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November 21, 2022

VIA CERTIFIED, REGULAR, AND ELECTRONIC MAIL

David Stuart Bressler, Esq.
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RE: In the Matter of David Stuart Bressler
Docket No. DRB 22-157
District Docket Nos. XIII-2021-0901E and XIV-2019-0350E
LETTER OF ADMONITION

Dear Mr. Bressler:

The Disciplinary Review Board has reviewed your conduct in the above-referenced matter and 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(a) (commingling) and RPC 1.15(d) (failure to comply with the recordkeeping provisions of R. 1:21-6).

With respect to the commingling charge, on April 16 and May 14, 2020, you received two deposits pursuant to the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act). These funds improperly were deposited to your attorney trust account (ATA) instead of your attorney business account (ABA). Although you claim that your bank unilaterally made this decision, you failed to instruct your bank regarding which account to deposit the

CARES Act funds. Moreover, given your poor recordkeeping, you allowed some of the funds to linger in your ATA for two months before transferring them to your ABA. Your conduct in this regard constituted commingling, in violation of RPC 1.15(a).

With respect to the recordkeeping charge, a May 2018 random audit revealed that you violated RPC 1.15(d) by (1) failing to perform monthly three-way reconciliations, or performing them incorrectly, (2) allowing one of your accounts to be improperly designated, and (3) failing to properly preserve images of processed checks. The audit also uncovered certain outstanding checks and inactive balances in your ATA. However, these deficiencies were not attributable to you because they arose under your predecessor's tenure, and when the audit took place, you had just recently assumed responsibility for your firm's finances. Once the deficiencies were brought to your attention, you took action to correct them and eventually brought your recordkeeping into compliance. Given that your predecessor had allowed errors to accumulate over the course of his long career, the Board did not find that the time you took to rectify the outstanding checks and inactive balances constituted an independent basis for a violation of RPC 1.15(d).

The Board further determined to dismiss the charged violation of RPC 1.15(a) (negligent misappropriation), noting that the transactions upon which that charge was based occurred before you assumed responsibility for your firm's finances. An attorney only can be found to have committed negligent misappropriation, or any misappropriation for that matter, if the attorney caused the defalcation by their own conduct. In this matter, because it was your predecessor who caused the defalcation, the Board did not find, by clear and convincing evidence, that you engaged in negligent misappropriation.

In imposing only an admonition, the Board accorded considerable mitigating weight to your lack of prior discipline in your nearly thirty-year career at the bar. The Board also found that you promptly admitted your wrongdoing, rectified your recordkeeping errors, and caused no ultimate harm to your clients. In aggravation, the Board considered the fact that you failed to safeguard \$25,000 of client trust funds by accidentally depositing the funds in your ABA and did not credit the appropriate ledger until two months later. However, this sole aggravating factor is outweighed by the mitigating factors in the record. Additionally, in light of your demonstrated failure to comply with

the recordkeeping Rules, the Board determined to require you to (1) complete a recordkeeping course pre-approved by the Office of Attorney Ethics (OAE) within sixty days of this letter, and (2) provide to the OAE monthly reconciliations of your accounts, on a quarterly basis, for a two-year period.

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,

/s/ Timothy M. Ellis

Timothy M. Ellis
Acting Chief Counsel

TME/res

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
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Gail G. Haney, Deputy Clerk
Supreme Court of New Jersey (w/ethics history)
Johanna Barba Jones, Director
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