DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

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

January 24, 2023

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

Re: **In the Matter of Christopher Raymond Fritz**
Docket No. DRB 22-200
District Docket No. XIV-2019-0189E

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 (the OAE) in the above matter, pursuant to R. 1:20-10(b). Following a review of the record, the Board granted the motion and determined that a reprimand was the appropriate quantum of discipline for respondent's violation of RPC 7.1(a) (engaging in false or misleading communications about the lawyer, the lawyer's services, or any matter in which the lawyer has or seeks a professional relationship); RPC 7.1(b) (using an advertisement or other related communication known to have been disapproved by the Committee on Attorney Advertising); RPC 7.3(b)(5)(i) and (iv) (engaging in improper, unsolicited, direct contact with a prospective client); RPC 7.4(a) (misrepresenting that the lawyer has been recognized or certified as a specialist in a particular field of law); and RPC 7.5(e) (using an impermissible firm name or letterhead).

Specifically, on May 10, 2016, respondent issued a solicitation letter to an individual charged, in Elmwood Park Borough, with failure to obey traffic signals, signs, or directions, in violation of N.J.S.A. 39:4-215. Respondent's letter contained the following letterhead:

BERGEN COUNTY LEGAL CENTER
ATTORNEYS AT LAW
370 W. PLEASANTVIEW AVENUE, SUITE 2-173
HACKENSACK, NEW JERSEY 07601
(973) 744-2223
www.yourjerseylawyer.com
ADVERTISEMENT

The physical address listed in the letterhead, however, was not that of respondent's law office, but rather that of a United Parcel Service (UPS) store. Additionally, the envelope bearing respondent's letter contained substantially the same letterhead, except the word "ADVERTISEMENT" did not appear on the envelope, as RPC 7.3(b)(1)(5)(i) requires.

Respondent's solicitation letter stated, in relevant part, that the municipal "proceeding[s]" could impact the individual's "driving privileges, insurance rates, and even your freedom." The letter further warned the individual that "a conviction could result in a driving or criminal record which can impact your insurance rates[,] which can go up thousands of dollars and or result in a loss of your driving privileges and even time in jail in some cases."

On June 23, 2016, the Committee on Attorney Advertising (the CAA) sent respondent a letter prohibiting him from distributing his solicitation letter and advising him that the letter violated the RPCs governing attorney advertising.

On July 12, 2016, respondent sent the CAA a reply letter, explaining that he had "stopped using these" solicitation letters. Respondent, however, claimed that there "was nothing misleading" about the letters, given that his law firm "had opted to use our nearby postal box for some correspondence" to avoid clients appearing at the office "unannounced." Respondent further claimed that his law firm did "good work for a good price in these areas and maintain[ed] an office in Bergen close to the mailing address." Finally, respondent conceded that

the inclusion of the references to "jail" time and a "criminal record" were intended for "another letter and not meant for a traffic offense."

On September 2, 2019, respondent issued a new solicitation letter, using his law firm's correct address in the letterhead, to a potential personal injury client. In respondent's letter, he claimed that his law firm was comprised of "personal injury expert trial attorneys with over twenty years experience." The letter also contained the following statement: "NO FEES UNLESS WE WIN YOUR CASE. LET US FIGHT FOR YOUR RIGHTS!" Additionally, the envelope bearing respondent's solicitation letter contained the phrase "urgent court matter."

Based on the above facts, the parties stipulated that respondent violated several of the RPCs governing attorney advertising.

First, respondent violated RPC 7.1(a) by making several false or misleading statements in his May 10, 2016 solicitation letter to an individual charged with failure to obey traffic signals, signs, or directions. Respondent informed the individual that a conviction for such an offense could impact his or her "freedom" and result in a "criminal record" "and or" "jail in some cases." Respondent's statements regarding the criminal consequences of such a conviction, however, were grossly misleading.

In New Jersey, "only [a]n offense defined [in Title 2C] or by any other statute of this State, for which a sentence of imprisonment in excess of 6 months is authorized, constitutes a crime within the meaning of the Constitution of this State." State v. Taimangelo, 403 N.J. Super. 112, 123 (App. Div. 2008) (citation omitted), certif. denied, 197 N.J. 477 (2009). By contrast, the Court has characterized Title 39 "traffic offenses as quasi-criminal." State v. Widmaier, 157 N.J. 475, 494 (1999). "Quasi-criminal offenses are 'a class of offenses against the public which have not been declared crimes, but wrongful against the general or local public which it is proper should be repressed or punished by forfeitures and penalties." Ibid. (citation omitted). An individual convicted of failing to obey traffic signals is "subject to a fine of not more than [$100] or imprisonment for ten days in jail, or both." N.J.S.A. 39:4-215.

