

DISCIPLINARY REVIEW BOARD
OF THE
SUPREME COURT OF NEW JERSEY

HON. MAURICE J. GALLIPOLI, A.J.S.C. (RET.), CHAIR
ANNE C. SINGER, ESQ., VICE-CHAIR
PETER J. BOYER, ESQ.
JORGE A. CAMPELO
THOMAS J. HOBERMAN
REGINA WAYNES JOSEPH, ESQ.
STEVEN MENAKER, ESQ.
PETER PETROU, ESQ.
EILEEN RIVERA



RICHARD J. HUGHES JUSTICE COMPLEX
P.O. BOX 962
TRENTON, NEW JERSEY 08625-0962
(609) 815-2920

JOHANNA BARBA JONES
CHIEF COUNSEL

TIMOTHY M. ELLIS
DEPUTY COUNSEL

BARRY R. PETERSEN, JR.
DEPUTY COUNSEL

NICOLE M. ACCHIONE
JESSICA A. CALELLA
ROCCO J. CARBONE, III
ASHLEY KOLATA-GUZIŁ
RACHEL J. NGUYEN
ASSISTANT COUNSEL

NICHOLAS LOGOTHETIS
ASSOCIATE COUNSEL

October 22, 2021

VIA CERTIFIED MAIL, REGULAR MAIL, AND ELECTRONIC MAIL

Robert E. Kingsbury, Esq.
Jackson Commons, Suite B-3
30 Jackson Road
Medford, New Jersey 08055
rekingsbury@kingsburylaw.net

Re: In the Matter of Robert E. Kingsbury
Docket No. DRB 21-152
District Docket No. IIIB-2019-0027E
LETTER OF ADMONITION

Dear Mr. Kingsbury:

The Disciplinary Review Board has reviewed your conduct in the above-referenced matter and has concluded that it was improper. Following a review of the record, the Board determined to impose an admonition for your violations of RPC 1.3 (lack of diligence); RPC 1.5(b) (failure to set forth in writing the basis or rate of the legal fee); and RPC 3.2 (failure to expedite litigation). The Board further determined to dismiss the charged violation of RPC 1.4(b) (failure to communicate with the client).

Specifically, on November 24, 2015, Teresa Hertler, who you had not previously represented, spoke with you regarding the filing of a foreclosure based on a tax-sale certificate. On February 26, 2016, you advised Ms. Hertler that she would need to provide an initial \$1,000 retainer fee followed by an additional \$500 to pay for the entire representation. Although Ms. Hertler paid the \$1,500 flat legal fee, you never provided her with a written agreement setting forth the basis or rate of the fee. Consequently, the Board found that you violated RPC 1.5(b).

On April 21, 2017, after Ms. Hertler had paid your entire legal fee, you filed a complaint in foreclosure, on her behalf, in the Burlington County Superior Court. On August 4, 2017, following the property owner's failure to answer the complaint, you filed a request to enter default.

More than one year later, in August 2018, you still had not filed with the court any additional documents or performed any other legal work to advance Ms. Hertler's matter. Consequently, on September 15, 2018, the court issued a notice dismissing Ms. Hertler's case for lack of prosecution.

Meanwhile, on September 10, 2018, you filed a motion to fix the amount, time, and place for redemption, which motion the court denied not only because the matter already had been dismissed, but also because of numerous procedural deficiencies. On October 17, 2018, you moved to reinstate the matter; however, the court denied the motion again for basic procedural deficiencies.

On February 7, 2019, instead of attempting to properly reinstate the original matter, you filed a new foreclosure complaint, under a new court docket number. Thereafter, from April 2019 through November 2019, you attempted to file multiple requests to enter default, an amended complaint, and a motion to fix the amount, time, and place for redemption, all of which were denied or rejected because of numerous procedural deficiencies well within your control to cure.

Because you had failed to advance her matter, Ms. Hertler began to call your office for updates. Although you would answer Ms. Hertler's telephone calls, e-mails, and meet with her to discuss the matter, Ms. Hertler described your updates as "vague." You also repeatedly offered to turn the matter over to another attorney. Nevertheless, Ms. Hertler consistently refused your offers and insisted that you complete the case.

On March 23, 2020, after your attorney-client relationship with Ms. Hertler had deteriorated, you sent Ms. Hertler a letter, whereby you refunded her \$1,500 legal fee, plus an additional \$100, and advised her to seek a different attorney to complete the matter. Thereafter, on July 7, 2020, Ms. Hertler retained substitute counsel who, after filing the correct pleadings and appropriate motions, obtained a final judgment of foreclosure on her behalf by December 21, 2020. The Board determined that your failure to advance Ms. Hertler's foreclosure matter beyond the complaint stage, during the course of your three-year representation, violated RPC 1.3 and RPC 3.2.

However, the Board determined that there was insufficient evidence to prove, by clear and convincing evidence, that you violated RPC 1.4(b) by failing to communicate with Ms. Hertler and keep her reasonably informed about the status of her matter. As Ms. Hertler herself explained to the District Ethics Committee, you answered her phone calls, e-mails, and met with her to discuss her matter. Likewise, you stated that you regularly communicated with Ms. Hertler and provided her with copies of the filed pleadings. Although Ms. Hertler alleged that your updates were "vague," her dissatisfaction with your replies, standing alone, did not clearly and convincingly demonstrate that you failed to communicate and, thus, the Board determined to dismiss the RPC 1.4(b) charge.

In imposing only an admonition, the Board considered, in mitigation, the fact that you repeatedly offered to help Ms. Hertler obtain new counsel, which she refused; fully refunded Ms. Hertler's legal fee upon your withdrawal as counsel; and admitted to the facts underlying your

October 22, 2021

Page 3 of 3

misconduct. In addition, Ms. Hertler subsequently obtained a favorable judgment after she had retained substitute counsel. Thus, she suffered no ultimate financial harm as a result of your misconduct. Finally, you have had an unblemished disciplinary record in more than forty-seven years at the bar.

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/trj

- c: Chief Justice Stuart Rabner
Associate Justices
Heather Joy Baker, Clerk
Supreme Court of New Jersey
Hon. Maurice J. Gallipoli, A.J.S.C. (Ret.), Chair
Disciplinary Review Board (e-mail)
Gail G. Haney, Deputy Clerk
Supreme Court of New Jersey (w/ethics history)
Charles Centinaro, Director
Office of Attorney Ethics (interoffice mail and e-mail)
Isabel McGinty, Statewide Ethics Coordinator
Office of Attorney Ethics (e-mail)
John M. Hanamirian, Esq., Chair
District IIIB Ethics Committee (e-mail)
Cynthia S. Earl, Esq., Secretary
District IIIB Ethics Committee (regular mail and e-mail)
Kevin M. Siegel, Esq., Presenter
District IIIB Ethics Committee (e-mail)
Teresa Marie Hertler, Grievant (regular mail)