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SUPREME COURT OF NEW JERSEY

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September 28, 2021

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

Re: **In the Matter of Thomas M. Murphy**
Docket No. DRB 21-069
District Docket No. XIV-2019-0555E

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 Office of Attorney Ethics in the above-referenced matter, pursuant to R. 1:20-10(b). Following a review of the record, the Board granted the motion and determined to impose an admonition for respondent's violations of RPC 1.15(a) (commingling), RPC 1.15(b) (failing to promptly deliver funds to an entitled party), and RPC 1.15(d) (failure to comply with the recordkeeping requirements of R. 1:21-6).

Specifically, the Board found that respondent violated RPC 1.15(a) by improperly depositing his personal pension checks into his attorney trust account (ATA). Although respondent eventually electronically transferred those funds to his ABA, his decision to initially deposit the funds into his ATA resulted in his personal funds commingling with client funds, in violation of the Rules.

Additionally, respondent's failure to promptly remit quarterly tax withholdings to the state and federal governments constituted violations of RPC 1.15(b). Respondent had an obligation under the Rule to promptly notify and deliver to the entitled government agencies the taxes he withheld from his employee's biweekly paycheck. Yet, respondent failed to do so for seven out of eight quarters for the 2018 and 2019 tax years.

Finally, respondent's insufficient recordkeeping violated RPC 1.15(d). Specifically, respondent's improper electronic transfers of funds from his ATA, the commingling of his personal funds, and his failure, even after OAE involvement, to produce proper three-way reconciliations of his ATA violated R. 1:21-6 and, consequently, RPC 1.15(d).

In imposing only an admonition, the Board considered, in mitigation, that respondent readily admitted his misconduct and submitted the required payments to the entitled governmental agencies. Furthermore, although respondent is not fully retired, he has wound down his law practice and no longer has employees, so there is little likelihood of a repeat offense. Additionally, respondent is now fully aware of, and compliant with, the recordkeeping Rules, making future violations unlikely.

Respondent also provided medical documentation establishing that his physical ailments during 2018 through 2019 adversely affected his ability to attend to administrative matters in his practice. Indeed, respondent explained that, due to his multiple, documented medical conditions, his practice generated little income in that period, which drove respondent's decision to maintain his practice and to pay his employee by leveraging his pension checks. The Board found that it was this decision which precipitated much of respondent's misconduct. Finally, the Board gave great weight to respondent's unblemished record in forty-four years at the bar. Accordingly, the Board determined to impose an admonition.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated March 17, 2021.
2. Stipulation of discipline by consent, dated March 17, 2021.
3. Affidavit of consent, dated March 15, 2021.
4. Ethics history, dated September 28, 2021.

Very truly yours,



Johanna Barba Jones
Chief Counsel

JBj/akg
Enclosures

c: Hon. Maurice J. Gallipoli, A.J.S.C. (Ret.), Chair
Disciplinary Review Board (e-mail)
Charles Centinaro, Director
Office of Attorney Ethics (e-mail and interoffice mail)
Vincent Nuzzi, Respondent's Counsel (e-mail and regular mail)