Although an adjudication for failure to obey traffic signals can result in a ten-day jail term, it would not result in a criminal record and would almost

certainly not result in a term of imprisonment, in light of the Court's recognition, in Widmaier, that such offenses should ordinarily be "punished by forfeitures and penalties." Nevertheless, the recipient of respondent's May 10, 2016 solicitation letter may well have been under the misimpression that his or her criminal record and liberty interests were in serious jeopardy for allegedly committing a traffic offense.

Moreover, respondent's solicitation letter falsely listed his law firm's address as the location of a UPS store. The solicitation letter also stated that, "[a]s Elmwood Park Borough lawyers, we ask you to let us handle the court personnel that will be prosecuting the case for Elmwood Park Borough, and the State of New Jersey." As acknowledged in the stipulation, such a statement implied that respondent and other attorneys at his law firm were government lawyers. However, the Board found that respondent was attempting to communicate simply that he and other members of his law firm regularly practiced law in Elmwood Park Borough. The Board, thus, determined to find that respondent's "Elmwood Park Borough lawyers" statement was neither false nor misleading.

Additionally, respondent violated RPC 7.3(b)(5)(i) by failing to include the word "ADVERTISEMENT" on the envelope containing his May 10, 2016 solicitation letter. Respondent further violated RPC 7.3(b)(5)(i) by including prohibited information on the envelopes containing both his solicitation letters. Specifically, respondent improperly listed his law firm's website address on the envelope containing his May 10, 2016 solicitation letter and included the phrase "urgent court matter" on the envelope containing his September 2, 2019 solicitation letter.

Next, respondent violated RPC 7.3(b)(5)(iv) by failing to include his address in the notice required by that Rule at the bottom of his May 10, 2016 and September 2, 2019 solicitation letters. Respondent further violated RPC 7.3(b)(5)(iv) by failing to include the CAA's correct address in his September 2, 2019 solicitation letter.

Respondent stipulated that he violated Attorney Advertising Guideline 2(b) by making the font size of his RPC 7.3(b)(5)(iv) notice smaller than the font sized used in other portions of his September 2, 2019 solicitation letter. Nevertheless, a violation of the Attorney Advertising Guidelines does not, by

itself, constitute a violation of the Rules of Professional Conduct. See In the Matter of Sean Lawrence Branigan, DRB 15-067 (Sept. 29, 2015) at 4 ("not every Rule violation rises to the level of an ethics violation"), so ordered 223 N.J. 359 (2015). Consequently, the Board determined that respondent did not commit any RPC violation in connection with the font size of his RPC 7.3(b)(5)(iv) notice.

Respondent violated RPC 7.5(e), as it was drafted prior to the September 2020 Rule amendment, by issuing his May 10, 2016 solicitation letter containing the law firm trade name "BERGEN COUNTY LEGAL CENTER[.]" Respondent, however, failed to have that trade name accompanied by the full or last names of one or more of the lawyers practicing at the firm, as that Rule required prior to September 2020.

Additionally, respondent violated RPC 7.1(b) and the principles of the CAA's Joint Opinion 14 by advising a prospective personal injury client, in his September 2, 2019 solicitation letter, that he would handle the representation without any "FEES UNLESS WE WIN YOUR CASE[,]" without referencing any alternative fee arrangements. See A.C.P.E Joint Opinion 666/C.A.A. Joint Opinion 14, __ N.J.L.J. __ (Oct. 12, 1992) (prohibiting direct solicitation letters that suggest that the lawyer will handle a matter on a contingent fee basis, without additional language concerning alternative fee options).

Finally, respondent violated RPC 7.4(a) by claiming, in his September 2, 2019 solicitation letter, that he and members of his law firm were "personal injury expert trial attorneys." However, neither respondent nor the members of his firm were recognized as "personal injury expert trial attorneys" by either the Court or by an American Bar Association (ABA) approved organization. See RPC 7.4(d) (A lawyer "may communicate that the lawyer has been certified as a specialist or certified in a field of practice only when the communication is not false or misleading, states the name of the certifying organization, and states that the certification has been granted by the [. . .] Court or by an organization that has been approved by the [ABA]."), and C.A.A. Opinion 45, __ N.J.L.J. __ (Nov. 8, 2018) ("Only lawyers who are certified by the [. . .] Court or an organization approved by the [ABA] may call themselves experts.").

