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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
ROCCO J. CARBONE, III
ASHLEY KOLATA-GUZIK
RACHEL J. NGUYEN
ASSISTANT COUNSEL

NICHOLAS LOGOTHETIS
ASSOCIATE COUNSEL

May 16, 2022

VIA CERTIFIED MAIL, REGULAR MAIL, AND ELECTRONIC MAIL

Nicholas W. Kowalchyn, Esq.
197 State Route 18 South
South Tower, Suite 3000
East Brunswick, NJ 08816
nkowalchyn@yahoo.com
nkowalchyn@gmail.com

Re: In the Matter of Nicholas William Kowalchyn
Docket No. DRB 22-032
District Docket No. VIII-2019-0033E
LETTER OF ADMONITION

Dear Mr. Kowalchyn:

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 violations of RPC 1.4(b) (failing to keep a client reasonably informed about the status of a matter and to comply with reasonable requests for information) and RPC 1.4(c) (failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions).

Specifically, you admittedly violated RPC 1.4(b) by failing to inform your client, Mark Lukovsky, of the filing or return date for the motion for summary judgment filed by defendants Double Diamond Trucking, LLC, (“Double

Diamond”) and William Olk. Further, following an adverse ruling on the summary judgment motion, you failed to inform Lukovsky, for more than a month, of the dismissal, with prejudice, of those defendants from his case. Finally, you failed to reply to Lukovsky’s October 17 and November 6, 2019 e-mails.

You also violated RPC 1.4(c) by failing to promptly explain to Lukovsky the ramifications of the adverse summary judgment ruling and the trial court’s ultimate dismissal of Double Diamond and Olk from the case. Nor did you explain to Lukovsky his right to file an appeal, or his right to retain independent counsel for that purpose. Lukovsky required that information in order to make informed decisions about the representation. By the time you finally informed Lukovsky of the dismissal, he had a mere six days in which to file an appeal. R. 2:4-1.

The Board declined to consider, in aggravation, the hearing panel’s determination that you also violated RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation). However, at oral argument, you admitted that you routinely fail to inform clients of pending summary judgment motions in their matters. The Board was troubled by your apparent failure to appreciate that your lack of communication in the instant matter constituted misconduct, and, thus, weighed those statements in slight aggravation. You should modify this practice going forward, in order to keep your clients fully apprised of the status of their matters.

In imposing only an admonition, the Board considered, in mitigation, your lack of a disciplinary history in more than thirty-five years at the bar and that your misconduct was not for financial gain.

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/jm

- 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)
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Eugenie A. Voitkevich, Esq., Presenter (regular mail and e-mail)
Mark Lukovsky, Grievant