, Keith and Laura Kalinowski, a married couple, retained you to represent them for the purpose of filing a Chapter 7 bankruptcy petition. Although you testified that Keith and Laura executed a retainer agreement, you could not produce a copy of it. Rule 1:21-6(c)(1)(C) requires every attorney to retain, for a period of seven years, copies of all retainer and compensation agreements with clients. Your inability to produce a copy of the retainer agreement with the Kalinowskis violated that Rule and, consequently, RPC 1.15(d).

On November 17, 2017, you sent an e-mail to Keith, enclosing a proposed bankruptcy petition, and requesting that both Keith and Laura sign and return the document. Keith replied that Laura would not agree to file for bankruptcy, as the debt was Keith's sole responsibility, and, thus,

she "will not sign anything stating she is a debtor." Accordingly, either Keith or Laura redacted Laura's name, and Keith signed and returned the bankruptcy petition.

On November 19, 2017, you electronically filed, in the United States Bankruptcy Court for the District of New Jersey, a Chapter 7 bankruptcy petition and credit counseling certificate. The petition, dated November 17, 2017, identified Keith and Laura as Debtor 1 and Debtor 2, respectively, and contained their electronic signatures.

You conceded that your failure to remove Laura's name from the bankruptcy petition prior to filing it was a mistake, explaining that, pursuant to Keith's request, you had removed her name, but failed to save the change. Thus, the electronically filed version contained both Laura's and Keith's electronic signatures. You learned of the mistake a few minutes later when, after you sent Keith a copy of the receipt and notice of filing, Keith replied that Laura "will not file for bankruptcy nor have anything to do with it." Immediately, you took steps to rectify your mistake.

On November 22, 2018, at your expense, you filed a motion to sever the two cases and to dismiss Laura's bankruptcy petition. While the motion was pending, Laura hired another attorney to handle the severance matter, which included expunging the petition from her credit history. You continued to represent Keith in the bankruptcy proceeding, which resulted in an order of discharge.

Although your error negatively affected Laura's credit standing, because one credit agency did not "recognize" the expungement order, you apologized to Laura and assured her that you were "in good faith working to make it right." In this regard, you paid the fees of her subsequent lawyer, the fees for a credit audit, and a fee of $830 for credit monitoring services.

In the Board's view, your inclusion of Laura's name on the bankruptcy petition was the result of a simple mistake, not the result of a failure to act with reasonable diligence and promptness. The Board, thus, dismissed the RPC 1.3 charge. Further, the Board found that, by filing the motion to sever and dismiss the petition, in Laura's behalf, you did not continue the representation after she had discharged you. Rather, this action was the initial step that you took in your attempt to rectify, as quickly as possible, the mistake that you had made by including Laura in the petition. In this regard, the Board noted that the motion was handled by another attorney whose fees you paid. Thus, the Board dismissed the RPC 1.16(a)(3) charge.

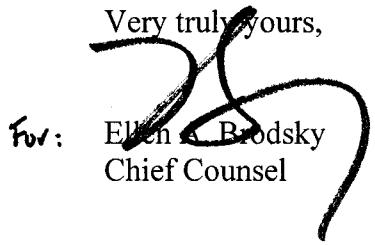
In imposing only an admonition, the Board took into consideration your acknowledgment of the mistake; your apology to Laura; your efforts to mitigate the effects of the mistake; the detailed steps that you have taken to improve your law practice; your longtime commitment to representing bankruptcy clients on a pro bono or discounted fee basis; and the character letters from two of your clients, who attested to the effective manner in which you had handled their cases.

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,



For: Ellen A. Brodsky
Chief Counsel

EAB/jm

c: Chief Justice Stuart Rabner
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Bruce W. Clark, Chair
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Laura P. Kalinowski, Grievant (regular mail)