Admonitions and reprimands have been imposed on attorneys who engage in improper, unsolicited, direct contact with prospective clients or who, in their

quest to solicit clients, make false or misleading communications in their general advertising campaigns. See, e.g., In the Matter of Robert Richard Hynes, DRB 19-063 (April 24, 2019) (admonition for attorney who failed to supervise a nonlawyer employee, who directly communicated with a prospective personal injury client, via an unsolicited telephone call; the attorney was aware, based on a prior ethics investigation prompted by similar facts, that his employee's conduct regarding prospective clients needed to be closely supervised; no prior discipline), and In re Mennie, 174 N.J. 335 (2002) (reprimand for attorney who placed an advertisement that listed several jury verdict awards, including one for $7 million, even though that award had been set aside as "grossly excessive;" the attorney placed similar ads misrepresenting the combined number of years that he and one of his partners had been practicing law; no prior discipline).

The Court has imposed a censure when an attorney made multiple egregious advertising violations. In re Rakofsky, 223 N.J. 349 (2015). In Rakofsky, the attorney had essentially no experience when he opened a law firm, but stated on the firm's website, and in an advertisement, that he was experienced, had federal and state trial experience, and had handled many more matters than it would have been possible to handle in a single year. He misrepresented that he had worked on cases involving murder; embezzlement; tax evasion; civil RICO; and other serious criminal matters. The Board found that Rakofsky fabricated his credentials and conveyed the impression that he was a "super lawyer."

Additionally, Rakofsky's law firm letterhead failed to indicate that two of the firm's attorneys were not licensed to practice law in New Jersey. He also failed to provide a client with a writing setting forth the basis or rate of the fee, failed to maintain a file for the matter, and lacked diligence. Notwithstanding the attorney's lack of prior discipline; his youth and inexperience; the immediate withdrawal of the offending advertising; the correction of his misleading letterhead; and the lack of harm to his clients, the Board determined that a censure was the appropriate quantum of discipline for the attorney's misconduct.

Here, unlike the admonished attorney in Hynes, whose nonlawyer employee improperly and directly communicated with a single prospective personal injury client, respondent's advertising misconduct spanned at least two improper solicitation letters.

Specifically, respondent's May 10, 2016 solicitation letter failed to comply with the safeguards of RPC 7.3(b)(5) and contained grossly misleading statements regarding the penal and criminal consequences the solicited client could face for a mere traffic offense. Additionally, respondent's solicitation letter falsely listed his law firm address as a UPS store located in Bergen County.

Respondent's September 2, 2019 solicitation letter failed to comply with almost the same requirements of RPC 7.3(b)(5). Additionally, respondent's envelope contained the improper phrase "urgent court matter[,]" and his solicitation letter improperly informed the client that his firm could handle the representation without any "FEES UNLESS WE WIN YOUR CASE[,]" without disclosing any alternative fee arrangements. Finally, respondent's solicitation letter improperly proclaimed his firm's attorneys as "personal injury expert trial attorneys[,]" even though neither the Court nor an ABA approved organization had bestowed any such credentials upon any attorney at his law firm.

Nevertheless, respondent's advertising misconduct is less egregious than the attorney's misconduct in Rakofsky, which resulted in a censure. Unlike respondent, who improperly exaggerated the criminal and penal consequences of a traffic offense and who inflated his firm's credentials as "personal injury expert trial attorneys[,]" Rakofsky outright fabricated his credentials by claiming that he had handled numerous, complex criminal matters, which conveyed the impression that he was a "super lawyer." Moreover, unlike respondent, whose misconduct was confined to violations of the RPCs governing attorney advertising, Rakofsky also failed to set forth in writing the basis or rate of his fee, failed to maintain a client file, and lacked diligence. Finally, compared with Rakofsky's lack of prior discipline in his short five-year career at the bar, respondent has had no prior discipline in his twenty-five-year career at the bar.

On balance, weighing respondent's multiple improper solicitation letters against his otherwise unblemished twenty-five-year legal career, the Board determined that a reprimand is the appropriate quantum of discipline.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated October 25, 2022.

2. Stipulation of discipline by consent, dated October 25, 2022.

3. Affidavit of consent, dated October 4, 2022.

4. Ethics history, dated January 24, 2023.

Very truly yours,

/s/ Timothy M. Ellis

Timothy M. Ellis
Acting Chief Counsel

TME/res
Enclosures

c: (w/o enclosures)
Hon. Maurice J. Gallipoli, A.J.S.C. (Ret.), Chair
Disciplinary Review Board (e-mail)
Johanna Barba Jones, Director
Office of Attorney Ethics (e-mail and interoffice mail)
Jennifer Iseman, Deputy Ethics Counsel
Office of Attorney Ethics (e-mail)
Robert E. Ramsey, Respondent's Counsel (e-mail and regular mail)