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April 27, 2021

VIA CERTIFIED MAIL, REGULAR MAIL, & E-MAIL

Andrzej P. Szymanski, Esq.
253 Crescenzi Court
West Orange, New Jersey 07052
andrew@szylaw.com

Re: In the Matter of Andrzej Piotr Szymanski
Docket No. DRB 20-303
District Docket Nos. XI-2018-0008E and XI-2018-0009E
LETTER OF ADMONITION

Dear Mr. Szymanski:

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 1.1(a) (gross neglect) and RPC 1.4(b) (failure to communicate with the client). The Board further determined to dismiss the charged violations of RPC 4.1(a)(1) (false statement of fact or law to a third person) and RPC 7.1(a) (misleading communication about the lawyer or the lawyer's services).

Specifically, on November 24, 2017, grievants Michael and Marie Tomaro, a married couple, retained you in connection with a post-judgment family court motion that Michael's former wife had filed, which was returnable on January 5, 2018, before the Honorable Daniel H. Brown, J.S.C. You agreed to represent Michael; seek an adjournment of the motion; file opposition to the motion; and pursue affirmative relief in Michael's behalf. Pursuant to a retainer agreement, the Tomaros paid you \$2,000.

On January 4, 2018, the day prior to the motion hearing, you requested an adjournment, via a facsimile sent to Judge Brown's chambers. In response to Marie's subsequent inquiry, you told her that the motion had been adjourned, and that no appearance was necessary. The motion was not adjourned, however, and, on January 5, 2018, Judge

Brown rendered his decision. Judge Brown's resulting order specifically noted that he had denied your adjournment request.

Your client did not promptly learn of the disposition of the motion. Rather, Michael learned of the adverse disposition of the motion when he received a January 26, 2018 letter from his former wife's attorney, enclosing the order.

In your Answer, you admitted having violated RPC 1.1(a) by failing to timely request an adjournment of the motion and by failing to reply to the motion; RPC 1.4(b) by neglecting the matter entrusted to you and failing to keep Michael reasonably informed of the status of the matter; RPC 4.1(a)(1) by falsely representing to Marie that the motion hearing had been adjourned; and RPC 7.1(a) by falsely representing to Marie that it was not necessary to appear at the motion hearing because it had been adjourned.

In the written record presented to the Board, it was ambiguous whether you knew that Judge Brown had denied your adjournment request at the time you told Marie that it had been granted and that there was no need for Michael to appear. During your April 15, 2021 appearance before the Board, you indicated in response to the Board's questioning that you were unaware of whether Judge Brown had granted your adjournment request. Nothing said by the presenter or contained within the record contradicted your credible representation. As a result, the Board determined de novo that the plain language of RPC 4.1(a), requiring that the false statement of fact be "knowing," had not been satisfied. Compare In re Walcott, 217 N.J. 367 (2014) (attorney misrepresented to a third party, in writing, that he was holding \$2,000 in escrow from his client as collateral for a settlement agreement; violation of RPC 4.1(a)(1) and RPC 8.4(c)).

The Board also determined to dismiss RPC 7.1(a), which is ordinarily used to address misrepresentations about a lawyer or a lawyer's services occurring in the setting of that lawyer's letterhead and advertising. See, e.g., In re Rakofsky, 223 N.J. 349 (2015).


By contrast, the Board did find that your conduct violated RPC 1.1(a) and RPC 1.4(b). In imposing only an admonition, the Board considered the absence of any disciplinary history, your ready admission of fault, and your sincere contrition and remorse.

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,



Johanna Barba Jones
Chief Counsel

JBj/res

c: Chief Justice Stuart Rabner
Associate Justices
Heather Joy Baker, Clerk
Supreme Court of New Jersey
Hon. Maurice J. Gallipoli, Chair
Disciplinary Review Board (e-mail)
Gail G. Haney, Deputy Clerk
Supreme Court of New Jersey
Charles Centinaro, Director
Office of Attorney Ethics (interoffice mail and e-mail)
Isabel McGinty, Statewide Ethics Coordinator
Office of Attorney Ethics (e-mail)
Mary Tom, Chair
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Richard J. Baldi, Secretary
District XI Ethics Committee (e-mail)
Meaghan E. Tuohey-Kay, Presenter (e-mail)
Anne Marie and Michael Tomaro, Grievants (regular mail)